



California Fair Political Practices Commission

June 16, 1987

E. Jane Pool, City Clerk
City of Encinitas
535 Encinitas Blvd., Suite 100
Encinitas, CA 92024

Re: Your Request for Advice
Our File No. A-87-136

Dear Ms. Pool:

Your May 4, 1987, letter to Linda Moureaux of our staff has been referred to me for response. In that letter, you question the filing obligations of your city's community advisory board members under the statement of economic interests provisions of the Political Reform Act (the "Act").^{1/}

FACTS

The City of Encinitas has adopted a conflict of interest code and has designated the members of the five community advisory boards (CABs). The CABs make recommendations to the planning commission and on occasion make decisions on planning matters. The city's planning commission is made up of one member of each CAB. Your city attorney is of the opinion that all of the CAB members serve as planning commissioners and should be filing a Form 721 with the Fair Political Practices Commission.

Linda Moureaux advised you that these members are not planning commissioners and should be completing Form 730 statements of economic interests and filing those statements with the city. The city council has asked for that advice to be confirmed in writing.

QUESTION

Should the members of the city's community advisory boards file the Form 721 as planning commissioners or the Form 730 as designated employees?

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

E. Jane Pool, City Clerk
June 16, 1987
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CONCLUSION

With the exception of the five members designated to sit as the planning commission, the members of the community advisory boards are not planning commissioners, but rather are designated employees under your conflict of interest code. The five who serve as planning commissioners should file Form 721. The designated employees should file Form 730.

ANALYSIS

Section 87200 enumerates the public officials who are required to file statements of economic interests with the Fair Political Practices Commission. (These officials use the Form 721.) Members of city and county planning commissions are among those listed. That section does not specifically enumerate advisory boards to planning commissions.

You stated in your letter that one member from each of the five advisory boards serves on the planning commission. Those five members should file their statements (Form 721) with the Fair Political Practices Commission. The balance of the members of the advisory boards should file with the city as designated employees specified in the city's conflict of interest code. They should use the Form 730.

I hope this resolves any confusion within your city. If I can be of further assistance, please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

Jeanette E. Turvill
By: Jeanette E. Turvill *by Ked*
Legal Assistant

DMG:JET:plh

CITY OF ENCINITAS
535 Encinitas Boulevard, Suite 100
Encinitas, California 92024
(619) 944-5050

MAY 8 6 20 AM '87

May 4, 1987

Linda Moureaux
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, California 95804-0814

Dear Linda:

The City of Encinitas has now adopted a Conflict of Interest Code (copy attached). At the time of adoption there was a discussion about our five Community Advisory Boards. When you were here I explained to you that they will actually be making some decisions in planning matters and that one member from each of the five will serve on the Planning Commission. Our City Attorney Roger Krauel states that in his opinion we, in fact, have a 30 member Planning Commission and, as such, those people must file 721s under 87200. I told him and the Council at the meeting that you do not agree with that and had advised me the State will not accept filing of 721s from the CABs. The Council's direction to me was that they wanted the CAB members to file 721s and that if the State will not accept them, we would just keep them in our files. Their thinking is there is no harm in doing more than is required. You may not remember but I had, in error, already gotten 721s from the CAB members and they are on file so unless you advise me otherwise I'll just continue to keep them as instructed by the Council.

I must within the next day or two distribute 730s for Initial Filings to those few employees we now have who are required to file.

Very truly yours,


E. Jane Pool
City Clerk

Enc.

P.S. Upon double checking the Minutes of the 4/27 meeting, I realized that the Council did ask that I get in writing from you what you told me when you were here, i.e., that the CAB members should file 730s, not 721s, and that the State will not accept filing of 721s from them.

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ORDINANCE NO. 87-42

AN ORDINANCE OF THE CITY OF ENCINITAS, CALIFORNIA
ADOPTING BY REFERENCE 2 CAL. ADM. CODE SECTION 18730
REGARDING A STANDARD CONFLICT OF INTEREST CODE

The City Council of the City of Encinitas, California, does
ordain as follows:

SECTION ONE:

That the Title 2 of the Encinitas Municipal Code is hereby
amended to add Chapter 2.12 regarding Conflict of Interest Code
to read as follows::

See Attachment "A"

SECTION TWO:

This ordinance was introduced on April 13, 1987.

SECTION THREE:

Upon the introduction and adoption of this ordinance, the
City Clerk is directed to post this ordinance in the three
designated places within 15 days of adoption.

PASSED AND ADOPTED this 27th day of April,
1987, by the following vote, to wit:

- AYES: Mayor Marjorie Gaines, Council Members Greg Luke, Anne Omsted, Rick
Shea, Gerald Steel
- NAYS: None
- ABSENT: None


MARJORIE GAINES, Mayor of the
City of Encinitas, California

ATTEST:

E. JANE POOL, City Clerk

Attachment A to Ordinance - 87-42

Chapter 2.12

CONFLICT OF INTEREST CODE

2.12.010 Application.

A. Pursuant to the provisions of Government Code Section 89100 et seq., (Political Reform Act of 1974), "Act" herein, the City of Encinitas adopts this Chapter applicable to designated public officials of the City of Encinitas.

B. This Chapter shall be known as the "Conflict of Interest Code" of the City of Encinitas.

C. Nothing in this Chapter is intended to modify or abridge the provisions of Article I, Chapter 7 of the Act commencing with Section 87100 which is applicable to all public officials of the City and directs that no public official or the City shall make, participate in the making or in any way attempt to use their official position to influence a City decision in which the official knows, or has reason to know, that he or she has a financial interest as defined by the Act.

D. Nothing in this Chapter is intended to modify or abridge the provisions of Article II, Chapter 7 of the Act commencing at Section 87200 which requires the Mayor, members of the City Council, City Manager, City Attorney and members of the Planning Commission to file a financial disclosure statement using Form 721.

E. This Chapter intends to designate those public officials of the City who are involved in City decisions and require those designated officials to disclose those financial interests (using Form 730) which could foreseeably be affected, in a material manner, by a City decision made by the official in the performance of the official's responsibilities.

2.12.020 Definitions. Unless otherwise indicated, the definitions of the Act, regulations and amendments thereto and binding judicial opinions thereon are incorporated herein and this Chapter shall be interpreted in a manner consistent therewith.

2.12.030 Standard Code.

A. By this reference, 2 Cal. Adm. Code Section 18730, the standard Conflict of Interest Code, is incorporated herein together with each and every amendment thereto.

B. The filing officer shall maintain three copies of the standard Conflict of Interest Code for the public review.

2.12.040 Filing Officer. The City Clerk is the filing officer of the City of Encinitas.

2.12.050 Disclosure Categories.

A. Category I (All Inclusive). Persons occupying positions designated by this Chapter as Category I positions shall disclose all financial interests called for by Form 730 in Schedules A through H.

B. Category II (Decisions Regarding Real Property). Persons occupying positions designated by this Chapter as Category II positions shall disclose all financial interests called for by Form 730 in Schedules B through H.

C. Category III (Decisions Regarding Businesses). Persons occupying positions designated by this Chapter as Category III positions shall disclose all financial interests called for by Form 730 in Schedules A and D through H.

2.12.060 Department Positions. The following are the designated positions within City departments together with the required disclosure category:

<u>Position</u>	<u>Category</u>
A. Office of City Clerk	
1. City Clerk	I
2. Deputy City Clerk	I
B. Public Works	
1. Director	I
2. City Engineer	I
3. Traffic Engineer	I
4. Maintenance Supervisor	I
C. Fire Department	
1. Fire Chief	I
D. Community Development	
1. Director	I
2. Senior Planner	I
3. Code Enforcement	I
4. Assistant Planner	II
5. Planning Technician	II
E. Community Services	
1. Director	I
2. Parks Supervisor	III
3. Recreation Supervisor	III
4. Program Supervisor	I
F. Administrative Services	
1. Director/Assistant City Manager	I
2. Finance Officer	I
3. Senior Account Clerk	III

G. Such other positions as may be designated by resolution of the City Council from time to time.

2.12.070 Boards, Commissions and Committees. The following are the designated positions on Boards, Commissions and Committees together with the required disclosure categories:

A. Members of Boards, Commissions or committees designated by resolution of the City Council, from time to time.



California Fair Political Practices Commission

May 12, 1987

E. Jane Pool
City Clerk
City of Encinitas
535 Encinitas Boulevard, Suite 100
Encinitas, CA 92024

Re: 87-136

Dear Ms. Pool:

Your letter requesting advice under the Political Reform Act was received on May 8, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeanette Turvill, in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).) You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh