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February 23, 2009

Board of Supervisors  
County of El Dorado  
330 Fair Lane  
Placerville, CA 95667

Re: Review of Local Public Entities' Conflict of Interest Codes

Honorable Board:

**SUBJECT:** Review and Approval of updated and revised conflict of interest codes received from local public entities within the county.

**RECOMMENDATION:** County Counsel recommends that the Board review and approve the attached revised conflict of interest codes received from local public entities within the county.

**REASON FOR RECOMMENDATION:** Every two years, local public entities operating within the county must review their conflict of interest codes and determine whether changes should be made in order to bring them up to date. Under state law, the Board of Supervisors is the "code reviewing body" and must review and approve the local public entities' revised conflict of interest codes. County Counsel has reviewed the updated and revised conflict of interest codes submitted to the county by local government agencies within the county, and finds that they are in conformance with law.

**FISCAL IMPACT:** None.

**ACTION TO BE TAKEN FOLLOWING APPROVAL:** Board of Supervisors approval of the updated conflict of interest codes from local public entities makes them effective. Notice of the BOS approval will be transmitted to the entities. No further action by the Board is necessary.

**DISCUSSION:** The state Political Reform Act, Government Code §81000 et seq., contains several sections dealing with conflicts of interest of public officials, including a prohibition on participating in a decision in which the official has a financial interest, a requirement that the official disclose certain economic interests, and a prohibition on receiving gifts and honoraria.

Government Code §87300 requires that each local public agency<sup>1</sup> shall adopt its own local conflict of interest code, which must contain certain specified provisions, including a designation of specific employment positions with the public entity that make decisions which may have an effect on economic interests, and a description of the type of economic interest each designated employee must disclose on his or her statement of economic interest. In order to simplify the process for local public entities, state law permits a local public entity to adopt a particular state regulation, Title 2, California Code of Regulations (2 CCR) §18730, as its conflict of interest code, and attach to it an appendix of designated employees plus an appendix of disclosure categories for each of the designated employees. The incorporation of the state regulation into a county's code means that the code is automatically updated if the regulation is changed in the future.

Local conflict of interest codes must be updated periodically to account for changes in employment positions and job duties, and the updated code must be submitted to the designated "code reviewing body" for review and approval. Government Code §82011(b) designates the county Board of Supervisors as the code reviewing body for "any local government agency, other than a city agency, with jurisdiction wholly within the county."<sup>2</sup> The Board of Supervisors must therefore review the conflict of interest codes for local agencies that operate wholly within the county. Government Code §87303 requires that the code reviewing body shall either approve the revised code as submitted, revise the proposed code and approve it as revised, or return the proposed code to the agency for revision and resubmission.

A number of local public agencies have submitted their revised and updated conflict of interest codes to the County for review and approval. These public entities are:

1. Fallen Leaf Lake Community Services District
2. Buckeye Union Elementary School District
3. Pioneer Fire Protection District
4. El Dorado Union High School District
5. Lake Tahoe Unified School District
6. Happy Homestead Cemetery District
7. El Dorado Transit Authority

County Counsel has reviewed the updated conflict of interest codes submitted by the agencies listed above, and finds that they are in accordance with state law, and recommends that the Board approve the revised codes as submitted. The Board's approval makes the updated codes legally effective. Staff will transmit a record of the Board's approval to the local public agencies for their records.

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<sup>1</sup> Government Code §87300 requires every "agency" to adopt a conflict of interest code. "Agency" is defined in §82003 to include "any . . . local government agency." "Local government agency" is defined in §82041 to include a "county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission, or other agency of the foregoing."

<sup>2</sup> "Jurisdiction" is defined, somewhat circularly, in §82035 for a local government agency as "the region, county, city district or other geographical area in which it has jurisdiction."

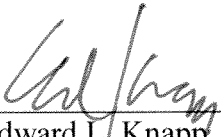
The proposed revision to the conflict of interest code submitted by the Showcase Ranches CSD has been returned to it with a recommendation that the CSD correct one omission (failure to specifically adopt 2 CCR §18730) and it is expected that a properly revised code will be re-submitted to the county in the near future. Also, the proposed conflict of interest code for the South Tahoe Area Transit Authority (STATA) has been returned to it since it does not appear that STATA, as a Nevada corporation, has to adopt a conflict of interest code under California law. This question has been forwarded to the FPPC for resolution.

The other local government agencies in El Dorado County have indicated that they have reviewed their existing conflict of interest codes, and do not wish to make any changes. These codes are not a part of this agenda item.

Very Truly Yours,

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County Counsel

By: \_\_\_\_\_

  
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ELK:km