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February 15, 2013

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

Re: Review and Approval 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's Office 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 the Political Reform Act.

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 Board's 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 agency¹ 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 local 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.”² The Board of Supervisors must therefore review the conflict of interest codes for local agencies that operate wholly within the county.³ 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. Buckeye Union SD
2. El Dorado County Office of Education
3. El Dorado County RCD
4. El Dorado Hills County Water District
5. El Dorado Hills CSD
6. Georgetown Divide PUD
7. Georgetown Divide RCD
8. Grizzly Flats CSD
9. Hickok Road CSD
10. Indian Diggings SD
11. Knolls Property Owners CSD

¹ 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.”

² “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.”

³ The South Tahoe Public Utility District has recently advised that it has been designated as a multi-county agency, and therefore it files its conflict of interest code directly with the FPPC and the County is no longer involved.

12. Lake Tahoe CCD
13. Mother Lode Union SD
14. Pollock Pines Elementary SD
15. Silver Fork Elementary SD


County Counsel's Office 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.

Three local agencies have not responded to the request by the Elections Department for information on whether they are going to update their codes (Arroyo Vista CSD, Lakeview CSD and Sierra Oaks CSD), and the County Elections Department will follow up with them. Their old conflict of interest code remains in effect in the meantime. Another three local agencies have provided their conflict of interest codes (Georgetown FPD, Lake Tahoe Unified SD, and Latrobe SD), but the review by County Counsel's Office indicates that the codes are deficient. We will write those three agencies to notify them of the deficiencies, and invite them to bring their codes into conformance with the mandates of the Political Reform Act. Those agencies will be governed by their former adopted and approved codes until such time as a new amended code is submitted, reviewed and approved by the Board of Supervisors as the code reviewing agency.

Another 39 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 to them. Those 39 local conflict of interest codes are not a part of this agenda item.

Very Truly Yours,

EDWARD L. KNAPP
County Counsel



ELK:jr
Enclosures