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OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 101
915 I STREET
SACRAMENTO, CA
95814-2684

APPROVED
BY THE CITY COUNCIL

SEP 1 1998

OFFICE OF THE
CITY CLERK

PH 916-264-5704
FAX 916-264-7618
TDD (ONLY) 916-264-7227

August 26, 1998

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: PROPOSED POLICY FOR THE CITY TO PAY THE COST OF REAL PROPERTY APPRAISALS USED TO ASSESS A CITY OFFICIAL'S POTENTIAL CONFLICT OF INTEREST WHILE CONDUCTING CITY BUSINESS

LOCATION AND COUNCIL DISTRICT: All Districts

RECOMMENDATION:

Adopt the attached resolution establishing a policy to have the City pay the cost of real property appraisals for City Council Members and Planning Commissioners in certain conflict of interest situations.

CONTACT PERSONS: David R. Martinez, Deputy City Manager
264-5704

FOR COUNCIL MEETING OF: Tuesday, September 1, 1998

SUMMARY:

On August 18, 1998, the City Council approved an intent motion to adopt a resolution to establish a policy to pay for conflict of interest appraisals for City Council Members and Planning Commissioners with potential conflicts of interest. The Council directed that the proposed resolution be amended to limit the City's payment for appraisals for Planning Commissioners to situations where the Planning Commission has final decision-making authority over one or more entitlements, and not in situations where the Planning Commission

has recommendation authority only. The attached resolution has been revised to include this restriction.

At the August 18 meeting, the Council also expressed an interest in the possibility of providing for limited disclosure the affected official of the ultimate conclusion of the appraisal only (i.e., whether the reasonably foreseeable financial effect was \$10,000 or more, or whatever the applicable financial threshold is), and the possibility of treating the appraisals as confidential. The attached memorandum from the City Attorney's Office addresses these issues, and advises that limited disclosure and confidentially should be considered practically and legally infeasible.

FINANCIAL CONSIDERATIONS:

As was noted in the August 18th report, it is estimated that the cost for a residential property appraisal is approximately \$1,500 to \$2,000. If a commercial property is being appraised, the cost would fall in the range of \$3,500 to \$10,000 depending on the type of property and the complexity of the analysis.

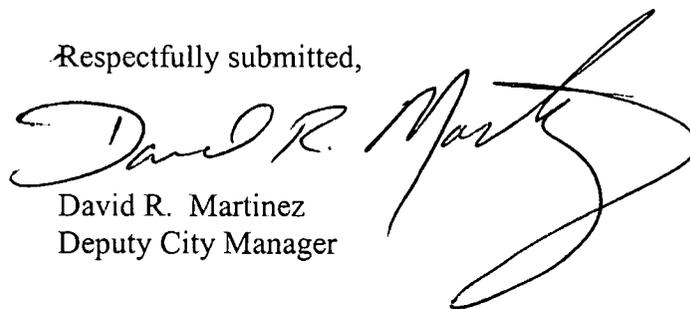
POLICY CONSIDERATIONS:

The proposed policy would require the City, upon approval of the City Council, to pay the cost of an appraisal used to assess a City official's potential conflict of interest relative to City business.

MBE/WBE EFFORTS:

None.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "David R. Martinez".

David R. Martinez
Deputy City Manager



**OFFICE OF THE
CITY ATTORNEY**

SAMUEL L. JACKSON
CITY ATTORNEY

WILLIAM P. CARNAZZO
ASSISTANT CITY ATTORNEY

**CITY OF SACRAMENTO
CALIFORNIA**

980 NINTH STREET, TENTH FLOOR
SACRAMENTO, CA 95814-2736
PH 916-264-5346
FAX 916-264-7455

August 26, 1998

SENIOR DEPUTY CITY ATTORNEYS
RICHARD E. ARCHIBALD
SHANA S. FABER

DEPUTY CITY ATTORNEYS
DIANE B. BALTER
BRUCE C. CLINE
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ROBERT D. TOKUNAGA

MEMORANDUM

TO: William Edgar, City Manager

FROM: Samuel L. Jackson, City Attorney
William P. Carnazzo, Assistant City Attorney
Richard E. Archibald, Senior Deputy City Attorney

RE: **Conflict of Interest Appraisals**

This is a follow-up to the Council meeting of August 18 concerning the proposed policy to have the City pay for conflict-of-interest appraisals for City Councilmembers and members of the Planning Commission. The Council expressed interest in having only the ultimate conclusion of the appraisal disclosed (i.e., whether the reasonable foreseeable effect of a decision on the value of real property in which an official has an ownership interest is more or less than \$10,000.00), and to otherwise treat and maintain the appraisal as confidential. For the reasons set forth below, a conflict of interest appraisal obtained pursuant to proposed policy would likely be considered a public record, subject to disclosure under the Public Records Act. Additionally, for purposes of obtaining written advice from the FPPC, there is likely a need to furnish the FPPC with a copy of the full appraisal report.

The Council expressed interest in having only the ultimate conclusion of the appraisal disclosed (i.e., whether the reasonable foreseeable effect of a decision on the value of real property in which an official has an ownership interest is more or less than \$10,000.00). A primary concern of the Council was the potential, or perceived potential, for collateral use of the information contained in the appraisal, including use by the official for whom the appraisal is prepared.

Theoretically, the Council could adopt a policy providing only for disclosure to the Council or to the official for whom an appraisal is prepared, or both, of the ultimate conclusion of the

William Edgar, City Manager
Re: Conflict of Interest Appraisals
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appraisal. However, the appraisal itself would be a public record, and this office is not aware of any exception under the Public Records Act which would allow the City to shield the full appraisal report from disclosure upon the filing of a Public Records Act request, or from its subsequent collateral use.

As discussed at the August 18 meeting, it is anticipated that an official, upon receiving an appraisal showing the absence of conflict, may wish to seek written advice from the Fair Political Practices Commission on the his/her right to participate in the decision in question. This approach has been taken in a number of situations in other jurisdictions. In such instances, the standard practice is to include the full appraisal report as part of the advice request, presumably to allow for limited review by the FPPC. While the FPPC will not certify that the appraisal is correct and accurate, they presumably would advise of any major flaws or defects in the appraisal or the manner in which it was undertaken and question the reliance upon such appraisal. Merely providing a statement of the ultimate conclusion of the appraisal provides nothing for the FPPC to review and advise upon, and will likely result in a letter that provides little, if any, advice or protection.

Should you have any questions about the foregoing, do not hesitate to contact this office.

REA/jmv

SEP 1 1998

OFFICE OF THE
CITY CLERK

RESOLUTION NO. 98-458

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

**RESOLUTION ESTABLISHING PROCEDURES FOR CITY
PAYMENT OF CONFLICT OF INTEREST RELATED
REAL PROPERTY APPRAISAL COSTS**

WHEREAS, pursuant to the Political Reform Act of 1974, Government Code Sections 81000, et seq., City Council Members and City Planning Commissioners are from time to time required to analyze whether their financial interests may create a conflict of interest in a particular City decision or action; and

WHEREAS, conflict of interest analyses sometimes require completion of expert real property appraisals which are beyond the expertise of City staff; and

WHEREAS, the expense of conflict of interest related real property appraisals should be borne by the City, rather than individual Council Members or City Planning Commissioners, because conflicts of interest can impair the integrity and legality of City decisions and because participation in City decisions and actions to the greatest extent allowable by law is necessary in order to allow Sacramento residents to evaluate the performance of their elected representatives; and

WHEREAS, the City Council has determined it is in the public interest to establish procedures specifying the manner in which City-paid conflict of interest related real estate appraisals may be obtained.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

The City Council hereby adopts the following policy authorizing City payment for City Council Member and City Planning Commissioner conflict of interest related real estate appraisals.

**CITY PAYMENT FOR CONFLICT OF INTEREST RELATED
REAL PROPERTY APPRAISALS**

1. Applicability.

This policy authorizes the City Manager to obtain real property appraisals at the City's expense in the manner specified herein when in the opinion of the City Manager such appraisals are necessary in order to provide City Council Members and City Planning Commissioners with

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competent and complete conflict of interest advice pursuant to the Political Reform Act of 1974, Government Code Sections 81000, et seq. or other applicable provisions of federal, state or local law.

2. Definitions.

“Real Property Appraisal” shall mean an appraisal necessary for completion of conflict of interest advice and shall consist of a qualified real estate appraiser’s professional evaluation, conducted in the manner specified by the City Manager, of the value, or impact upon the value, of real property in which a City Council Member, City Planning Commissioner or entity which is a source of income to a City Council Member or City Planning Commissioner has an actual or legally imputed financial interest.

3. Requests for Real Property Appraisals, Council Review, and Approval of Requests.

A. Any City Council Member or City Planning Commissioner may make a request to the City Manager (in writing) that the City Manager obtain a real property appraisal on behalf of the City when, in the opinion of the City Manager, such appraisal is necessary to provide the City Council Member or City Planning Commissioner with competent and complete conflict of interest advice pursuant to the Political Reform Act of 1974, Government Code Sections 81000, et seq. or other applicable provisions of federal, state, or local law.

Exception: Appraisals for City Planning Commissioners shall be limited to situations where the Planning Commission has final decision-making authority over one or more entitlements, and not in situations where the Planning Commission has recommendation authority only.

B. The City Manager shall notify the City Council (in writing) of the request within ten (10) working days of its receipt. The notice shall contain all information pertinent to the request, including the need for the appraisal and its estimated cost, if such an estimate is available. The notice shall also contain the date of the next regular City Council meeting that the issue is expected to be considered for agendaing. A copy of the notice shall be forwarded to the City Clerk so that the Clerk may include the issue on the agenda (date so noted in the notice) under “Council Ideas & Questions”.

C. At the first regular City Council meeting following notice from the City Manager under “Council Ideas & Questions”, the City Council may elect to raise the issue of whether to agendaize Council review of the propriety of the request. If the Council elects to agendaize the issue for review, the City Manager will prepare and forward a report to the City Clerk for inclusion on the Council agenda. Council review shall be agendaized for the next regular City Council meeting, at which time the City Council may vote to approve, reject, or conditionally approve the request.

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D. If the City Council fails to agendaize Council review of the propriety of the request at the first regular City Council meeting following notice, the City Manager shall prepare and execute any documents and instructions needed to obtain the real property appraisal pursuant to the contract authority granted by the Sacramento City Code.

4. Appropriations.

The City Manager shall include in the proposed budget a recommended appropriation level for real property appraisals. No appraisals shall be authorized or conducted unless the City Council has duly appropriated sufficient funds to cover the costs of such appraisals.

MAYOR

ATTEST:

CITY CLERK

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DATE ADOPTED: _____