



DATE: March 28, 2019

TO: Transportation Authority of Marin Board of Commissioners

FROM: Dianne Steinhauser, Executive Director
David Chan, Programming and Legislation Manager

SUBJECT: Amend the Administrative Code and the Accompanying Resolution to Conflict of Interest Section on Designated Positions Requiring Compliance with State Disclosure Requirements (Action), Agenda Item No. 6e

RECOMMENDATION

Amend the Administrative Code and the accompanying resolution to the Conflict of Interest Section under Article VII of TAM's Administrative Code to remove the Citizens' Oversight Committee (COC) from the designated positions requiring compliance to State disclosure requirements.

BACKGROUND

Under the Conflict of Interest Section under Article VII of the Administrative Code are the policies governing disclosure requirements. Article VII subjects TAM to the Political Reform Act of 1974 that requires all public agencies to adopt, periodically review, and update a Conflict of Interest Code. It also requires all public agencies to adopt a Resolution specifying designated positions that require compliance with State disclosure requirements.

DISCUSSION

Every elected official and public employee who makes or influences governmental decisions is required to submit a Statement of Economic Interest, also known as the Form 700. Designated positions in TAM Administrative Code are required to annually file a Form 700.

The current list of designated positions for TAM include the following: Board of Commissioners, Citizens' Oversight Committee members, Executive Director, Deputy Executive Director, Financial Manager, Programming Manager, Project Delivery Manager, Principal Project Delivery Manager, Public Information Coordinator, and Planning Manager.

Citizens' Oversight Committee

The formation of the COC was identified in the original Measure A Half-Cent Transportation Expenditure Plan as well as the Form 700 requirement for all COC members/alternates.

However, staff learned from other agencies with citizens' oversight committees and comparable sales tax measures that the Form 700 requirement is not needed because these committees have no authority to make spending decisions.

TAM's COC members and alternates have been reluctant to submit the Form 700 to TAM over the years. They have maintained that the COC should not be included as designated positions. A few members and alternates have resigned over the years due to this requirement.

When the transportation sales tax was renewed in November 2018, the Form 700 requirement was removed from the new Measure AA Half-Cent Expenditure Plan. With the successful passage of Measure AA, staff since has consulted with County Counsel and the California Fair Political Practices Commission (FPPC) to confirm that the removal of the Form 700 requirement from the Expenditure Plan was in compliance. As a result, TAM may remove the COC from its Conflict of Interest Code so the members and alternates will not need to comply with the Form 700 requirement as of April 1, 2019.

Attachment A is the revised Administrative Code containing the pertinent portion that removes the Citizens' Oversight Committee from Section 107.2 of Article VII on Conflict of Interest.

Attachment B is the accompanying resolution (Resolution 2019-03) that updates the designated positions requiring financial disclosure pursuant to the Political Reform Act of 1974. As instructed by FPPC, per Government Code Section 82011, certification by the Board of Supervisors is required once the TAM Board approves the resolution, since TAM is a local agency within Marin County.

FISCAL IMPACTS

There are no fiscal impacts with approving this administrative action. The members and alternates of the Citizens' Oversight Committee will be removed from the list of designated positions requiring compliance with State disclosure requirements.

NEXT STEPS

Upon approval by the TAM Board, staff will forward the amendment of the Conflict of Interest Code and the resolution to the Board of Supervisors for certification. Effective on April 1, 2019, all COC members/alternates will no longer be subject to the Form 700 requirement.

ATTACHMENT

Attachment A: Draft Revised Administration Code (pertinent excerpt)
Attachment B: Resolution 2019-03

ADMINISTRATIVE CODE

OF THE

TRANSPORTATION AUTHORITY OF MARIN

Ordinance No. 2005-01

Adopted:
November 17, 2005

Revised:
December 14, 2006
October 27, 2011
December 5, 2013
March 27, 2014 (effective July 1, 2014)
November 20, 2014
December 14, 2015
April 26, 2018 (Selection of Chair and Vice Chair)

Proposed Change:
March 28, 2019 (Remove COC from Conflict of Interest Requirements)

ARTICLE VII

CONFLICT OF INTEREST

107.1 Adoption of Conflict of Interest Code. The Political Reform Act of 1974 (Government Code Sections 81000 *et seq.*) requires all public agencies to adopt and periodically review and update a Conflict of Interest Code. The Conflict of Interest Code contained herein is subject to periodic review and approval by the Board of Supervisors pursuant to Government Code Sections 82011 and 87306.5.

107.2 Designated Positions. The Authority shall adopt a Resolution specifying designated positions, ~~(Commissioners, Citizens Oversight Committee (COC) members,~~ certain staff) that are designated positions and are deemed to make, or participate in the making of, decisions that may foreseeably have a material effect on a financial interest. The Resolution shall specify a disclosure category for each position.

107.3 Disclosure Statements.

(a) This Code does not establish any disclosure obligation for those designated positions, who are also specified in Government Code Section 87200, if they are designated in this Code in that same capacity, or if the geographical jurisdiction of this agency is the same as, or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200 *et seq.* Such persons are covered by this Code for disqualification purposes only.

(b) Designated positions shall be assigned to one or more of the disclosure categories set forth in Section 107.7. With the exception of those designated positions who are exempt pursuant to subsection (a), each designated position shall file an annual statement disclosing that person's interest in investments, real property, business positions, and income, designated as reportable under the category to which the person's position is assigned.

107.4 Place and Time of Filing.

(a) All designated positions required to submit a statement of financial interests shall file the original with the Executive Director of the Transportation Authority of Marin.

(b) All designated positions on the effective date of this Code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within thirty days after the effective date of this Code. Thereafter, each person already in a position when it is designated by an amendment to this Code shall file an initial statement within thirty days after the effective date of the amendment. Designated positions appointed, promoted, or transferred to designated positions shall file initial statements within 30 days after the date such appointment, promotion, or transfer becomes effective.

RESOLUTION NO. 2019-03

**A RESOLUTION OF THE TRANSPORTATION AUTHORITY OF MARIN
AMENDING THE CONFLICT OF INTEREST CODE TO REMOVE THE CITIZENS'
OVERSIGHT COMMITTEE FROM THE DESIGNATION POSITION LIST**

WHEREAS, The Political Reform Act, Government Code sections 81000 et seq., requires state and local government agencies to adopt Conflict of Interest Codes, and to review those codes every two years; and

WHEREAS, In 2004, the Transportation Authority of Marin (TAM) adopted an Administrative Code containing the conflict of interest code pursuant to state law, and has determined that to remain in compliance with state law that code should be amended to add and designate positions; and

WHEREAS, Resolution No. 2005-12b was adopted on November 17, 2005 to specify a disclosure category for each position; and

WHEREAS, Resolution 2006-11, Resolution 2008-20, and Resolution 2009-11 were adopted on July 27, 2006, July 24, 2008, October 27, 2011, and July 26, 2018, respectively, to amend the list of designated positions and the disclosure categories assigned to each position; and

WHEREAS, The Citizens' Oversight Committee (COC) was initially listed as requiring compliance with the conflict of interest requirement in Section 107.2 of TAM's Administrative Code; and

WHEREAS, It was learned from other agencies with citizens' oversight committees with comparable sales tax measures that the conflict of interest requirement is not needed because these committees have no authority to make spending decisions; and

WHEREAS, TAM staff consulted with Marin County Counsel and the California Fair Political Practices Commission (FPPC) in confirming that removing the COC from Section 107.2 of TAM's Administrative Code is permissible; and

WHEREAS, The Administrative Code allows changes to designated positions and designated disclosure categories by resolution; now, therefore, be it

RESOLVED, That the members and alternates of the Citizens’ Oversight Committee shall be removed from the list of designated positions, as shown below, in Section 107.2 to report in both disclosure categories; and be it further

RESOLVED, That the designated positions listed below, including all previous revisions, shall be required to report the disclosure categories as specified.

<u>Designated Positions</u>	<u>Disclosure Categories</u>
Member and Alternate of the Board of Commissioners	1, 2
Member and Alternate of the Citizens’ Oversight Committee	1, 2
Executive Director	1, 2
Deputy Executive Director	1, 2
Financial Manager	1, 2
Programming Manager	1, 2
Project Delivery Manager	1, 2
Associate Project Delivery Manager	1, 2
Public Information Coordinator	1, 2
Planning Manager	1, 2

PASSED AND ADOPTED at a regular meeting of the Transportation Authority of Marin held on the 28th day of March 2019, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

Judy Arnold, Chair
 Transportation Authority of Marin

ATTEST:

Dianne Steinhauser
Executive Director

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