

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** January 28, 2002

**FROM:** CITY ATTORNEY

**SUBJECT:** Adopt a Resolution Requiring a Member of the City Council, or a Member of a Commission, Committee or Task Force Appointed by the City Council, who is Disqualified due to a Conflict of Interest to Excuse Themselves from the Meeting Room

**RECOMMENDATION:**

It is recommended that the City Council adopt a resolution requiring a member of the city council, or a member of a commission, committee or task force appointed by the city council, who is disqualified due to a conflict of interest to excuse themselves from the meeting room.

**BACKGROUND:**

The conflict of interest provisions of the Political Reform Act ("PRA") generally require public officials to disqualify themselves from participating in decisions in which they have a financial interest (California Government Code sections 81000 et. seq.). Regulations of the Fair Political Practices Commission ("FPPC") define such conflicts of interest and set forth rules governing conduct appropriate for members who are disqualified due to a conflict of interest (see Title 2, California Code of Regulations, Division 6, section 18702.1).

State law is clear that a disqualified member must abstain from participation in the determination under consideration. The FPPC Regulations were amended last year to provide that an official who does not participate in a decision because of a conflict does not have to leave the dais or room during consideration of the item. However, the FPPC Regulations acknowledge that a local agency may establish a rule which requires a disqualified member to step down from the dais and/or leave the chambers while the deliberations proceed.

At a December, 2001 City Council presentation regarding the recent FPPC changes, councilmembers asked the City Attorney to draft a policy regarding this matter. The attached Resolution establishes a policy which requires that disqualified City Council members and members of the commissions, committees, and task forces it appoints excuse themselves from the room while the matter is being considered. Consistent with the State law, there is one

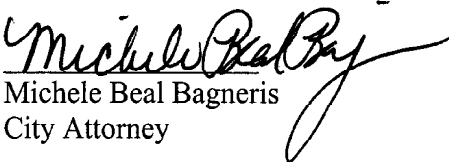
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exception: if the member himself/herself is the applicant in the pending matter, the member does have a right to address the body as a member of the public. This right is preserved in the Resolution.

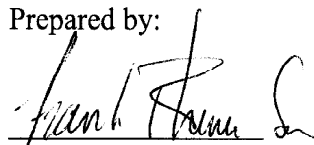
**FISCAL IMPACT:**

There is no fiscal impact associated with this recommendation.

Respectfully submitted,

  
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City Attorney

Prepared by:

  
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