



CITY COUNCIL AGENDA REPORT

MEETING DATE: January 3, 2005

ITEM NUMBER:

SUBJECT: AMENDMENT TO CONFLICT OF INTEREST CODE

DATE: DECEMBER 22, 2004

FROM: City Attorney's Office

PRESENTATION BY: Kimberly Hall Barlow, City Attorney

FOR FURTHER INFORMATION CONTACT: Marianne Milligan, Sr. Deputy City Attorney
(714) 754-5289

RECOMMENDED ACTION:

Staff recommends that the City Council give first reading to the proposed ordinance amending the conflict of interest ordinance attached hereto as Attachment 1.

BACKGROUND AND ANALYSIS:

The Costa Mesa Municipal Code ("CMMC") currently provides for the disqualification from participation in a decision when a Council Member has a conflict of interest. The State Legislature recently amended the procedure that a Council Member must follow when a matter is on a Council agenda that involves a conflict of interest and now provides that the conflicted member actually leave the room where the decision is being discussed. Although this office provided a memo to the City Council regarding these changes when those changes became effective, the CMMC was not amended to reflect those changes and is now in conflict with State law.

While reviewing the above mentioned provision of the CMMC, another provision of the CMMC was found that required all City Attorney opinions regarding conflict of interests provided at the request of a Council Member to be in writing. Because it is not always practical to provide written opinions as a Council Member may ask for an opinion immediately prior to a Council meeting, it is recommended that this provision of the CMMC also be amended to reflect the actual practice of the City Council and City Attorney's Office. A red-lined copy of the referenced provisions reflecting the above changes is attached hereto as Attachment 2.

Therefore, the attached ordinance will remedy the conflict between the CMMC and the State law and provide that the City Attorney may give oral advice to the City Council regarding conflicts of interests.

FISCAL REVIEW:

Fiscal review is not required.

LEGAL REVIEW:

This memo and the attached ordinance was prepared by the City Attorney's office and no further legal review is necessary.

CONCLUSION:

In order to eliminate any conflict between State law and the CMMC regarding Council Members who may have a conflict of interest, it is recommended that the Council give first reading to the attached ordinance.

Marianne Milligan, Sr. Deputy City Attorney

Distribution: Allan Roeder, City Manager
Kimberly Hall Barlow, City Attorney

Attachment 1: [Proposed Ordinance amending the City's conflict of interest code.](#)
[Red-lined copy of Ordinance.](#)