



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jennifer Schembri

**SUBJECT:** SEE BELOW

**DATE:** April 10, 2018

Approved

D. DSL

Date

4/11/18

**SUBJECT: APPROVAL OF REVISED CODE OF ETHICS POLICY, GIFT POLICY,  
AND COUNCIL POLICY 0-15**

## RECOMMENDATION

Adopt a resolution:

1. Approving the revised Code of Ethics Policy;
2. Approving the revised Gift Policy; and
3. Approving the revised Council Policy 0-15.

## OUTCOME

This action will result in updated ethics and gift policies that will be applicable and accessible to all City employees as part of the City Administrative Policy Manual, and an updated Council Policy 0-15, Code of Ethics for Officials and Employees of the City of San Jose.

## BACKGROUND

### Gift Policy

In the *Mayor's 2015 Biennial Review and Recommendation*, the Board of Fair Campaign and Political Practices (BFCPP) was directed to recommend revisions to the Gift Ordinance to better align with the State rules and simplify the compliance with conflicting rules. In March 2017, BFCPP recommended changes to the Gift Ordinance that were presented for Council consideration at the June 20, 2017 meeting.

At the June 20, 2017, meeting, the Council adopted Councilmember Diep's proposal to repeal the Gift Ordinance and follow only State law related to gifts. When the repeal ordinance came

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before the Council for final adoption on June 27, 2017, the City Council deferred the item to August 15, 2017, for further discussion.

At the August 15, 2017 meeting, the Council directed the City Attorney's Office to draft an ordinance amending Title 12 of the San Jose Municipal Code to align the Gift Ordinance with the gift regulations under the Political Reform Act, but maintain the fifty-dollar (\$50) gift limit, which the Council approved on October 24, 2017.

The proposed revisions to the Gift Policy incorporates the Council approved amendments to the Gift Ordinance.

### Code of Ethics

In 2006, the City Council formed the Sunshine Reform Task Force to promote open, accessible, and inclusive government. The Task Force proposed changes in how the City discloses information discussed at public and closed session meetings and provides access to public information and records. In 2008 and 2009, the Council adopted nearly all the proposed changes, and in 2014, consolidated these changes into a new Open Government Ordinance. The Council also approved a resolution to consolidate various procedures and policies into new Consolidated Open Government and Ethics Provisions.

In August 2017, the City Auditor conducted an Open Government Audit to assess progress towards meeting the City's open government goals as proposed by the Sunshine Reform Task, which was codified by the City Council in 2014. The City Auditor noted in their audit that while the Code of Ethics states "*City employees and officials shall uphold the public's right to know... in accordance with the Brown Act...*" it does not reference the City's open government provisions and recommend to ensure that open government becomes an integrated part of the City's business, Administration should reference the Consolidated Open Government and Ethics Resolution in the City's Code of Ethics.

The proposed revisions to the Code of Ethics Policy and Council Policy 0-15 incorporates the Auditor's recommendations to reference the Consolidated Open Government and Ethics Resolution.

Upon City Council approval, the policies will be revised in the City Administrative Policy Manual and Council Policy Manual. Attached for reference are the proposed policies with track changes.

### ANALYSIS

The current Gift Policy applies to all elected and appointed City officials, City officers, including Board and Commission members, and employees, and was last revised on June 28, 2005. The revised Gift Policy adopts the provisions in the amended Gift Ordinance under the San Jose Municipal Code Chapter 12.08, which modifies the exceptions for allowable gifts by

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incorporating the exceptions under the Political Reform Act while maintaining a \$50.00 gift limit. The revised Gift Policy also includes updated definitions and descriptions to match the Gift Ordinance.

The current Code of Ethics Policy applies to all elected and appointed officials, and employees and was last revised June 28, 2005. The revised Code of Ethics Policy incorporates the Auditor's recommendation by informing officials and employees of their obligation to comply with the Consolidated Open Government and Ethics Resolution, in addition to the Brown Act.

Council Policy 0-15 currently mirrors the City's Code of Ethics Policy, including the revisions approved by the City Council on June 25, 2008. Since the City Council approved the Auditor's recommendation to reference the Consolidated Open Government and Ethics Resolution, which also applies to elected officials, Council Policy 0-15 should also be revised to incorporate the proposed language in the revised Code of Ethics to maintain uniformity.

#### **EVALUATION AND FOLLOW-UP**

There is no anticipated City Council follow-up at this time.

#### **PUBLIC OUTREACH/INTEREST**

This item will be posted on the City's website for the April 24, 2018 City Council Agenda.

#### **COORDINATION**

This memorandum has been coordinated with the City Clerk and the City Attorney's Office.

#### **COMMISSION RECOMMENDATION/INPUT**

This was not coordinated with any board or commission.

#### **COST SUMMARY/IMPLICATIONS**

There are no anticipated costs associated with the adoption of these policies.

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**CEQA**

Not a project; File No. PP17-008, General Procedure or Policy Making.

/s/

JENNIFER SCHEMBRI

Director of Employee Relations

For questions please contact Jennifer Schembri, Director of Employee Relations, at (408) 535-8154.

Attachments