

REPORT TO CITY COUNCIL

DATE: AUGUST 25, 2010

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER
CHRISTY PINUELAS, DIRECTOR OF FINANCE

SUBJECT: RESOLUTION NO. 10-1599; ADOPTING THE OFFICER/EMPLOYEE/
OFFICIAL RESPONSIBILITY AND FRAUD PREVENTION POLICY
AND PROTOCOL

The City of Agoura Hills is committed to protecting its revenue, property, information, and other assets from any attempt, either by members of the public, contractors, vendors, agents, or its own employees, to gain financial or other benefits. The proposed policy, which is a recommendation from the auditors, addresses specific guidelines and responsibilities that City staff has followed and which are now recommended to be formalized by the City Council. Although the auditors found no issue with fraudulent activities or behaviors, it was recommended that the City adopt a formal policy to insure that the expectations and policy procedures were clearly defined. The Finance Committee and City Attorney have reviewed the policy and were agreeable to presenting the item to the City Council for adoption.

The proposed policy applies to individuals associated and/or involved in City business activities which include City Councilmembers, appointed officials/commissioners, staff, and contractors and vendors working on behalf of the City. In addition, this policy defines the responsibility of city management and clearly identifies the protocol and structure in which any investigation into suspected or alleged fraudulent activity will occur.

Upon adoption of this proposed policy, it will be provided to all of the individuals it relates to and be added to the City's Personnel Rules.

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 10-1599; adopting the Employee Responsibility and Fraud Prevention Policy and Protocol and including it in the City's Personnel Rules.

Attachments: 1) Resolution No. 10-1599
2) Exhibit A – Employee Responsibility and Fraud Prevention Policy and Protocol

RESOLUTION NO. 10-1599

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, ADOPTING AN OFFICER/EMPLOYEE/OFFICIAL RESPONSIBILITY AND FRAUD PREVENTION POLICY AND PROTOCOL

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

SECTION 1. To accomplish the goals of the City, continuous efforts to protect and preserve the City's resources and assets are utilized.

SECTION 2. Efforts to formalize this proposed policy and procedures were deemed pertinent by the City's auditors and City staff in order to help accomplish the goals set forth.

SECTION 3. The Officer/Employee/Official Responsibility and Fraud Prevention Policy and Protocol are hereby adopted and approved to be included to the City's Personnel Rules, attached hereto as Exhibit A.

SECTION 4. The effective date of this resolution is August 25th, 2010.

PASSED, APPROVED and ADOPTED the 25th day of August, 2010, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

William D. Koehler, Mayor

ATTEST:

Kimberly Rodrigues, City Clerk



OFFICER/EMPLOYEE/OFFICIAL RESPONSIBILITY AND FRAUD PREVENTION POLICY AND PROTOCOL

1. PURPOSE

The City of Agoura Hills is committed to protecting its revenue, property, information, and other assets from any attempt, either by members of the public, contractors, vendors, agents, or its own employees, to gain financial or other benefits by deceit. It is also designed to protect its staff from false allegations.

This Policy and Protocol addresses specific guidelines and responsibilities regarding appropriate actions for detecting, reporting, and investigating fraud or other similar irregularities.

2. APPLICABILITY

This Policy and Protocol applies to Councilmembers, all employees of the City of Agoura Hills, and to employees of local boards, agencies, and commissions over which Council has authority to require general procedures to be followed.

3. POLICY

The City of Agoura Hills will identify and promptly investigate any possibility of fraudulent or related dishonest activities against the City of Agoura Hills and, when appropriate, pursue legal remedies available under the law.

The City of Agoura Hills will take appropriate disciplinary and legal actions against employees and/or entities, to include the possibility of termination of employment or contract, restitution, and forwarding information to the appropriate authorities for criminal prosecution, as appropriate.

This Policy and Protocol will attempt to clarify acts that are considered to be fraudulent, and describe the steps to be taken when fraud or other related irregularities are suspected or have occurred. This statement also includes the procedures to follow in accounting for missing funds, restitution, and recoveries.

4. DEFINITION

Fraud: For the purposes of this Policy and Protocol, fraud encompasses any array of irregularities and illegal acts characterized by intentional deception. Dishonest or fraudulent activities include, but are not limited to, the following:

- Forgery or alteration of documents (checks, promissory notes, time sheets, independent contractor agreements, purchase orders, etc.)
- Misrepresentation of information by an individual
- Misrepresentation of information on documents
- Misappropriation of funds, securities, supplies, or any other asset
- Unauthorized use, disappearance, or destruction of City property, equipment, materials or records
- Improprieties in the handling or reporting of money transactions
- Authorization or receipt of payments for goods not received or services not performed
- Authorization or receipt of payment for hours not worked
- Any claim for reimbursement of expenses that are not made for the exclusive benefit of the City
- Any apparent violation of Federal, State, or local laws related to dishonest activities or fraud
- Any similar or related activity

5. MANAGEMENT RESPONSIBILITY

Each department head is responsible for instituting and maintaining a system of internal control to provide reasonable assurance for the prevention and detection of fraud, misappropriations, and other irregularities.

Management should be familiar with the types of improprieties that might occur in their area and be alert to any indication that improper activity, misappropriation, or dishonest activity is or was in existence in his or her operational area.

Upon notification from an employee of suspected fraud, or if management has reason to suspect that a fraud has occurred, he/she will contact their immediate supervisor and the department head. The department head will contact the Assistant City Manager. If the Assistant City Manager position does not exist, the City Manager will designate an alternate position. If the Assistant City Manager is suspected of fraud, the employee should contact the City Manager, and the City Manager will conduct the investigation. If the City Manager is suspected of fraud, the City Attorney on behalf of the City Council, will conduct the investigation. If a City Councilmember is suspected, the City Manager will conduct the investigation. The department head will also immediately contact the

Sheriff's Department if he/she feels the situation warrants such action (for example, obvious theft has taken place, security is at risk, or immediate recovery is possible). After informing the Assistant City Manager of the matter, management will not attempt to conduct individual investigations, interviews, or interrogations.

Management will support and co-operate with the Assistant City Manager, other involved departments, and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including prosecution of offenders.

The Assistant City Manager will have full and unrestricted access to all necessary City records and personnel. Upon completion of the investigation, including all legal and personnel actions, any records, documents, and other evidentiary material will be returned by the Assistant City Manager to the appropriate department(s).

All furniture and contents, including employee desks and computers, are open to inspection when there is a reasonable suspicion of a dishonest or fraudulent activity, which makes such inspection appropriate. There is no assumption of privacy in such cases. Every effort will be made to effectively recover any of the City's losses.

Great care must be taken in dealing with suspected dishonest or fraudulent activities to avoid the following:

- Incorrect accusations;
- Alerting suspected individuals/companies that an investigation is underway;
- Treating employees/third parties unfairly; or
- Making statements that could lead to claims of false accusations or other offenses. Employees who knowingly or negligently make false accusations may be subject to disciplinary action.

All participants in a fraud investigation will keep the details and results of the investigation confidential. However, the Assistant City Manager, in consultation with City Attorney, may disclose particulars of the investigation with potential witnesses/personnel if such disclosure would further the investigation.

Responsibilities of the manager in handling dishonest or fraudulent activities include the following:

- Do not contact the suspected individual to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with anyone outside the City, unless specifically directed to do so by the Assistant City Manager or City Attorney.
- Do not discuss the case with anyone inside the City other than employees who have a need to know, such as the Assistant City Manager.

- Direct all inquiries from the suspected individual/company or his/her/its representative/attorney to the City Manager.
- Direct all inquiries from the media to the City Manager's Office. A proper response to such an inquiry might be, "I'm not at liberty to discuss this matter. Let me refer you to the City Manager's Office". The City Manager's Office will determine the appropriate media messages and identify an appropriate City spokesperson, as required.
- Take appropriate corrective and disciplinary action after consulting with the City Manager.

6. EMPLOYEE RESPONSIBILITIES

When suspected fraudulent incidents or practices are observed by, or made known to, an employee, the following will be done:

- The incident or practice must be reported to his/her supervisor for reporting to the proper management official. When the employee believes the supervisor may be involved in the inappropriate activity, the employee will make the report directly to a higher level of management and/or the Sheriff's Department.
- The reporting employee will refrain from further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone other than his/her supervisor, the Assistant City Manager/City Manager, and/or law enforcement personnel.

7. INVESTIGATION

The Assistant City Manager will carry out an initial review. If the Assistant City Manager is suspected of fraud, the City Manager will conduct the initial review. After this review is completed, a determination of whether the suspected fraud warrants additional investigation by the Assistant City Manager will be made. As warranted, the Assistant City Manager will inform Risk Management of a pending investigation.

A prompt investigation will be conducted to include detailed analyses of available records. The audit investigation requires the full co-operation of the departmental personnel. The Assistant City Manager will proceed as follows, if evidence is uncovered showing possible dishonest or fraudulent activities:

- The Assistant City Manager will discuss the findings and recommendations for prevention of future similar occurrences with management and appropriate administrators. Management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of improper actions.

- The Assistant City Manager will meet with Human Resources to determine if disciplinary actions should be taken.
- The Assistant City Manager will notify the City Manager.
- The Assistant City Manager will notify the Finance Committee as appropriate.
- If illegal activity appears to have occurred, the Assistant City Manager, in consultation with the City Attorney, will report the findings to the Sheriff's Department.
- The Assistant City Manager will contact Risk Management to coordinate the notification of insurers and the filing of insurance claims.
- The Assistant City Manager will report to the external auditors of the City all information relating to investigations of actual frauds.

The Assistant City Manager is available and receptive to receiving relevant information on a confidential basis to the extent allowed by law. Individuals have the right to contact the Assistant City Manager directly whenever a dishonest or fraudulent activity is suspected.

8. RELATED POLICIES

This Policy and Protocol is designed to augment any other corporate policies containing related information. It does not replace or preclude them. To the extent that this Policy and Protocol may conflict with any other corporate policies containing related information, this Policy and Protocol will take precedence to the extent only of such conflict.

9. COMPLIANCE

Failure of staff to comply with this Fraud Policy and Protocol could result in disciplinary action.