

REPORT TO CITY COUNCIL

DATE: NOVEMBER 10, 2010

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER

SUBJECT: RESOLUTION NO. 10-1604; ADOPTING THE FINANCIAL TRANSACTIONS BETWEEN EMPLOYEES AND APPOINTED OFFICIALS AND ELECTED OFFICIALS POLICY

The City of Agoura Hills is committed to protecting its revenue, property, information, and other assets from any attempt to gain financial or other benefits improperly. As such, the City has adopted and implemented policies that are consistent with these goals. The proposed Financial Transaction Policy is being presented by Human Resources and Risk Management staff as part of a continual effort to limiting risk, improving transparency and openness in its financial transactions, and preventing the occurrence or appearance of impropriety. Approval of this policy would provide a clear set of guidelines and rules relating to financial transactions between employees and/or elected and appointed officials, as well as supervisors and subordinates.

Although existing policies were found to be adequate in scope, they are lacking detail and guidance to circumstances that have and may occur in the future. Providing clear and concise guidance will help prevent potential abuses and assist in the avoidance of any appearance of impropriety. This policy also clarifies the Supervisor-Subordinate relationship in regards to financial transactions and provides comprehensible expectations.

The proposed policy applies to all City employees, appointed officials, and elected officials. Protocol for questions, guidance, and exceptions are also established.

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. 10-1604; adopting the Financial Transactions Between Employees and Appointed Officials, and Elected Officials Policy, and including it in the City's Personnel Rules.

Attachments: 1) Resolution No. 10-1604
2) Exhibit A – Financial Transactions Between Employees and Appointed and Elected Officials

RESOLUTION NO. 10-1604

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, ADOPTING THE FINANCIAL TRANSACTIONS BETWEEN EMPLOYEES AND APPOINTED OFFICIALS AND ELECTED OFFICIALS POLICY

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 Human Resources and Risk Management staff in order to help accomplish the goals set forth.

SECTION 3. The Financial Transactions Between Employees, Appointed Officials, and Elected Officials Policy are hereby adopted and approved to be included in the City's Personnel Rules, attached hereto as Exhibit A.

SECTION 4. The effective date of this resolution is November 10th, 2010.

PASSED, APPROVED and ADOPTED the 10th day of November, 2010, by the following vote to wit:

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

William D. Koehler, Mayor

ATTEST:

Kimberly Rodrigues, City Clerk

**CITY OF AGOURA HILLS
FINANCIAL TRANSACTIONS BETWEEN EMPLOYEES AND APPOINTED
OFFICIALS AND ELECTED OFFICIALS POLICY**

Overview

The City of Agoura Hills generally does not seek to regulate private financial transactions between employees and appointed officials and elected officials. However, certain transactions present a risk of actual or perceived conflicts of interest, undue influence, unfair pressure, favoritism, or the appearance of impropriety. The City has an interest in regulating these transactions because of their potential to affect workplace issues and the City's legitimate interests.

In particular circumstances, other City rules, policies or direction may address a specific financial transaction between employees. This policy is intended to provide general guidance and rules for financial transactions between employees and/or appointed and elected officials of the City. This policy is not intended to limit or to supercede other laws, rules, policies, or guidance.

**Co-Worker Financial Transactions (Including Supervisor-Subordinate and
Employee-Elected Officials and Employee-Appointed Official(s))**

Employees are prohibited from:

- Engaging in business transactions or having contractual, financial, or personal interests that impair independence or objectivity of judgment or action in the performance of official duties.
- Using City property, equipment, or labor for the private advantage of the employee.
- Soliciting or accepting anything of value calculated to influence a decision.

In addition, City policy on outside employment requires employees to report and obtain permission for the outside employment. This process enables the City to review the proposed work for a potential conflict of interest and to set reasonable conditions to prevent activities that interfere with or impair an employee's job with the City. Employees are also prohibited from operating a business on City time or using City resources, such as City vehicles, computers, copiers, work time, or confidential information.

While these prohibitions are often viewed in relation to employees acting alone or with third parties, they apply equally to transactions and activities between employees and/or elected and/or appointed officials.

Supervisor-Subordinate Financial Transactions

Owing to the potential for abuse and for the appearance of impropriety, financial transactions between supervisors and subordinates are discouraged. These transactions can impair the independence of the supervisor or may appear to influence the exercise of official authority, especially in future compensation and personnel decisions. Where the transaction is not between peers, the possibility of unequal bargaining power also raises questions about the appearance of impropriety.

No supervisor may engage in any financial transaction, including, without limitation, transactions involving the purchase or sale of goods or services, private employment, or consulting and loans with an employee over whom the supervisor exercises supervisory authority or responsibility. This prohibition includes all employees within the supervisor's chain of command, even where the supervision is not the direct supervisor of the subordinate. For purposes of this policy, the City uses the following definition of "supervisor," taken from California equal employment law:

"Supervisor" means any individual having the authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

A "subordinate" is any employee subject to such authority in relation to a supervisor. As with supervisors, this includes subordinates within the chain of command, at any level.

Under this rule, a supervisor and subordinate could not arrange for the purchase and sale of a car between the two of them. The supervisor and subordinate also could not enter into an agreement where one would perform outside work for the other, whether as an employee or as an independent contractor. This rule is not intended to limit insubstantial transactions in the normal course of a regular commercial business, such as a retail store or restaurant.

Questions, Guidance and Exceptions

Questions regarding this policy may be directed to the City Manager or that person's designee. The City Manager or designee may consult with others, including the City Attorney, in preparing a response. Employees and elected and appointed officials who are unsure of the application of this policy to a particular situation are encouraged to seek guidance before taking action in order to avoid violations. Requests for guidance may be made in the same manner as questions.

Financial Transactions Policy

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The City Manager may grant exceptions to the specified prohibitions on supervisor-subordinate transactions. For example, where the transaction is disclosed and is of such an insubstantial nature that the concerns addressed in this policy are not present. There may also be instances where the limitations would result in an undue hardship or would be contrary to law. Exceptions involving the City Manager are within the discretion of the City Council.