



OFFICE OF THE CITY CLERK

REPORT

TO THE HONORABLE PUBLIC SAFETY & NEIGHBORHOOD SERVICES

DATE: February 10, 2010

REPORT NO.: 10-01

SUBJECT: STATEMENT OF ECONOMIC INTERESTS (FORM 700) PROCESS AND IMPACTS

ISSUE

On Monday, January 11, 2010, the City Council passed Item 200: Adopting a Conflict of Interest Code for Community Parking District Advisory Boards. Both the City Attorney's Docket entry and the Independent Budget Analyst's Report (10-04) acknowledged that this action would increase the number of filers, and potentially impact the Office of the City Clerk, which is tasked with contacting, tracking, reviewing, following-up with and potentially referring filers. This report will outline the current process employed by the Office of the City Clerk, which was designed to meet the "good faith effort" required by the Fair Political Practices Commission (FPPC) in pursuing successful filing by the identified Parking District Advisory Boards' current and appropriate past members. Additional analysis will estimate hours, cost and anticipated success rates where possible.

SUMMARY

The Statement of Economic Interests (SEI) is a public document that certain government employees (including consultants and board members) use to disclose financial interests. Potential filers use the appropriate conflict of interest code to determine whether or not they hold a designated position required to file and, if so, which disclosure categories apply. Designated positions are defined as positions which involve making or participating in the making of decisions which may have a material effect on the holder's financial interests.

Potential filing times:

1. Initial Statement: within 30 days of a new position being added to a conflict of interest code.
2. Assuming Office Statement: within 30 days of taking a position already designated in a conflict of interest code.

3. Annual Statement: Before April 1st of each year (for the preceding calendar year).
4. Leaving Office Statement: within 30 days of leaving a designated position.

PROCESS WITHIN THE OFFICE OF THE CITY CLERK

The City Clerk uses a number of methods to identify and track the City's various filers, which include:

Statutory Filers (Government Code 87200)

High-level filers, limited in number (i.e., elected representatives, candidates, City Treasurer, City Manager/Chief Operating Officer) – original goes to the Fair Political Practices Commission (FPPC) in Sacramento.

Boards & Commissions

Appointments and Confirmations are generally docketed; oath cards are issued; SEI instructions are included with an "assuming office" letter; "leaving office" letters may also be distributed; on-going filers are determined and may be contacted through a liaison.

City Employees and Consultants

During each December, the Office of the City Clerk provides every department director and agency head with a list of designated positions identified in the department's or agency's conflict of interest code, and a list of employees who filed SEIs the previous year. A staff member from the department or agency identifies employees who hold designated positions, including consultants; rectifies the list; and returns it to the City Clerk for appropriate action.

All first-time filers are sent an "assuming office" letter with a hard copy of Form 700, the appendices from the appropriate conflict of interest code, the FPPC's "Gifts and Honoraria" information and the Clerk's pamphlet, "Your Statement of Economic Interests."

Annual Statement Process:

(Note: The process outlined below is based on the duties mandated for filing officers and officials by 2 California Code of Regulations §18115, and the FPPC's guidelines for such officers and officials.)

Notification is sent to filer in mid-February of need to file by April 1st deadline.

2. **Filer files by deadline.** The SEI receives a prima facie review; if there are deficiencies, an amendment is requested, which then must go through a similar tracking and follow-up process as outlined below relating to missed deadlines. The SEI may also be part of the 20% full review mandated by state law for all timely filed annual SEIs. The SEI is retained for seven years.
3. **Filer misses deadline** and is sent a letter which include a second deadline, a warning of the potential for a late-filing fine (at \$10/day up to \$100, per SDMC §27.3588 and Government Code §91013) and a request for a written explanation for the late filing.

- a. If the filer files by this second deadline and sends an explanation, the SEI receives a full review mandated by state law for late-filed annual SEIs and a fining rubric, also based on FPPC guidelines, is used to determine whether or not to waive the fine. If there are deficiencies, an amendment is requested.
 - b. If the filer files by this second deadline with no explanation attached, the explanation is again requested, this time by phone. If no explanation is received within two days, then a fine letter is prepared giving the filer 30 days within which to pay his or her fine. If no payment is received by that deadline, then an invoice is prepared and sent to the filer, after which the fine is a matter for the Collections section of the Treasurer's Office.
4. ***Filer misses second deadline*** and is sent a second letter which includes a third deadline, a warning of the potential for a late-filing fine (at \$10/day up to \$100, per SDMC §27.3588 and Government Code §91013) and a request for a written explanation for the late filing.
 - a. If the filer files by this third deadline and sends an explanation, the SEI receives a full review mandated by state law for late-filed annual SEIs and a fining rubric, also based on FPPC guidelines, is used to determine whether or not to waive the fine. If there are deficiencies, an amendment is requested.
 - b. If the filer files by this third deadline with no explanation attached, the explanation is again requested, this time by telephone. If no explanation is received within two days, then a fine letter is prepared giving the filer 30 days within which to pay his or her fine. If no payment is received by that deadline, then an invoice is prepared and sent to the filer, after which the fine is a matter for the Collections section of the Treasurer's Office.
5. ***Filer misses third deadline*** and is sent a third letter – a “specific written notice” - which contains a fourth deadline, a warning of the potential for a late-filing fine and a request for a written explanation for the late filing.
 - a. If the filer files by this fourth deadline and sends an explanation, the SEI receives a full review mandated by state law for late-filed annual SEIs and a fining rubric, based on FPPC guidelines, is followed to determine whether or not to waive the fine.
 - b. If the filer files by this fourth deadline and no explanation is sent, the explanation is again requested, this time by telephone. If no explanation is received within two days, then a fine letter is prepared giving the filer 30 days within which to pay his or her fine. If no payment is received by that deadline, then an invoice is

prepared and sent to the filer, after which the fine is a matter for the Collections section of the Treasurer's Office.

6. ***Filer misses fourth deadline.*** Non-filers who are other than classified employees are referred to the Ethics Commission for follow-up.

It should be noted that even if the non-filer ultimately files after this fourth deadline, state law requires that the full \$100 fine be imposed. The Ethics Commission may also impose its own fine in addition to this \$100 fine.

ANALYSIS OF IMPACT OF ADDITIONAL 100 (OR MORE) PARKING DISTRICT ADVISORY BOARD FILERS

The first step in a successful SEI filing involves making contact. Updated contact information – a viable address, e-mail and/or phone number – is required. Board and Commission members may meet sporadically with City staff and/or have limited or volunteer status. This makes it difficult to gather and confirm updated contact information. The City Clerk works through city staff liaisons that have been identified to gather and provide the information.

The City Clerk provides annual training to City staff liaisons regarding the annual filing process. The training includes:

- Reviewing the Conflict of Interest Code and identifying filers;
- Assisting with the determination of the types of statements that must be filed (Assuming Office, Leaving Office, and Annuals);
- Assisting with definitions provided by the FPPC regarding filers such as consultants and those who manage public investments.

The Office of the City Clerk does not provide advice to filers regarding what they are required to disclose. This type of substantive question is referred to the Ethics Commission and/or the FPPC for response.

Because the Parking District Advisory Board appointment process does not go through the Legislative Body, the City Clerk's Office relies upon notification by City staff liaisons regarding turnover of members or contact information updates.

In January, 2010, the Office of the City Clerk received the filer contact information from Planning and Community Investment staff for the six Community Parking Advisory Boards. Based on this information, letters were sent the week of January 18, 2010, to 140 members, requesting a total of 371 statements - which includes past-year statements from members for the Old Town Parking Advisory Board, Pacific Beach Parking Advisory Board, and La Jolla Parking Advisory Board. As of February 9, two statements have been received.

A breakdown of SEI filers by category for the past three years is attached for your information (see Attachment A). Clearly, some groups of filers require more follow-up in the form of late notices and requests for amendments than others. Parking District

Advisory Boards have a similar structure to the Project Area Committee (PAC) filers in that they are not appointed by either the Mayor or Council, and they pose some of the same contact and update challenges. Thus, historical information relating to the PACs has been used to estimate potential costs and impacts to the Office of the City Clerk, as follows:

Task	Classification/Rate	Total hours	Total cost estimate
Contacting Parking Advisory Board liaison(s), provide review or training relating to the process	Administrative Aide II @\$46.41 an hour	8	\$371.28
Creating the initial 100 plus initial filing letters, making copies of letters and the enclosure (hard copy of Form 700, the appendices from the appropriate conflict of interest code, the FPPC's "Gifts and Honoraria" information and the Clerk's pamphlet, "Your Statement of Economic Interests"), mailing and updating the tracking database.	Deputy City Clerk I @\$37.94 an hour	24	\$910.56
Answering calls from filers regarding deadlines and how to complete form	Senior Clerk/Typist @ \$40.96 an hour	8	327.68
Reviewing submissions, tracking missed deadlines, contacting liaisons for follow-up	Senior Clerk/Typist @ \$40.96 an hour	24	\$983.04
Sending requests for amendments, second and third letters for missed deadlines	Deputy City Clerk I @\$37.94 an hour	12	\$455.28
Full review of late filings (estimated at 15%)	Administrative Aide II @\$46.41 an hour	12	\$556.92
Creating and maintaining files/records of correspondence and filings	Deputy City Clerk I @\$37.94 an hour	8	\$303.52
Pulling files per customer request for review	Deputy City Clerk I @\$37.94 an hour	16	\$607.04
Creating/Updating matrix with historical information for tracking, follow-up, potential referral	Senior Clerk/Typist @ \$49.96 an hour	8	\$399.68
Total		120	\$4,915.00


In addition to the mailing, tracking, reviewing and follow-up, as outlined above, there are additional costs generated as follows:

1. The new Conflict of Interest Code for the Parking Advisory Boards will need to undergo a biennial update. This process includes the following elements:

CONCLUSION

This report outlines the process the Office of the City Clerk employs to assist identified SEI filers in successfully meeting their filing requirements. As the filing officer for the City, the City Clerk has a legal obligation to make a "good faith effort" required by the Fair Political Practices Commission (FPPC) in pursuing successful filing by the Parking District Advisory Boards' current and appropriate past members. The various steps this office has put into practice are based on the duties mandated for filing officers and officials by 2 California Code of Regulations §18115, and the FPPC's guidelines for such officers and officials.

In addition, this report attempts to quantify the impacts the additional Parking District Advisory Board filers may generate. It is important to note, however, that the responsibilities relating to SEIs occur throughout the year, and this fact, along with the structure of the Advisory Boards, makes it difficult to project hard data.



Denise C. Jenkins
Elections Analyst



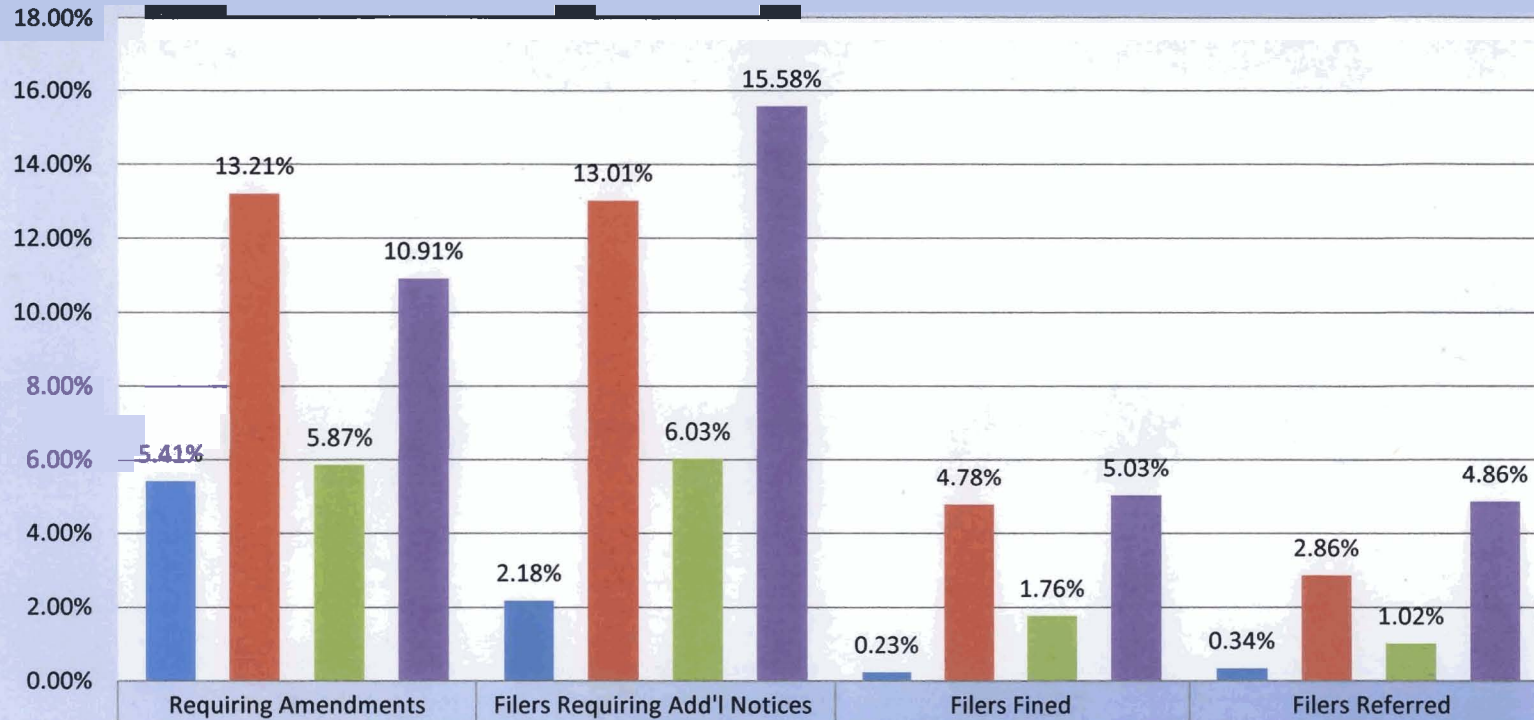
Bonnie J. Stone
Deputy Director



APPROVED: Elizabeth Maland
City Clerk

ATTACHMENT A

2007 - 2009 Statement of Economic Interests Filers Requiring Follow-up



■ City/Agency Employees	5.41%	2.18%	0.23%	0.34%
■ Consultants	13.21%	13.01%	4.78%	2.86%
■ City/Agcy Boards & Commissions (w/o PACs)	5.87%	6.03%	1.76%	1.02%
■ Project Area Committees	10.91%	15.58%	5.03%	4.86%

■ City/Agency Employees ■ Consultants ■ City/Agcy Boards & Commissions (w/o PACs) ■ Project Area Committees