

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nora Frimann
Acting City Attorney

SUBJECT: Conflicts Review - Parks &
Recreation Commission
Applicant

DATE: September 8, 2020

BACKGROUND

This Office routinely reviews applications to City Boards and Commissions. The applications generally do not provide complete information regarding potential conflicts; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight areas of potential conflict which are disclosed by the application. In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicant is seeking appointment. This review is limited to the information provided on the applications and is not intended to be comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

The Parks and Recreation Commission's duties include studies, reviews, evaluation, and making recommendations to the City Council regarding the City's Parks and Recreation programs. The Parks program includes the location, design, and maintenance of parks and other recreation facilities. The Recreation programs include adult sports and youth, senior and special population activities. If an applicant lives in proximity to the park or recreational facility, there may be occasions when he or she may have to abstain from participation in matters before the Commission that concern the particular facility. We have no way of evaluating this situation in advance – City staff would need to evaluate the location of the project and the commissioner's residence on a case-by-case basis.

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a commissioner from participating in a commission discussion or from voting if a matter involving the entity comes before the commission. While this list is not complete, these types of conflicts generally fall within one or more of the following situations:

- An application shows entities that are "sources of income" to a potential commissioner within the 12 months preceding the start of the commission term, as defined under the **Political Reform Act**.

- An application shows sources of income to a spouse or domestic partner of a potential commissioner within the 12 months preceding the start of the commission term.
- An applicant or the spouse or domestic partner of an applicant is an officer or board member of an entity and it is foreseeable that the entity could be involved in a matter coming before the commission.

APPEARANCE OF BIAS

There may be facts which would not amount to a legal conflict of interest requiring a commissioner to recuse him or herself from a commission vote or discussion but the relationship could create an appearance of bias on the part of the commissioner. City Council policy requires commissions to be free from bias in their decision making and may require a commissioner to recuse him or herself if the facts could reasonably lead one to conclude that the applicant would be biased for or against an entity or entities.

REVIEW OF APPLICANT

The application from the applicants listed below was reviewed by our office. Unless otherwise indicated, no application discloses incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the commission.

Louis Barocia – Mr. Barocia’s application indicates that he is employed at East Side Union High School District as an Associate Principal of Educational Services. Mr. Barocia’s spouse is employed at Escuela Popular as a Director of Student Achievement. Mr. Barocia’s current application discloses neither incompatible offices nor apparent conflicts of interest.

Marcus Foley – Mr. Foley’s application indicates that he employed at Auris Health as Research and Development Engineer. Mr. Foley’s spouse is employed at Quotient Technology as a UI Designer. Mr. Foley’s current application discloses neither incompatible offices nor apparent conflicts of interest.

Angel Madero – Mr. Madero’s application indicates that he is employed as an Intern with The Silicon Valley Organization. Mr. Madero’s current application discloses neither incompatible offices nor apparent conflicts of interest.

Art Maurice – Mr. Maurice’s application indicates that he is Retired. His application discloses neither incompatible offices nor apparent conflicts of interest.

Jacqueline Lopez – Ms. Lopez’s application indicates that she is employed at Team San Jose as a National Sales Manager. Ms. Lopez’s spouse is employed at Mojo Vision as a Senior Engineer. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Katie Gray – Ms. Gray’s application indicates that she is Self-employed, as a Principal/Sole Proprietor. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Matias Eusterbrock – Mr. Eusterbrock’s application indicates that he is employed at The City of San Jose as a Planner 1. Council policy 0-4, section 11.B provides that current city employees may not serve on a City board, committee or commission.

Roberto Alvarez – Mr. Alvarez’s application indicates that he is employed at Voices College Bound Language Academies as a Parent Organizer. Mr. Alvarez’s spouse is employed at KIPP Heartwood Academy and is an 8th Grade Math Teacher. His application discloses neither incompatible offices nor apparent conflicts of interest.

Aslan Pishdad – Mr. Pishdad’s application indicates that he is employed at ACV Partners as a Partner. His application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

You may wish to consider the above comments in making your recommendation on appointment to the Commission.

NORA FRIMANN
Acting City Attorney

By *Kevin Fisher*
KEVIN FISHER
Chief Deputy City Attorney

cc: Dave Sykes, City Manager
Toni J. Taber, CMC, City Clerk