

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: NORA FRIMANN
City Attorney

SUBJECT: Conflicts Review - Airport
Commission Applicants

DATE: February 20, 2021

BACKGROUND

This Office routinely reviews applications to City Boards and Commissions. The applications do not provide complete information; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight major areas of potential conflict that are disclosed by the applications. To analyze potential conflicts, it is necessary to consider the duties of the particular commission to which the applicant is seeking appointment.

COMMISSION DUTIES

Under the Municipal Code, the Airport Commission is an advisory body that makes recommendations to the Council and the Airport Department on matters on its workplan as approved by the Rules and Open Government Committee. The Airport Commission serves as an advisory body to the City Council and the Director of Aviation regarding Airport noise related issues and provides a public forum for Airport noise related issues, policies and decisions. The Airport Commission is also responsible to monitor curfew intrusion information and reviews the City's Airport public information program and the City's Airport noise complaint procedures. The Commission also hears appeals of administrative citations issued by the Director of Aviation for violations of the City's Curfew Ordinance and appeals of revocations or denials of Airport permits.

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 that 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.

APPLICANTS

Joseph Head – Mr. Head is a resident of District 6, and he is a current Airport Commissioner. Mr. Head is employed by Charities Housing in Business Development, and his spouse is retired. His application discloses neither incompatible offices nor apparent conflicts of interest.

Mark Gilpatrick – Mr. Gilpatrick resides in District 6. He works at Qualcomm in Business Process. The spouse portion of his application is marked N/A. His application discloses neither incompatible offices nor apparent conflicts of interest.

Nick Patel – Mr. Patel is a resident of District 7, and he is a Senior Software Engineer at NetApp in Sunnyvale. His spouse is employed as a Product Manager at VMware in Palo Alto. His application discloses neither incompatible offices nor apparent conflicts of interest.

Lisa Marie Smith – Ms. Smith is a resident of District 9 and she is a flight attendant with Alaska Airlines. The spouse section of her application is listed as N/A. Because Ms. Smith is an employee of Alaska Airlines, Ms. Smith would have a conflict to the extent that the Airport Commission considers and makes recommendations regarding any contracts with Alaska Airlines or the terms and conditions of any new form airline lease that would eventually be signed by Alaska Airlines at the Airport. Government Code Section 1090 prohibits public officials or employees from making or participating in the making of a contract in which the official is financially interested. Airport Commissioners are considered “public officials” for the purpose of Section 1090, and Ms. Smith has a financial interest in her salary from Alaska Airlines. Courts have found a prohibited financial interest even though the officer or employee would not directly benefit from the terms of the contract; it was ruled significant that the contract would

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contribute to the financial health of the contracting party with which the officer or employee was associated or employed. If Ms. Smith were an Airport Commissioner, Section 1090 would prohibit the Airport Commission from considering or making any recommendations regarding either an agreement with Alaska Airlines or the terms and conditions of any new form airline lease that would eventually be signed by Alaska Airlines at the Airport. The prohibition is interpreted liberally to protect the public against conflicts of interest. When a Commissioner has a proscribed financial interest, the prohibition extends to the Commission even if the Commissioner with the proscribed financial interest did not participate in any of the steps involved in the making of the agreement. In other words, the Airport Commission would be prohibited from considering, advising, or having any involvement with the agreements with Alaska Airlines, even if Ms. Smith were to recuse herself from any Commission discussions or actions regarding agreements with Alaska Airlines. Her application discloses no other incompatible offices nor apparent conflicts of interest.

Ken Pyle – Mr. Pyle is a resident of District 1, and he is a current Airport Commissioner. He is employed by Viodi, LLC as Managing Editor. His spouse is employed by Mercari as Payroll Administrator. His application discloses neither incompatible offices nor apparent conflicts of interest.

Catherine Hendrix – Ms. Hendrix is a resident of District 9, and she is a current Airport Commissioner. She is retired from VTA, where she worked as a Senior Management Analyst. Her spouse is retired from Santa Cruz Regional 911. Her application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

None of the applicants appear to hold any incompatible offices or to have conflicts of interest that would preclude them from serving on the Airport Commission. As noted above, Ms. Smith would have a conflict if the Airport Commission considers any potential contracts with her employer, Alaska Airlines. The Mayor and City Council may wish to consider the above comments in making its recommendations regarding appointments to the Airport Commission.

RICHARD DOYLE,
City Attorney

By: /s/ Kevin Fisher
KEVIN FISHER
Assistant City Attorney

cc: David Sykes, City Manager
Toni J. Taber, City Clerk

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **FROM:** Nora Frimann
City Attorney

SUBJECT: Conflicts Review – Downtown Parking Board Applicants **DATE:** June 8, 2021

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 board or 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 a comprehensive investigation of potential conflicts involving the applicants.

BOARD DUTIES

The Board has the following functions, powers, and duties:

- A. Review, evaluate and make recommendations to the City Council regarding the City's Downtown Parking Program, including, but not limited to:
1. The updating and implementation of any Downtown Parking Plan that has been approved by the City Council.
 2. The annual capital and operating budgets respecting the Downtown Parking Program.
 3. The award of consultant and vendor contracts related to the Downtown Parking Program.
 4. The goals and objectives for the Downtown Parking Program.
 5. The on-street and off-street parking rates and implementation of parking validation programs.
 6. The marketing of on-street and off-street parking facilities in downtown.
 7. The implementation of downtown parking enforcement.
 8. The operation of public off-street and on-street parking facilities.

- B. Periodically review, evaluate and make recommendations regarding the parking fund fiscal reports and the use of parking operations revenues.
- C. Review and make recommendations on downtown parking needs, the expansion, addition or improvement of downtown parking facilities, and improvements to parking operations downtown.
- D. Serve as a public forum for the discussion of downtown parking issues.

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a Board member from participating in a Board discussion or from voting if a matter involving the entity comes before the Board. 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 Board member within the 12 months preceding the start of the Board term, as defined under the Political Reform Act;
- An application shows sources of income to a Spouse or Domestic Partner of a potential Board member within the 12 months preceding the start of the Board 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 Board.

The Municipal Code contains specific requirements, made in compliance with State law pertaining to conflicts of interest, that members of the Board should be representative of the interests of various groups in matters related to the administration of the Downtown Parking Board and that such representation is in the public interest.

APPLICANTS

Applications from the applicants listed below were reviewed by our Office:

Chris Patterson-Simmons – This applicant resides in council district 4 and is applying for a position designated for a representative of a business association within a designated meter district outside of the Downtown Core. Ms. Patterson-Simmons’ application indicates she is a self-employed shop manager of Neu2u Thrift Boutique. Ms. Patterson-Simmons’ spouse is retired from the US Military. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Wolfram Schneider – The applicant resides in council district 3 . Mr. Schneider is RE-APPLYING for a position of downtown resident. Mr. Schneider’s application indicates that he is employed as a Customer Quality Manager at Maxim Integrated. His application discloses neither incompatible offices nor apparent conflicts of interest.

Robert Gonzalez – The applicant resides in council district 3 and is applying for the position designated for a member at large with expertise in business or finance. Mr. Gonzalez’s application indicates that he is a Senior Administrative Analyst for the Town of Los Gatos. His application discloses neither incompatible offices nor apparent conflicts of interest.

Charles Faas – The applicant resides in council district 3 and is applying for position designated for a representative from San Jose State University. Mr. Faas’ application indicates that he is the VP of Administration and Finance, CFO for San Jose State University. Mr. Faas spouse is a homemaker. His application discloses neither incompatible offices nor apparent conflicts of interest.

William Cord – The applicant resides in council district 3 and is applying for position designated for a representative from San Jose State University or downtown resident. Mr. Cord’s application indicates that he is a Crew Member at Trader Joe’s. Mr. Cord’s spouse is also a Crew Member at Trader Joe’s.. His application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

Unless otherwise indicated, no application discloses incompatible offices nor apparent conflicts of interest that would substantially impair the functioning of the Board. You may wish to consider the above comments in making your recommendations on appointments to the Board.

NORA FRIMANN
Acting City Attorney

By *Jon Calegari*
Jon Calegari (Jun 8, 2021 18:49 PDT)
Jon Calegari
Deputy City Attorney

cc: David Sykes
Toni Taber

Memorandum

TO: Honorable Mayor
and City Council

FROM: Nora Frimann
City Attorney

SUBJECT: Conflicts Review - Housing
and Community Development
Commission

DATE: March 17, 2021

BACKGROUND

This Office routinely reviews applications to City boards and commissions. Although the applications do not provide complete information, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight major areas of potential conflict that are disclosed by applications.

COMMISSION DUTIES

The Housing and Community Development Commission (“HCDC” or “Commission”) was formed in July 2013 when the Housing and Community Development Advisory Commission was merged with the Advisory Commission on Rents (“ACR”) and the Mobilehome Advisory Commission (“MAC”). It serves as the successor to ACR and MAC fulfilling their duties under the Mobilehome Rent Ordinance, Chapter 17.22 of the Municipal Code and the Rental Dispute Mediation and Arbitration Ordinance (“Apartment Rent Ordinance”), Chapter 17.23 of the Municipal Code. These duties include review of the fees imposed under those ordinances. HCDC also reviews potential amendments to provisions of the Zoning Code that apply to mobilehomes including the City’s Mobilehome Park Conversion Ordinance. HCDC serves as the lead citizen participation group in the planning and programming of the Community Development Block Grant (“CDBG”). HCDC also makes recommendations on new and existing Housing Department programs and policies. Additionally, HCDC holds public hearings and makes recommendations in conjunction with the City’s Consolidated Plan and Annual Action Plans, which are related to the use and spending of federal funds, including CDBG, Emergency Solutions Grant (“ESG”), and Home Investment Partnerships Program (“HOME”) funds. In 2020, HCDC was designated as the Oversight Committee for the Measure E funds reviewing and commenting on spending plans and expenditures consistent with Council Policy 1-18. The decisions made by the members of HCDC, particularly those related to the Consolidated Plan, may impact the spending of City funds.

COMMISSION MEMBERSHIP

The Commission is a 13 member body with the following special eligibility requirements: (a) one member shall be a person recommended by an organization of owners of San José mobilehome parks; (b) one member shall be a person recommended by an organization of residents of San José mobilehome parks; (c) one member shall be an owner or manager of San José rent stabilized apartments; (d) one member shall be a tenant of a San José rent stabilized apartment; and (e) at least five members shall represent low income households. The members nominated by the Mayor, District 3, District 5, and District 7 are the seats that are intended to be filled by persons representing low income households. Additionally, the mobilehome park resident representative is deemed to be a representative of low income households

CURRENT VACANCIES

There are currently two vacant seats on the Commission. In accordance with Section 2.08.180 of the Municipal Code, the vacant seats are to be nominated by District 1 and District 4. It is noted, however, that there is currently a landlord representative for residential rent stabilized apartments on the Commission, but no tenant representative on the Commission.¹ There are no other vacancies on the Commission.

APPLICANTS

The applications from the applicants eligible for the current vacancies were reviewed by our office and are listed below. Unless otherwise indicated, the applications reviewed do not disclose incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the Commission.

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 or affecting an entity comes before the commission, including consideration of a potential grant or contract, or a matter under the Mobilehome Rent Ordinance or the Apartment Rent Ordinance. While this list is not complete, these types of conflicts generally fall within one or more of the following situations:

¹ Section 2.08.180A authorizes each councilmember, including the Mayor, to nominate one commissioner to the Housing and Community Development Commission. Councilmembers are not required to nominate commissioners from the district they represent. See Policy 0-4 (Council Resolution No. 77891). The District 8 nominated seat is currently vacant, but is not a seat designated for a tenant of a residential rent stabilized apartment. Although Section 2.08.2820D states that “[o]ne member *shall* be a tenant of a residential rent stabilized rental unit[.]” (emphasis added), Section 1.04.020 (Definitions) of the Municipal Code states that the word “shall” as applied to the City is “directory only” and not mandatory.

- 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 entities that are 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.

Additionally, a conflict may arise when the Commission is proposed to take action on a matter related to the Mobilehome Rent Ordinance, the Apartment Rent Ordinance or the Mobilehome related provisions of Title 20, if applicant resides in or owns a property subject to these ordinances and the potential commission action may impact the personal finances of the applicant.

Members serving as a mobilehome park representative or a residential rent stabilized apartment representative are permitted to take actions affecting mobilehome related matters or rent stabilized apartments matters, respectively, without violating general conflict of interest provisions of state and local law.

Municipal Code Section 2.08.2820 provides that: (a) one member of the Commission shall be a person recommended by an organization of residents of San José mobilehome parks; and (b) one member of the Commission shall be a person recommended by an organization of owners of the San José mobilehome parks, and these members have designated seats on the Commission pursuant to Section 2.08.2830.A. Section 2.08.2820 also provides that: (c) one member shall be an owner or manager of a residential rent stabilized property; and (d) one member shall be a tenant of rent stabilized unit, however, there are no designated seats for these representatives. San José Municipal Code Section 2.08.2850 contains findings and declarations which provide that: (a) for the purposes of the mobilehome park owner who serves on the commission, the San José mobilehome park industry is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103; and (b) for purposes of the mobilehome park resident who serves on the commission, the San José mobilehome park residential community is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103. Together, these provisions allow the persons appointed to these representative positions to take action on issues related to the mobilehome rent ordinance or other mobilehome related matters without violation of the general conflict of interest provisions of state and local law.

Municipal Code Section 2.08.2850 also contains findings and declarations which provide that: (c) for the purposes of the owner or manager of residential rent stabilized rental unit(s) who serves on the commission in San José, the residential rent stabilized rental property owners is tantamount to and constitutes the public generally within the

meaning of California Government Code Section 87103; and for purposes of the tenant of a residential rent stabilized rental unit who serves on the commission, the San José residential rent stabilized rental unit tenants community is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103. Together, these provisions allow the persons appointed to these representative positions to take action on issues related to the Apartment Rent Ordinance or other rent stabilized apartment related matters without violation of the general conflict of interest provisions of state and local law.

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, however 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.

HOUSING DEPARTMENT GRANTEE POLICY

In addition to the conflicts listed above, it is Housing Department Policy that in order to avoid a perceived conflict of interest, no person who is a member of the board of directors of, or is employed by, an agency that applies for or receives CDBG, ESG, HOME or other funding will be eligible to vote on funding decisions involving that agency regarding that funding source. Where an applicant is connected with a specific agency that has previously applied for grants or funding, this policy will be mentioned below.

REVIEW OF APPLICANTS

The list below summarizes some of the basic information from the applications and identifies any conflicts or potential conflicts. It is separated into two categories: (a) those applicants that would qualify as a tenant of a residential rent stabilized unit; and (b) those applicants that would not qualify as a tenant of a residential rent stabilized unit. Since specific gender preferences of the applicants are not provided in the application, all applicants below are referred to as “them/their/they.”

APPLICANTS THAT WOULD QUALIFY FOR APPOINTMENT AS AN APARTMENT RENT ORDINANCE TENANT REPRESENTATIVE:

None.

OTHER APPLICANTS:

ROBERT HOWELL: Robert Howell resides in Council District 1. This application was submitted on January 27, 2021. This application indicates they are self-employed as President and Owner of Exatron. Exatron appears to be an electronics company based upon an internet search. The spouse sections indicate that Robert Howell's spouse is the Finance Officer for Exatron. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Robert Howell's duties as a Commission.

TOBRETH HANSEN: The applicant resides in Council District 2. This application was submitted on January 20, 2021. This application indicates the applicant is employed at Morgan Hill Unified School District (MHUSD) as a "sub lunch lady." The spouse sections of this indicate that Tobreth's spouse works for Nutanix as a QA Engineer. The application indicates that the applicant owns a single-family residence at 7142 Via Lomas, San Jose, CA. 95139 and does not rent any property. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

JAYA SHINGAL: This application was submitted on November 23, 2020. According to the application, the applicant resides at 11449 Clayton Road, San Jose, which is situated in Council District 5, although their application indicates that they reside in Council District 3. Their application indicates that they are the Executive Vice President of Wyndham Garden San Jose Airport and Wyndham Garden Silicon Valley hotels. The spouse sections of this application are marked "N/A". The application indicates that Jaya Shingal is a current member of City of San Jose's Bridge Housing Community Advisory Committee. In addition, the applicant indicated in their responses that HCDC may make decisions that may affect their sources of income, interests in real property, personal finances or investments. The applicant additionally states that "they are looking to develop our parcels on 4th St. & Gish Rd. in San Jose, and have had preliminary discussions with the City of San Jose in which we have discussed incentives for developing affordable housing units in a mixed-use development." Thus, the applicant may need to recuse themselves from any Commission discussions that could potentially have an impact on property that they own or other sources of income, unless further conflicts analysis is undertaken.

ANTHONY ROSSELLO: The applicant resides in Council District 4. This application was submitted on January 21, 2021. This applicant's employer is King Digital (Activision-Blizzard) and their title is Software Engineer. The spouse sections of this application are marked "N/A". The applicant is a renter and resides at 3507 Palmilla Dr., Unit #2157, San Jose, CA 95134. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

HA TRAN: The applicant resides in Council District 4. This application was submitted on January 27, 2021. This applicant indicates that they are a retired engineer and part-time substitute teacher. Their spouse's employer is Oracle and the applicant's spouse's title is "IT." Their application indicates that they do not rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

DONALD FUGATE: The applicant resides in Council District 9. This application was submitted on January 27, 2021. This applicant indicates that they are employed as a Pastor at Foxworthy Baptist Church ("Church"). Their spouse's employer is also Foxworthy Baptist Church and their title is secretary. Their application indicates that they do not rent property in the City of San Jose. Their application and resume states that Donald Fugate spent twelve years, serving until 2018, on the Executive Board for California Southern Baptists. A potential financial conflict of interest may arise if the Church is a grantee or seeks grants through the City. Currently the Church is not a grantee under any Housing grants. Other than the above, the application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

ROSIE ZEPEDA: The applicant resides in Council District 9. This application was submitted on November 8, 2020. The applicant indicates that their application is for the Charter Commission and that they previously applied to the HCDC, thus the Councilmembers may want to verify this information is still correct. This applicant indicates that they are employed as a Director of Media and Governmental Relations and Marketing at City College of San Francisco. The spouse sections of this application are marked "N/A". Their application indicates that they do not rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

VERONICA SOSA: The applicant resides in Council District 9. This application was submitted on October 4, 2020. This applicant indicates that they are employed as a Senior Director of Finance at LinkedIn. The spouse sections of this application are marked "N/A". Their application indicates that they do not rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

CANSHARA WASHINGTON: The applicant resides in Council District 9. This application was submitted on July 26, 2020. This applicant's employer is Pure Storage and the applicant's title is Sales Development Representative. The spouse sections of this application are marked "N/A". The application indicates that the applicant "lives in, operates or manages property subject to the Apartment Rent Ordinance and provides 1085 Foxchase Drive, San Jose CA 95123 as the address of that property, however this

unit is a condominium, so it would not be subject to the Apartment Rent Ordinance. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

ROMA DAWSON: The applicant resides in Council District 1. This application was submitted on January 31, 2021. This applicant is retired. The spouse sections of this application indicate their spouse is employed by Versatile Power as a Programmer. The application indicates that the applicant rents on a month-to-month basis their residence and provides 3896 Williams Road, San Jose CA 95117 as their home address, however this unit is a condominium, so it would not be subject to the Apartment Rent Ordinance. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

LINH VONG: The applicant resides in Council District 4. This application was submitted on September 14, 2020. This applicant's employer is the Health Trust and the applicant's title is Intensive Case Manager. The spouse sections of this application are marked "N/A". The applicant's employer has received grants from the City and thus Linh Vong may be subject to grant related recusal requirements pursuant to the Housing Department Grantee Policy. The application indicates that the applicant is eligible for appointment to a seat that represents low income households. Except as listed above, the application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

RAMSIN JACOB: The applicant resides in Council District 1. This application was submitted on June 14, 2020. This application indicates the applicant is self employed as a Business Owner and Realtor. The spouse sections of this application are marked "N/A". If the applicant is working as realtor in San José, the applicant may need to recuse him/herself from participation in actions regarding the Apartment Rent Ordinance, Ellis Act Ordinance, and/or Mobilehome Rent Ordinance, unless further conflicts analysis is undertaken. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

MARICELA LECHUGA: The applicant resides in Council District 5. This application was submitted on July 4, 2020. This application's employer and title sections are marked "None" and "NA". However, recently the applicant took employment with the Law Foundation of Silicon Valley ("Law Foundation") who is currently receiving grant funds from the City to provide legal services to San Jose residents covered under the Apartment Rent Ordinance and Tenant Protection Ordinance. Accordingly, the applicant should recuse themselves from any matters that come before the Commission that affect the Law Foundation since it is the applicant's source of income. These items could involve existing or future grant agreements. The application indicates that the applicant

is eligible for appointment to a seat that represents low income households. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Maricela's duties as a Commission member.

CONCLUSION

Except as noted in the review of applicants Shingal, Fugate, Vong, Jacob, and Lechuga, the applications disclose no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicants' duties as Commission members. You may wish to consider the above comments in making your recommendations on appointments to the Commission.

NORA FRIMANN
City Attorney

By: /s/Christopher Alexander
Christopher Alexander
Deputy City Attorney

cc: Toni Taber, City Clerk
David Sykes, City Manager
Jacky Morales-Ferrand, Director of Housing

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

**SUBJECT: LIBRARY AND EDUCATION
COMMISSION APPLICANTS**

DATE: April 6, 2021

BACKGROUND

This Office routinely reviews applications to City boards and commissions. The applications generally do not provide complete information; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight major areas of potential conflict which are disclosed by the applications.

COMMISSION DUTIES

In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicant is seeking appointment. Of the Library and Education fifteen-member Commission, at least four members of the Commission shall have a background in education subject matter expertise. The Library and Education Commission is an advisory body which makes recommendations to the Mayor and City Council, City Manager, and the Director of Library Services respecting existing and proposed library facilities, the utilization of such facilities, their use and operation, the extent and nature of library services to be rendered to the public, the financing of libraries and of their operations and services, and other matters respecting the library system. The Commission will also study, evaluate, review and provide advice to the Council, the City Manager, the City Librarian, and other department heads designated by the City Manager on all matters and issues related to early education and childcare.

APPLICANTS

The application from the applicant listed below was reviewed by our office. This review was limited to the information provided on the application and was not intended to be comprehensive investigation of potential conflicts involving the applicant. Unless otherwise indicated, no application discloses incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the commission.

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 (“PRA”).
- 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, however 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.

LEGAL REVIEW OF APPLICANTS

Set forth below is the applicant and any apparent legal conflicts of interest and/or appearance of bias related to entities that are likely to come before the commission in some manner, as identified on the application.

Phyllis Chan – Ms. Chan’s application states she is a retired teacher from Franklin McKinley School District. Ms. Chan’s spouse is receiving a pension from the California State Retirement System. The application discloses no incompatible offices nor apparent conflicts of interest.

Tammy Dhanota – Ms. Dhanota’s application states she is employed by Santa Clara Valley Transportation Authority (VTA) as a Public Communications Specialist II. Ms.

Dhanota's spouse is retired and receiving a pension from the City of San Jose. The application discloses no incompatible offices nor apparent conflicts of interest.

Bernadette Ferriter – Ms. Ferriter's application indicates no employer and no spouse. Ms. Ferriter receives a pension from the German government. The application discloses no incompatible offices nor apparent conflicts of interest.

Sarah Heraldo – Ms. Heraldo's application indicates she holds the title Recruiting Operations at Course Hero. The application does not indicate a spouse. Ms. Heraldo is involved with an organization called Read Write Discover. It is possible that the Commission could consider a matter involving Read Write Discover which may present an actual conflict or appearance of bias. In such a case, Ms. Heraldo may need to disqualify herself from taking part in the Commission's decision on that matter. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Carla Hernandez – Ms. Hernandez's application indicates she is a Student Advisor/Assistant to the Associate Principal at East Side Union High School District. Ms. Hernandez is not married. The application discloses no incompatible offices nor apparent conflicts of interest.

Kenneth Kelly – Mr. Kelly's application indicates he is retired and is receiving a pension from the County of Santa Clara. His spouse is a Director at Valley Water District. Mr. Kelly's application states he currently holds the following positions or involved in the following organizations: Chair, Board of Directors of United Neighborhoods of Santa Clara County; President of the Winchester Blvd Business District; Co-Chair of Responsible Landlords Engagement Initiative; Friends of the Bascom Library; and City of San Jose Small Business Advisory Task Force. It is possible that the Commission could consider a matter involving these organizations which may present an actual conflict or appearance of bias. In such a case, Mr. Kelly may need to disqualify himself from taking part in the Commission's decision on that matter. Otherwise, his application discloses neither incompatible offices nor apparent conflicts of interest.

Angelina Nguyen – Ms. Nguyen's application indicates she is employed by Coldwell Bank as a Salesperson. The application does not indicate a spouse. The application discloses no incompatible offices nor apparent conflicts of interest.

Rondi Pacheco – Ms. Pacheco's application indicates she is an Executive Assistant with Pure Storage in Mountain View. The application indicates her spouse is a Project Surveyor for Kier and Wright in Santa Clara. The application discloses no incompatible offices nor apparent conflicts of interest.

April 6, 2021

Subject: Library & Education Commission Applicants

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Angelica Ramos – Ms. Ramos’ application indicates she is a Policy Aide for Santa Clara County Supervisor Susan Ellenberg. Her spouse is employed as a Communications Coordinator for the San Jose Public Library Foundation. Because the Foundation is a source of income to her spouse, Ms. Ramos will need to disqualify herself from taking part in Commission matters that involve the Foundation as it presents an actual conflict of interest. Otherwise, her application discloses no incompatible offices nor apparent conflicts of interest.

Kristen Savelle – Ms. Savelle’s application indicates she is a Managing Director of Rock Center for Corporate Governance at Stanford University. Her spouse is a Teacher with Cupertino Unified School District. Ms. Savelle is currently a member of the Society for Corporate Governance and the State Bar of California. Otherwise, her application discloses no incompatible offices nor apparent conflicts of interest.

Canshara Washington – Ms. Washington is a Sales Development Representative at Pure Storage in Mountain View. The application does not indicate a spouse. The application discloses no incompatible offices nor apparent conflicts of interest.

Aaron Zisser – Mr. Zisser is an Assistant District Attorney with the San Francisco District Attorney’s Office. His spouse is a Senior Management Analyst with the Santa Clara Valley Water District. Mr. Zisser served as the Independent Police Auditor for the City of San Jose from October 2017 – October 2018. The application discloses no incompatible offices nor apparent conflicts of interest.

CONCLUSION

None of the applicants appear to hold any incompatible office or have any apparent or pervasive conflicts that would prevent him or her from serving on the Library and Education Commission based upon the application submitted. Some of the applicants may be precluded from participating in matters involving their employer, their spouse’s employer, or entities of which they are officers or members. Where this may be the case, they must abstain from participating in that Library and Education Commission agenda matter. The City Council may wish to consider the above comments in making its appointments to the Commission.

NORA FRIMANN
City Attorney

By /S/ signed electronically
Arlene Silva
Deputy City Attorney

HONORABLE MAYOR AND CITY COUNCIL

April 6, 2021

Subject: Library & Education Commission Applicants

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

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

**SUBJECT: LIBRARY AND EDUCATION
COMMISSION APPLICANTS**

DATE: June 7, 2021

BACKGROUND

This Office routinely reviews applications to City boards and commissions. The applications generally do not provide complete information; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight major areas of potential conflict which are disclosed by the applications.

COMMISSION DUTIES

In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicant is seeking appointment. Of the Library and Education fifteen-member Commission, at least four members of the Commission shall have a background in education subject matter expertise. The Library and Education Commission is an advisory body which makes recommendations to the Mayor and City Council, City Manager, and the Director of Library Services respecting existing and proposed library facilities, the utilization of such facilities, their use and operation, the extent and nature of library services to be rendered to the public, the financing of libraries and of their operations and services, and other matters respecting the library system. The Commission will also study, evaluate, review and provide advice to the Council, the City Manager, the City Librarian, and other department heads designated by the City Manager on all matters and issues related to early education and childcare.

APPLICANTS

The application from the applicant listed below was reviewed by our office. This review was limited to the information provided on the application and was not intended to be comprehensive investigation of potential conflicts involving the applicant. Unless otherwise indicated, no application discloses incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the commission.

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 (“PRA”).
- 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, however 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.

LEGAL REVIEW OF APPLICANTS

Set forth below is the applicant and any apparent legal conflicts of interest and/or appearance of bias related to entities that are likely to come before the commission in some manner, as identified on the application.

Janice Allen – Ms. Allen’s application indicates that she is a retired teacher. She receives a pension from the State Teachers Retirement. The application does not indicate a spouse. Ms. Allen is currently serving her first term on the Library and Education Commission which ends on June 30, 2021. The application discloses no incompatible offices nor apparent conflicts of interest.

Kristen Brown – Ms. Brown is a parent, advocate, and student. Ms. Brown’s spouse is employed at Apple, Inc. as an Edge Operations Manager. It is possible that the Commission could consider a matter involving Apple which may present an actual conflict or appearance of bias. In such a case, Ms. Brown may need to disqualify herself from taking part in the Commission’s decision on that matter. Otherwise, her application discloses no incompatible offices nor apparent conflicts of interest.

William Cord – Mr. Cord’s application indicates he and his spouse are employed by Trader Joe’s. The application discloses no incompatible offices nor apparent conflicts of interest.

Elena Jolly – Ms. Jolly is currently employed at San Jose Day Nursery as its Executive Director. The application does not indicate a spouse. Ms. Jolly is currently serving her first term on the Library and Education Commission which ends on June 30, 2021. The application discloses no incompatible offices nor apparent conflicts of interest.

Jose Magana – Mr. Magana is currently employed at City Year, Inc., as a Managing Director of Impact. Mr. Magana’s spouse is currently employed at Alpha Public Schools as Director of Student Support. Mr. Magana is currently the Vice Chair and is serving his first term on the Library and Education Commission which ends on June 30, 2021. Mr. Magana is also currently the Area 2 Trustee, San Jose Unified School District; Director of Policy and Advocacy, Digital Equity Coalition of California; Secretary, California Latino School Board Association; and Public Policy Committee member, Hispanic Chamber of Commerce of Silicon Valley. It is possible that the Commission could hear matters involving these organizations which may present an actual conflict or appearance of bias. In such a case, Mr. Magana may need to disqualify himself from taking part in the Commissions’ decision on that matter. Otherwise, the application discloses no incompatible offices nor apparent conflicts of interest.

Wendi Mahaney-Gurahoo – Ms. Mahaney-Gurahoo is currently employed at FIRST 5 Santa Clara County as a Deputy Chief of Early Learning. Ms. Mahaney-Gurahoo’s spouse is currently employed at EMQ Families First as Chief Financial Officer. Ms. Mahaney-Gurahoo is currently the Chairperson and is serving her first term on the Library and Education Commission which ends on June 30, 2021. The application discloses no incompatible offices nor apparent conflicts of interest.

CONCLUSION

The applicants do not appear to hold any incompatible office or have any apparent conflicts that would prevent him or her from serving on the Library and Education Commission based upon the application submitted. Some of the applicants may be precluded from participating in matters involving their employer or the entities of which they are officers or members. Where this may be the case, they must abstain from

HONORABLE MAYOR AND CITY COUNCIL

June 7, 2021

Subject: Library and Education Commission Applicants

Page 4

participating in that Library and Education Commission agenda matter. The City Council may wish to consider the above comments in making its appointments to the Commission.

NORA FRIMANN
City Attorney

By /S/ signed electronically
Arlene Silva
Deputy City Attorney

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

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

**SUBJECT: NEIGHBORHOODS COMMISSION APPLICANTS:
CONFLICTS OF INTEREST**

DATE: December 8, 2020

BACKGROUND

This office routinely reviews applications to City Boards, Commissions, and Committees. Although these applications do not offer complete information, they occasionally disclose potential conflicts of interest or incompatible offices. This memorandum highlights major areas of potential conflict disclosed in the applications. However, this review is limited to the information provided, and is not intended to be a comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

The Neighborhoods Commission is an advisory body to the City Council. (SJMC §§ 2.08.3400 *et seq.*) It studies, reviews, evaluates, and makes recommendations to the City Council “regarding issues, policies, and programs affecting the quality of life in San José neighborhoods, focusing on neighborhood safety, transportation, and code enforcement.” (SJMC § 2.08.3430.) In addition, it serves as a Citizens’ Oversight Board that reports to the City Council about revenue expenditures generated from the November 2016 voter-approved sales tax. (Reso. No. 78016.)

COMMISSION MEMBERSHIP

The Commission is a 20-member body. Each member must reside within the boundaries of the council district for the seat to which he or she was appointed during the term of that seat. (SJMC §§ 2.08.3410, 2.08.3420.) If a member is no longer a resident of the council district, the seat will be deemed vacant.

The City Council appoints Neighborhoods Commissioners after taking into consideration nominations provided through a neighborhood groups caucus process. (SJMC § 2.08.3440.A.) If a vacancy occurs outside of the scheduled caucus process, the Council may fill the vacancy based on the recommendation of the council appointment advisory

commission. (SJMC § 2.08.3440.D.)

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a commissioner from participating in a commission discussion or from voting on a matter if there is a conflict. While this list is not complete, conflicts usually fall within 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.

In each of these instances, the commissioner may be required to recuse himself or herself if a matter comes before the Commission affecting the above interests. A Commissioner’s employer, or the employer of the Commissioner’s spouse, is generally considered a source of income to the Commissioner such that the Commissioner will have to recuse himself or herself from taking part in the Commission’s decision on a matter if the decision will have a foreseeable financial effect on the employer.

APPEARANCE OF BIAS

There may also be facts which would not amount to a legal conflict of interest, but still require recusal because certain relationships may create an appearance of bias. City Council policy requires commissioners to be free from bias in their decision making and may require recusal if the facts could reasonably lead one to conclude that the commissioner would be biased for or against an entity or entities.

APPLICANTS

The following applications were reviewed:

CANDIDATES FOR COUNCIL DISTRICT 2

Chin Hang Leung: Applicant applied on December 30, 2019. Applicant is self-employed as a driver.

No incompatible officers or conflicts of interest are disclosed.

Lalbabu Prasad: Applicant applied on November 4, 2020. Applicant is employed by Kaiser Permanente as an Admitting Representative and Applicant's spouse is employed with Lotus Premier, Inc.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

CANDIDATES FOR COUNCIL DISTRICT 3

Adam Supernant: Applicant applied on March 4, 2020. Applicant is an Engagement Manager for Area Technology.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

Charles Cantrell: Applicant applied on June 26, 2020. Applicant is the Vice President of eCommerce at Luxie, Inc., and Applicant's spouse is employed as a Research Administrator at Stanford University.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

Frank Ponciano: Applicant applied on January 27, 2020. Applicant is a Community Liaison with Abode Services, and Applicant's spouse is a Teacher with the Sunnyvale School District.

Applicant further discloses that Applicant is a Board Member with the Alum Rock Counseling Center, Board Member with the San Jose Downtown Residents Association, and a Board Member with the Silicon Valley Democratic Club. It is possible that the Commission could consider an issue that may come within the purview of Applicant's leadership role in these groups, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

Jaya Shingal: Applicant applied on November 23, 2020. Applicant is an Executive Vice President at Wyndham Garden San Jose Airport & Wyndham Garden Silicon Valley.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

Rondi Pacheco: Applicant applied on April 20, 2020. Applicant is an Executive Assistant at Pure Storage, and Applicant's spouse is employed as a Project Surveyor at Keir & Wright.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

CANDIDATES FOR COUNCIL DISTRICT 4

Brandon Catolico: Applicant applied on November 9, 2020. Applicant is a Manager with Stanford Third Party Contract Employment.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

CANDIDATES FOR COUNCIL DISTRICT 5

Claudie Tercero: Applicant applied on June 17, 2020. Applicant is a Support Coordinator/Budget Analyst with San Jose State University.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

CANDIDATES FOR COUNCIL DISTRICT 6

Jonathan Velasquez: Applicant applied on November 8, 2020. Applicant is a Program Specialist with First 5 Kids Santa Clara.

Applicant further discloses that Applicant is a President of the Seven Trees Neighborhood Association. It is possible that the Commission could consider an issue that may come within the purview of Applicant's leadership role in this group, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

Katie Gray: Applicant applied on June 21, 2020. Applicant is self-employed as a sole proprietor.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

CANDIDATES FOR COUNCIL DISTRICT 8

David Burckhard: Applicant applied on October 3, 2020. Applicant is retired.

No incompatible officers or conflicts of interest are disclosed.

CANDIDATES FOR COUNCIL DISTRICT 9

Neeti Deshmukh: Applicant applied on November 12, 2020. Applicant is a Senior Director at PayPal, Inc., and Applicant's spouse is employed as a Manager at Cisco.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

Theresa Papenfuss: Applicant applied on October 9, 2020. Applicant is retired, and Applicant's spouse is employed as a Sales Engineer at Recht Associates.

Otherwise, no incompatible officers or conflicts of interest are disclosed.

CONCLUSION

The Council may wish to consider the above comments in making appointments to the Neighborhoods Commission. Presently, applicants do not appear to have any disclosed incompatible offices or conflicts that would prevent serving on the Commission.

NORA FRIMANN
City Attorney

By: /s/ _____
Mark J. Vanni
Deputy City Attorney

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

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nora Frimann
City Attorney

**SUBJECT: NEIGHBORHOODS
COMMISSION APPLICANTS:
CONFLICTS OF INTEREST**

DATE: February 9, 2021

BACKGROUND

This office routinely reviews applications to City Boards, Commissions, and Committees. Although these applications do not offer complete information, they occasionally disclose potential conflicts of interest or incompatible offices. This memorandum highlights major areas of potential conflict disclosed in the applications. However, this review is limited to the information provided, and is not intended to be a comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

The Neighborhoods Commission is an advisory body to the City Council. (SJMC §§ 2.08.3400 *et seq.*) It studies, reviews, evaluates, and makes recommendations to the City Council “regarding issues, policies, and programs affecting the quality of life in San José neighborhoods, focusing on neighborhood safety, transportation, and code enforcement.” (SJMC § 2.08.3430.) In addition, it serves as a Citizens’ Oversight Board that reports to the City Council about revenue expenditures generated from the November 2016 voter-approved sales tax. (Reso. No. 78016.)

COMMISSION MEMBERSHIP

The Commission is a 20-member body. Each member must reside within the boundaries of the council district for the seat to which he or she was appointed during the term of that seat. (SJMC §§ 2.08.3410, 2.08.3420.) If a member is no longer a resident of the council district, the seat will be deemed vacant.

The City Council appoints Neighborhoods Commissioners after taking into consideration nominations provided through a neighborhood groups caucus process. (SJMC § 2.08.3440.A.) If a vacancy occurs outside of the scheduled caucus process, the Council may fill the vacancy based on the recommendation of the council appointment advisory

commission. (SJMC § 2.08.3440.D.)

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a commissioner from participating in a commission discussion or from voting on a matter if there is a conflict. While this list is not complete, conflicts usually fall within 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.

In each of these instances, the commissioner may be required to recuse himself or herself if a matter comes before the Commission affecting the above interests. A Commissioner’s employer, or the employer of the Commissioner’s spouse, is generally considered a source of income to the Commissioner such that the Commissioner will have to recuse himself or herself from taking part in the Commission’s decision on a matter if the decision will have a foreseeable financial effect on the employer.

APPEARANCE OF BIAS

There may also be facts which would not amount to a legal conflict of interest, but still require recusal because certain relationships may create an appearance of bias. City Council policy requires commissioners to be free from bias in their decision making and may require recusal if the facts could reasonably lead one to conclude that the commissioner would be biased for or against an entity or entities.

APPLICANTS

The following applications were reviewed:

COUNCIL DISTRICT 1

Helen Kassa: Applicant applied on January 26, 2021. Applicant is employed with the African American Community Service Agency as a Policy and Advocacy Coordinator.

No incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 2

Allie Hughes: Applicant applied on January 10, 2021. Applicant is master's student in the Public Administration Program at San José State University.

Applicant further discloses that Applicant is a delegate for the Santa Clara County Democratic Central Committee and Member Director for the Silicon Valley Young Democrats. It is possible that the Commission could consider an issue that may come within the purview of Applicant's roles with these groups, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 3

Jacqueline Vazquez: Applicant applied on January 16, 2021. Applicant is employed as a Technical Writer with Google. Applicant's spouse is employed as the General Manager at the Continental Bar and Lounge in San José.

No incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 4

Anthony Rossello: Applicant applied on January 21, 2021. Applicant is employed as Software Engineer with King Digital (Activision-Blizzard).

Applicant further discloses that Applicant is a volunteer with YIMBY Action and South Bay YIMBY. It is possible that the Commission could consider an issue that may come within the purview of Applicant's roles with these groups, presenting an actual conflict or

appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 6

Giovanna Erkanat: Applicant applied on January 24, 2021. Applicant is employed as a Management Analyst in the Library Department for the City of Palo Alto.

No incompatible offices or conflicts of interest are disclosed.

CONCLUSION

The Council may wish to consider the above comments in making appointments to the Neighborhoods Commission. Presently, applicants do not appear to have any disclosed incompatible offices or conflicts that would prevent serving on the Commission.

NORA FRIMANN
City Attorney

By: /s/ _____
Mark J. Vanni
Senior Deputy City Attorney

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

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Nora Frimann
City Attorney
SUBJECT: NEIGHBORHOODS COMMISSION APPLICANTS:
CONFLICTS OF INTEREST
DATE: March 5, 2021

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

This memorandum discusses potential conflicts of interest and incompatible offices for applicants who applied after the initial memorandum from the City Attorney was submitted.

BACKGROUND

This office routinely reviews applications to City Boards, Commissions, and Committees. Although these applications do not offer complete information, they occasionally disclose potential conflicts of interest or incompatible offices. This memorandum highlights major areas of potential conflict disclosed in the applications. However, this review is limited to the information provided, and is not intended to be a comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

The Neighborhoods Commission is an advisory body to the City Council. (SJMC §§ 2.08.3400 *et seq.*) It studies, reviews, evaluates, and makes recommendations to the City Council “regarding issues, policies, and programs affecting the quality of life in San José neighborhoods, focusing on neighborhood safety, transportation, and code enforcement.” (SJMC § 2.08.3430.) In addition, it serves as a Citizens’ Oversight Board that reports to the City Council about revenue expenditures generated from the November 2016 voter-approved sales tax. (Reso. No. 78016.)

COMMISSION MEMBERSHIP

The Commission is a 20-member body. Each member must reside within the boundaries of the council district for the seat to which he or she was appointed during the term of that seat. (SJMC §§ 2.08.3410, 2.08.3420.) If a member is no longer a

resident of the council district, the seat will be deemed vacant.

The City Council appoints Neighborhoods Commissioners after taking into consideration nominations provided through a neighborhood groups caucus process. (SJMC § 2.08.3440.A.) If a vacancy occurs outside of the scheduled caucus process, the Council may fill the vacancy based on the recommendation of the council appointment advisory commission. (SJMC § 2.08.3440.D.)

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a commissioner from participating in a commission discussion or from voting on a matter if there is a conflict. While this list is not complete, conflicts usually fall within 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.

In each of these instances, the commissioner may be required to recuse himself or herself if a matter comes before the Commission affecting the above interests. A Commissioner’s employer, or the employer of the Commissioner’s spouse, is generally considered a source of income to the Commissioner such that the Commissioner will have to recuse himself or herself from taking part in the Commission’s decision on a matter if the decision will have a foreseeable financial effect on the employer.

APPEARANCE OF BIAS

There may also be facts which would not amount to a legal conflict of interest, but still require recusal because certain relationships may create an appearance of bias. City Council policy requires commissioners to be free from bias in their decision making and may require recusal if the facts could reasonably lead one to conclude that the

commissioner would be biased for or against an entity or entities.

APPLICANTS

The following applications were reviewed:

COUNCIL DISTRICT 4

Barinder Ahluwalia: Applicant applied on February 22, 2021. Applicant is retired.

No incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 7

Orlana Mejia: Applicant applied on February 9, 2021. Applicant is employed as a Order Fulfillment Specialist with Amazon.

No incompatible offices or conflicts of interest are disclosed.

Tasha Tenturier: Applicant applied on February 15, 2021. Applicant is employed as a Facilities Project Manager with Campbell Union High School District.

Applicant discloses that she serves on the HOA board for her community. It is possible that the Commission could consider an issue that may come within the purview of Applicant's roles with the HOA, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

Bruce Victorine: Applicant applied on February 9, 2021. Applicant is not currently employed. Applicant's spouse is a teacher with the Franklin McKinley School District. Applicant discloses that he is the Secretary for the Seven Trees Village HOA and the Vice President of Save Our Trails.

It is possible that the Commission could consider an issue that may come within the purview of Applicant's spouse's employment with the school district or his role with the HOA and Save Our Trails, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

CONCLUSION

The Council may wish to consider the above comments in making appointments to the Neighborhoods Commission. Presently, applicants do not appear to have any disclosed incompatible offices or conflicts that would prevent serving on the Commission.

NORA FRIMANN
City Attorney

By: /s/
Mark J. Vanni
Senior Deputy City Attorney

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

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

**SUBJECT: NEIGHBORHOODS COMMISSION APPLICANTS:
CONFLICTS OF INTEREST**

DATE: June 9, 2021

BACKGROUND

This office routinely reviews applications to City Boards, Commissions, and Committees. Although these applications do not offer complete information, they occasionally disclose potential conflicts of interest or incompatible offices. This memorandum highlights major areas of potential conflict disclosed in the applications. However, this review is limited to the information provided, and is not intended to be a comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

The Neighborhoods Commission is an advisory body to the City Council. (SJMC §§ 2.08.3400 *et seq.*) It studies, reviews, evaluates, and makes recommendations to the City Council “regarding issues, policies, and programs affecting the quality of life in San José neighborhoods, focusing on neighborhood safety, transportation, and code enforcement.” (SJMC § 2.08.3430.) In addition, it serves as a Citizens’ Oversight Board that reports to the City Council about revenue expenditures generated from the November 2016 voter-approved sales tax. (Reso. No. 78016.)

COMMISSION MEMBERSHIP

The Commission is a 20-member body. Each member must reside within the boundaries of the council district for the seat to which he or she was appointed during the term of that seat. (SJMC §§ 2.08.3410, 2.08.3420.) If a member is no longer a resident of the council district, the seat will be deemed vacant.

The City Council appoints Neighborhoods Commissioners after taking into consideration nominations provided through a neighborhood groups caucus process. (SJMC § 2.08.3440.A.) If a vacancy occurs outside of the scheduled caucus process, the Council may fill the vacancy based on the recommendation of the council appointment advisory

commission. (SJMC § 2.08.3440.D.)

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a commissioner from participating in a commission discussion or from voting on a matter if there is a conflict. While this list is not complete, conflicts usually fall within 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.

In each of these instances, the commissioner may be required to recuse himself or herself if a matter comes before the Commission affecting the above interests. A Commissioner’s employer, or the employer of the Commissioner’s spouse, is generally considered a source of income to the Commissioner such that the Commissioner will have to recuse himself or herself from taking part in the Commission’s decision on a matter if the decision will have a foreseeable financial effect on the employer.

APPEARANCE OF BIAS

There may also be facts which would not amount to a legal conflict of interest, but still require recusal because certain relationships may create an appearance of bias. City Council policy requires commissioners to be free from bias in their decision making and may require recusal if the facts could reasonably lead one to conclude that the commissioner would be biased for or against an entity or entities.

APPLICANTS

The following applications were reviewed:

COUNCIL DISTRICT 1

Helen Kassa: Applicant applied on April 1, 2021. Applicant is employed with the African American Community Service Agency as a Policy and Advocacy Coordinator.

Applicant further discloses that Applicant is on the Board of Directors for Ethiopian Community Services. It is possible that the Commission could consider an issue that may come within the purview of Applicant's roles with this group, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 2

Allie Hughes: Applicant applied on January 10, 2021. Applicant is master's student in the Public Administration Program at San José State University.

Applicant further discloses that Applicant is a delegate for the Santa Clara County Democratic Central Committee and Member Director for the Silicon Valley Young Democrats. It is possible that the Commission could consider an issue that may come within the purview of Applicant's roles with these groups, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 3

Dawn Reese: Applicant applied on May 26, 2021. Applicant is employed as a registered nurse with the County of Santa Clara, O'Connor Hospital.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 4

Theresa Do: Applicant applied on January 31, 2021. Applicant is employed as a Credentials Program Specialist with National Education Partners.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

John Fernandez: Applicant applied on April 30, 2021. Applicant is employed as Therapist with Uplift Family Services. Applicant's spouse is employed as a Finance Clerk with Blach Construction.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 5

Baltazar Lopez: Applicant applied on April 11, 2021. Applicant is employed as a Senior Field Representative with Congresswoman Anna Eshoo.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 6

James Carter: Applicant applied on April 20, 2021. Applicant is retired but was a Deputy Fire Chief with the San Jose Fire Department from 1972 to 2008. Applicant's spouse is also retired.

Applicant further discloses that Applicant is the Vice President of the San Jose Fire Museum. It is possible that the Commission could consider an issue that may come within the purview of Applicant's roles with this group, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

Giovanna Erkanat: Applicant applied on January 24, 2021. Applicant is employed as a Management Analyst in the Library Department for the City of Palo Alto.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

April Lujan: Applicant applied on March 10, 2021. Applicant is employed as a teacher, department chair, and coach with Santa Clara Unified School District.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

Olivia Navarro: Applicant applied on May 31, 2021. Applicant is employed as an Agent with Acceptance. Applicant's spouse is employed as an Organizer with Groundworks.

COUNCIL DISTRICT 8

Nichole Edraos: Applicant applied on May 25, 2021. Applicant is currently not working. Applicant's spouse is retired.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

COUNCIL DISTRICT 9

Michael Young: Applicant applied on April 23, 2021. Applicant is currently not working. Applicant's spouse is retired.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

CONCLUSION

The Council may wish to consider the above comments in making appointments to the Neighborhoods Commission. Presently, applicants do not appear to have any disclosed incompatible offices or conflicts that would prevent serving on the Commission.

NORA FRIMANN
City Attorney

By: /s/ _____
Mark J. Vanni
Senior Deputy City Attorney

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

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nora Frimann
City Attorney

SUBJECT: **Conflicts Review - Parks &
Recreation Commission
Applicant**

DATE: June 8, 2021

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.

Jaya Shingal – Mr. Shingal’s application indicates that he is employed at Wyndham Garden Hotel (Airport and Silicon Valley locations) as an Executive Vice President. Mr. Shingal’s current application discloses neither incompatible offices nor apparent conflicts of interest.

Natalie Nguyen – Ms. Nguyen’s application indicates that she is employed at Lockheed Martin Corporation as an Operations Engineer/Senior Corporate Internal Auditor. Ms. Nguyen’s current application discloses neither incompatible offices nor apparent conflicts of interest.

Jose Villarreal – Mr. Villarreal’s application indicates that he is currently unemployed due to Covid. Mr. Villarreal’s spouse is Self-Employed. Mr. Villarreal’s current application discloses neither incompatible offices nor apparent conflicts of interest.

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

Shannon Birk Jibaja – Ms. Jibaja’s application indicates that she is unemployed. Ms. Jibaja’s spouse is employed at Pure Storage as a Software Engineer. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Julie Dominguez – Ms. Dominguez’s application indicates that she is employed at Populus (at eBay), as a Program Manager. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Therese Papenfuss – Ms. Papenfuss’s application indicates that she is a retired Investor Relations Senior Financial Analyst. Ms. Papenfuss’ spouse is employed at Recht Associates as a Sales Engineer. Her application discloses neither incompatible offices nor apparent conflicts of interest.

John Mogannam – Mr. Mogannam’s application indicates that he is employed at Jacobs Engineering Group as a Senior Program Manager. Mr. Mogannam’s spouse is a housewife. His application discloses neither incompatible offices nor apparent conflicts of interest.

Daisy Barocio – Ms. Barocio’s application indicates that she is employed at Escuela Popular as a Deputy Director of Educational Services. Ms. Barocio’s spouse is employed at East Side Union High School District as a Associate Principal of Educational Development. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Giavanna Vega – Ms. Vega’s application indicates that she is employed at Amagialis as an Esthetician. Her application discloses neither incompatible offices nor apparent conflicts of interest.

Thu Nguyen – Mr. Nguyen’s application indicates that he is employed at Stanford Health Care-Blood Center as a Director of Strategic Projects. His application discloses neither incompatible offices nor apparent conflicts of interest.

Daphna Woolfe – Ms. Woolfe’s application indicates that she is employed at Portola Valley School District as a Teacher. Ms. Woolfe’s spouse is a Teacher at Fremont Union High School District. Her application discloses neither incompatible offices nor apparent conflicts of interest.

William Cord Mr. Cord’s application indicates that he is employed at Trader Joe’s as a Crew Member. Mr. Cord’s spouse is also a Crew Member at Trader Joe’s. His 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.

CONCLUSION

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

NORA FRIMANN
City Attorney

By *Jon Calegari*
[Jon Calegari \(Jun 8, 2021 18:49 PDT\)](#)

JON A. CALEGARI
Deputy City Attorney

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

Memorandum

TO: RULES COMMITTEE

FROM: Nora Frimann
City Attorney

**SUBJECT: Conflicts Review – Senior
Citizens’ Commission
Applicants**

DATE: April 7, 2021

BACKGROUND

The City Attorney’s 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 Senior Citizens’ Commission is responsible for studying, reviewing, evaluating and making recommendations to the Council on matters affecting elderly people in the City.

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, however 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

Set forth below is the applicant and any apparent legal conflicts of interest and/or appearance of bias related to entities that are likely to come before the commission in some manner, as identified on the applications.

Gina Gates – Ms. Gates application indicates she is a partner at Gates Consulting Group. The application does not indicate a spouse. The application indicates that Ms. Gates currently sits on the Santa Clara County 211 Advisory Board. It is possible that the Commission may consider a matter involving Santa Clara County 211 which may present an actual conflict or appearance of bias. In such a case, Ms. Gates may need to disqualify herself from taking part in the Commission's decision on those matters. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Maricela Lechuga – Ms. Lechuga's application submitted July 4, 2020 marked "None" and "NA" under employer and job title respectively. However, recently the applicant took employment with the Law Foundation of Silicon Valley ("Law Foundation"). Ms. Lechuga's application indicates that she held a position as a Policy Aid and Legislative Advisor for two San Jose Councilmembers from March 2019 through June 2020. Accordingly, the applicant should recuse herself from any matters that come before the Commission that affect the Law Foundation since it is the applicant's source of income. The application does not indicate a spouse. The application discloses neither incompatible offices nor apparent conflicts of interest.

Debora Ow – Ms. Ow's application indicates that she recently retired as a Finance Manager from Masonic Homes of California. The application does not indicate a spouse. Ms. Ow is currently Treasurer of the El Camino Real District United Methodist Women and a member of the San Jose Advocacy Team of AARP in San Jose. It is possible that the Commission may consider a matter involving these organizations which may present an actual conflict or appearance of bias. In such a case, Ms. Ow

April 7, 2021

Subject: Senior Citizens' Commission Applicants

Page 3

may need to disqualify herself from taking part in the Commission's decision on those matters. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Kuldip Pabla – Mr. Pabla's application indicates that he is the CTO/Owner of L3 Analytics, Inc. and his spouse is an educator for San Jose Unified School District. The application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

The City Council may wish to consider the above comments in making its appointments to the Commission.

NORA FRIMANN
City Attorney

By /S/ signed electronically
ARLENE F. SILVA
Deputy City Attorney

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

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

SUBJECT: Conflicts Review Senior
Citizens' Commission
Applicants

DATE: June 7, 2021

BACKGROUND

The City Attorney's 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 Senior Citizens' Commission is responsible for studying, reviewing, evaluating and making recommendations to the Council on matters affecting elderly people in the City.

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, however 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

Set forth below is the applicant and any apparent legal conflicts of interest and/or appearance of bias related to entities that are likely to come before the commission in some manner, as identified on the applications.

Jelili Apalara – Ms. Apalara is currently employed as Specialty Care Medical Director at Santa Clara Valley Medical Center. It is possible that the Commission may consider a matter involving Santa Clara Valley Medical Center which may present an actual conflict or appearance of bias. In such a case, Ms. Apalara may need to disqualify herself from taking part in the Commission's decision on those matters. The application does not indicate a spouse. Ms. Apalara is currently serving her first term on the Senior Citizens' Commission which ends on June 30, 2021. The application discloses no incompatible offices nor apparent conflicts of interest.

Marcia Cohen-Zakai – Ms. Cohen-Zakai's application indicates that she is retired. The application does not indicate a spouse. Ms. Cohen-Zakai is currently serving her first term on the Senior Citizens' Commission which ends on June 30, 2021. The application discloses neither incompatible offices nor apparent conflicts of interest.

May Miller – Ms. Miller is currently retired and receives a pension from CALPERS. Ms. Miller is a current member of the Sourcewise Advisory Board. It is possible that the Commission could consider a matter involving Sourcewise which may present an actual conflict or appearance of bias. In such a case, Ms. Miller may need to disqualify herself from taking part in the Commission's decision on that matter. Ms. Miller is currently service her second term on the Senior Citizens' Commission which ends on June 30, 2021. Ms. Miller is eligible for appointment under Section 2.08.150(E.) of the San Jose Municipal Code because her first term was less than two (2) years. The application discloses neither incompatible offices nor apparent conflicts of interest.

Tyrone Wade –Mr. Wade is currently retired. This application does not indicate a spouse. Mr. Wade indicates that he was a City of San Jose administrative aid intern. The application discloses neither incompatible offices nor apparent conflicts of interest.

June 7, 2021

Subject: Conflicts Review Senior Citizens' Commission Applicants

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CONCLUSION

The City Council may wish to consider the above comments in making its appointments to the Commission.

NORA FRIMANN
City Attorney

By /S/ signed electronically
ARLENE SILVA
Deputy City Attorney

c: Dave Sykes, City Manager
Toni Taber, CMC, City Clerk

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann
City Attorney

SUBJECT: Conflicts Review Senior
Citizens' Commission
Applicants

DATE: June 14, 2021

SUPPLEMENTAL MEMO

The purpose of this supplemental is to provide review of an additional application to the Senior Citizens' Commission.

BACKGROUND

The City Attorney's 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 Senior Citizens' Commission is responsible for studying, reviewing, evaluating and making recommendations to the Council on matters affecting elderly people in the City.

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, however 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

Set forth below is the applicant and any apparent legal conflicts of interest and/or appearance of bias related to entities that are likely to come before the commission in some manner, as identified on the applications.

Gabrielle Antolovich – Ms. Antolovich's application indicates she is a volunteer at Billy DeFrank LGBTQ+Community Center. It is possible that the Commission could consider a matter involving the Billy DeFrank LGBTQ+Community Center which may present an actual conflict or appearance of bias. In such a case, Ms. Antolovich may need to disqualify herself from taking part in the Commission's decision on that matter. Ms. Antolovich's current application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

The City Council may wish to consider the above comments in making its appointments to the Commission.

NORA FRIMANN
City Attorney

By /S/ signed electronically
ARLENE SILVA
Deputy City Attorney

c: Dave Sykes, City Manager
Toni Taber, CMC, City Clerk