

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: RICHARD DOYLE
City Attorney

SUBJECT: Airport Commission
Applicants

DATE: June 27, 2019

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. In order 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 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.

APPLICANTS

Jelili Apalara – Mr. Apalara is a Speciality Care Medical Director for the County of Santa Clara in San Jose. His application discloses neither incompatible offices nor apparent conflicts of interest.

Brandon Chaidez – Mr. Chaidez is a Contract Analyst with San Jose State University. His application discloses neither incompatible offices nor apparent conflicts of interest.

Dan Connolly – Mr. Connolly is the current Chair of the Airport Commission. He is the CEO/President of ACSATM, Inc. – Armed Courier Service in Santa Clara, and his spouse is employed by the Evergreen School District. His application discloses neither incompatible offices nor apparent conflicts of interest.

Julie Matsushima – Ms. Matsushima is a current Airport Commissioner. She is retired. Her application discloses neither incompatible offices nor apparent conflicts of interest.


Marcel Pajuelo-Schwartz – Mr. Pajuelo-Schwartz is retired. His application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

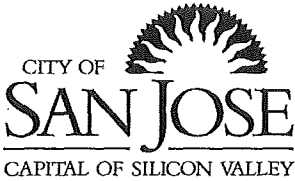
None of the applicants appear to hold any incompatible offices or to have conflicts of interest that would preclude them from serving on the Airport Commission. The Mayor and City Council may wish to consider the above comments in making its recommendations regarding appointments to the Airport Commission.

Honorable Mayor and City Council
Re: Airport Commission Applicants
6/27/19
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RICHARD DOYLE,
City Attorney

By: 
KEVIN FISHER
Chief Deputy City Attorney

cc: David Sykes
Toni Taber



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: RICHARD DOYLE
City Attorney

SUBJECT: Airport Commission
Applicants

DATE: July 26, 2019

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APPLICANTS

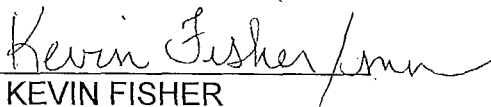
Robert Hencken – Mr. Hencken is a retired employee of the City of San Jose. He was a Civil Engineer in the Public Works Department. He is currently Principal/Owner of Hencken Development Consultants, LLC. His application discloses neither incompatible offices nor apparent conflicts of interest.

Surjit Bains – Mr. Bains is a Senior Transportation Engineer with the State of California (Caltrans). His application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

Neither 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. 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: 
KEVIN FISHER
Chief Deputy City Attorney

cc: David Sykes
Toni Taber