

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Richard Doyle
City Attorney

**SUBJECT: Conflicts Review –
Arts Commission Applicants**

DATE: June 17, 2020

BACKGROUND

This Office routinely reviews applications to City Boards and Commissions. The applications generally do not provide complete information regarding actual 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 applications. In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicants are 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.

COMMISSION DUTIES

Pursuant to the San Jose Municipal Code, the Arts Commission advises the City Council and other City boards and commissions on matters relating to the arts and cultural life of the City, reviews and recommends funding levels for grant applications from cultural and other organizations and monitors the City's art acquisition program.

The Commission is also responsible for formulating recommendations with respect to the City's art in public places program, in conjunction with the appropriate City departments and commissions.

Persons appointed to the Commission must have "acknowledged accomplishment" in one or more fields of art or "they must have demonstrated a deep interest and appreciation of cultural and artistic activities."

APPLICANTS

The applications listed below were reviewed by our office. No application discloses incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the Arts 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 a commissioner and an entity comes before the Commission in the situations mentioned below. 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 of 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 APPLICANTS

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

Elizabeth Alvarez – Ms. Alvarez’s application indicates she is a Managing Director at Catholic Charities of Santa Clara County. The application indicates that Ms. Alvarez is currently a Fellow with the American Leadership Forum and is a board member of the A.C.E. Charter School. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Juan Carlos Araujo – Mr. Araujo’s application indicates he is the owner/director/curator of Empire Seven Studios in San Jose. Mr. Araujo’s spouse is a senior executive associate with Cypress Semiconductor. Mr. Araujo is on the Arts Commission appointed on his 1st term on 12/17/2019 ending on 6/30/2020. The application discloses neither incompatible offices nor apparent conflicts of interest.

Kyle Bielfield – Mr. Bielfield’s application indicates he is a self-employed Performative Artist. Mr. Bielfield’s spouse is a Senior Marketing Manager with Cisco Systems. The application discloses neither incompatible offices nor apparent conflicts of interest.

Jonathan Borca – Mr. Borca’s application indicates he is the Strategic Partnerships Manager at the Schools of Art and Culture at the Mexican Heritage Plaza. No spouse is listed on the application. Mr. Borca is a volunteer with New Leaders Council Silicon Valley and is a member of the Community Engagement Committee. Mr. Borca may need to disqualify himself from taking part in the Commission’s decision on related matters. The application discloses neither incompatible offices nor apparent conflicts of interest.

Garry Cheney – Mr. Cheney’s application indicates he is self-employed as an Independent Representative for CALRIMA Financial Services and Send Out Cards, as indicated on his resume. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Elizabeth Cox – Ms. Cox’s application indicates she is the office manager at Brad Cox, Architect, Inc. in San Jose. Her spouse is an architect with the same firm. The application discloses neither incompatible offices nor apparent conflicts of interest.

Trami Cron – Ms. Cron’s application indicates she is the Executive Artistic Director for Chopsticks Alley Art in San Jose. No spouse is listed on the application. Ms. Cron is currently on the San Jose Parks and Recreation Commission. If appointed to the Arts Commission, per Council Policy 0-4, Ms. Cron will be deemed automatically resigned from the Parks and Recreation Commission where she is currently serving a 2nd term appointed 7/1/2017 and ending on 6/30/2021. The application discloses neither incompatible offices nor apparent conflicts of interest.

Joshua Curry – Mr. Curry’s application indicates he is a self-employed artist. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Smita Garg – Ms. Garg’s application indicates she is self-employed. Ms. Garg’s spouse is vice president at IP Value, Inc. in Santa Clara. Ms. Garg has been on the Arts Commission in her 1st term appointed on 7/1/2017 ending on 6/30/2020. She is the co-founder of Coalition of Artists and Creatives for Compassionate Communities and is the founder and former chair of the Campbell Union High School District Education Committee. The application discloses neither incompatible offices nor apparent conflicts of interest.

Barbara Goldstein – Ms. Goldstein’s application indicates she is the principal at Barbara Goldstein & Associates. The application indicates her spouse is retired. Ms. Goldstein is a member and secretary for the Movimiento de Arts y Cultura Latino Americana. Ms. Goldstein may need to disqualify herself from taking part in the Commission’s decision on related matters. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Mary Gottschalk – Ms. Gottschalk’s application indicates no employment and retired from San Jose Mercury News. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Scott Hartman – Mr. Hartman’s application indicates he is self-employed as a symphony musician and music teacher. Mr. Hartman’s spouse is a senior software engineer with Adobe. Mr. Hartman is president of the Nova Vista Symphony Association. The application discloses neither incompatible offices nor apparent conflicts of interest.

Garry Johnson – Mr. Johnson’s application indicates he is employed by Evergreen Valley College as a Nursing Professor and his spouse is also employed by Evergreen Community College as a Nursing Professor. The application discloses neither incompatible offices nor apparent conflicts of interest.

Bryce Lynch – Mr. Lynch’s application indicates he is a graphic artist with Sa Si Puedes Productions in San Jose. His spouse is a dental hygienist with EZ Dental in San Jose. The application discloses neither incompatible offices nor apparent conflicts of interest.

Jerry Magana — Mr. Magana’s application indicates he is a stay-at-home parent and his spouse is employed by Palo Alto University as the Assistant Vice President, Admissions. The application discloses neither incompatible offices nor apparent conflicts of interest.

Robert Marin – Mr. Marin’s application indicates he is a designer with Money Makers Clothing. The application indicates that Mr. Marin’s spouse works for Petco Foods in packaging. The application discloses neither incompatible offices nor apparent conflicts of interest.

Patricia McDonald – Ms. McDonald’s application indicates she is the owner/designer at Patricia Borba McDonald Interior Design in San Jose. The application indicates that Ms. McDonald’s spouse is a retired probation officer. The application discloses neither incompatible offices nor apparent conflicts of interest.

Lynne Rosenthal – Ms. Rosenthal’s application indicates she is a self-employed residential interior designer. The application indicates her spouse is deceased. The application discloses neither incompatible offices nor apparent conflicts of interest.

Audrey Rumsby – Ms. Rumsby’s application indicates she is a self-employed actor/director/producer. The application indicates her spouse is a production stage manager with San Jose Stage Company. The application discloses neither incompatible offices nor apparent conflicts of interest.

Audrey Rust – Ms. Rust’s application indicates she is retired from Peninsula Open Space Trust. The application indicates her spouse is also retired from San Jose State University. The application discloses neither incompatible offices nor apparent conflicts of interest.

Dan Slee – Mr. Slee’s application indicates he is the general manager at Aurum Capital Management in San Jose. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Eva Smith Glynn – Ms. Smith Glynn’s application indicates she is a self-employed marketing director/editor/photographer/arts advocate/writer. Ms. Smith Glynn’s spouse is the head of Engineering Delivery at TiVo. Ms. Smith Glynn is a board member of The School of Visual Philosophy and is a founding member of San Jose Arts Advocates. The application discloses neither incompatible offices nor apparent conflicts of interest.

June 17, 2020

Subject: Arts Commission Applicants – Conflict of Interest

Page 6

Diane Walsh – Ms. Walsh’s application indicates she is a retired Professor Emeritus at the University of the Arts. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Kaysey Weir – Ms. Weir’s application indicates that she is currently not employed. Ms. Weir’s spouse is a senior team finance manager at Charles Schwab in San Francisco. The application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

The applicants do not appear to have any incompatible offices or pervasive conflicts which would prevent serving on the Commission. You may wish to consider the above comments in making your recommendations on appointments to the Commission.

RICHARD DOYLE
City Attorney

By: 
ARLENE SILVA
Deputy City Attorney

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