

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: Historic Landmarks
Commission Applicants

DATE: July 24, 2018

BACKGROUND

This Office routinely reviews applications to City Boards, Commissions and Committees. 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 commission or committee to which the applicant is seeking appointment. This review is limited to the information provided on the application and is not intended to be comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

The Historic Landmarks Commission has two major responsibilities under the Municipal Code:

- 1) to serve in an advisory capacity to the City Council, the City Manager, and the Director of Planning with respect to various actions proposed to be taken involving property of historical significance. The various actions include acquisition, gifts, disposal, designation, sales and exchanges of such property; and
- 2) to encourage and promote the preservation of historic landmarks, sites, artifacts and other property connected with the history of the City of San Jose.

The members of the Commission must be persons having demonstrable interest and expertise in historic preservation. Whenever possible, at least three (3) members shall have professional expertise in one of the following disciplines: architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, landscape architecture or related disciplines.

APPLICANTS

Applications from the applicants listed below were 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.

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a member from participating in the 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 member 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 member 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 member 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 member. City Council policy requires members to be free of bias in their decision making and may require a member 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 new applicants, 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 in their applications.

New Applicants:

Callison, John – Mr. Callison is a Sr. Manager of Technology Sourcing for Symantec in Mountain View, CA. He has pursued a personal interest in history and has been

exposed to architecture and historic buildings through his family's firm, Callison Architects.

Fernandez, Bob – Mr. Fernandez is retired. He is a native San Jose resident and member of the Willow Glen Association.

Hirst, Eric – Mr. Hirst is an Educator in the Franklin McKinley School District of San Jose, CA. He previously served on the Historic Landmarks Commission, and has a Masters in Public Administration with coursework in land use and environmental planning.

Janke, Edward – Mr. Janke is the Principal Architect of Janke and Associates, Architects in San Jose, CA. His spouse is a Senior Associate Designer of Jane and Associates, Architects. Mr. Janke served on the Commission in the 1990s and more recently as Chair during his tenure in 2004-2010. He taught architectural history and his firm has worked with various historic restoration projects in San Jose.

Piane, Ralph – Mr. Piane is retired, and previously worked as a Project Manager for Pacific Bell/SBC/AT&T. His spouse is also retired. He was a long-time resident and unofficial historian of the Rose Garden neighborhood.

Royer, Rachel – Ms. Royer is Director of Development for Hunter Properties, Inc. in Cupertino, CA. Her spouse is Senior Contracts Manager for Day & Zimmerman in Philadelphia, PA. Ms. Royer was a member of the Philadelphia Historical Commission and is a real estate professional with a M.S. in Historic Preservation.

Shelton, Merylee – Ms. Shelton is retired, and a volunteer Chaplain with the Diocese of San Jose. In her prior position as the Executive Director of the Oakland Ensemble Theatre, she worked to restore the historic Ginn Building located in Preservation Park in downtown Oakland. Ms. Shelton also volunteers with History San Jose as a docent at the Peralta & Fallon Houses, and supports the African American Heritage House at History Park.

CONCLUSION

The applicants do not appear to hold incompatible offices or have pervasive conflicts of interest that would automatically preclude them from serving on the Historic Landmarks Commission. **It is possible depending on specific circumstances that the following situations could create an actual conflict of interest or an appearance of conflict of interest including, but not limited to, proximity of the property before the Commission to the applicants' residence or business, the applicant's position on the board of an organization that appears before the Commission, or the member's or his/her spouse's current or prior financial interest in an organization that comes before the Commission.** The applicants confirmed that they reside in San

Jose. The Committee may wish to consider the above comments in making its recommendation regarding appointments to the Historic Landmarks Commission.

RICHARD DOYLE
City Attorney

By 
Rosa Tsongtaatarii
Senior Deputy City Attorney

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

RECEIVED
San Jose City Clerk
OTC
2018 JUL 25 AM 11:42