



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: HUMAN SERVICES
COMMISSION APPLICANTS

DATE: July 26, 2018

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

The Human Services Commission was formed to study, review and evaluate, and make recommendations to the City Council regarding programs and matters affecting human rights. The membership of the Commission is to be representative of the entire community and is to be comprised of persons with human rights concerns. At least one (1) member of the Commission is required to be a disability service provider or representative of the disabled community. At least one (1) other Commissioner is required to be a domestic violence service provider or survivor.

APPLICANTS

Applications from the applicants listed below were reviewed by our office. This review was limited to the information provided on the applications and was not intended to be comprehensive investigation of potential conflicts involving the applicants. 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,
- 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 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 Commission in some manner, as identified in their applications.

Adrian Rafizadeh – Mr. Rafizadeh’s application indicates he is an intern with the office of the City Clerk for the City of San Jose. There is no issue with respect to this internship because it will be completed by August 3, 2018. The application indicates no spouse. His application discloses neither incompatible offices nor apparent conflicts of interest.

Joseph Herrity – Mr. Herrity’s application indicates he is employed by Planned Parenthood Mar Monte as Associate Director, Opportunity Youth Partnership. His spouse is employed by ATC Partners as Director of Leasing. He serves on the board of

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Soulciety, a nonprofit youth development organization. His application discloses neither incompatible offices nor apparent conflicts of interest.

Dao Thach – Ms. Thach's application indicates she is employed by BH Eyecare Optometry. The application indicates no spouse. The application discloses neither incompatible offices nor apparent conflicts of interest.

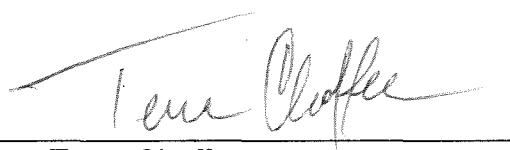
Charles Nyakundi – Mr. Nyakundi's application indicates he is employed by Oracle, Inc. as a Human Resources consultant. The application indicates his spouse is employed by Plutora Inc. He serves on the board of Vessel for Honor Ministries. The application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

The applicants do not appear to have any incompatible offices or pervasive conflicts which would prevent them from serving on the Commission. You may wish to consider the above comments in appointing the applicants to serve on the Human Services Commission.

RICHARD DOYLE
City Attorney

By: _____


Terra Chaffee
Senior Deputy City Attorney

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