

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: RICHARD DOYLE
City Attorney

SUBJECT: Civil Service Commission
Applications

DATE: October 17, 2018

BACKGROUND

This Office routinely reviews applications for appointment 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 known potential conflicts that are disclosed by the applications.

COMMISSION DUTIES

As established by the City Charter and authorized by the Municipal Code, the Civil Service Commission acts as an appellate body for certain personnel decisions affecting City employees and applicants for City employment. The Commission also makes recommendations to the Council and the City Manager and may conduct investigations concerning the administration of personnel in the Classified Service, reviews and recommends changes to Civil Service Rules, and appoints members of the City Council Salary Setting Commission.

COMMISSION COMPOSITION

The Civil Service Commission consists of five members. City Charter section 1001(a) requires that one member must be an attorney who has practiced law in the State of California for at least five years and that the Civil Service Commission may not have more than four members of the same sex.

Two Commissioners have expiring terms. One of the expiring terms must be filled by an attorney. Both appointments, however, can be made regardless of gender because the current Commission includes at least one male and one female with unexpired terms.

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 TO BE INTERVIEWED

Julia Van Roo — Ms. Van Roo’s application indicates she is a trial attorney for the United States Department of Housing and Urban Development with a focus in defending Equal Employment Opportunity complaints. Her spouse is the Owner/Chief Executive Officer of Mission City Construction, Inc. Ms. Van Roo has been licensed by the California State Bar since 2010 and is eligible for appointment to either the attorney or non-attorney position. Ms. Van Roo’s application discloses neither incompatible offices nor apparent conflicts of interest.

Sharon Hightower — Ms. Hightower applies for reappointment to the Civil Service Commission. Her application indicates she is a senior attorney/partner at Erickson Arbuthnot in San Jose with a focus on employment issues. She has been licensed by the California State Bar since 1987 and is eligible for either the attorney or non-attorney position. Ms. Hightower also serves as a judge pro tempore of the Santa Clara County Superior Court for traffic and small claims court and as a court-appointed mediator. If reappointed to the Commission, Ms. Hightower and her firm would continue to be prohibited from representing any City employee in proceedings before the Civil Service Commission. Ms. Hightower's application discloses neither incompatible offices nor apparent conflicts of interest.

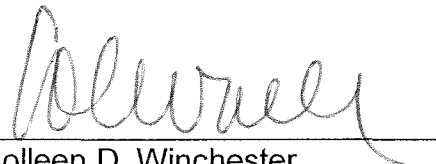
Michael Wilcoxon — Mr. Wilcoxon applies for reappointment to the Civil Service Commission. His application states that he is currently a performer at ComedySportz San Jose, and his spouse is employed at Cisco Systems as an Human Resources Specialist. Mr. Wilcoxon's application discloses neither incompatible 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 them from serving on the Civil Service Commission. The Council may wish to consider the above comments in making its appointments to the Commission.

RICHARD DOYLE,
City Attorney

By:



Colleen D. Winchester
Senior Deputy City Attorney

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