

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Richard Doyle
City Attorney

**SUBJECT: Conflicts Review – Council
Appointment Advisory
Commission Applicants**

DATE: November 6, 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. In order to analyze potential conflicts it is necessary to consider the duties of the particular commission or committee to which the applicant is 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 applicants.

COMMISSION DUTIES

The Council Appointment Advisory Commission consists of eleven (11) members and its functions, duties and powers include: (1) Review applications, interview applicants and maintain a pool of screened applicants for all City commissions; (2) Review applications, interview applicants and nominate for appointment by the City Council, persons to those commission seats that have special eligibility requirements, or otherwise set forth in the Municipal Code; and (3) Such other related duties as may be directed by the City Council.

The Council Appointment Advisory Commission assumed the role of the former commission, Project Diversity Screening Committee which was established by Council action in 1991.

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

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 Council Appointment Advisory Commission.

1. Denise Belisle

Ms. Belisle is an incumbent member and has served on CAAC in the District 8 Seat since February 25, 2015. She currently serves as Vice Chair of CAAC. Her term expires on December 31, 2018 and she is eligible for reappointment. Ms. Belisle is the Owner/Operator of the Evergreen Coffee Company in San Jose. Her application does not indicate an employed spouse. The application disclosed no incompatible offices or apparent conflicts of interest.

2. Quynh Ho

Ms. Ho is an incumbent member and has served on CAAC in the District 4 Seat since June 27, 2017. Her term expires on December 31, 2018 and she is eligible for

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reappointment. Ms. Ho is the Chief Executive Officer of WRP Tax Services, Inc. in San Jose. Her application indicates that her spouse is the President of Cereus Corporation in San Jose. The application disclosed no incompatible offices or apparent conflicts of interest.

3. Ben Mazzone

Mr. Mazzone is an incumbent member and has served on CAAC in the District 10 Seat since June 14, 2016. His term expires on December 31, 2018 and he is eligible for reappointment. Mr. Mazzone is retired from over forty (40) years in the construction industry as a licensed contractor. His application indicates that his spouse is retired, and receiving a pension from Sheet Metal Workers of Northern California, Local Union No. 104. The application disclosed no incompatible offices or apparent conflicts of interest.

4. Reza Sadeghian

Mr. Sadeghian currently serves on the City's Clean Energy Community Advisory Commission (CECAC) and has served on CECAC since January 23, 2018. His term expires on December 31, 2019. If Mr. Sadeghian is appointed to CAAC, under Council Policy 0-4, if appointed to CAAC, he shall be deemed automatically resigned from CECAC. Mr. Sadeghian is self-employed as a Board Advisor to start-ups. The application does not indicate an employed spouse. The application discloses no incompatible offices or apparent conflicts of interest.

CONCLUSION

The applicants do not appear to hold any incompatible offices or pervasive conflicts which would prevent them from serving on the Council Appointment Advisory Commission, although applicants may be precluded from participating in matters involving the entities of which they are an officer or member. Where this may be the case, they must abstain from participating in that commission recruitment. The City Council may wish to consider the above comments in making its appointments to the Commission.

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