



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: RICHARD DOYLE
City Attorney's Office

SUBJECT: Waiver of Revolving Door
Restrictions

DATE: November 14, 2019

RECOMMENDATION

1. Consider the request by Kyra Kazantzis, former Senior Policy Advisor for Mayor Sam Liccardo, for a Waiver of the Revolving Door Restrictions for the work described below and make findings as to whether such waiver is in the best interest of the City and consistent with the purpose of San José Municipal Code Chapter 12.10; and
2. Forward the request and findings to the City Council for approval and place the item on the December 10, 2019 Council agenda.

OUTCOME

If the City Council approves the Waiver, then Kyra Kazantzis, former Senior Policy Advisor for Mayor Liccardo will be able to partner with and work on behalf of Silicon Valley Council of Nonprofits with City departments and City elected officials on affordable housing, homelessness, equity, open space, early education, food security and access, and the safety net, which are issue areas highlighted in her October 3, 2019 letter requesting the waiver.

BACKGROUND

The City Council adopted Ordinance No. 28074 on June 26, 2007 which revised San José Municipal Code (SJMC) Chapter 12.10 – Revolving Door Restrictions. As defined in Municipal Code Section 12.10.010, the purposes of the revolving door restrictions are:

- A. To assure the independence, impartiality and integrity of City and agency officials and designated employees in making governmental decisions and taking governmental actions.
- B. To prevent such former officials and designated employees from using their positions with the City or agency for personal gain.

- C. To prevent private for-profit business entities from obtaining a real or perceived unfair advantage in dealing with the City or agency by hiring former officials and designated employees.

Under Municipal Code Section 12.10.030, former officials and designated employees are prohibited for two years after terminating City or Redevelopment Agency employment from pursuing:

- A. Work on any legislative or administrative matter on which the official or employee worked on behalf of the city or agency during the twelve months prior to termination of service, or which was within the former city or agency official's or designated employee's area of job responsibility. "Work on any legislative or administrative matter" includes, but is not limited to, providing advice or recommending any action with regard to a city or agency legislative or administrative matter such as a project involving land use, development, or public works. Legislative matters include city council, agency board and city board or commission actions related to ordinances, resolutions, agreements, permits or licenses.
- B. Represent anyone else on any matter, whether or not for compensation, before the city council, redevelopment agency board, any commission thereof, any individual member of the city council, redevelopment agency board, or commission, or any staff of the city or agency.
- C. Receive any gift or payment which would be prohibited under Chapter 12.08 from any person who was, in any way, involved in or affected by the work of the official or employee during the twelve months prior to the termination of service.

The ordinance has exceptions to the prohibitions for (a) employees or volunteers of specified nonprofit organizations; (b) an employee or official of a government entity; or (c) an independent contractor who provides transitional services to the City. If none of the exceptions apply, the ordinance provides that the City Council may waive the prohibition of Section 12.10.030 if the Council finds that such waiver is in the best interests of the City and that such waiver is consistent with the purpose of Section 12.10.010.

While considering the Mayor's Biennial Ethics Review, on December 15, 2009, the Council approved a streamlined approach to respond to requests for waivers from former employees. This process contemplates a review of the request by and a recommendation from the Rules and Open Government Committee to the full Council.

ANALYSIS

Kyra Kazantzis was employed with the Mayor's Office as a Senior Policy Advisor from December 17, 2017 to May 17, 2019. In the Mayor's Office, she worked on policy related to homelessness, housing, land use, parks, community centers, audit, retirement services, and ballot measures, among others. Prior to working in the Mayor's Office, she was employed for 25 years with the Law Foundation of Silicon Valley, a 501(c)(3) nonprofit, where she served most recently as the Directing Attorney. At the Law Foundation of Silicon Valley, she led policy and litigation in a variety of issue areas including fair housing, affordable housing, civil rights, inmate rights, consumer protection, disability rights, and poverty.

On May 20, 2019, Ms. Kazantzis started her new role as the CEO of the Silicon Valley Council of Nonprofits (SVCN), a 501(c)(3) nonprofit. SVCN's mission is to strengthen, magnify, and unite the voice and influence of nonprofits. As CEO, Ms. Kazantzis plans to partner with the City of San José on issues of affordable housing, equity, open space, early education, food security and access, and the safety net.

The City's Revolving Door Ordinance exemption for "nonprofit organization" applies only to Internal Revenue Code Section 501 nonprofit organizations that have programs or projects which have received financial or other support from the City of San José within the last five years:

"Nonprofit organization" means an entity which would qualify as such under the federal Internal Revenue Code and has engaged in programs or projects which have received financial or other formal support from the City Council or Redevelopment Agency Board within the past five years." (See SJMC § 12.10.020.E).

The Silicon Valley Council of Nonprofits' programs or projects have not received financial or other support from the City of San José within the last five years. Thus, SVCN does not fall within the nonprofit exemption in the City's Revolving Door Ordinance.

CONCLUSION


Although Ms. Kazantzis would not fall under the exceptions under the revolving door restrictions because her current nonprofit employer has not received funding or other support from the City within the last five years, the Rules Committee could find that a waiver is in the City's best interests and consistent with the purpose of San José Municipal Code Chapter 12.10.

Ms. Kazantzis' attached letter sets out potential findings the Committee could make in granting a waiver, specifically:

- The waiver allows Ms. Kazantzis to use her extensive background and experience to help a local nonprofit advance collaborative regional solutions to affordable housing, equity, open space, early education, food security and access, and the safety net, issues that the City has long supported;
- Ms. Kazantzis' plans to help nonprofits build their capacity through training and consultation serves as a magnifier of the effectiveness of nonprofits, many of whom are the City's nonprofit partners and contractors;
- Ms. Kazantzis' plans to work with City departments and City elected officials on issues of common interest through consultation, referrals, and networking convenes cross-sector players to address community issues, many of which the City currently prioritizes; and
- Ms. Kazantzis' plans to support nonprofits in furthering the City's enterprise priorities, such as homelessness and affordable housing, are consistent with the purposes of the City's Revolving Door restrictions in Municipal Code Chapter 12.10.

CEQA

Not a Project, File No. PP10-068(b), Municipal Code or Policy, Title 12 (Ethics Provisions).



NEELAM NAIDU
Senior Deputy City Attorney

For questions, please contact Neelam Naidu, Sr. Deputy City Attorney, at 408-535-1900.

cc: David Sykes

Attachment:

- October 3, 2019 Kyra Kazantzis' Request for Waiver of the Revolving Door Prohibitions Policy