

# *Memorandum*

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT: NEIGHBORHOODS  
COMMISSION APPLICANTS:  
CONFLICTS OF INTEREST**

**DATE:** March 5, 2021

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## **SUPPLEMENTAL**

### **REASON FOR SUPPLEMENTAL**

This memorandum discusses potential conflicts of interest and incompatible offices for applicants who applied after the initial memorandum from the City Attorney was submitted.

### **BACKGROUND**

This office routinely reviews applications to City Boards, Commissions, and Committees. Although these applications do not offer complete information, they occasionally disclose potential conflicts of interest or incompatible offices. This memorandum highlights major areas of potential conflict disclosed in the applications. However, this review is limited to the information provided, and is not intended to be a comprehensive investigation of potential conflicts involving the applicants.

### **COMMISSION DUTIES**

The Neighborhoods Commission is an advisory body to the City Council. (SJMC §§ 2.08.3400 *et seq.*) It studies, reviews, evaluates, and makes recommendations to the City Council “regarding issues, policies, and programs affecting the quality of life in San José neighborhoods, focusing on neighborhood safety, transportation, and code enforcement.” (SJMC § 2.08.3430.) In addition, it serves as a Citizens’ Oversight Board that reports to the City Council about revenue expenditures generated from the November 2016 voter-approved sales tax. (Reso. No. 78016.)

### **COMMISSION MEMBERSHIP**

The Commission is a 20-member body. Each member must reside within the boundaries of the council district for the seat to which he or she was appointed during the term of that seat. (SJMC §§ 2.08.3410, 2.08.3420.) If a member is no longer a

resident of the council district, the seat will be deemed vacant.

The City Council appoints Neighborhoods Commissioners after taking into consideration nominations provided through a neighborhood groups caucus process. (SJMC § 2.08.3440.A.) If a vacancy occurs outside of the scheduled caucus process, the Council may fill the vacancy based on the recommendation of the council appointment advisory commission. (SJMC § 2.08.3440.D.)

### **LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION**

Certain positions may preclude a commissioner from participating in a commission discussion or from voting on a matter if there is a conflict. While this list is not complete, conflicts usually fall within 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.

In each of these instances, the commissioner may be required to recuse himself or herself if a matter comes before the Commission affecting the above interests. A Commissioner’s employer, or the employer of the Commissioner’s spouse, is generally considered a source of income to the Commissioner such that the Commissioner will have to recuse himself or herself from taking part in the Commission’s decision on a matter if the decision will have a foreseeable financial effect on the employer.

### **APPEARANCE OF BIAS**

There may also be facts which would not amount to a legal conflict of interest, but still require recusal because certain relationships may create an appearance of bias. City Council policy requires commissioners to be free from bias in their decision making and may require recusal if the facts could reasonably lead one to conclude that the

commissioner would be biased for or against an entity or entities.

## **APPLICANTS**

The following applications were reviewed:

### **COUNCIL DISTRICT 4**

**Barinder Ahluwalia:** Applicant applied on February 22, 2021. Applicant is retired.

No incompatible offices or conflicts of interest are disclosed.

### **COUNCIL DISTRICT 7**

**Orlana Mejia:** Applicant applied on February 9, 2021. Applicant is employed as a Order Fulfillment Specialist with Amazon.

No incompatible offices or conflicts of interest are disclosed.

**Tasha Tenturier:** Applicant applied on February 15, 2021. Applicant is employed as a Facilities Project Manager with Campbell Union High School District.

Applicant discloses that she serves on the HOA board for her community. It is possible that the Commission could consider an issue that may come within the purview of Applicant's roles with the HOA, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

**Bruce Victorine:** Applicant applied on February 9, 2021. Applicant is not currently employed. Applicant's spouse is a teacher with the Franklin McKinley School District. Applicant discloses that he is the Secretary for the Seven Trees Village HOA and the Vice President of Save Our Trails.

It is possible that the Commission could consider an issue that may come within the purview of Applicant's spouse's employment with the school district or his role with the HOA and Save Our Trails, presenting an actual conflict or appearance of bias. In such a case, Applicant may not be able to participate in the Commission's decision on that matter.

Otherwise, no incompatible offices or conflicts of interest are disclosed.

## **CONCLUSION**

The Council may wish to consider the above comments in making appointments to the Neighborhoods Commission. Presently, applicants do not appear to have any disclosed incompatible offices or conflicts that would prevent serving on the Commission.

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