

Memorandum

TO: RULES COMMITTEE

FROM: Nora Frimann
City Attorney

**SUBJECT: Conflicts Review – Senior
Citizens’ Commission
Applicants**

DATE: April 7, 2021

BACKGROUND

The City Attorney’s Office routinely reviews applications to City Boards and Commissions. The applications generally do not provide complete information regarding potential conflicts; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight areas of potential conflict which are disclosed by the application. In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicant is seeking appointment. This review is limited to the information provided on the applications and is not intended to be comprehensive investigation of potential conflicts involving the applicants.

COMMISSION DUTIES

The Senior Citizens’ Commission is responsible for studying, reviewing, evaluating and making recommendations to the Council on matters affecting elderly people in the City.

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.

REVIEW OF APPLICANT

Set forth below is the applicant 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 on the applications.

Gina Gates – Ms. Gates application indicates she is a partner at Gates Consulting Group. The application does not indicate a spouse. The application indicates that Ms. Gates currently sits on the Santa Clara County 211 Advisory Board. It is possible that the Commission may consider a matter involving Santa Clara County 211 which may present an actual conflict or appearance of bias. In such a case, Ms. Gates may need to disqualify herself from taking part in the Commission's decision on those matters. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Maricela Lechuga – Ms. Lechuga's application submitted July 4, 2020 marked "None" and "NA" under employer and job title respectively. However, recently the applicant took employment with the Law Foundation of Silicon Valley ("Law Foundation"). Ms. Lechuga's application indicates that she held a position as a Policy Aid and Legislative Advisor for two San Jose Councilmembers from March 2019 through June 2020. Accordingly, the applicant should recuse herself from any matters that come before the Commission that affect the Law Foundation since it is the applicant's source of income. The application does not indicate a spouse. The application discloses neither incompatible offices nor apparent conflicts of interest.

Debora Ow – Ms. Ow's application indicates that she recently retired as a Finance Manager from Masonic Homes of California. The application does not indicate a spouse. Ms. Ow is currently Treasurer of the El Camino Real District United Methodist Women and a member of the San Jose Advocacy Team of AARP in San Jose. It is possible that the Commission may consider a matter involving these organizations which may present an actual conflict or appearance of bias. In such a case, Ms. Ow

may need to disqualify herself from taking part in the Commission's decision on those matters. Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

Kuldip Pabla – Mr. Pabla's application indicates that he is the CTO/Owner of L3 Analytics, Inc. and his spouse is an educator for San Jose Unified School District. The application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

The City Council may wish to consider the above comments in making its appointments to the Commission.

NORA FRIMANN
City Attorney

By /S/ signed electronically
ARLENE F. SILVA
Deputy City Attorney

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

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nora Frimann
City Attorney

SUBJECT: Conflicts Review –
Arts Commission Applicants

DATE: March 2, 2021

BACKGROUND

This Office routinely reviews applications to City Boards and Commissions. The applications generally do not provide complete information regarding actual conflicts; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight areas of potential conflict which are disclosed by the applications. In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicants are 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 the applicants.

COMMISSION DUTIES

Pursuant to the San Jose Municipal Code, the Arts Commission advises the City Council and other City boards and commissions on matters relating to the arts and cultural life of the City, reviews and recommends funding levels for grant applications from cultural and other organizations and monitors the City's art acquisition program.

The Commission is also responsible for formulating recommendations with respect to the City's art in public places program, in conjunction with the appropriate City departments and commissions.

Persons appointed to the Commission must have "acknowledged accomplishment" in one or more fields of art or "they must have demonstrated a deep interest and appreciation of cultural and artistic activities."

APPLICANTS

The applications listed below were reviewed by our office. No application discloses incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the Arts 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 a commissioner and an entity comes before the Commission in the situations mentioned below. 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 of 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.

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 Arts Commission in some manner, as identified on the applications.

John Callison – Mr. Callison’s application indicates he is a Sr. Manager Technology Sourcing (Global) at Workday. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Elisa Camahort Page – Ms. Camahort Page’s application indicates she is the owner of ElisaCP Consulting. Ms. Camahort Page’s spouse is a Software Engineer for Apple in Cupertino. The application discloses neither incompatible offices nor apparent conflicts of interest.

Bruce Herman – Mr. Herman’s application indicates he is a Dining Services Manager at Brookdale Senior Living in San Jose. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Robert Marin – Mr. Marin’s application indicates he is a Designer for Money Makers Clothing. Mr. Marin’s spouse is in packaging at Pitco Foods. The application discloses neither incompatible offices nor apparent conflicts of interest.

Pamela Pennington – Ms. Pennington’s application indicates she is the Owner/Founder and CEO of Pamela Pennington Studios in Palo Alto. Ms. Pennington’s spouse is a Professor of English and Director of Creative Writing at San Jose State University. The application discloses neither incompatible offices nor apparent conflicts of interest.

Michael Rosenthal – Mr. Rosenthal’s application indicates he is a self-employed Artist. Mr. Rosenthal’s spouse is a retired School Teacher. The application discloses neither incompatible offices nor apparent conflicts of interest.

Basil Saleh – Mr. Saleh’s application indicates he is a Community Relations Aide for Santa Clara County. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

Ethan Sanchez – Mr. Sanchez’s application indicates he is a Teacher for San Jose Unified School District. Mr. Sanchez’s spouse is a self-employed Hair Stylist. The application discloses neither incompatible offices nor apparent conflicts of interest.

David Sanchez – Mr. Sanchez’s application indicates he is a Sales Associate for Heaney Violins. No spouse is listed on the application. The application discloses neither incompatible offices nor apparent conflicts of interest.

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Jaya Shingal – Ms. Shingal's application indicates she is the Executive Vice President of Wyndham Garden San Jose & Wyndham Garden Silicon Valley. No spouse is listed on the application. She is a member of the City of San Jose Bridge Housing Community Advisory Committee. The application discloses neither incompatible offices nor apparent conflicts of interest.

Eva Smith Glynn – Ms. Smith Glynn's application indicates she is a self-employed marketing director/editor/photographer/arts advocate/writer. Ms. Smith Glynn's spouse is the head of Engineering Delivery at TiVo. Ms. Smith Glynn is a board member of The School of Visual Philosophy and is a founding member of San Jose Arts Advocates. The application discloses neither incompatible offices nor apparent conflicts of interest.

Nishad Somalwar – Mr. Somalwar's application indicates he is a Senior Sales Manager with Infosys Limited in San Francisco. His spouse is a Senior Vice President at Bank of America. 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 serving on the Commission. You may wish to consider the above comments in making your recommendations on appointments to the Commission.

NORA FRIMANN
City Attorney

By: /s/ Arlene Silva
ARLENE SILVA
Deputy City Attorney

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