

# *Memorandum*

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT:** Conflicts Review - Housing  
and Community Development  
Commission

**DATE:** August 10, 2021

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## **BACKGROUND**

This Office routinely reviews applications to City boards, committees, and commissions. Although the applications do not provide complete information, 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 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 Housing and Community Development Commission ("HCDC" or "Commission") was formed in July 2013 when the Housing and Community Development Advisory Commission was merged with the Advisory Commission on Rents ("ACR") and the Mobilehome Advisory Commission ("MAC"). It serves as the successor to ACR and MAC fulfilling their duties under the Mobilehome Rent Ordinance, Chapter 17.22 of the Municipal Code and the Rental Dispute Mediation and Arbitration Ordinance ("Apartment Rent Ordinance"), Chapter 17.23 of the Municipal Code. These duties include review of the fees imposed under those ordinances. HCDC also reviews potential amendments to provisions of the Zoning Code that apply to mobilehomes including the City's Mobilehome Park Conversion Ordinance. HCDC serves as the lead citizen participation group in the planning and programming of the Community Development Block Grant ("CDBG"). HCDC also makes recommendations on new and existing Housing Department programs and policies. Additionally, HCDC holds public hearings and makes recommendations in conjunction with the City's Consolidated Plan and Annual Action Plans, which are related to the use and spending of federal funds, including CDBG, Emergency Solutions Grant ("ESG"), and Home Investment Partnerships Program ("HOME") funds. In 2020, HCDC was designated as the Oversight Committee for the Measure E funds reviewing and commenting on spending plans and expenditures consistent with Council Policy 1-18. The decisions made by the

members of HCDC, particularly those related to the Consolidated Plan, may impact the spending of City funds.

### **COMMISSION MEMBERSHIP**

The Commission is a 13 member body with the following special eligibility requirements: (a) one member shall be a person recommended by an organization of owners of San José mobilehome parks; (b) one member shall be a person recommended by an organization of residents of San José mobilehome parks; (c) one member shall be an owner or manager of San José rent stabilized apartments; (d) one member shall be a tenant of a San José rent stabilized apartment, and (e) at least five members shall represent low income households. The members nominated by the Mayor, District 3, District 5, and District 7 are the seats that are intended to be filled by persons representing low income households. Additionally, the mobilehome park resident representative is deemed to be a representative of low-income households.

### **CURRENT VACANCIES**

There are currently five vacant seats on the Commission. In accordance with Section 2.08.180 of the Municipal Code, the vacant seats are to be nominated by District 3,5,7, 9 and the citywide seat. Additionally, four former Commission members are reapplying from District 3, 5, 7, and the Mayor's appointee. It is noted that there is currently a landlord representative for residential rent stabilized apartments on the Commission, but no tenant representative on the Commission. Currently, there is one rent stabilized tenant applicant.<sup>1</sup>

### **APPLICANTS**

The applications from the applicants eligible for the current vacancies were reviewed by our office and are listed below. Unless otherwise indicated, the applications reviewed do not disclose incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the 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 or affecting an entity comes before the

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<sup>1</sup> Section 2.08.180A authorizes each councilmember, including the Mayor, to nominate one commissioner to the Housing and Community Development Commission. Councilmembers are not required to nominate commissioners from the district they represent. See Policy 0-4 (Council Resolution No. 77891). The District 3,5,7, 9 and a citywide nominated seat is currently vacant, but is not a seat designated for a tenant of a residential rent stabilized apartment. Although Section 2.08.2820D states that "[o]ne member *shall* be a tenant of a residential rent stabilized rental unit[]" (emphasis added), Section 1.04.020 (Definitions) of the Municipal Code states that the word "shall" as applied to the City is "directory only" and not mandatory.

commission, including consideration of a potential grant or contract, or a matter under the Mobilehome Rent Ordinance or the Apartment Rent Ordinance. 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 entities that are 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.

Additionally, a conflict may arise when the Commission is proposed to take action on a matter related to the Mobilehome Rent Ordinance, the Apartment Rent Ordinance or the Mobilehome related provisions of Title 20, if applicant resides in or owns a property subject to these ordinances and the potential commission action may impact the personal finances of the applicant.

Members serving as a mobilehome park representative or a residential rent stabilized apartment representative are permitted to take actions affecting mobilehome related matters or rent stabilized apartments matters, respectively, without violating general conflict of interest provisions of state and local law.

Municipal Code Section 2.08.2820 provides that: (a) one member of the Commission shall be a person recommended by an organization of residents of San José mobilehome parks, (b) one member of the Commission shall be a person recommended by an organization of owners of the San José mobilehome parks, and these members have designated seats on the Commission pursuant to Section 2.08.2830.A. Section 2.08.2820 also provides that: (c) one member shall be an owner or manager of a residential rent stabilized property, (d) one member shall be a tenant of rent stabilized unit, however, there are no designated seats for these representatives.

San José Municipal Code Section 2.08.2850 contains findings and declarations which provide that: (a) for the purposes of the mobilehome park owner who serves on the commission, the San José mobilehome park industry is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103; and (b) for purposes of the mobilehome park resident who serves on the commission, the San José mobilehome park residential community is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103. Together, these provisions allow the persons appointed to these representative positions to take action on issues related to the mobilehome rent ordinance or other

mobilehome related matters without violation of the general conflict of interest provisions of state and local law. Municipal Code Section 2.08.2850 also contains findings and declarations which provide that: (c) for the purposes of the owner or manager of residential rent stabilized rental unit(s) who serves on the commission in San José, the residential rent stabilized rental property owners is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103; and for purposes of the tenant of a residential rent stabilized rental unit who serves on the commission, the San José residential rent stabilized rental unit tenants community is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103. Together, these provisions allow the persons appointed to these representative positions to take action on issues related to the Apartment Rent Ordinance or other rent stabilized apartment related matters without violation of the general conflict of interest provisions of state and local law.

### **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.

### **HOUSING DEPARTMENT GRANTEE POLICY**

In addition to the conflicts listed above, it is Housing Department Policy that in order to avoid a perceived conflict of interest, no person who is a member of the board of directors of, or is employed by, an agency that applies for or receives CDBG, ESG, HOME or other funding will be eligible to vote on funding decisions involving that agency regarding that funding source. Where an applicant is connected with a specific agency that has previously applied for grants or funding, this policy will be mentioned below.

### **REVIEW OF APPLICANTS**

The list below summarizes some of the basic information from the applications and identifies any conflicts or potential conflicts. It is separated into two categories: (a) those applicants that would qualify as a tenant of a residential rent stabilized unit; and (b) those applicants that would not qualify as a tenant of a residential rent stabilized unit. Since specific gender preferences of the applicants are not provided in the application, all applicants below are referred to as “them/their/they.”

**APPLICANTS THAT WOULD QUALIFY FOR APPOINTMENT AS AN APARTMENT RENT ORDINANCE TENANT REPRESENTATIVE:**

**JESSICA MATTHEW:** This application was submitted on March 5, 2021. The applicant resides in Council District 1 in a rent-stabilized apartment, and therefore would qualify for the rent stabilized tenant vacant seat. This application indicates the applicant is currently unemployed. The spouse sections of the applicant indicates "N/A." The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**OTHER APPLICANTS:**

**DAWN REESE:** The applicant resides in Council District 3. This application was submitted on May 26, 2021. This application indicates the applicant is employed as an RN with the County of Santa Clara. The spouse sections of this application are marked "N/A". The application indicates that they rent property in San Jose at 88 East San Fernando Street. The property address is subject to the Tenant Protection Ordinance but is not rent-controlled under the Apartment Rent Ordinance. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**JOHN SELLAROLE:** The applicant resides in Council District 9. This application was submitted on August 9, 2021. Under the current employment section, the applicant indicates that they are retired. Under the spouse's job section, the applicant indicates that their spouse is also retired. The applicant indicates that they own but do not rent any property in San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**NHI DUONG:** Nhi Duong resides in Council District 2 and currently sits as the Mayor's appointee to the Housing and Community Development Commission. This application was submitted on June 11, 2021. This application indicates "n/a" under their current employment. The spouse's employment section indicates "n/a." The application indicates that they rent property in San Jose. The application also discloses that they have managed their "family's properties renting our units to Section 8 and low-income tenants." However, the applicant indicates that they have no sources of income from properties subject to the City's rent ordinance. While the application appears to not disclose any current financial conflicts of interest, if the applicant were to obtain income from such management, then the applicant would need to recuse themselves from commenting or voting on an item that would financially impact them. Otherwise, the application discloses no incompatible offices, incompatible activities, or conflicts of

interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**DAVID EISBACH:** David Eisbach resides in Council District 1. This application was submitted on March 9, 2021. This application indicates they are employed by Amber Realty as a Real Estate Broker for the past 45 years. The spouse section indicates that David Eisbach's spouse is a retired schoolteacher. David Eisbach owns several properties in San Jose and is a landlord. David Eisbach indicated that he previously managed a rent control property; however, the San Jose properties he owns do not currently fall within the Apartment Rent Ordinance, Ellis Act Ordinance, or Tenant Protection Ordinance since they are single family residences and duplexes. However, should an item come before the Commission that could potentially financially impact duplexes or single-family properties, such as applying rent control or just cause eviction protections, then the Commissioner would have to recuse themselves due to a likely financial conflict of interest.

**BARRY DEL BUONO:** This application was submitted on April 1, 2021. According to the application, the applicant resides in Council District 3. The applicant currently serves as a member on the Commission. The applicant indicates that they are a professor and San Jose City College. The spouse sections of this application indicate that the applicant's spouse is also a professor. Additionally, the application indicates the applicant Executive Director of GEO Pontes, Inc., a 501c3 nonprofit organization with a mission to help the homeless with housing and services. The Housing Department has confirmed that GEO Pontes, Inc. is not currently under contract with the Housing Department; however, should an item come before the Commission that would potentially result in the City entering into a contract with GEO Pontes, Inc., then the Commissioner should recuse themselves from participating in the item.

**BERTHA AGUINAGA:** The applicant resides as a renter in a non-rent-controlled property in Council District 3. This application was submitted on May 9, 2021. This applicant's employer is Melanie Griswold and the applicant's job is a nanny, babysitter, housekeeper. The spouse sections of this application indicate their spouse works in interpretation services. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**WILLIAM CORD:** This application was submitted on March 15, 2021. The applicant resides in Council District 4. This applicant indicates that they are a crew member at Trader Joe's, a grocery store. Their spouse is also a crew member at Trader Joe's. Their application indicates that they do rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**RUBEN NAVARRO:** The applicant resides in Council District 6 and is currently a member on HCDC. This application was submitted on May 4, 2021. This applicant indicates that they are an Organizer for Groundworks Campaigns. Their spouse's employer is Acceptance Insurance and their title is Insurance Specialist. Their application indicates that they do not rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**SAVINA JOHNSON:** The applicant resides in Council District 7. This application was submitted on April 7, 2021. This applicant indicates that they are employed as an Independent Contractor. The spouse sections of this application are marked "N/A". Their application indicates that they rent property in the City of San Jose but it is not subject to rent control. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**VICTORIA PARTIDA:** The applicant resides in Council District 7. This applicant currently serves on the Housing and Community Development Commission but whose two-year term is ending. This application was submitted on May 13, 2021. This applicant indicates that they are employed at Community Health Partnership as a Program Coordinator III. The spouse sections of this application indicate their spouse is a Manager at Marcus Henderson, a painting company. Their application indicates that they do not rent property in the City of San Jose. The application indicates that they currently sit as President for the Tropicana-Lanai Neighborhood Association. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**ELLEN CROCKETT:** The applicant resides in Council District 2. This application was submitted on May 15, 2021. This application indicates the applicant is not currently employed, but they are retiring from a long term employment with AT&T. The spouse sections of this application are marked "N/A". The application indicates that they rent property in San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**ROBERT HOWELL:** Robert Howell resides in Council District 1. This application was submitted on January 27, 2021. This application indicates they are self-employed as President and Owner of Exatron. Exatron appears to be an electronics company based upon an internet search. The spouse sections indicate that Robert Howell's spouse is the Finance Officer for Exatron. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Robert Howell's duties as a Commission member.

**TOBRETH HANSEN:** The applicant resides in Council District 2. This application was submitted on January 20, 2021. This application indicates the applicant is employed at Morgan Hill Unified School District (MHUSD) as a “sub lunch lady.” The spouse sections of this indicate that Tobreth’s spouse works for Nutanix as a QA Engineer. The application indicates that the applicant owns a single-family residence at 7142 Via Lomas, San Jose, CA. 95139 and does not rent any property. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant’s duties as a Commission member.

**JAYA SHINGAL:** This application was submitted on November 23, 2020. According to the application, the applicant resides at 11449 Clayton Road, San Jose, which is situated in Council District 5, although their application indicates that they reside in Council District 3. Their application indicates that they are the Executive Vice President of Wyndham Garden San Jose Airport and Wyndham Garden Silicon Valley hotels. The spouse sections of this application are marked “N/A”. The application indicates that Jaya Shingal is a current member of City of San Jose’s Bridge Housing Community Advisory Committee. In addition, the applicant indicated in their responses that HCDC may make decisions that may affect their sources of income, interests in real property, personal finances or investments. The applicant additionally states that “they are looking to develop our parcels on 4th St. & Gish Rd. in San Jose, and have had preliminary discussions with the City of San Jose in which we have discussed incentives for developing affordable housing units in a mixed-use development.” Thus, the applicant may need to recuse themselves from any Commission discussions that could potentially have an impact on property that they own or other sources of income, unless further conflicts analysis is undertaken.

**ANTHONY ROSSELLO:** The applicant resides in Council District 4. This application was submitted on January 21, 2021. This applicant’s employer is King Digital (Activision-Blizzard) and their title is Software Engineer. The spouse sections of this application are marked “N/A”. The applicant is a renter and resides at 3507 Palmilla Dr., Unit #2157, San Jose, CA 95134. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant’s duties as a Commission member.

**HA TRAN:** The applicant resides in Council District 4. This application was submitted on January 27, 2021. This applicant indicates that they are a retired engineer and part-time substitute teacher. Their spouse’s employer is Oracle and the applicant’s spouse’s title is “IT.” Their application indicates that they do not rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant’s duties as a Commission member.

**DONALD FUGATE:** The applicant resides in Council District 9. This application was submitted on January 27, 2021. This applicant indicates that they are employed as a



Pastor at Foxworthy Baptist Church ("Church"). Their spouse's employer is also Foxworthy Baptist Church and their title is secretary. Their application indicates that they do not rent property in the City of San Jose. Their application and resume states that Donald Fugate spent twelve years, serving until 2018, on the Executive Board for California Southern Baptists. A potential financial conflict of interest may arise if the Church is a grantee or seeks grants through the City. Currently the Church is not a grantee under any Housing grants. Other than the above, the application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**ROSIE ZEPEDA:** The applicant resides in Council District 9. This application was submitted on November 8, 2020. The applicant indicates that their application is for the Charter Commission and that they previously applied to the HCDC, thus the Councilmembers may want to verify this information is still correct. This applicant indicates that they are employed as a Director of Media and Governmental Relations and Marketing at City College of San Francisco. The spouse sections of this application are marked "N/A". Their application indicates that they do not rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

**VERONICA SOSA:** The applicant resides in Council District 9. This application was submitted on October 4, 2020. This applicant indicates that they are employed as a Senior Director of Finance at Linkedin. The spouse sections of this application are marked "N/A". Their application indicates that they do not rent property in the City of San Jose. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member.

## **CONCLUSION**

Except as noted in the review of applicants Duong, Eisbach, Del Buono, Shingal, and Fugate, the applications disclose no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicants' duties as Commission members. You may wish to consider the above comments in making your recommendations on appointments to the Commission.

NORA FRIMANN  
City Attorney

By: /s/ Christopher Alexander

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Christopher Alexander  
Deputy City Attorney

cc: Toni Taber, City Clerk  
Jennifer Maguire, Acting City Manager  
Jacky Morales-Ferrand, Director of Housing



# *Memorandum*

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT:** Appointments to the Clean  
Energy Community Advisory  
Commission

**DATE:** July 6, 2021

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## **I. 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.

## **II. COMMISSION DUTIES**

The commission has the following functions, powers and duties:

- A. Advise and make recommendations to the City Council, the City Manager and the Director of Community Energy on all aspects of San Jose Clean Energy start up and operations.
- B. Provide feedback and input on the development of clean energy program strategy and operating principles or models.
- C. Inform the prioritization and development of energy programs.
- D. Identify areas of concern and innovative opportunities for reducing carbon emissions.
- E. Monitor best practices of other community choice energy programs, legislative and regulatory issues, and new energy developments.
- F. Be liaisons to the community for purpose of advocacy and outreach.

## **III. COMMISSIONS COMPOSITION**

This is a nine-member commission which supports and advises San Jose Clean Energy. Whenever possible, at least six (6) members shall have expertise in one (1) of the following categories: community outreach, policy advocacy, clean energy programs, industry, labor, education, not-for-profits, environmental associations, and advocacy

organizations. The Council Appointment Advisory Commission nominates applicants for the six specialty seats, and the Mayor nominates applicants for the remaining three seats. The City Council must approve the appointment of all members to the Commission.

#### **IV. 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.

#### **V. 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/herself if the facts could reasonably lead one to conclude that the applicant would be biased for or against an entity or entities.

#### **VI. APPLICANTS**

1. Victor Niemeyer: This applicant indicates that he is a Senior Technology Executive and independent consultant, semi-retired from the Electric Power Research Institute (“EPRI”). EPRI is an independent, nonprofit organization that conducts research, development, and demonstration projects for the benefit of the public in the United States and internationally. The applicant’s spouse is a retired Program Director from Live Oak Adult Day Services. The application does not identify or disclose information that would create an incompatible office or an apparent conflict of interest. However, should a matter regarding the applicant’s relationship with EPRI come before the Commission the applicant may need to refrain from participating in the matter.

2. Gabriel Borden: This applicant indicates that he is a Senior Housing Planner with the City of Cupertino. The applicant was previously employed as an Associate Environmental Services Specialist (ESD), Analyst II (Housing), and Development Officer (Housing) with City of San Jose. His service with the City terminated in January 2021. The applicant is either unmarried or if she has a spouse, the spouse is not employed. The application does not identify or disclose information that would create an incompatible office or an apparent conflict of interest.
3. Craig Courtney: This applicant indicates that he is a Product Solution Specialist Manager at Synopsys, Inc, a semi-conductor and software company. The applicant is either unmarried or if he has a spouse, the spouse is not employed. The application does not identify or disclose information that would create an incompatible office or an apparent conflict of interest.
4. Mark Gilpatrick: This applicant indicates that he is in Business Process at Qualcomm, a communications technology company. The applicant is either unmarried or if he has a spouse, the spouse is not employed. The application does not identify or disclose information that would create an incompatible office or an apparent conflict of interest.
5. Ying Wu: This applicant indicates that he retired in December of 2020. His last role was as a Senior Manager responsible for the drivetrain firmware at Tesla, Inc. ("Tesla"), an electric vehicle, solar, and clean energy company. The applicant's spouse is also retired. The application does not identify or disclose information that would create an incompatible office or an apparent conflict of interest. However, should a matter regarding the applicant's former relationship with Tesla come before the Commission the applicant may need to refrain from participating in the matter.
6. Cody Coeckelenbergh: This applicant indicates that he is the Vice President of Operations at Lincus, Inc., an energy demand management consulting firm and program implementer for load serving entities. He also serves on the board of the California Efficiency and Demand Management Council ("CEDMC"), and previously served on the California Energy Efficiency Coordinating Committee ("CAEECC"). The applicant's spouse is employed as a Program Manager at Google. The application does not identify or disclose information that would create an incompatible office or an apparent conflict of interest. However, should a matter regarding the applicant's relationship with Lincus and CEDMC or his spouse's relationship with Google come before the Commission, the applicant may need to refrain from participating in the matter.
7. Desiree Grahn: This applicant indicates that she is employed as an Office Manager at Agylstor Inc, a computer hardware manufacturer, and as a realtor at Compass. She also serves as a member of the Climate Action Leadership

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Committee at the Sierra Club. The applicant is either unmarried or if she has a spouse, the spouse is not employed. The application does not identify or disclose information that would create an incompatible office or an apparent conflict of interest. However, should a matter regarding her work as a realtor or her relationship with the Sierra Club come before the Commission, the applicant may need to refrain from participating in the matter.

## **VII. CONCLUSION**

The applicants' applications do not identify or disclose information that would preclude the applicants from serving on the Clean Energy Community Advisory Commission.

The Council may wish to consider the comments above regarding potential conflicts in making its appointments to this Commission.

NORA FRIMMAN  
City Attorney

By 

\_\_\_\_\_  
Luisa F. Elkins  
Senior Deputy City Attorney

cc: Dave Sykes, City Manager  
Toni J. Tabor, CMC, City Clerk