

RESOLUTION NO. 22-9151

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA, TO REMOVE RON PATRICK FROM THE
PLANNING COMMISSION AND APPOINT THE FIRST ELIGIBLE
APPOINTEE, MARIO BOUZA, TO THE PLANNING
COMMISSION**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, Article X of the City Charter, Section 1006, Planning Commission-Generally, provides that "There shall be a City Planning Commission consisting of seven members to be appointed by the City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City government except that the City Manager, and the Director of Public Works and Utilities, or their designated representatives, shall serve as ex-officio members of the commission";

WHEREAS, Article X of the City Charter, Section 1002, provides that, "Except as otherwise provided in this article, the members of each of such boards or commissions shall be appointed, and shall be subject to removal, by motion of the City Council adopted by at least four affirmative votes. Except as otherwise provided in this article, the members of such boards and commissions shall serve for a term of four years and until their respective successors are appointed and qualified; provided, however, the members first appointed to those boards and commissions shall so classify themselves by lot that each succeeding July 1st the term of at least one of their number shall expire";

WHEREAS, Council Policy 032 recognizes that while the City Charter allows the Council to remove a Commissioner with no cause, the Council has created guidelines the Council may use to resolve a problem/complaint;

//

//

//

//

WHEREAS, Council Policy 032 provides that “options are available for resolving complaints,” against appointed commissioners, including referring the issue or complaint to the Mayor and/or City Council and “[i]f legal issues are involved, the concern/complaint is referred to the City Attorney,” and that “[d]epending on [the] nature of [the] concern/complaint, and factual information, range of actions/options are available including...[that the] City Council may take action ranging from note and file to removal from the Commission”;

WHEREAS, on June 6, 2022, the Santa Clara City Council considered applications to the Planning Commission and took action to appoint Ron Patrick to serve on the Planning Commission and place Mario Bouza and Neil Cortez on the eligibility list for appointment to the Commission, where Mr. Bouza received the second highest polled support among the Council during the June 6, 2022 Council meeting;

WHEREAS, at the July 5, 2022 City Council meeting, by way of a petition pursuant to Council Policy 030, the City Council took action to place Mr. Patrick’s removal from the Planning Commission on a future Council agenda;

WHEREAS, at the July 12, 2022 City Council meeting, the City Council considered the City Attorney’s July 7, 2022, memorandum to the City Council responding to the July 5, 2022 Council petition, outlining the background on the City’s investigation and evaluation of Mr. Patrick’s residency issues in the City of Santa Clara;

WHEREAS, at the July 12, 2022 City Council meeting, Mr. Patrick submitted public comment to the Council’s consideration of the response to July 5, 2022 Council petition, and also submitted a document entitled “Certification,” signed by the Deputy Registrar of Voters of Santa Clara County on July 7, 2022, which states as the address, “5191 Lafayette Street, Santa Clara, CA 95054,” the “Most Recent Date Registered: 09/05/2020”, and “Original Date Registered: 02/09/2019,” a true and correct copy of which is attached hereto as Exhibit A;

//

//

WHEREAS, at the July 12, 2022 City Council meeting, the City Council clarified and affirmed for future action that it “determine the staff investigation sufficiently provided evidence of irregularities regarding Mr. Patrick’s residency and take action in accordance with Council Policy 032,” as provided in the City Attorney’s July 7, 2022 Memorandum at Exhibit B to this Resolution; and

WHEREAS, in response to its July 15, 2022 inquiry, the City Clerk’s office received an email from the Santa Clara County Registrar of Voters on July 20, 2022, identifying a “clerical error” on the “Certificate” submitted by Mr. Patrick at the July 12, 2022 Council meeting, stating that the “‘Original Date Registered’ date of 2/9/2019 is in reference to Mr. Patrick’s initial voter registration here in Santa Clara County which was at his former City of Mountain View residential address,” and the “‘Most Recent Date Registered’ date of 5/3/2022 is in reference to Mr. Patrick’s updated voter registration when he updated his residential address to his current City of Santa Clara residential address”; and that the Registrar of Voters provided a “new copy of the voter’s certificate that accurately reflects the dates,” a true and correct redacted copy of which is attached hereto as Exhibit C.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That pursuant to its discretionary authority provided in the City Charter and Council Policy 032, the City Council removes Ron Patrick from the Planning Commission effective immediately.

//

//

//

//

//

//


2. That pursuant to its authority provided in the City Charter, the City Council hereby appoints the first eligible appointee to the Planning Commission, Mario Bouza, effective immediately.

3. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 16TH DAY OF AUGUST, 2022, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, and Jain
NOES:	COUNCILORS:	Watanabe, and Mayor Gillmor
ABSENT:	COUNCILORS:	Park
ABSTAINED:	COUNCILORS:	None

ATTEST:



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A
2. Exhibit B
3. Exhibit C

EXHIBIT A

CERTIFICATION

Item # 11
RECEIVED

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } SS.

JUL 12 2022
City Clerk's Office
City of Santa Clara

I, Registrar of Voters, Santa Clara County Deputy, in the County and State aforesaid, and keeper of the records and files thereof, do hereby certify that the following is a true and correct certification of the registration record of:



Facsimile Signature of Voter

VOTER INFORMATION

Ronald Patrick

Address: 5191 Lafayette St
Santa Clara, CA 95054

Township:

Precinct: 0009002

Birth Date: 05/26/1957

Party: No Party Preference

Voter Status: Active

Most Recent Date Registered: 09/05/2020

Original Date Registered: 02/09/2019

ELECTION INFORMATION

- Most recent displayed -

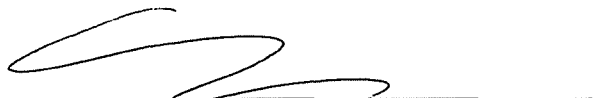
Total Elections Voted: 3

06/07/2022 Statewide Direct Primary
Election

09/14/2021 California Gubernatorial
Recall Election

11/03/2020 Presidential General
Election

I do hereby certify the above to be a true and accurate copy of records on file in the office of the Santa Clara County Clerk. Certification is not valid unless the seal of Santa Clara County, California is affixed.



Deputy Registrar of Voters
Santa Clara County

7.7.2022

Date

EXHIBIT B

From: [Amanda Lopez](#)
Cc: [Rajeev Batra](#); [Hosam Haggag](#); [Nora Pimentel](#); [James Sanchez](#); [Steve Ngo](#); [Sujata Reuter](#)
Subject: Memorandum: Planning Commission Appointment of Mr. Ron Patrick
Date: Thursday, July 7, 2022 3:19:03 PM
Attachments: [2022-07-07 - Planning Commission Appointment of Mr. Ron Patrick.pdf](#)
[image001.png](#)

Dear Mayor & Council,

On behalf of Interim City Attorney James Sanchez, please see the attached memorandum regarding the Planning Commission Appointment of Mr. Ron Patrick, dated July 7, 2022.

Thank you,

Mandy Lopez | Legal Executive Assistant
City Attorney's Office
1500 Warburton Avenue | Santa Clara, CA 95050
M: 408-615-2230 | D: 408-615-2236 | F: 408-249-7846



**City of
Santa Clara**
The Center of What's Possible



Date: July 7, 2022

To: Honorable Mayor and Council Members

From: James Sanchez, Interim City Attorney

Subject: Planning Commission Appointment of Mr. Ron Patrick

This memorandum provides you background on your July 5, 2022 action to place the 030 request on this agenda for possible action.

Background

Mr. Ron Patrick, was appointed by the Council to serve on the Planning Commission at the June 6, 2022 Council meeting. At the request of Councilmember Becker, City staff investigated whether Mr. Patrick was an actual Santa Clara resident, as Mr. Becker remembered that Mr. Patrick was recently living in Mountain View. The City Clerk's Office verified with the registrar of voters that Mr. Patrick changed his voter registration to a Santa Clara address, 5191 Lafayette Street, on May 3, 2022.

The property Mr. Patrick listed as his residence, 5191 Lafayette, is an industrial building constructed in 1979, and it is also the location of Mr. Patrick's business. Although this property was previously zoned Light Industrial, in 2018 the City Council rezoned 5191 Lafayette to Transit Neighborhood (TN) as part of the Tasman East Specific Plan. Multifamily residential uses are a permitted use in the TN zoning. SCCC § 18.25.030(a). That being said, no modifications have been made to the industrial building to convert it to a residential use (such as a kitchen, or a bedroom with a window). In addition, the use of the building for one "dwelling unit" would also not comply with the minimum density for residential units on the site, which is 60 dwelling units per acre. SCCC § 18.25.060(b). The property is 0.51 acres in area, and so a residential development on the site would need a minimum of 31 units in order to comply with the zoning. As such, the use of the property for a single dwelling violates the zoning ordinance.

The Finance Department verified that the property is using City utilities (electric, water), so it is likely occupied in some fashion. However, the establishment of a residential use on the property is also a violation of the California Building Code, as Mr. Patrick has not secured a residential certificate of occupancy. After consulting with the Building

Division and Fire Department, it was determined that a B-2 (business) certificate of occupancy was issued in 1979. An application to change the occupancy to S-3 (storage) was received in 2008, but the application was never completed. There has never been an application to change the occupancy to a residential use. As such, Mr. Patrick could be cited for occupying the property illegally.

Nevertheless, Mr. Patrick's illegal residential occupancy of the Lafayette Street property does not, by itself, disqualify him from being a Planning Commissioner (if he is in fact living there). In order to serve as a Planning Commissioner, the City Charter only requires that an individual be a "qualified elector" of the City, Charter § 1006, and an "elector" is a U.S. Citizen who is a resident of an election precinct on or before the day of an election, Elec. Code § 321(a). A "residence," in turn, is a person's domicile, which in turn is the place where his or her habitation is fixed, where the person has the intention of remaining, and whenever absent, has the intention of returning. Elec. Code § 349.

A court of appeal interpreted these statutes in a 1985 case, holding that unhoused persons who were camping in a city park could register to vote using the park as their home address, even though a city ordinance prohibited camping in the park. *Collier v. Menzel*, 176 Cal. App. 3d 24, 32 (1985) Consequently, the fact that Mr. Patrick's use of the industrial building at 5191 Lafayette for his residence does not bar him from being registered to vote there, and as a registered voter, he is a qualified elector who can serve as a Planning Commissioner.

Director of Community Development Andrew Crabtree raised some of the zoning and building code issues with Mr. Patrick on June 13. In response, Mr. Patrick indicated he would provide Mr. Crabtree with an alternate address. On June 14, Mr. Patrick sent Mr. Crabtree an email with the subject line "Ron Patrick stays here," and the content of the message was "4666 Armour Dr. Santa Clara, CA 95054." Mr. Patrick did not provide any further details about how often he stays at 4666 Armour Dr. or how long he has been staying there. The Armour Drive address contains a single-family home, is zoned R1-6L (Single Family Residential), and has a General Plan designation of Very Low Density Residential. Again, for any property to qualify as his residence, his habitation must be fixed at that location, and Mr. Patrick must have the intention of remaining, and whenever absent, the intention of returning. At the July 5 Council meeting Mr. Patrick publicly represented to the Council his intent to maintain a city of Santa Clara residency.

Assuming all of the above factors, Mr. Patrick is able to serve as a Planning Commissioner, whether he is living (illegally) at 5191 Lafayette or (legally) at 4666 Armour. Accordingly, the Council may choose to take no action, and allow Mr. Patrick to serve out his term on the Commission. Nevertheless, given the irregularities

described above, the Council's appointment power also includes the ability to remove Mr. Patrick from the position.

We include a copy of the City Policy and Procedure Manual 032 regarding Complaints of City Boards and Commissions for your consideration.

Options

- 1. Determine the staff investigation sufficiently provided evidence of irregularities regarding Mr. Patrick's residency and take action in accordance with Policy 032, copy attached (up to and including removal).**
- 2. Determine that Mr. Patrick remain as a Planning Commissioner and take no further action.**
- 3. Direct staff to conduct further investigation.**
- 4. If Mr. Patrick is removed, there should be an action to appoint a new Commissioner.**

Thank you,

James Sanchez
Interim City Attorney



REVIEW OF CONCERNS/COMPLAINTS REGARDING CITY BOARD/COMMISSIONS

POLICY

The City of Santa Clara believes that “decision-makers must be independent, impartial, and accountable to the people they serve.”¹ The City’s Code of Ethics and Values lists the ethics and values-based standards the City has agreed will guide the decisions and conduct of everyone who participates in the City’s government. Because we seek public confidence in the City’s services and public trust of its decision-makers, we hold ourselves accountable to “meet the most demanding ethical standards and demonstrate the highest levels of achievement in following this code.”

Although the City Charter allows the Council to remove a Commissioner with no cause, the Council has created the following process, which provides guidelines the Council may choose to use to resolve a problem/complaint. The policy is based on a recommendation from the Ethics Ordinance Committee. It is consistent with the Code of Ethics and Values, in terms of fairness and respect towards the individual. It preserves the Council-granted Charter authority of removal, but also provides optional courses of action.

PROCEDURE

The Charter of the City of Santa Clara provides for the removal of a City Commissioner by a vote of four City Council members. No cause has to be given. The action to remove a Commissioner would be an agendaized City Council action item.

When a concern/complaint is received regarding a City Board Member/Commissioner, it is referred to the City Manager for review and follow-up. If possible, it is preferable to resolve a concern through open communication channels at the staff level. Complainants are encouraged to solve the problem informally prior to registering a formal complaint.

The City Manager has several options for handling a concern/complaint:

1. The first step is to verify the information. If not verified, the complainant is informed and no further action taken. If initially verified, the City Manager conducts an investigation/review of situation in consultation with the City Attorney, where appropriate. The individual who is the subject of the complaint will be notified unless criminal or legal nature precludes notification. Issues that relate to the jurisdiction of the Fair

¹ From the Preamble of *The Code of Ethics and Values*, City of Santa Clara, 2001



REVIEW OF CONCERNS/COMPLAINTS REGARDING CITY BOARD/COMMISSIONS (cont.)

Political Practices Commission (FPPC) are not covered by this policy. City Attorney has existing procedures to handle FPPC and Election Code issues.

2. The following options are available for resolving complaints:
 - ◆ The City Manager can choose to handle concern/complaint directly, or consult with the Mayor.
 - ◆ The City Manager can choose to conduct further research; provide information and discussion of alternatives with Mayor.
 - ◆ Consult with Santa Clara University Markkula Center for Applied Ethics, or outside ethics experts.
 - ◆ Refer the issue/complaint to the Mayor and/or City Council.
 - ◆ Refer the concern/complaint to the Chairperson of the specific Board/Commission with the Chair reporting back to the City Manager.
 - ◆ Refer the issue/complaint to the City Council Commission Review Committee.
 - ◆ If legal issues are involved, the concern/complaint is referred to City Attorney.
3. Depending on nature of concern/complaint, and factual information, range of actions/options are available including any one (or combination of) these actions:
 - ◆ No action based on unsubstantiated/Unfounded complaint;
 - ◆ Discussion between Mayor and Commissioner; City Manager and Commissioner or discussion between Commission Chair and Commissioner;
 - ◆ Verbal counseling by Mayor with Commissioner;
 - ◆ Letter to Commissioner from Mayor;
 - ◆ Refer issue to Commission Review Committee; Committee meets and reviews facts; may make advisory recommendation to Council, or refer to City Manager and City Attorney for follow-up; and



REVIEW OF CONCERNS/COMPLAINTS REGARDING CITY BOARD/COMMISSIONS (cont.)

- ◆ Refer to Mayor and/or City Council.
 - ◆ City Council may take action ranging from note and file to removal from Commission. (See attached memorandum to the Commission Review Committee from the City Attorney dated December 15, 1999.)
4. Follow-up response to complainant indicating City has taken appropriate action.

Reference:

- 1) *Memo dated December 15, 1999 from City Attorney, "Levels of Expressions of Disapproval of a Public Official's Actions" (attached)*
- 2) *Council-approved policy July 16, 2002*

EXHIBIT C

At the July 12, 2022 Council meeting during discussion of item 11 (RTC 22-942) "Response to Councilmember Becker's Written Request regarding the recent appointment of Ron Patrick to the Planning Commission", Mr. Ron Patrick submitted a Voter Registration Certification which now forms part of this record. On Friday, July 15, 2022 Assistant City Clerk Pimentel requested clarification from the ROV on the registration date due to some inconsistencies, the ROV responded on July 20, 2022 and provided the attached revised Voter Registration Certification.

Nora Pimentel

Subject: FW: Voter Certification
Attachments: 20220715124413283.pdf

From: Nora Pimentel
Sent: Friday, July 15, 2022 1:00 PM
To: Christina Rivas-Louie (christina.rivaslouie@rov.sccgov.org) <christina.rivaslouie@rov.sccgov.org>
Subject: Voter Certification

Hi Christina

Can you explain to me what the attached certification means, this person was not registered to vote in the City of Santa Clara as of this May 2022. He updated his registration in May from an address in Mountain View. But this certification says original date registered and most recent date registered, is that referencing the [REDACTED] address?

Thanks

Nora Pimentel

From: Rose, Nicole <nicole.rose@rov.sccgov.org>
Sent: Wednesday, July 20, 2022 10:56 AM
To: Nora Pimentel
Cc: Blow, Janora; Saenz, Julia
Subject: Ronald Patrick
Attachments: Ronald Patrick Certificate.pdf

Hello and Good Morning Nora!

My name is Nicole, I work in Voter Registration and I've been asked to help assist with your inquiry regarding Mr. Patrick.

The certificate does Reference two dates of registration, that is correct. However, I have noticed a clerical error while looking into this candidates record that seems to be the root of the confusion you are experiencing. I have made the necessary correction and attached a new copy of the voter's certificate that accurately reflects the dates. Please accept our apologies for the confusion caused.

The 'Original Date Registered' date of 2/9/2019 is in reference to Mr. Patrick's initial voter registration here in Santa Clara County which was at his former City of Mountain View residential address.

The 'Most Recent Date Registered' date of 5/3/2022 is in reference to Mr. Patrick's updated voter registration when he updated his residential address to his current City of Santa Clara residential address.

I hope this clears things up, if you have any further questions please do not hesitate to reach out.

Thank you,

Nicole R.
Office Specialist III | Voter Registration Division
Santa Clara County Register of Voters
1555 Berger Drive, Bldg. 2 | San Jose, CA 95112
408.282.3096 | www.sccvote.org

 Follow us @ SCCVote

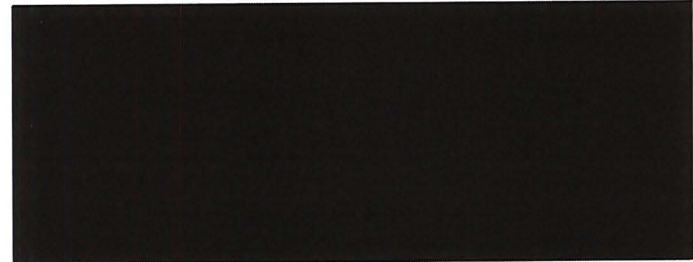
 **VOTER'S CHOICE**
Registrar of Voters
Santa Clara County

 Connect with us on Facebook

CERTIFICATION

STATE OF CALIFORNIA }
COUNTY OF SANTA CLARA } SS.

I, Registrar of Voters, Santa Clara County Deputy, in the County and State aforesaid, and keeper of the records and files thereof, do hereby certify that the following is a true and correct certification of the registration record of:



Facsimile Signature of Voter

VOTER INFORMATION

Ronald Patrick

Address: [Redacted]
Santa Clara, CA 95054

Township:

Precinct:

Birth Date:

Party: No Party Preference

Voter Status: Active

Most Recent Date Registered: 05/03/2022

Original Date Registered: 02/09/2019

ELECTION INFORMATION

- Most recent displayed -

Total Elections Voted: 3

06/07/2022 Statewide Direct Primary Election

09/14/2021 California Gubernatorial Recall Election

11/03/2020 Presidential General Election

I do hereby certify the above to be a true and accurate copy of records on file in the office of the Santa Clara County Clerk. Certification is not valid unless the seal of Santa Clara County, California is affixed.

Nicole Ross

Deputy Registrar of Voters
Santa Clara County

July 20, 2022

Date