



Date: October 1, 2021

To: Honorable Mayor and Members of the City Council

From: Luis Martín Haro, Deputy City Attorney

Subject: Conflicts Review – Historical and Landmarks Commission Applicants

Background

The City Attorney's Office has been asked to review applications to City Boards and Commissions regarding potential conflicts of interest. 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 that 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

Pursuant to the City Charter and the City Code, the Historical and Landmarks Commission is responsible for acting in an advisory capacity to the City Council in all matters pertaining to historical landmarks, names and renaming of street, museums and the establishment thereof in the City, and the marking and preservation of historical landmarks and places.

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 applicant has an interest in property the value of which could be affected by a decision coming before the Commission
- 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 applicant is an officer or employee of an entity that could be involved in a matter coming before the commission, or
- An applicant engages in a profession serving the local market that is likely to realize financial benefits or detriments, distinguishable from the public generally, that would result from the work performed by 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. The Code of Ethics and Values requires that Commissioners “make impartial decisions, free of . . . financial and other personal interests that impair [one’s] independence of judgment or action.” Accordingly, a situation may arise that 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 commission in some manner, as identified on the applications.

- James E. Craft
 - The Applicant is an engineer with Lockheed Martin. No other sources of income were disclosed.
 - The application discloses neither incompatible offices nor apparent conflicts of interest.
- Lisa Goulet-Mah
 - The Applicant is a realtor with Coldwell Banker. No other sources of income were disclosed.
 - The application discloses neither incompatible offices nor apparent conflicts of interest.
- Ken Kratz
 - The Applicant is a retired public works inspector for the City of Santa Clara and former member of the Bicycle and Pedestrian Advisory Committee.
 - The application discloses neither incompatible offices nor apparent conflicts of interest.
- Ed Stocks
 - The Applicant did not list an occupation and no sources of income were disclosed.
 - Based on the information provided, whether an incompatible office or conflict of interest exists is unclear.
- Alan Weissberger
 - The Applicant is a content manager with IEEE. It appears that IEEE is a professional association for electronic and electrical engineers. No other sources of income were disclosed.
 - The application discloses neither incompatible offices nor apparent conflicts of interest.
- Cecily Cox
 - The Applicant is a teacher with the Diocese of San Jose. No other sources of income were disclosed.
 - 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.

cc: Deanna J. Santana, City Manager
Nora Pimentel, MMC, Assistant City Clerk

