



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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First Quarter Update

Conflict of Interest, Revolving Door, and Statement of Economic Interests

Regulations adopted by the Commission

The following are regulatory changes approved by the Commission during the past quarter concerning conflict of interest, revolving door, or statement of economic interests. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

None.

Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about conflicts of interest, revolving door, or statement of economic interests. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

Conflict of Interest

Michael Wagner

[I-20-153](#)

The Act's conflict of interest provisions generally would not prohibit a member of a school district's governing board, who also serves as a volunteer assistant football coach for a high school under the district's authority, from taking part in decisions relating to the school district or the high school's athletic programs, including the high school's football program, unless it is reasonably foreseeable that the decision would have a material financial effect on one or more of the governing board member's interests specified in Section 87103.

Hannah Shin-Heydorn

[A-20-157](#)

The Act prohibits a city councilmember from taking part in decisions relating to any decision regarding the city council's potential reimbursement of the councilmember incurred personal tuition expenses.

Diana Varat

[A-20-140](#)

A city councilmember is not prohibited from taking part in decisions relating to a development project due to that councilmember having worked for a consultant that previously analyzed the project on behalf of the city prior to the councilmember being elected to the city council. Because the consultant's work on the project was completed prior to the official's election, and there is no indication that the current decisions regarding the project will implicate the official's interest in the consultant or the official's business, it is not reasonably foreseeable that decisions relating to the project would have a disqualifying financial effect on any of the councilmember's financial interests.

Greg Gillot

[I-20-160](#)

A county supervisor is prohibited from participating in negotiations regarding mitigation of offsite impacts of a proposed casino. It is reasonably foreseeable that the governmental decisions

involving mitigation of the casino's impacts would have a material financial effect on his abutting mining interest which is within 500 feet of the casino property.

Cara E. Silver

[A-21-007](#)

A city councilmember is not prohibited from taking part in decisions relating to a project to install bicycle lanes and pedestrian improvements on a street located 550 feet from the councilmember's single-family residence because it is not reasonably foreseeable that those decisions would have a material financial effect on the councilmember's real property interest in that residence under Regulation 18702.2(a)(8).

John Corrigan

[A-21-008](#)

A member of a city parks commission may take part in a decision on proposed improvements in an existing park which is located more than 500 feet but less than 1,000 feet from his residence because the evidence indicates that the proposed improvements would not have measurable impact on his property.

Sara Lang

[A-21-009](#)

Where the foreseeable financial impact of decisions regarding a development would result in a potential garbage service contract providing additional annual revenue of less than \$10,000 to his spouse's employer, the official is not prohibited from taking part in decisions. (Regulations 18702.1(a)(2)(A) and (B), 18702.3(a)(4).)

Katherine Wisinski

[A-21-016](#)

A city councilmember is not prohibited from taking part in the review and approval of various decisions pertaining to a neighborhood development where there is no indication of substantial evidence rebutting the presumption that the decisions would have no reasonably foreseeable, material financial effect on the Councilmember's real property, which is more than 1,000 feet from the property subject to the decision.

Yolanda Summerhill

[A-21-017](#)

A planning commissioner is not prohibited from taking part in governmental decisions relating to a conditional use permit application associated with a project to expand a shopping center located approximately 715 feet away from the planning commissioner's residence because it is not reasonably foreseeable that those decisions would have a material financial effect on the planning commissioner's real property interest in the residence.

Conflict of Interest Code

Michele Rodriguez

[A-21-024](#)

Airport/Community Roundtable is a "local government agency" under the Act. The impetus for the Roundtable's formation originated with a government agency; it is substantially funded by a government agency; one of its principal purposes for which it was formed is to provide services that public agencies are legally authorized to perform; and it is treated as a public entity by other laws. Therefore, the Act requires the Roundtable to adopt a conflict of interest code and its members are subject to regulation under the Act.

Revolving Door

John Erickson

[I-21-014](#)

The provisions of the one-year ban do not prevent a retired state employee from working for another company on an existing contract with the former state department. However, the former state employee is prohibited, during the one-year period, from communicating with the former state employer, staff, or representatives for the purpose of attempting to influence the former state employer on the issuance, amendment, awarding, or revocation of an existing or a new contract, or on the purchase of goods or property. The permanent ban is not at issue if the former state employee did not participate, as a state employee, in the governmental decisions regarding the existing contract.

Section 1090

Jamie Raymond

[A-21-003](#)

Neither the conflict of interest provisions of the Act nor Section 1090 prohibit City from entering a contract with a firm for construction management services for a City project where the employer of a councilmember will be a subcontractor for the firm on the same project because the remote interest exception under Section 1091(b)(2) applies. However, the councilmember must follow the requirements for abstention pursuant to Section 1091(a) and, in addition, leave the room during any decision concerning the contract in accordance with the Act's recusal requirements.

Joel Campbell-Blair

[A-21-010](#)

Neither the Act nor Section 1090 prohibit a county supervisor from taking part in a contracting process involving an organization that employs the official's adult, financially independent child.

Gregory J. Ruebens

[A-20-111](#)

A vice mayor is precluded by the Act from participating in a development agreement between city and a developer where the project consists of a biotechnology campus and the official has an interest in another biotechnology company that may be a competing company of the campus's intended tenant. However, the official does not have a conflict under Section 1090, as she has no financial interest in the contract, and the city council may move forward with the development agreement.

Tim Byrd

[A-20-134](#)

Where an irrigation district board member votes to approve a voluntary groundwater replenishment program limiting the sale of groundwater to certain agriculture purposes, the member will have "participated" in the making of a contract for the purposes of Section 1090 precluding a farming entity, in which the member has an interest, from subsequently entering into a contract to participate in the program and purchasing groundwater.

Douglas T. Sloan

[A-20-146](#)

A city councilmember is not prohibited under Section 1090 from participating in contract decisions involving the city housing authority due to his Section 8 housing assistance payment contracts currently in effect, where his financial interest is not the subject of, nor implicated directly or indirectly by, the decision. Because the facts indicate there will be no foreseeable

material financial effect on his rental business, real property, or tenants, and no unique effect on the official in regard to decisions involving the housing authority, the councilmember is similarly not disqualified from taking part in the decision under the Act.

George S. Cardona

[A-20-149](#)

The Act does not prohibit a councilmember from participating in governmental decisions relating to pending litigation against city, including a potential settlement agreement, because he has no economic interest in the nonprofit plaintiff as a business entity or source of income and there are no facts suggesting decisions related to the pending lawsuit will have any financial effect on his or his immediate family's personal finances. In addition, the councilmember has no financial interest in a future settlement agreement under Section 1090 where his spouse, a plaintiff in the lawsuit, will not receive any money or be liable for any costs or fees. Finally, he will have a noninterest in a future settlement agreement under Section 1091.5(a)(8) if it results in a monetary payment that would benefit the other plaintiff, a nonprofit organization where his wife is a noncompensated communications officer, so long as he discloses his interest in the city's official records.

Jena Shoaf Acos

[A-20-154](#)

An advisory board member's potential lease with the developer of a project for use as restaurant space will not result in a violation of Section 1090 or the Act so long as the advisory board member continues to recuse himself from any decisions related to the project.

Terence Boga

[A-20-155](#)

Where a corporation serving as a manager of a public airport with a duty to advise on public contracting on behalf of a public agency participated in making the design-build contract, Section 1090 would prohibit the public agency from awarding the contract to another subsidiary of the corporation's parent company. The corporation has a prohibitory financial interest in the parent company related to the contract.

Eric S. Casher

[A-20-161](#)

A city councilmember may take part in decisions related to the renovation and leasing of property within 500 feet of his residence where there is clear and convincing evidence the relevant governmental decisions would have no measurable impact on his property and the lease would not implicate his property for Section 1090 purposes. However, the Act prohibits the councilmember from taking part in establishing an ad-hoc subcommittee because decisions by the subcommittee could have a measurable impact on real property located less than 500 feet from his real property. Additionally, under the Act, mayor may take part in decisions involving a party from which her husband has received \$531.18 in reimbursements, given that the mayor's community property interest in the reimbursements is less than \$500 and therefore the party does not qualify as a source of income. Finally, because the mayor's husband is a "noncompensated officer" for the non-profit contracting party and one of the nonprofit's primary purposes supports the functions of the city, the non-profit constitutes a "non-interest" for the mayor for purposes of Section 1090, and the mayor may consequently take part in the contracting process as long as her interest is noted in the city's records.

David P. Hale

[A-21-001](#)

The Act and Section 1090 prohibit a city councilmember from taking part in a contract between the city and her non-profit employer, but because her interest in a non-profit source of income is considered a “remote” financial interest under Section 1091, the city may still contract with the non-profit as long as the interest is noted and the councilmember properly recuses herself.

Gary Winuk

[A-21-013](#)

Section 1090 does not prohibit a joint powers authority from entering a contract with a nonprofit organization, where the authority’s executive director is the spouse of nonprofit’s chief operating officer, so long as the interest is noted and the executive director abstains from any participation in the making of the contract, including extension of the current contract, with the nonprofit.

Ryan T. Plotz

[A-21-015](#)

District decisions relating to a 320-unit residential development will have a reasonably foreseeable and material financial effect on an official, where the official is a real estate agent for a brokerage firm and broker, another real estate agent at the firm is the intended relator for the future home sales, and the sales will increase the firm’s gross annual revenue by at least \$10,000 or 5 percent of its gross annual revenue. The official may not participate in these decisions under the Act. However, under Section 1090, the district is not prohibited from participating in the contractual decisions for this development, because the official’s interest meets the definition of a “noninterest” under Section 1091.5(a)(10).

Leticia Ramirez

[A-21-002](#)

Councilmember has a remote interest in contracts between the City and a joint powers agency as a result of her husband’s employment, but the City Council may approve the contracts provided that the councilmember discloses her interest in the contracts to the City Council, the interest is noted in the City Council’s official records, and she abstains from any participation in making or approving the contracts.

Gregory J. Rubens

[A-20-111\(a\)](#)

Vice Mayor is not precluded by the Act or Section 1090 from participating in a development agreement between the City and a developer where the biotechnology company she works for leases office space from the developer. Given the size of the Vice Mayor’s employer and the fact that the prospective tenant is not ascertainable at this time, there is nothing to indicate that the agreement will have any reasonably foreseeable financial effect on the Vice Mayor’s employer merely because the project is intended as a biotechnology campus. Under Section 1090, the Vice Mayor does not have a financial interest in the contract because her employer is not a party to the agreement.

Sonia R. Carvalho

[A-20-136](#)

Section 1090 does not prohibit a city from making a side letter agreement regarding employee’s retirement benefits where the employee has participated in the negotiations acting solely in the employee’s individual capacity and plays no role in his capacity as a city employee.

Scott Loggins

[A-20-158](#)

Under Section 1090, a commission member has a remote interest in a contract, including the reimbursement of expenses, that are between the commission and the member’s local agency, if

the contract involves the member's local agency department. Additionally, unless a remote or noninterest exception applies, Section 1090 prohibits contracts between the commission and an entity that later results in the commission member receiving funds as an instructor.

Lynn Tracy Nerland

[A-21-012](#)

Councilmember is prohibited under the Act from participating in decisions pertaining to her current employer, as any decisions would have a reasonably foreseeable material financial effect on her financial interests. The City, however, is not prohibited from entering into contracts with the employer under Section 1090, as the remote interest exception found in Section 1091(b)(2) is applicable to the Councilmember. The Councilmember must recuse herself from decisions pertaining to employer, state her interests on the record, and abstain from participating.

Hilda Cantu Montoy

[A-21-022](#)

Notwithstanding Councilmember's interest in a contract with a union resulting from her engagement to an officer and member of the union, Section 1090's rule of necessity exception applies to permit the City to enter a contract with the union so long as the Councilmember does not take part in any decisions involving the agreement.

Shannon L. Chaffin

[A-21-034](#)

Neither the conflict of interest provisions of the Act nor Section 1090 prohibit City Manager from taking part in decisions concerning a potential amendment to the current agreement between the City and his former employer where he was a defined contribution plan participant. In addition, the City Manager has no financial interest in the potential amendment to the current agreement under Section 1090 where the decision will have no impact on his retirement benefits.

Commission Opinions

None

Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act's conflicts of interest, revolving door, or statement of economic interests. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

Conflict of Interests

[In the Matter of Karson Klauer; FPPC No. 17/1313](#). Staff: Christopher Burton, Senior Commission Counsel and George Aradi, Special Investigator. The respondent was represented by Paul Rovella of JRG Attorneys at Law. Karson Klauer was a City Councilmember and Vice-Mayor for the City of Hollister from 2014 to 2018. As a public official, Klauer made a governmental decision in which he had a financial interest, in violation of Government Code Section 87100 (1 count). Klauer also failed to timely disclose a source of income on his 2015 Annual and 2016 Annual Statements of Economic Interest, in violation of Government Code Sections 87200 and 87207 (1 count). **Fine: \$5,500.**

Statement of Economic Interests Late Filer

In the Matter of Carl Schuster; FPPC No. 19/1099. Staff: Jenna C. Rinehart, Commission Counsel. Carl Schuster, a Commissioner for the California Travel and Tourism Commission, failed to timely file a 2018 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Fine: \$1,000.**

Legislation

AB 975 (Luz Rivas) – SEI electronic filing and gift rules.

Status: Introduced (2/19/21)

Summary: The bill would revise and recast provisions relating to statements of economic interests, including by requiring certain public officials to file those statements using the Commission's electronic filing system. The bill would also extend the time that a gift of admission to an invitation-only event may be returned, reimbursed, or donated from 30 days from receipt of the gift to 30 days from the end of the calendar quarter in which the gift was received, and would codify existing regulations relating to returning, reimbursing, or donating gifts. The bill would reduce the amount of time in which lobbyists, lobbying firms, and lobbyist employers must provide a beneficiary of a gift certain information about that gift from 30 days to 15 days following the end of each calendar quarter in which the gift was provided.