

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Lee Price
City Clerk

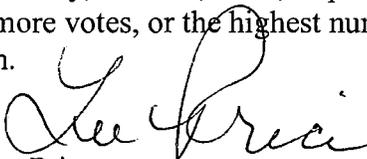
SUBJECT: PLANNING COMMISSION

DATE: 05-26-06

The following applicants were selected to be interviewed for the Planning Commission to fill three terms ending June 30, 2010 and one unexpired term ending June 30, 2008:

Xavier Campos (Incumbent)	District 5
Derrick Chapman	District 6
David Cohen	District 4
Bob Gill	District 7
Ashu Kalra	District 2
Matt Kamkar	District 10
Charles Lauer	District 1
Robert Levy (Incumbent)	District 1
Stephen Quigley	District 3
Jim Zito (Incumbent)	District 8

Interviews with the ten candidates are scheduled for Tuesday, June 13, 2006, as part of the regular Council meeting. Applicants receiving six or more votes, or the highest number of votes over six, will be appointed to serve on the Commission.


Lee Price
City Clerk, MMC

LP:k
Attachment: Attorney's Review of Applicants
Code Enforcement Review of Applicants



Memorandum

TO: Lee Price

FROM: Michael Hannon

**SUBJECT: RESPONSE TO REQUEST FOR
PLANNING COMMISSION
APPLICANT CODE REVIEW**

DATE: May 19, 2006

The Code Enforcement Division has completed its review of the list of Planning Commission applicants for any possible code violations, per your request of May 12, 2006. Code Enforcement staff conducted a thorough search of our records, by applicant name and address, to determine whether any complaints had been reported involving any property that the applicant owned or was otherwise involved.

Our research revealed no past or current cases in our system for any applicant, with the exception of two closed solid waste cases, two closed construction site cases and one open solid waste case for Bob Gill. The four closed cases were corrected and the open case is currently pending compliance.

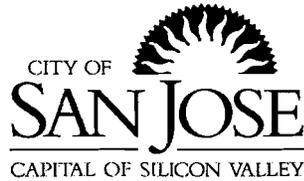
Should you have any questions or if I can be of any further assistance, please do not hesitate to contact me.

Michael Hannon, Deputy Director
Planning, Building and Code Enforcement

MH:PR:sck

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San Jose City Clerk

2006 MAY 24 A 9:04



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: Planning Commission Applicants –
Initial Conflicts Review

DATE: 5/25/2006

RECOMMENDATION

That the City Council review and consider the following information as a part of its evaluation of applicants to fill three (3) vacancies on the Planning Commission, together with one unexpired term ending on June 30, 2008.

BACKGROUND

This Office routinely reviews applications 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 potential conflict disclosed by an application. In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission to which the applicant is seeking appointment.

COMMISSION DUTIES

The Planning Commission has two major responsibilities under the City Charter and the Municipal Code: (1) to serve as a quasi-judicial body with respect to the consideration of issuance of certain land use permits, and (2) to serve in an advisory capacity to the City Council with respect to specific proposals for or affecting zonings, rezonings, general plan amendments, and Zoning Code (SJMC Title 20) amendments.

Pursuant to State law, the Commission is required to review redevelopment plans and capital improvement plans. Additionally, under the City's Municipal Code requirements, the Commission is the body charged with initially considering and certifying the adequacy of Environmental Impact Reports (EIRs) and with conducting initial hearings on protests against Negative Declarations. In addition, the Commission serves in an advisory capacity with respect to other City activities related to land use and development, such as park master plans.

APPLICANTS

Xavier E. Campos – Mr. Campos is the Chief Operations Officer of MACSA. He would have to abstain from participating in decisions that would have an impact upon his employer. Mr. Campos' application discloses that his employer also is affiliated with an affordable housing developer, Ketzal Community Development Corporation, such that Mr. Campos would have to abstain from participating in decisions that would have an impact upon Ketzal Community Development Corporation. Mr. Campos has served on the Planning Commission since 2002 through the present. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Derrick Andre Chapman – Mr. Chapman is the Owner/Principal and Head of Development of Chapman Development Group, Inc. He would have to abstain from participating in decisions that would have an impact upon his company or one of his clients. His application discloses that he also is an Owner/Principal in the following additional companies and would therefore have to abstain from participating in decisions that would impact these entities or one of their clients: First Referral Financial Services, Inc., Chapman Properties, Chapman Builders, Inc. and Chapman Investment Group, Inc. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

David Geoffrey Cohen – Mr. Cohen is employed as a Staff Modeling Engineer with Novellus Systems. Mr. Cohen currently sits as the Chairperson of the San José Library Commission and has been a member of that Commission since 2002. Should the Council appoint Mr. Cohen to the Planning Commission, he would need to resign his Commission position with the San José Library Commission. As a Planning Commissioner, Mr. Cohen would have to abstain from participating in decisions that would have an impact upon his employer. His application otherwise discloses no pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Frank Ronald Freedman: Mr. Freedman is a self-employed lecturer, currently lecturing at San José State University, and is an environmental consultant on air pollution issues and environmental mitigation. He would have to abstain from participating in decisions that would have an impact upon his clients. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Bob Gill: Mr. Gill is currently retired and lists on his application that he is a co-founder, Director and General Manager of Temple Project for the San Jose Gurdwara, as well as President of the Indo-American Seniors of San José. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Ash Kalra - Mr. Kalra is employed as a Deputy Public Defender by the Santa Clara County Office of the Public Defender. He has served on the Human Rights Commission of the City of San Jose (and currently is a Senior Commissioner Emeritus with that Commission), and currently serves on several other local boards and committees including the Mayfair Improvement Initiative, MACSA-Academia Calmecac Local Board, and the Rotary Club of San José. He would have to abstain from participating in decisions that would affect the other boards and organizations on which he sits. His application discloses neither incompatible offices nor apparent conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Mehran (Matt) Kamkar – Mr. Kamkar is employed by Civil & Computer Consulting (CCC) Engineers, Inc. as a Principal Engineer. He would have to abstain from participating in decisions that would have an impact upon his employer or a client. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Charles Robert Lauer: Mr. Lauer is employed as a sales engineer with Norman S. Wright Mechanical Equipment Corporation. He currently is the President of the Winchester Neighborhood Advisory Council, a member of the SNI PAC in his community, as well as a member of several other neighborhood councils and associations. He would have to abstain from participating in decisions that would have an impact upon the SNI PAC or on any of the other organizations upon which he sits. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Robert Louis Levy – Mr. Levy is a Senior Business Analyst with Genentech Corporation located in South San Francisco. He has served on the Planning

Commission since 1999 through the present and currently also serves as a Boardmember on the Youth Science Institute Board and the Santa Clara County League of Conservation Voters Board. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Charles William Mondave – Mr. Mondave is employed as a Real Estate and Loan Agent and Business Broker with Fidelity Brokers. He would have to abstain from participating in decisions that would have an impact upon his employer or one of his clients. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Jesus L. Orosco – Mr. Orosco is the Executive Director of Loaves & Fishes. His application discloses that he is or has been a Commissioner on the County's Social Services Advisory Commission (his application does not disclose if he is serving on this Commission presently). His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Elias Francisco Portales – Mr. Portales is an attorney with Pahl & Gosselin. He presently is a commissioner on the Santa Clara County Council on Equal Employment Opportunity and participates in or is a member of a variety of community organizations. He would have to abstain from participating in decisions that would have an impact upon his employer or one of its clients. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Stephen Timothy Quigley, Jr. – Mr. Quigley is the Executive Director of Volunteer Center of Silicon Valley, Inc. He would have to abstain from participating in decisions that would have an impact upon his organization. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Stephen Theodore Schooley – Mr. Schooley is a Staff Engineer in Product Design with Flextronics Medical. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Paul Andrew Taylor – Mr. Taylor is employed as a Materials Analyst with Applied Materials. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Bansi Lal Tikku – Mr. Tikku is a Senior Electrical Engineer with the City of Santa Clara. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

Dennis P. Uram – Mr. Uram is a Facilities Operations Manager with the Alum Rock School District. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

James Frank Zito – Mr. Zito is a Senior Manager with Applied Biosystems, Inc. located in Foster City. He has served on the Planning Commission since 2002 through the present and also sits on the City's Evergreen-East Hills Visioning Strategy Task Force and Evergreen Valley High School Site Council. His application discloses neither incompatible offices nor pervasive conflicts of interest likely to occur in the performance of his duties on the Planning Commission.

Litigation: None.

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CONCLUSION

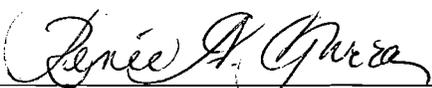
Many of the applicants are associated with one or more organizations. It is difficult to ascertain from a number of the applications whether the applicants are paid for their services. Although an applicant's service as a board member of an organization may not constitute a legal conflict of interest, it may create an appearance of conflict if the applicant were to participate in matters concerning his or her organization. If an applicant is compensated, there are likely to be occasions when he or she may have to abstain from participation in matters before the Commission which concern his or her organization or on which the organization has taken a position.

A number of the applicants have the potential for recurrent conflicts of interest on a variety of issues. However, the applicants do not appear to hold wholly incompatible offices or have pervasive conflicts of interest that would prevent them from serving on the Planning Commission outright, although some may need to disqualify themselves on major policy issues where a particular conflict situation arises.

Some of the applicants work for other governmental entities or serve on other governmental boards and commissions. While a conflict of loyalties can sometimes arise, they are not considered to have a fatal conflict of interest under state law.

You may wish to consider the above comments in recommending an applicant to serve on the Planning Commission.

RICHARD DOYLE
City Attorney

By 
RENEE A. GURZA
Senior Deputy City Attorney

cc: Les White, City Manager
Lee Price, City Clerk