

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Dennis Hawkins, CMC  
City Clerk

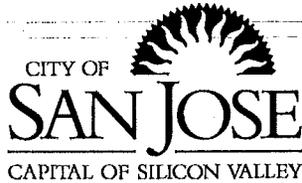
**SUBJECT: NEIGHBORHOODS COMMISSION APPOINTMENTS**      **DATE: 02-03-11**

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## RECOMMENDATION

As recommended by the Rules and Open Government Committee on February 2, 2011 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, approve the following appointments to the Neighborhoods Commission:

- (a) Norma Callender to fill a vacancy in Council District 2, and David Wilkins as the 1<sup>st</sup> Alternate and Jerry Lewis as the 2<sup>nd</sup> Alternate for Council District 2.
- (b) Theodore Johnson to fill a vacancy in Council District 5.



# Memorandum

**TO:** RULES AND OPEN  
GOVERNMENT COMMITTEE

**FROM:** Norberto Duenas

**SUBJECT:** Neighborhoods Commission  
Appointments

**DATE:** 01-26-11

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Approved

Date

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## RECOMMENDATION

Approve the appointment of Norma Callender as a Commission Member to fill a vacancy in Council District 2 and approve the appointment of David Wilkins as the 1<sup>st</sup> Alternate and Jerry Lewis as the 2nd Alternate for Council District 2. Approve the appointment of Theodore Johnson as a Commission Member to fill a vacancy in Council District 5.

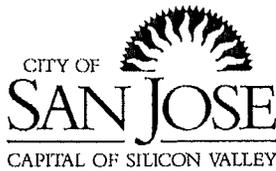
## BACKGROUND

The purpose of the Neighborhoods Commission is to study, review and evaluate issues, courses of action and policies/programs affecting San Jose neighborhoods, and to make recommendations to the Mayor and City Council and the Redevelopment Agency regarding such issues, but only as set forth in the Commission's Work plan which must be approved by the Mayor and City Council.

## COORDINATION

The City Attorney's Office routinely reviews applications to City boards and commissions. Although the applications do not provide complete information, they do occasionally disclose potential conflicts of interest. After review by the City Attorney's Office, the applicants appear to have no conflicts of interest which would interfere with the performance of Commission Member duties.

Norberto Duenas  
Deputy City Manager



# *Memorandum*

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**TO:** RULES AND OPEN GOVERNMENT COMMITTEE  
**FROM:** Richard Doyle  
City Attorney  
**SUBJECT:** NEIGHBORHOODS COMMISSION APPLICANTS  
**DATE:** November 22, 2010

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## **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 which are disclosed by the applications.

## **COMMISSION DUTIES**

In order to analyze potential conflicts, it is necessary to consider the duties of the particular commission for which the applicant is seeking appointment. The Neighborhoods Commission is an advisory body to the City Council and the City administration. Pursuant to the ordinance creating the Commission on a pilot basis, the Commission will study, review, and evaluate issues, courses of action, and policies/ programs affecting San Jose neighborhoods, and make recommendations to the City Council regarding such issues, but only as set forth in the Commission's workplan which must be approved by City Council. The Council has yet to approve a work plan for the Commission and, therefore, it is difficult to analyze the potential conflict with any specificity.

## **APPLICANTS**

Applications from the applicants listed below were reviewed by our office. This review was limited to the information provided on the applications and was not intended to be comprehensive investigation of potential conflicts involving the applicants. Unless otherwise indicated, no application discloses 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 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

### **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.

### **LEGAL 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 their application.

**Norma Callender** – Ms. Callender's application indicates that she is currently semi-retired and self-employed as an independent paralegal and wedding officiant. If Ms. Callender provides paralegal services to clients with an adverse position to the City, she may have a conflict of interest. The application does not indicate an employed spouse.

Ms. Callender is currently a Board Member of the San Jose-Silicon Valley NAACP and of the Lola Williams Senior Program. If either of these organizations

has business before the Neighborhoods Commission, Ms. Callender may have to recuse herself from the discussion.

Otherwise, her application discloses neither incompatible offices nor apparent conflicts of interest.

**Theodore Johnson** – Mr. Johnson's application indicates that he is retired. His application does not indicate an employed spouse. His application discloses neither incompatible offices nor apparent conflicts of interest.

**Jerry Lewis** – Mr. Lewis' application indicates that he is self-employed as the CEO of Technical Presentation Services which designs, installs services and maintains audio/video/data production systems. His application indicates that his spouse is a homemaker. He is currently serving on the following boards: Hillside EV Church, Hay's NA, and Second Harvest Senior Food Program. If any of these organizations has business before the Neighborhoods Commission, Mr. Lewis may have to recuse himself from the discussion.

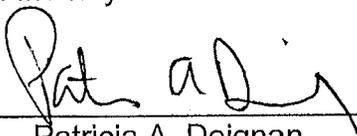
Otherwise, his application discloses neither incompatible offices nor apparent conflicts of interest.

**David Wilkins** – Mr. Wilkins' application indicates that he is self-employed operations consultant. His spouse is an account executive with Cuna Mutual. His application discloses neither incompatible offices nor apparent conflicts of interest.

### **CONCLUSION**

The applicants do not appear to have any incompatible offices or pervasive conflicts which would prevent them from serving on the Commission. You may wish to consider the above comments in appointing the applicants to serve on the Neighborhoods Commission.

RICHARD DOYLE  
City Attorney

By   
Patricia A. Deignan  
Chief Deputy City Attorney

cc: Debra Figone, City Manager  
Lee Price, MMC, City Clerk