



COUNCIL AGENDA: 05-22-12
ITEM: 2.21

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Dennis Hawkins, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: 5-9-12

SUBJECT: DENIAL OF WAIVER OF REVOLVING DOOR RESTRICTIONS

RECOMMENDATION

As recommended by the Rules and Open Government Committee on May 9, 2012 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, deny a Waiver of the Revolving Door Restriction for former Department of Environmental Services employee Eric Rosenblum.

**TO: HONORABLE MAYOR AND
CITY COUNCIL**

FROM: DENNIS HAWKINS, CMC

**SUBJECT: WAIVER OF REVOLVING DOOR
RESTRICTIONS**

DATE: May 8, 2012

REPLACEMENT

Reason for Replacement: This replacement memo corrects an error in a Municipal Code citation in the original memo issued May 4, 2012 and clarifies the recommendation.

RECOMMENDATION:

The Rules Committee considers a request for a Waiver of the Revolving Door Restriction under Municipal Code Section 12.10.070 for:

- a. Eric Rosenblum, former Department of Environmental Services employee
- b. Make a recommendation to the City Council as appropriate and forward the item to the full Council for action on May 15, 2012. The Committee has the following options:
 1. Forward to the Council with no recommendation; or,
 2. If the Committee finds that such a waiver is in the best interest of the City, to recommend approval of the waiver by the Council; or,
 3. If the Committee finds that such a waiver is not in the City's interests, to recommend denial of the waiver request by the Council.

BACKGROUND:

The City Council adopted Ordinance 28074 on June 26, 2007 which revised San Jose Municipal Code Chapter 12.10 – Revolving Door Restrictions. As defined in SJMC 12.10.010, the purpose of the revolving door restrictions is to:

A. To assure the independence, impartiality and integrity of city and agency officials and designated employees in making governmental decisions and taking governmental actions.

B. To prevent such former officials and designated employees from using their positions with the city or agency for personal gain.

C. To prevent private for-profit business entities from obtaining a real or perceived unfair advantage in dealing with the city or agency by hiring former officials and designated employees.

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Under Municipal Code Section 12.10.030, former officials and designated employees are prohibited for two years after terminating City or Agency employment from pursuing:

A. Work on any legislative or administrative matter on which the official or employee worked on behalf of the city or agency during the twelve months prior to termination of service, or which was within the former city or agency official's or designated employee's area of job responsibility. "Work on any legislative or administrative matter" includes, but is not limited to, providing advice or recommending any action with regard to a city or agency legislative or administrative matter such as a project involving land use, development, or public works. Legislative matters include city council, agency board and city board or commission actions related to ordinances, resolutions, agreements, permits or licenses.

B. Represent anyone else on any matter, whether or not for compensation, before the city council, redevelopment agency board, any commission thereof, any individual member of the city council, redevelopment agency board, or commission, or any staff of the city or agency.

The ordinance has exceptions to the prohibitions for (a) employees or volunteers of specified nonprofit organizations; (b) an employee or official of a government entity; or (c) an independent contractor who provides transitional services where it has been determined to be in the best interest of the City or Agency.

The most recent Council action regarding the City's revolving door restrictions took place on November 8, 2011 when the Council adopted Ordinance 28989 which added Municipal Code Section 12.08.035. The revision applies to employees of the City or Redevelopment Agency who were "terminated or separated from City or Agency service due to consolidation or elimination of functions or other reduction in the City or Agency work force which was based solely on economic or budgetary conditions". In this case, Mr. Rosenblum voluntarily left City service and the new provisions are not applicable to his situation.

ANALYSIS:

Eric Rosenblum, a former employee of the Department of Environmental Services who voluntarily separated from the City on March 31, 2011, has requested approval of a waiver of the revolving door provisions by the Council. Mr. Rosenblum was a Division Manager responsible for the South Bay Water Recycling program. Under the expedited process, the Rules Committee is responsible to consider the facts or merits in Mr. Rosenblum's situation and make a recommendation to the Council.

In Mr. Rosenblum's case, he has requested a blanket waiver of the revolving door restrictions so that he may consult with publicly and privately-owned utilities and businesses that are interested in using recycled water. In addition, he proposes that he may be able to assist one or more firms

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responding to the City's Request for Qualifications which seeks assistance with the preparation of Strategic and Master Planning documents for the program. His knowledge and experience may help a variety of public and private organizations interested in various aspects of the recycled water program. His letter is attached.

At this time, it is not clear who Mr. Rosenblum's clients will be, what specific services he will provide to them, and whether such work is in the City's interests. In reviewing other similar Waiver requests, the former employee has been performing work that meets an interest of the City, involves services the City has contracted for through an independent third party following competitive processes and/or the services provided do fulfill a governmental purpose and need. The City Council may waive the Revolving Door Ordinance prohibitions if the Council finds that such a waiver is in the best interest of the City and is consistent with the purposes of the ordinance.

PUBLIC OUTREACH

This item does not meet any of the criteria outlined below. However, the memo has been posted on the City Clerk's website as a part of the May 9, 2012 Rules Committee Meeting Agenda and a subsequent Council Agenda.

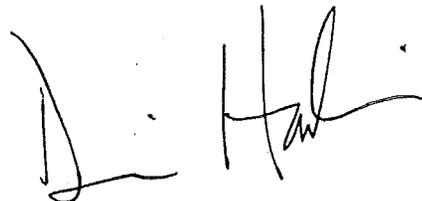
- Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- Criterion 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- Criterion 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, , or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

COORDINATION

This memorandum has been coordinated with the Office of the City Attorney.

CEQA

Not a project



DENNIS D. HAWKINS, CMC
City Clerk

For questions, please contact Dennis Hawkins, City Clerk, at 408-535-1275.



April 30, 2012

Dennis Hawkins
City Clerk
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Re: Request by Eric Rosenblum, PE Pursuant to Municipal Code Section 12.10.070 for Waiver
From the Provisions of the City of San Jose's Revolving Door Restrictions

Dear Mr. Hawkins:

Pursuant to Municipal Code section 12.10.070, I hereby request that the City Council grant a waiver from the provisions of the City of San Jose's Revolving Door Restrictions so that I can perform consulting work relating to South Bay Water Recycling and the use of recycled water in the tributary areas of the San Jose/Santa Clara Water Pollution Control Plant.

After twenty-five years of service, I separated from the City on March 31, 2011 as Division Manager in Environmental Services responsible for South Bay Water Recycling. In the year that has passed, a number of publicly and privately-owned utilities and businesses in the San Jose area have expressed interest in using recycled water, while at the same time the City has begun to reevaluate the future direction, policies, and priorities of the South Bay Water Recycling system.

I believe that granting this waiver is in the best interests of the City because it will permit me to apply my detailed knowledge of the City's recycled water system to the further development of water reuse in Silicon Valley. As an example, it would allow me to assist utilities and businesses interested in using recycled water and to provide information to one or more firms responding to the City's current Request for Qualifications for assistance with the preparation of Strategic and Master Planning documents. I further believe that granting my request is consistent with the purposes of Municipal Code section 12.10.010.

Thank you for your consideration.

Sincerely,

Eric Rosenblum, P.E.