



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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# Second 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

#### **Amy R. Webber**

[A-21-035](#)

The Act prohibits City Councilmember from taking part in decisions regarding the renovation/development of property located less than 500 feet from her real property where there is no clear and convincing evidence the decisions would have no measurable impact on the councilmember's property.

#### **Brittany E. Roberto**

[A-21-043](#)

Interim City Manager is prohibited under the Act from taking part in governmental decisions relating to a proposed 130-unit residential development project located on 16 acres of vacant land about 600 feet from her residence because it is reasonably foreseeable that the project will have a material financial effect on her residence based on its potential to protect or increase the market value of neighboring property.

#### **Jeffrey Ballinger**

[I-21-044](#)

The Act generally prohibits City Councilmember from taking part in decisions related to the adoption of a Master Plan, renovations and general operations of a city-owned golf course located within 500 feet of her residence. However, she may be able to participate in decisions relating to specific renovations or the general operations of the golf course so long as they are not inextricably interrelated to decisions that relate to the course as a whole.

#### **Kimberly Hood**

[A-21-046](#)

Under the Act, City Councilmember may take part in decisions regarding a "Corridor Plan" that would potentially involve construction on a street located between 500 and 1000 feet from the Councilmember's residence, where the project's minor impacts and physical barriers between the parcels indicate the Corridor Plan would have no substantial effect on the Councilmember's property. However, councilmembers with real property less than 500 feet from the project site are prohibited

from taking part in such decisions where the facts indicate the project would likely reduce noise and “calm traffic” and no clear and convincing evidence indicates the project would have no measurable effect on their property.

**Manu Koenig**

[A-21-031](#)

The Act prohibits County Supervisor from taking part in governmental decisions related to a development project that would introduce 150 new residential units and a grocery store (among other changes) because it is reasonably foreseeable that the decisions will affect the income-producing potential and market value of the Supervisor’s real property located between 500 and 1000 feet from the project site.

**Nira Doherty**

[A-21-045](#)

Mayor whose employer owns real property that is subject to decisions changing the standards for obtaining “Bonus Level Development” has a conflict and may not participate in these decisions because the modification of development criteria would have a reasonably foreseeable financial effect on real property owned by his employer and source of income.

**Christopher Diaz**

[A-21-057](#)

City councilmember may not take part in the City’s decisions regarding the potential sale and sale price of a townhouse located only 40 feet from the Councilmember’s townhouse where there is no clear and convincing evidence the sale of the property would not affect the market value of his property.

**Colin Burns**

[A-21-060](#)

The Act’s conflict of interest provisions do not prohibit City Councilmember from taking part in decisions relating to the interior remodel of a police department building within 500 feet of the Councilmember’s residence because there is clear and convincing evidence that the remodel will not have any measurable impact on the property.

**Elizabeth Klotz**

[A-21-056](#)

City Councilmember has a conflict in decisions related to a proposed precise plan that would change the development plan or criteria for real property owned by spouse’s employer, who is a source of income to the official, because it is reasonably foreseeable the decision will have a material effect on the employer as the owner of the real property.

**Erik Neandross**

[A-21-039](#)

The Act’s conflict of interest provisions apply to “public officials.” Members of advisory bodies are excluded from the definition of “public official” and the city Task Force on the Environment meets the definition of an advisory body. (Regulation 18701(c)(2).) Therefore, a member of the Task Force is not subject to the conflict of interest requirements and prohibitions so long as the body remains advisory.

**Heather L. Stroud**

[A-21-059](#)

City Councilmember may not take part in decisions pertaining to the development of a 56-acre project within 500-1,000 feet of his residence, where, due to the magnitude of the development involving new amenities, civic services, and recreational spaces, it is reasonably foreseeable the project will have a material financial effect on the market value of the Councilmember’s home.

**Jeffrey Ballinger**

[A-21-040](#)

City Councilmember is precluded under Section 87100 from participating in decisions related to the development of two vacant properties within 500 to 1,000 feet of his residence, as it is reasonably foreseeable the projects will have a material financial effect on the market value of the Councilmember's home. Additionally, the Councilmember will be prohibited from taking part in decisions relating to the Golf Resort located within 500 to 1,000 feet of his residence if the decisions will change his parcel's development or income producing potential, highest and best use, character or market value. He may, however, be able to participate in decisions relating to specific renovations or the general operations of the golf course so long as they are not inextricably interrelated to decisions that relate to the course as a whole.

**Jeffrey Ballinger**

[A-21-058](#)

Barring any indication that the pricing strategy decisions are necessary or intended to ensure the solvency or continued operation of the City's Golf Resort, City Councilmember may take part in decisions involving the pricing strategies, despite living within 500 feet of the resort. Based on the facts provided, the decisions are of a minor operational nature and physical obstacles separate the resort and residence. Accordingly, it is not reasonably foreseeable that the decisions will have a material financial effect on the Councilmember's property.

**Jose Sanchez**

[A-21-048](#)

City Planning Commissioner with a residence located within 970 feet of a major civic center re-design and development project is prohibited under the Act from taking part in decisions relating to the development, as it is reasonably foreseeable that the project will have a material financial effect on the market value of his residence. He may, however, take part in decisions to permit improvements to three other existing sites located within 770 to 998 feet from his property, as there are no facts to indicate these projects would have a material financial effect on the Commissioner's parcel.

**Kimberly Hood**

[A-21-070](#)

Vice Mayor may take part in decisions involving the Corridor Plan, despite living approximately 300 feet from the project site, where the project would have minimal effects and physical distance and barriers separate the official's residence from the site, such that the effect on the official's residence is not distinguishable from the effect on the public generally.

**Nicole C. Wright**

[A-21-047](#)

The Act's conflict of interest provisions do not prohibit three city councilmembers from taking part in decisions relating to the City's inchoate downtown parking strategy, despite those councilmembers' respective primary residences being located within the downtown parking strategy area, because the public generally exception for decisions with limited neighborhood effects applies. The decisions' effects are limited to a specific location, there is sufficient evidence supporting the public purpose of the action, and there is no indication of a unique effect on any of the councilmembers' respective primary residences.

**Alisha Patterson**

[A-21-081](#)

The Act's conflict of interest provisions prohibit a city councilmember from taking part in governmental decisions relating to a specific plan or the associated potential sale and development of city-owned property within the plan area because those decisions would have a disqualifying financial effect on the Councilmember's leasehold interest in his business's tenant space located within 215 feet of nearest boundary of the plan area.

**Eric Vanderbilt**

[I-21-067](#)

The Act prohibits an official from providing technical revisions and recommendations on project applications/reports where the employer of the official's wife is involved in submitting the application/report. To the extent that the employer merely performed work used by a client to subsequently submit an application/report and is not involved in the application process, the official may also be disqualified from taking part in the decision. However, this determination can only be made on a case-by-case basis.

**Jean B. Savaree**

[A-21-062](#)

The Act prohibits a town councilmember and a planning commissioner from taking part in decisions relating to a proposed update of development standards applicable to the neighborhood that contains their respective residences because the decisions would have a disqualifying financial effect on those real properties.

**Leticia Ramirez**

[A-21-074](#)

The Act prohibits a mayor from taking part in decisions concerning a proposed specific plan because the mayor has a source of income interest in the owner of real property and knows or has reason to know that the real property is the subject of the decision. Accordingly, it is reasonable foreseeable that the decision will have a material financial effect on the mayor's interest in the real property owner.

**Manu Koenig**

[I-21-077](#)

A county supervisor and transportation commission board member, who owns a residence located more than 1,000 feet from a rail line, does not generally have a conflict of interest in decisions concerning the rail line, because these decisions are presumed not to have a material financial effect on the official's real property interest. However, this presumption may be rebutted if clear and convincing evidence indicates the decision would have a substantial effect on the official's property. Accordingly, each decision must be reviewed on a case-by-case basis, and the official should seek further assistance in the event that such decisions arise.

[Statement of Economic Interest](#)

**Kelly Jenkins**

[A-21-032](#)

The relevant personnel of contractor that serves as the manager of an investment portfolio for a county employee retirement association must file a Form 700 as a consultant subject to full disclosure.

[Revolving Door](#)

**Matt Wetter**

[I-21-038](#)

Under the Act's revolving door provisions, a former state employee is not prohibited from interacting with that employee's former state agency in meetings, telephone calls, and through written correspondence related to federal clean-up projects where the state is neither the lead regulator nor the lead agency with decision making authority over the project.

## Section 1090

### **Jeffrey Walter**

[A-21-055](#)

The conflict of interest provisions of the Act and Section 1090 do not prohibit City Councilmember from taking part in governmental decisions relating to a nonprofit organization for which he is a board member and treasurer. Because he is not compensated by the nonprofit, the Councilmember has no interest in the nonprofit under the Act. Similarly, the Councilmember has a noninterest under Section 1090, because he is uncompensated, and a primary purpose of the nonprofit supports the functions of the City.

### **Gregory P. Wayland**

[A-21-030](#)

Under the local one-year ban, a former official may not appear for compensation as a representative for any person before their former agency to influence a proceeding, including a contract. (Section 87406.3.) Under Section 1090, the former official may not participate in the formation of the legal services contract and then benefit from that contract as an employee in his private capacity. However, if the City Council engages in negotiations to alter the contract terms at the end of its annual period, and so long as the former official is not involved in, identified, or influences these negotiations in any manner, the resulting contract would be sufficiently distinct from the official's past participation and influence such that it would not fall under the Section 1090 prohibitions.

### **Mark D. Hensley**

[A-20-159](#)

Section 1090 prohibits City Councilmember from amending or terminating an agreement that the city entered with the Councilmember before he became a member of the City Council. An amendment to or termination of the agreement would constitute the making of a contract that would violate Section 1090. Under the rule of necessity, the City Council may determine the enforceability of the agreement, but the Councilmember has a conflict of interest and must abstain from participating in this determination.

### **Nicholaus Norvell**

[A-20-150](#)

Although Director of a joint powers authority has a financial interest under Section 1090 in a contract to install water services, the Authority may enter the contract pursuant to the public services generally provided exception under Section 1091.5(a)(3). In addition, although the Director has a prohibitory financial interest under Section 1090 in the potential quitclaim of the Authority's easement on his property, the Authority may nonetheless quitclaim the easement pursuant to the limited rule of necessity. However, because the financial effect of any decisions concerning the contracts for water service and the easement quitclaim on his interest is both foreseeable and material under the Act, the Director may not make, participate in making, or use his position to influence those decisions. Lastly, the Act prohibits the Director from taking part in decisions whether to amend the Authority's rules to delay payment of capacity fees concerning the installation of water services.

### **Patrick T. Donegan**

[A-20-131](#)

So long as Planning Commissioner with a financial interest abstains from any type of participation, including giving advice, related to the decision, Section 1090 does not prohibit the Planning Commission from making recommendations on, or the City Council from voting to approve, development agreements in which the Planning Commissioner has an interest.

### **Randy J. Risner**

[A-21-011](#)

City Attorney is not precluded by the Act or Section 1090 from engaging with an outside law firm for legal services given that a former employer may become a shareholder of the outside law firm, as the City Attorney has no financial interest in the contracts.

**Ryan T. Plotz**[A-21-050](#)

Under the Act, a public official does not have a potentially disqualifying source of income interest in a city that employs the official, because government salary and benefits are not considered “income” under the Act. However, where that official also serves as a director of a community services district and the District may amend or create a new contract with the City, the official’s employment with the City constitutes a “remote interest” for Section 1090 purposes. Accordingly, the Director may not participate in the contract decisions, but the District may amend or create a new contract with the City as long as the Director discloses his interests in the contract to the District, the interest is noted in the District’s official records, and the Director abstains from any participation in making or approving a contract-related decision.

**Adam J. Bass**[A-20-118](#)

State official, who also owns 30-percent of a communications firm, has potentially disqualifying financial interest in the firm, as well as any source of income to the firm if her pro rata share of income received from the source is \$500 or more in the 12 months prior to the decision. Accordingly, the official may not take part in any decision if it is reasonably foreseeable that the decision may have a material effect on these interests. However, further advice under the Act and Section 1090 cannot be provided without identifying a specific governmental decision.

**Christian L. Bettenhausen**[A-21-021](#)

The Act requires an independent contractor, who would be a “consultant” under a potential contract to serve as the project manager for a project to redevelop the City’s civic center, to file statements of economic interests if that contract is executed. The contractor, however, would not be required to report salary paid by the City pursuant to the contract because salary from a local government agency is not “income.” The Act’s conflict of interest provisions would not prohibit the contractor from taking part in a decision because of the income from the City, and Section 1090 would not prohibit the independent contractor from analyzing and making recommendations, relating to the project’s scope pursuant to the executed contract.

**David M. Snow**[A-21-064](#)

The Act does not prohibit City Councilmember from participating in recommendations by an ad hoc committee or decisions by the City Council relating to law enforcement matters even though his government employer provides law enforcement services to the City. However, pursuant to Section 1090, the councilmember has a remote interest in any amendment to the existing contract between the two entities. Nonetheless, the City Council may approve the contract provided that councilmember discloses his interest in the contract to the City Council, the interest is noted in the City Council’s official records, and he abstains from any participation in making or approving the contract.

**Randy J. Risner**[A-21-065](#)

Section 1090 prohibits City Councilmember from representing buyers in a potential purchase of property from the City even where the Councilmember does so without compensation and recuses from the City’s decision-making process. Section 1090 exceptions applicable to real estate brokers and agent under Sections 1091(b)(6) and 1091.5(a)(10) do not apply where the official is representing a private party in the contract at issue.

**Richard D. Pio Roda**[A-21-054](#)

Under the Act, a member of a fire district’s board of director does not have a disqualifying financial interest in decisions concerning the potential consolidation of the district with another local fire

district that employs him, as long as consolidation would not materially affect his personal finances. However, while not disqualified under the Act, his status as an employee of one of the governmental entities party to the consolidation contract(s) constitutes a “remote” interest under Section 1091 and the director may not participate in the decision.

**William Roetzheim**

[A-21-029](#)

Section 1090 does not prohibit an independent contractor that provides independent cost analysis and related services related to a large and complex project to overhaul a state agency’s business technologies from serving as a subcontractor on a subsequent contract to provide cost oversight on that project because the independent contractor at issue is not subject to Section 1090 due to its work on the previous cost-analysis contracts based on the facts presented.

**Rita L. Neal**

[A-21-072](#)

Neither the Act nor Section 1090 prohibit a county employee from taking part in decisions concerning a mobile home park project where her in-laws own a residence because she has no financial interest in the decisions concerning the project.

## 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](#).

None.

## Legislation

None