



California Fair Political Practices Commission

December 16, 1986

Thomas J. Harron
City Attorney
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 92010

Re: Your Request for Advice
Our File No. I-86-316

Dear Mr. Harron:

You have requested advice concerning Chula Vista City Councilmember David Malcolm's duties under the conflict of interest provisions of the Political Reform Act.^{1/} Since you have not provided us with all of the material facts relevant to any particular decision, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).

You have asked for advice regarding whether Councilmember Malcolm may participate in decisions which will affect a general partner in a business in which Councilmember Malcolm is a limited partner. You have indicated that Councilmember Malcolm is involved in several different limited partnerships.

This issue was thoroughly dealt with in the Commission's Nord Opinion, 8 FPPC Opinions 6 (No. 83-004, Oct. 4, 1983) (copy enclosed). The opinion should be reviewed carefully in order to determine Mr. Malcolm's obligations. It should be noted that since the time Nord was issued, the

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

Thomas J. Harron
December 16, 1986
Page 2

Commission has adopted Regulation 18236 (copy enclosed) which defines the term "otherwise related business entity."

If you should have any questions, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

John G. McLean
Counsel, Legal Division

DMG:JGM:plh
Enclosures



CITY OF
CHULA VISTA

OFFICE OF THE CITY ATTORNEY

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November 14, 1986

John McLean
Fair Political Practices Commission
P. O. Box 807
Sacramento, Ca. 95814

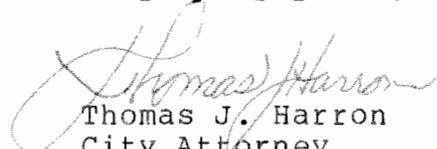
Dear Mr. McLean:

As a follow-up to our telephone conversation on Thursday, November 13, 1986, I would like reinstate my request for a letter opinion which I first made in a letter to you dated July 18, 1986. It involves a fact situation in which Councilman David Malcolm is a limited partner in property south of the City of Chula Vista in the Otay Mesa area. The general partner owns property within the City of Chula Vista which is unrelated to the other property and which he wishes to develop. A number of items will be coming before the Chula Vista City Council on this second property which is owned by Malcolm's partner. May Councilman Malcolm participate in votes on these unrelated projects?

If you need further information, you may contact Councilman Malcolm directly. His phone at work is 619-425-7080. If I can be of any further assistance, please feel free to contact me.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,


Thomas J. Harron
City Attorney

TJH:lgk
2200a



California Fair Political Practices Commission

August 13, 1986

Thomas J. Harron
City Attorney
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 92010

Re: Your Request for Advice
Our File No. A-86-241

Dear Mr. Harron:

This is to confirm that you have withdrawn your request for advice on behalf of Councilman David Malcolm. If in the future you wish advice on this matter please let me know.

Sincerely,

A handwritten signature in cursive script that reads "John G. McLean".

John G. McLean
Counsel
Legal Division

JGM:plh



California Fair Political Practices Commission

July 25, 1986

Thomas J. Harron
Chula Vista City Attorney
276 Fourth Avenue
Chula Vista, CA 92010

Re: 86-241

Dear Mr. Harron:

Your letter requesting advice under the Political Reform Act has been received on July 22, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script that reads "John G. McLean".

John G. McLean
Counsel
Legal Division

JGM:plh



OFFICE OF THE CITY ATTORNEY

F P P C
Jul 22 8 19 AM '86

July 18, 1986

John McLean
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95814

Dear Mr. McLean:

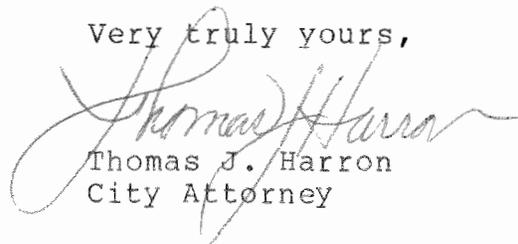
This letter is a follow-up to our conversation on Wednesday, July 16, 1986 with regard to a question that Councilman David Malcolm brought up on conflict of interest. It involves the following fact situation:

Councilman Malcolm and a partner have made an offer to purchase a piece of property. The purchase amount is presently established. The purchase is contingent upon the property receiving necessary approvals from appropriate governmental agencies (not including the City of Chula Vista). It is estimated that it will take at least two years to get the approvals necessary to develop the property. Councilman Malcolm and his partner are equal partners. May Councilman Malcolm vote on projects proposed by his partner unrelated to this project?

In our phone conversation, you advised me that the Commission discussed this issue in November and changed its position from earlier opinions, so that now Councilman Malcolm may vote on unrelated projects. When I informed Councilman Malcolm of this advice, he asked me to request an advice letter from you. It is my understanding that you have not prepared any advice letters since the November meeting, and that this one would be the first one to address this subject.

We appreciate your assistance in this matter.

Very truly yours,



Thomas J. Harron
City Attorney

TJH:clb
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California Fair Political Practices Commission

November 20, 1986

Thomas J. Harron
Chula Vista City Attorney
276 Fourth Avenue
Chula Vista, CA 92010

Re: 86-316

Dear Mr. Harron:

Your letter requesting advice under the Political Reform Act was received on November 17, 1986, by the Fair Political Practices Commission. Commission Regulation 18329(b)(2) (copy enclosed) requires a request for formal written advice to include a specific statement that you have been authorized to request the advice by the person whose duties under the Act are in question. Please send us a supplemental letter stating that you are so authorized by the official on whose behalf you have requested advice. Please also include in your letter the mailing address of the official.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days after we receive your supplemental letter. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure. If you have any questions about your advice request, you may contact John G. McLean, an attorney in the Legal Division, directly at (916) 322-5901.

Very truly yours,

Diane M. Griffiths by Kcd

Diane M. Griffiths
General Counsel

DMG:plh
cc: David Malcolm

Patsy -
Pls. prepare
a yellow
approval
sheet for
this packet.
Leave this
Pg. on top
Thanks
D.

Diane -

After receiving Hannon's
advice request, I called to
find out more specifics
about the limited partnership
referred to in his letter. He
did not know the answers
but said Malcolm was
involved in several
partnerships and needs
general advice applicable

to all of them. I told
Hannon that the answers
were all contained in the
Nord opinion. He asked
if we would put that in
writing.

Although we could decline
to give advice because
they aren't requesting info.
on a specific decision, I

think it's a good idea to
at least give the attached
informal advice. Counselor
Malcolm is apparently on
the sleazy side and this
would document that he
has been given advice
on the issue.

I have intentionally not
summarized Nord in the
letter because I want them
to read the opinion. - JM