



California Fair Political Practices Commission

December 27, 1989

Robert G. Boehm
City Attorney
City of Chico
196 E. Fifth Street
PO Box 3420
Chico, CA 95927

Re: Your Request for Informal Assistance
Our File No. I-89-446

Dear Mr. Boehm:

You have requested advice on behalf of City Councilmember Bill Nichols regarding his responsibilities under the conflict-of-interest provisions of the Political Reform Act (the "Act").¹ Your letter does not provide sufficient facts to render specific advice. Accordingly, we are treating your request as one for informal assistance.²

QUESTIONS

May the city councilmember participate in decisions regarding the design, architecture and landscaping of the proposed city hall complex, selection of an architect, types of buildings and facilities, and specific locations of buildings and facilities? The proposed city hall complex would be located within two or three blocks of commercial real property owned by the councilmember.

CONCLUSIONS

Since, under the facts presented, it does not appear that these decisions will have a material financial effect on the city councilmember's real property interest or on his source of income, he may participate in the decisions regarding the city hall complex.

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

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

FACTS

Bill Nichols is a member of the City of Chico City Council. Councilmember Nichols owns commercial real property located at 222 Main Street. The property is presently being rented for use as a retail store. The city's administrative offices are currently located in several buildings located approximately two blocks northwest of Mr. Nichols' property. All of these properties are within the city's redevelopment area.

The city council has determined that a new city hall complex is necessary to house the increasing number of city employees. The proposed complex will be located on the same block as the current city office buildings, plus the block immediately east thereof. The city has purchased various properties on this adjacent block as they have become available for sale, and is now in the process of acquiring the remaining parcels by eminent domain. The city has also retained the services of architects on two occasions for the drafting of plans for the complex.

Decisions regarding location of the new city hall complex have already been made. Among the questions still to be answered are whether the school district offices should be included within the complex, the total budget for the project and the appropriate architectural and landscaping design.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or using his or here official position to influence any governmental decision in which he or she knows or has reason to know he or she has a financial interest. An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or any member of his or her immediate family, or on:

* * * *

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103 (b) and (c).

Councilmember Nichols may not participate in any decision which will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on his real property interest, or on the source of the rental payment made for occupancy of the commercial property in question. (Section 82030.)

Foreseeability

The effects of a decision are reasonably foreseeable if there is a substantial likelihood that they will occur. To be foreseeable, the effects of a decision must be more than a mere possibility; however certainty is not required. (Downey Cares v. Downey Redevelopment Com. (1987) 196 Cal. App. 3d 983, 989-991; Witt v. Morrow (1977) 70 Cal. App. 3d 817, 822; In re Thorner (1975) 1 FPPC Ops. 198, In re Legan (1985) 9 FPPC Ops. 1 (copies enclosed).)

The decisions presently before the city council involve the design, architecture and landscaping of the proposed city hall complex. It does not appear, at first blush, that this type of decision would have a foreseeable financial effect on the value of Mr. Nichols' commercial property which is located two blocks away, or on the tenants of the property.

However, one of the variables of the design decisions involves the question of whether the school district offices should be included in the complex. This decision could foreseeably affect Mr. Nichols' property interest.

For example, a major influx of city workers into the downtown area would make commercial property located within walking distance of the complex more desirable, thus increasing its fair market value and its potential rental value. Moreover, added foot traffic could have significant impact on sales for retail stores in close proximity to the complex. Consequently, if the decision regarding the school district offices translates into significant numbers of additional workers brought into the area, it is likely that such a decision could have a financial effect on Mr. Nichols' real property or source of income.

You have indicated that approximately fifty potential workers would be affected if the the school district facilities are located in the complex. It does not appear that an increase or decrease of fifty workers could foreseeably affect the value of the real property owned by Mr. Nichols, or that such a small number of people would foreseeably affect the retail business of his tenant.

Based on these facts, Mr. Nichols may participate in the decisions regarding the design, architecture and landscaping of the proposed city hall complex, including the possible selection of a new architect, decisions concerning the types of buildings and facilities and the location of facilities and offices within the two-block area.

If you have any further questions, or would like to discuss this analysis, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Lilly Spitz
Counsel, Legal Division

KED:LS:ld

Enclosures



OFFICE OF THE
CITY ATTORNEY

196 E. Fifth Street
P.O. Box 3420
Chico, CA 95927
(916) 895-4826

FPPC

JUL 26 2 45 PM '89

July 25, 1989
CA/PEND/20:34-6

Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, CA 95814

Attn: Legal Assistance Division

This is a request for informal assistance on the potential conflict of a City councilmember participating in deliberations concerning a proposed City Hall complex in the City's downtown area, where the councilmember in question owns real property in the downtown area. The councilmember's name is Bill Nichols and he has authorized this request.

Specifically, the facts are as follows. Councilmember Nichols owns commercial real property located at 222 Main Street. (See approximate location on attached map.) The City's administrative offices are currently located in several buildings in the block between Main and Wall Street and E. 4th and 5th streets, and are located a distance of approximately 2 blocks from Councilmember Nichols' property. Both Councilmember Nichols' real property and the City's administrative offices are located within a redevelopment project area.

The current administrative buildings are inadequate to house the growing number of City employees and the concept of a single, central City Hall complex located in the same area as the current office buildings has been discussed by the City Council for some time.

The decision to commence construction of a new complex has never been formally made, and probably will not be made until the project has gone out to bid. However, the City has retained the services of architects on two occasions for the drafting of plans for the complex.

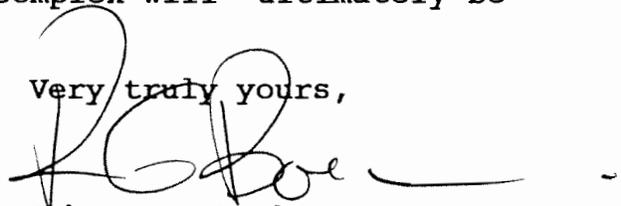
The plans show the proposed City Hall complex to be located on the current site of the City's office buildings, as well as the block located immediately east thereof. The City has purchased various properties on this adjacent block as they have become available for

sale, and is now in the process of acquiring the remaining parcels by eminent domain. Thus, the location of the proposed municipal center is not an issue. Rather, the decisions which remain to be made consist of such things as the design, architecture, and landscaping of the proposed City Hall complex.

Finally, it should be pointed out that the City's administrative offices, as well as the nearby, California State University campus serve as an anchor for the downtown area.

The specific issues I would like you to address are: To what extent may Councilmember Nichols participate in decisions concerning the proposed City Hall complex? May Councilmember Nichols participate in discussions and decisions concerning the design of the complex, which may result in the selection of a different architect to draw up new plans for the complex? May he participate in discussion and decisions concerning the types of buildings and facilities to be part of the complex? May he participate in discussions and decisions concerning the location of facilities and offices within the two (2) block area in which the complex will ultimately be constructed?

Very truly yours,



Robert G. Boehm
City Attorney

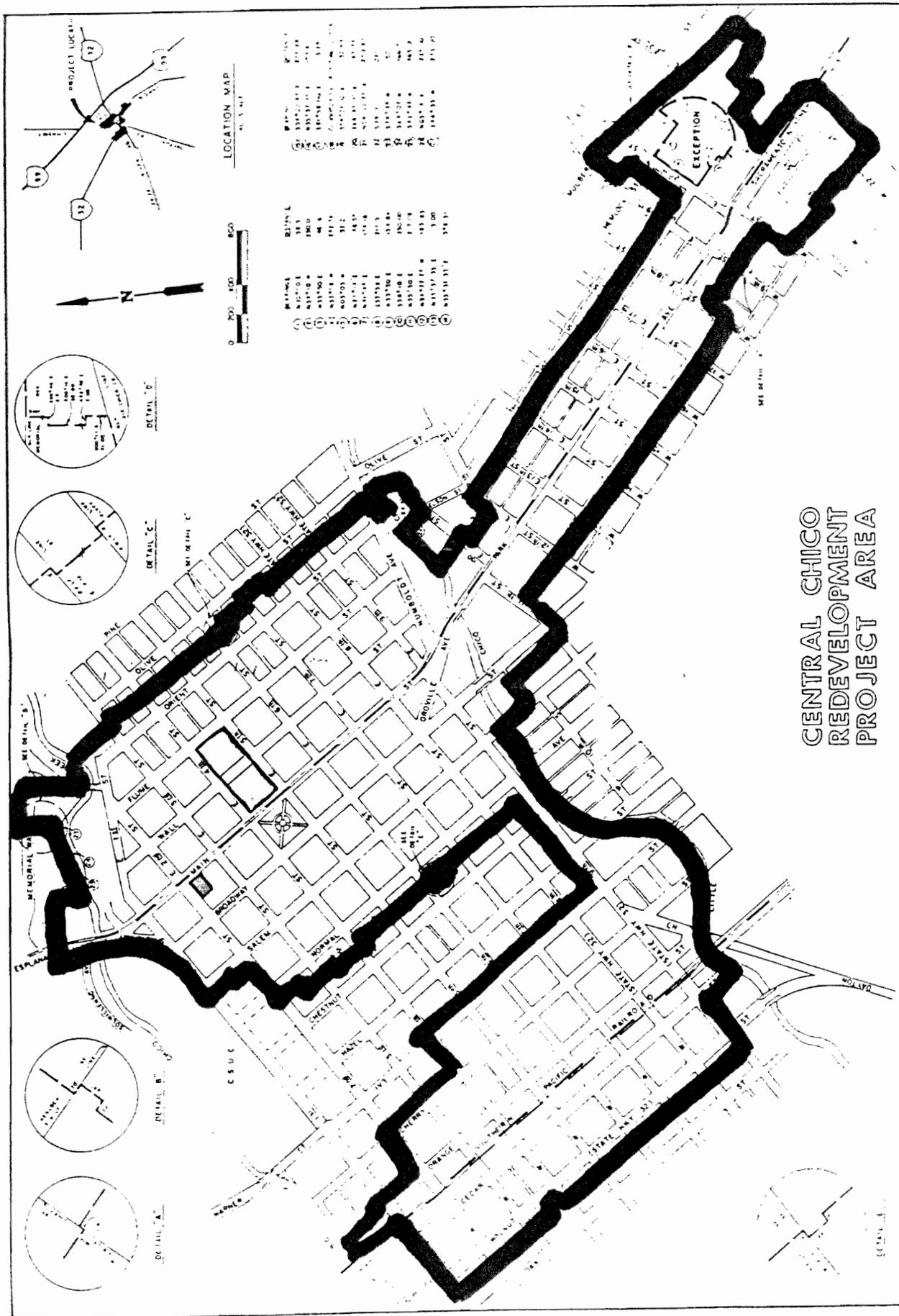
RGB/tg

Attachment

cc: City Manager
City Clerk

Councilmember Bill Nichols
P.O. Box 6507
Chico, CA 95927

EXHIBIT A--CENTRAL CHICO REDEVELOPMENT PROJECT AREA



CENTRAL CHICO
REDEVELOPMENT
PROJECT AREA

ADDRESS	OWNER	STATUS
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1020
1021
1022
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1036
1037
1038
1039
1040
1041
1042
1043
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1050

-  Project Area Boundary
-  City Hall Complex
-  Approximate Location of Property Owned By Council Member



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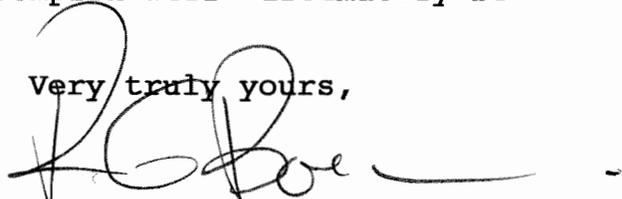
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Very truly yours,



Robert G. Boehm
City Attorney

RGB/tg

Attachment

cc: City Manager
City Clerk

Councilmember Bill Nichols
P.O. Box 6507
Chico, CA 95927



California Fair Political Practices Commission

July 28, 1989

Robert G. Boehm
City Attorney
P.O. Box 3420
Chico, CA 95927

Re: Letter No. 89-446

Dear Mr. Boehm:

Your letter requesting advice under the Political Reform Act was received on July 26, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz an attorney in the Legal Division, directly at (916) 322-5901.

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 if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

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.

Very truly yours,

Kathryn E. Donovan
Kathryn E. Donovan
General Counsel

KED:plh