



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

July 7, 2020

Shawn Hagerty
BEST & BEST & KRIEGER LLP
65 West Broadway, 15th Floor
San Diego, CA 92101
shawn.hagerty@bbklaw.com

Re: Your Request for Advice
Our File No. A-20-078

Dear Mr. Hagerty:

This letter responds to your request for advice on behalf of Santee City Councilmember Stephen Houlahan regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Does Councilmember Houlahan, a proponent of the General Plan Protection Initiative on the ballot for the November 2020 General Election, have a conflict of interest under the Act that would prevent him from voting on the Fanita Ranch Project?

CONCLUSION

Because the Act only concerns conflicts of interest with respect to those interests specified Section 87103 of the Act, and Councilmember Houlahan has no such interest based on the facts presented, he does not have a conflict of interest under the Act.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS AS PRESENTED BY REQUESTER

The City of Santee is currently processing a development application for a master planned community in the Fanita Ranch area of Santee. (“Fanita Ranch Project”) The applicant, HomeFed Fanita Rancho, LLC and a wholly owned subsidiary, JWO Land, LLC, is proposing a General Plan Amendment and a Specific Plan to designate the Fanita Ranch Project Specific Plan.

Santee City Councilmember Stephen Houlahan, together with a local environmental group, developed and circulated a petition for a measure that, if adopted on November 3, 2020, would amend the City of Santee General Plan to prohibit adoption of any General Plan amendments, Planned Development Areas, or new Specific Planning areas meeting specified criteria. This measure is currently being referred to as the “General Plan Protection Initiative.” Councilmember Houlahan has not received, and has not been promised to receive, any monetary compensation for his advocacy work in relation to the General Plan Protection Initiative.

It is unclear at this time how or if the General Plan Protection Initiative would apply to the Fanita Ranch Project.

ANALYSIS

The Act’s conflict of interest provisions ensure that public officials will “perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.” (Section 81001(b).) Section 87100 prohibits any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on specified economic interests. (Section 87103.)

Section 87103 of the Act lists several types of interests that can give rise to a conflict of interest, including:

- An economic interest in a business entity in which he or she has a direct or indirect investment of \$2,000 or more (Section 87103(a); Regulation 18702.1); or in which he or she is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- An economic interest in real property in which he or she has a direct or indirect interest of \$2,000 or more. (Section 87103(b); Regulation 18702.2.)
- An economic interest in any source of income, including promised income, aggregating \$500 or more within 12 months prior to the decision. (Section 87103(c); Regulation 18702.3.)

- An economic interest in any source of gifts to him or her if the gifts aggregate to \$500 or more within 12 months prior to the decision. (Section 87103(e); Regulation 18702.4.)
- An economic interest in his or her personal finances, including those of his or her immediate family -- this is the "personal financial effects" rule. (Section 87103; Regulation 18702.5.)

According to your facts, there is no indication that Councilmember Houlahan has any of the interests recognized by the Act as a basis for disqualification. However, financial interests can be acquired at any time. Should Councilmember Houlahan have any other interest or acquire an interest that may be implicated in future decisions concerning the Fanita Ranch Project, you may wish to contact us for further advice.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel



By: Erika M. Boyd
Senior Counsel, Legal Division

EMB:aja