



California Fair Political Practices Commission

February 7, 1986

Lester J. Marston
City Attorney
111 E. Commercial Street
Willits, CA 95490

Re: Your Request for Advice
Our File No. A-86-039

Dear Mr. Marston:

Thank you for your letter requesting advice concerning the duties of Willits Mayor Wayne Bashore under the conflict of interest provisions of the Political Reform Act.^{1/} The facts are as follows.

FACTS

A proposed annexation project is presently before the City Council. Mayor Bashore was employed by the applicant for the annexation project up until November 24, 1984. He has not received income from the applicant since leaving her employ. The applicant submitted her application for annexation of the property to the Planning Department on December 21, 1983. The matter was first submitted to the Planning Commission on January 19, 1984. At that time the Planning Commission determined, based on the initial study, that an EIR was required. An EIR was subsequently prepared and the Planning Commission certified the EIR on December 18, 1985. The matter went before the City Council for the first time on January 22, 1986.

QUESTION

May Mayor Bashore participate in the decision concerning the proposed annexation project?

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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CONCLUSION

Based upon the foregoing facts, Mayor Bashore may participate in the decision concerning the proposed annexation project.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or attempting to influence any governmental decision in which he knows or has reason to know he has a financial interest. A public official has a financial interest in a decision if the decision would have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on:

(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.

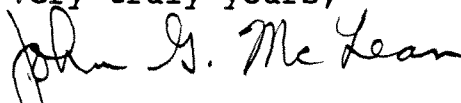
(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

Section 87103(c) and (d).
(Emphasis added.)

Mr. Bashore is no longer in the applicant's employ and has not received income from the applicant within the past 12 months. Therefore, under the facts given, Mr. Bashore does not have a financial interest which would prohibit his participation in the decision on the annexation project.

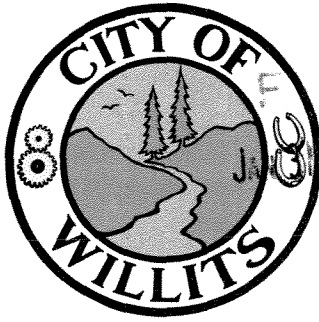
If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Very truly yours,



John G. McLean
Counsel
Legal Division

JGM:plh
cc: Mayor Wayne Bashore



CITY OF WILLITS

CITY HALL – 111 East Commercial Street, (707) 459-4601
POLICE DEPARTMENT – 82 East Commercial Street, (707) 459-6122
Willits, California 95490

January 27, 1986

OFFICE OF:

Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95814

ATTN: John McClain

Re: Request for Opinion on Conflict of Interest

Dear Mr. McClain:

I am writing to you as the City Attorney for the City of Willits to request an opinion from your office on whether our Mayor, Wayne Bashore, has a legal conflict of interest which prevents him from voting on a proposed annexation project presently before the City Council.

Mr. Bashore was employed by the applicant for the annexation project up until November 24, 1985. The applicant submitted her application for annexation of the property to the Planning Department on December 21, 1983. The matter was first submitted to the Planning Commission on January 19, 1984. At that time the Planning Commission determined, based on the initial study, that an EIR was required. An EIR was subsequently prepared and the Planning Commission certified the EIR on December 18, 1985. The matter went before the City Council for the first time on January 22, 1986; over one year after Mr. Bashore left the employment of the applicant.

The question as presented is whether Mr. Bashore has a legal conflict of interest, and therefore is prevented from voting on the proposed annexation project. This issue will be coming before the City Council on February 12, 1986. I would appreciate it if you could render a formal opinion to the Mayor prior to that date. Please send your opinion directly to Mayor Wayne Bashore, City of Willits, City Hall, 111 E. Commercial Street, Willits, CA 95490.

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ATTN: John McClain
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If you have any questions regarding this letter or if you need any additional information in order to render an opinion please do not hesitate to give me a call.

Yours very truly,

A handwritten signature in cursive script that reads "Lester J. Marston". The signature is written in dark ink and is positioned above the typed name.

LESTER J. MARSTON
City Attorney