



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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December 24, 2018

Thomas E. Montgomery
County Counsel
Office of County Counsel
1600 Pacific Highway, Room 355
San Diego, CA 92101

Re: Your Request for Advice
Our File No. A-18-184(a)

Dear Mr. Montgomery:

This letter supplements our previously issued *Montgomery* Advice Letter, No. A-18-184, regarding the conflict of interest provisions of the Political Reform Act (the “Act”). In regard to your question and facts outlined in your previous request, you have asked us to clarify our statement that decisions involving the LHR project and decisions associated with the general plan amendment necessary for several projects including the LHR project can be segmented “[t]o the extent that the County makes a final decision on the LHR project and a final decision that the general plan will be amended to encompass the LHR project prior to, and regardless of, the further deliberations on the general plan.” Additionally, you seek guidance regarding the application of Regulation 18706(c), which permits an official to “participate in the final vote to adopt, reject, or amend the general plan” once “separate decisions related to a budget or general plan affecting the entire jurisdiction have been finalized.”

Based upon the facts previously provided, you have indicated that the general plan amendment is necessary for several projects including the LHR project and that the County contemplates only one general plan amendment approval vote, which would encompass all changes to the general plan from the several projects. To adequately segment the decision under Regulation 18706, the board of supervisors must first discuss the LHR Project and, except for the final yes or no vote regarding the general plan, make all decisions specific to the project without any involvement or participation by Supervisor Horn. Only after the decisions regarding the LHR Project are made may Supervisor Horn take part in other decisions related to the general plan amendment. Subsequent to the initial decisions regarding the LHR project, no additional discussions or decisions regarding the project may be conducted or made other than the final yes or no vote regarding the general plan amendment. Under Regulation 18706(c), Supervisor Horn may take part in the final yes or no vote regarding the general plan amendment, but again, there may be no further discussions of the LHR Project.

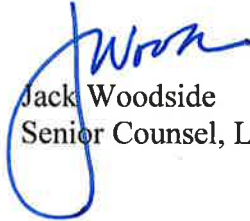
If the LHR Project is initially approved but the general plan amendment fails, the board of supervisors may reopen discussions, including discussions of the LHR Project. As stated above, however, the board must first discuss the LHR project and make decisions regarding the project without any involvement or participation by Supervisor Horn. Supervisor Horn may then take part

in other decisions related to the general plan amendment, as well as the final yes or no vote regarding the general plan amendment, so long as there are no further discussions of the LHR Project.

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

Sincerely,

Dave Bainbridge
General Counsel

By: 
Jack Woodside
Senior Counsel, Legal Division

JW:jgl