



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3050 • Sacramento, CA 95811

March 18, 2026

Gregory J. Rubens
City Attorney
City of San Carlos
600 Elm Street
San Carlos, CA 94070

**Re: Your Request for Advice
Our File No. A-26-017**

Dear Mr. Rubens:

This letter responds to your request for advice on behalf of the City of San Carlos (the “City”) and Councilmember Adam Rak and 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. Additionally, the Fair Political Practices Commission does not provide advice regarding past conduct. (Regulation 18329(b)(6)(a).) Nothing in this letter should be construed to evaluate any conduct that may have already taken place, and any conclusions contained in this letter only apply to prospective actions.

QUESTION

Under the Act, may Councilmember Rak take part in governmental decisions regarding a plan to build a plaza, replace a community center, and build a new aquatic center (the “Project”), which may be located in Burton Park (the “Park”), located 241 feet from the Councilmember’s residence?

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 18104 through 18998 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.

CONCLUSION

No, under the Act, Councilmember Rak is prohibited from making, participating in making, or in any way using or attempting to use his official position to influence any governmental decisions related to the Project because it is reasonably foreseeable that the Project, which will remove and replace amenities within the Park, will have a material financial effect on his interest in his real property located 241 feet away and there is no clear and convincing evidence that decisions related to the Project will have no measurable impact on Councilmember Rak's real property.

FACTS AS PRESENTED BY REQUESTER

The Park is one of the most popular in the City due to its extensive amenities and its central location. The 10.3-acre Park contains a large, turfed area with two lighted baseball fields, which are also used for soccer leagues in the fall. Other amenities at the Park include lighted basketball courts, lighted tennis courts, two playgrounds, bocce ball courts, and a stage. The Park also has a 6,000 square foot Youth Center built in 1995 and an older Kiwanis Community Center built by the Kiwanis Club in 1953. Since 2009, the Kiwanis Community Center has been leased to a school for children with disabilities. It is anticipated that the City will not renew the lease in the future, and if the Park is selected, the City would likely demolish the Kiwanis Community Center building to make way for an aquatic center and/or new community center. The City currently has no funding for the Project, and it is anticipated that it will not be built for 5 to 10 years.

On October 27, 2025, the City Council held a study session on the Master Park Plan (the "Plan") and segmented the decisions related to the Park so that Councilmember Rak could participate in the Plan's updates for the other parks in the City. Ultimately, the Council removed the Project-related decisions from the Plan so they could be considered separately on their own merits.²

The Park is not visible from Councilmember Rak's residence. Several homes, one of the lighted baseball fields, and the Youth Center are between his home and the Project site. The closest boundary of the Park is approximately 241 feet from his property line, and the distance from his residence to the proposed construction site for the plaza is approximately 475 feet. This is where a pedestrian plaza/drop-off area would replace an existing parking lot in front of the existing Youth Center. The distance from his residence to the site of the new community center and pool would be approximately 525 feet. The closest vehicular access to the Project on city streets is approximately 1,450 feet to the plaza.

² We note that the Commission does not advise on questions involving past conduct. Accordingly, we express no opinion regarding the segmentation of the Plan under Regulation 18706 or Councilmember Rak's involvement in any previous decisions involving the Plan considered separately from the decisions currently before the councilmember regarding the Park.

ANALYSIS

Under Section 87100 of the Act, “[a] public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the official’s position to influence a governmental decision in which the official knows or has reason to know 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 the official’s immediate family,” or on certain specified economic interests. (Section 87103). As relevant here, one of the specified economic interests is any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more. (Section 87103(b).) Councilmember Rak has identified a financial interest in his residence.

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states:

A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

(Regulation 18701(a).)

Where, as here, the official’s financial interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect is found in Regulation 18701(b), which provides that, “if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable.” The financial effect is not reasonably foreseeable when “the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control... .” (Regulation 18701(b)).

Relevant to a government decision involving property located 500 feet or less from the official’s real property interest, Regulation 18702.2 states that the “reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material” when the decision involves “property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official’s property.” (Regulation 18702.2(a) and (a)(7).)

Here, the distance between the property line of the park is approximately 241 feet from the property line of Councilmember Rak’s real property. The financial effect of the governmental decisions concerning the Project located within 500 feet of Councilmember Rak’s residence is presumed material under Regulation 18702.2(a)(7) unless there is clear and convincing evidence

that the decision would not have any measurable impact on his residence. The Project proposes adding new amenities to the Park, including a pedestrian plaza where a parking lot currently exists, demolishing the existing community center, and constructing a new community center and an aquatic center. The amenities under consideration will likely enhance the Park, or may draw people to another park, if a different location for the Project is chosen, potentially affecting the market value of the surrounding residential area. Although there are physical barriers between the project site and Councilmember Rak's residence, there is no clear and convincing evidence that decisions related to the Project will have no measurable impact on Councilmember Rak's real property. Accordingly, Councilmember Rak is prohibited from taking part in governmental decisions regarding the Project, and he must recuse himself.³

If you have other questions on this matter, please contact me at mroeckl-navazio@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Margaret L. Roeckl-Navazio

By: Margaret Roeckl-Navazio
Counsel, Legal Division

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³ An official disqualified from a decision under the conflict-of-interest provisions of the Act must follow the recusal requirements in Regulation 18707.