



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

June 10, 2024

James Lance
City Attorney
City of Willits
941 Grove St
Healdsburg, CA 95448

Re: Your Request for Advice
Our File No. A-24-055

Dear Mr. Lance:

This letter responds to your request for advice on behalf of City of Willits Mayor Saprina Rodriguez and Vice Mayor Gerardo Gonzalez regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

Please note that we only provide advice under the Act’s conflict of interest provisions 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.

QUESTIONS

1. Is Mayor Rodriguez disqualified from participation in decisions regarding the “East Commercial Street Corridor Improvement Project” or “Willits Rails with Trails Project” due to the proximity of her business entity and real property interests?
2. If so, do the Act’s segmentation rules permit her participation in certain governmental decisions relating to either project?
3. Is Vice Mayor Gonzalez disqualified from participation in the Willits Rails with Trails Project due to the proximity of his real property interest?

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.

CONCLUSIONS

1. Yes. Mayor Rodriguez is disqualified from participation in both the East Commercial Street Corridor Improvement Project and the Willits Rails with Trails Project. It is reasonably foreseeable that the decisions in each matter will have a material financial effect on her real property interests located, respective to each project, within the East Commercial Street Corridor Improvement Project area and within 300 feet of the trailhead considered for the Rails to Trails Project.

2. As a general matter, a city may segment decisions to allow participation that would otherwise be prohibited so long as the requirements set forth in Regulation 18706 have been met. (See discussion below.) If you require further advice, please provide specific facts regarding the decision(s) and address the factors in the regulation.

3. Yes. Vice Mayor Gonzalez is disqualified from participation in the Willits Rails with Trails Project. It is reasonably foreseeable that the decisions will have a material financial on his real property interest located within 300 feet of the proposed Rail Trail project and proposed trail access point.

FACTS AS PRESENTED BY REQUESTER

Mayor Rodriguez owns four parcels of commercial real estate and business entities in the City of Willits (“City”), one on N. Marin Street and three on the 200 block of East Commercial (or “E. Commercial”). Vice Mayor Gonzalez owns a single-family home on East San Francisco Street (or “E. San Francisco Street”), which is not his principal residence. These interests are discussed in detail below.

The East Commercial Street Corridor Improvement Project

The City Council has approved the implementation of a Master Plan for the East Commercial Street Corridor Improvement Project.² East Commercial Street is a major corridor in the City that provides access to several public, commercial, and recreational uses. Among the various properties fronting East Commercial Street are the Noyo Theater, the Willits Center for the Arts, Willits Fire Station, City Hall, Police Department, two city parks, Skunk Train Depot, Chamber of Commerce, a campus of Mendocino College, the County Library, County Museum, rodeo grounds, and athletic fields. You describe the project as providing public infrastructure improvements and street beautification for the corridor. The project’s actual components will be the subject of future City Council decisions.

The Master Plan prepared by the City’s landscape architecture consultant identifies a wide range of potential public improvements to the corridor, including new street and pedestrian lighting, sidewalks, street trees, planting strips, public benches, trash receptacles, signage, and various improvements to Bud Snider Park. These public improvements are subject to future council decisions and available funding. The potential improvements to Bud Snider Park identified in the Master Plan include modernizing the existing playground structures for safety and inclusiveness, improving the safety play surfacing under playground equipment, providing shade and shelter integrated into a new

² You confirmed by email that Mayor Rodriguez recused herself from this agenda item.

gathering area, replanting the trees around the perimeter of the park; and building a modern restroom facility that better fits the size and capacity of the park.

Willits Rails with Trails Project

The City received a grant from the State Coastal Conservancy to support the construction of the Willits Rails with Trails Project. This project entails constructing a 1.6-mile Class 1 paved multi-use trail within the City. This trail will eventually become part of the Great Redwood Trail providing public access for the 231 miles of trail within Mendocino, Trinity, and Humboldt counties. The Rails with Trails Project will consist of a 10-foot-wide paved asphalt surface with 2-foot-wide shoulders, accommodating two-way bicycle, pedestrian, and equestrian travel. Trail amenities may include trailheads, benches, interpretive signage, resting areas, crossing improvements, waste and recycling receptacles, public art, and lighting.

The “northern trailhead” for the Rails with Trails Project trail will be located on East Commercial Street and adjacent to existing railroad tracks and the Skunk Train Depot. The trail will be constructed from this location within a railway right-of-way known as the Northwestern Pacific Railroad rail corridor (“NWP Rail Corridor”). The trail will extend within this right of way for 1.6 miles from East Commercial Street to the southern trailhead at E. Hill Street.

According to the Rails for Trails Conservancy website, a “trailhead” is a designated public access point to a trail, often, but not always, located at its terminus points. A trailhead is typically where users begin or end their journeys and where they get oriented to the trail or trail network. A trailhead tends to be a developed site purposefully designed to provide amenities to trail users, including some combination of parking, signage, information kiosks, drinking fountains, bike repair stations, seating (benches, picnic tables, etc.), public art, landscaping, and trash receptacles. Some of the noted project trail amenities may be installed at the northern trailhead.

Mayor Rodriguez’s Financial Interests

As noted above, Mayor Rodriguez owns four commercial real properties, one located on N. Marin Street and three on E. Commercial. Each of Mayor Rodriguez’s four properties is the site of business entities owned by Mayor Rodriguez. The Mayor’s preschool business, parking lot, and playground are located on the 200 block of E. Commercial Street, together with the adjacent lot on N. Marin Street. The Mayor also operates a retail gift store, an infant care business, and an apartment located on the 200 block of E. Commercial Street. The Mayor’s spouse operates a copy and shipping business located on the 200 block of E. Commercial.

Each of these properties is located within the E. Commercial Street Corridor-Master Plan Area of Study Map, immediately east of Bud Snider Park. You state that the improvements that may occur within the 200 block of E. Commercial Street, where Mayor Rodriguez’s properties and businesses are located, is likely limited to the installation of one or two streetlights, public signage, and trash and recycling receptacles adjacent to the sidewalk, as well as the improvements to Bud Snider Park. You are unsure of the potential visual, traffic, parking, intensity of use, noise, or other impact of the proposed improvements on Mayor Rodriguez’s properties.

All four of the Mayor’s properties and business entities are located across the street and less than 300 feet from the proposed northern trailhead of the Rails with Trails Project. You are uncertain whether any portion of the trail or any trailhead amenities will be visible from the Mayor’s real

properties. The trail project is likely to bring more visitors, pedestrians, and bicyclists to E. Commercial Street.

Vice Mayor Gonzalez's Financial Interests

Vice Mayor Gonzalez owns a single-family residential property on East San Francisco Street. This is not his principal residence. In response to our request for additional information, you state that Vice Mayor Gonzalez acquired title to the property following the death of a family member and that his sister resides there now. You do not currently know the rental arrangement, if any, between the official and his sister.

Vice Mayor Gonzalez's residential property is approximately 300 feet west of the proposed Rail Trail project at its intersection with E. San Francisco Street. The trail access point on E. San Francisco Street may include lighting, trash and recycling receptacles and trail signage. While the trail will be accessible from E. San Francisco Street, this is not a trailhead location, and no significant trail amenities are presently planned for this site. Amenities for this location may be considered in the future.

ANALYSIS

Section 87100 prohibits any public official from making, participating in making, or otherwise using their official position to influence a governmental decision in which the official has a financial interest. A public official has a "financial interest" in a governmental decision, within the meaning of the Act, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on one or more of the public official's interests. (Section 87103; Regulation 18700(a).) Section 87103 defines "financial interests" to include, relevant to these facts:

- An interest in a business entity in which the official has a direct or indirect investment of \$2,000 or more (Section 87103(a)) or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)).
- An interest in real property in which the official has a direct or indirect interest of \$2,000 or more. (Section 87103(b).) This includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a 10-percent interest or greater. (Section 82033.)
- An interest in a source of income to the official or promised income, which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).) This includes a pro rata share of the income of any business entity or trust in which the official (or their spouse) owns directly, indirectly, or beneficially, a 10-percent or greater interest. (Section 82030(a).)

Mayor Rodriguez has identified multiple financial interests including four commercial properties and various interests in both business entities, located in proximity to each project, and sources of income resulting from her and her spouse's business activities. While we note that each interest and the potential financial effect on the interest must be analyzed prior to Mayor Rodriguez

taking part in any decision, it is unnecessary to consider each interest at this time in light of the conclusion that Mayor Rodriguez is disqualified from taking part in the decision based upon her interests in real property. Accordingly, we do not further analyze Mayor Rodriguez's financial interests other than her real property interest. We also must caution that each interest will need to be considered should the City attempt to segment the decision as addressed below. Vice Mayor Gonzalez has identified a real property interest, and potential business entity interest and a source of income interest in the single-family residential real property located on East San Francisco Street. Again, we address only Vice Mayor Gonzalez's interest in real property as it is unnecessary to further consider his interest in any business entity or source of income in light of the conclusion reached herein.

Foreseeability & Materiality

Regulation 18701(a) states that an effect on an interest is presumed foreseeable if the interest is explicitly involved in the decision. An interest is explicitly involved if it is a named party in, or subject of, the decision. Regulation 18701(a) states that a financial interest is "the subject of" a proceeding under certain criteria, including where the decision affects a real property financial interest as described in the regulation setting forth the real property materiality standard, Regulation 18702.2, items (a)(1)-(6).³

Where, as here, an official's economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). It states, "if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable."

To determine whether a decision's financial effect on an official's interest in real property is material, we look to the standards in Regulation 18702.2. Relevant to these facts, Regulation 18702.2(a) states that the reasonably foreseeable financial effect of a government decision on a real property parcel 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)(7).)

Because the officials' properties are located 500 feet or less from the properties at issue, we apply this standard to determine the financial impact of both projects' decisions on the Mayor's properties and to determine the financial impact of the Rails with Trails decisions on Vice Mayor Gonzalez's property.

³ Potentially applicable to these facts, the official's property is the "subject of a decision" where that decision:

"[i]nvolves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the [official's] parcel will receive new or improved services that provide a benefit or detriment disproportionate to other properties receiving the services."

(Regulation 18702.2(a)(6).)

However, these facts do not indicate that either official's real property interests will receive disproportionate services as a result of the two project decisions.

The East Commercial Street Corridor Improvement Project:

Mayor Rodriguez

Applying the Regulation 18702.2(a)(7) standard, absent clear and convincing evidence that the decisions at issue would not have any measurable impact on her properties, the financial effect of the governmental decisions concerning the East Commercial Street Improvement Project on Mayor Rodriguez's four commercial real properties located within the project's Master Plan area is presumed material.

There is no clear and convincing evidence that the decisions will not have any measurable impact on her properties. The facts indicate the contrary. The project decisions may involve a wide range of improvements, such as new street and pedestrian lighting, sidewalks, street trees, planting strips, public benches, trash receptacles, and signage. The facts state that improvements under consideration on Mayor Rodriguez's 200 block of East Commercial Street will likely consist of additional streetlights, a waste receptacle, and street signage. The City's decisions for improvements to Bud Snider Park, described as immediately adjacent to the Mayor's properties, may include modernizing the existing playground structures for safety and inclusiveness, improving the safety play surfacing under playground equipment, providing shade and shelter integrated into a new gathering area, replanting the trees around the perimeter of the park, and building a modern restroom facility that better fits the size and capacity of the park. Mayor Rodriguez's commercial properties include a preschool, parking lot, playground, retail gift store, infant care business, apartment, and a copy and shipping business. The amenities under consideration will act to beautify and enhance the East Commercial Street Corridor and will likely increase the market value of properties in the area, particularly properties such as the Mayor's that offer commercial uses related to young families who would likely frequent and appreciate the street and park enhancements.

Therefore, it is reasonably foreseeable that the decisions regarding the East Commercial Street Corridor Improvements Project will have a material effect on Mayor Rodriguez's commercial properties located in the area designated for the improvements. We advise that Mayor Rodriguez is disqualified from these decisions.

Willits Rails with Trails Project:

Mayor Rodriguez

Applying the Regulation 18702.2(a)(7) standard, absent clear and convincing evidence that the decisions at issue would not have any measurable impact on her properties, the financial effect of the governmental decisions concerning the Rails with Trails Project on Mayor Rodriguez's four commercial real properties located across the street and within 300 feet of the proposed trailhead is presumed material.

There is no clear and convincing evidence that the decisions will not have any measurable impact on her properties. The facts indicate the contrary. This project will construct a paved multi-use trail with the purpose of becoming part of the Great Redwood Trail, thereby providing public access within the City to the 231 miles of trail within Mendocino, Trinity, and Humboldt counties. All four of Mayor Rodriguez's commercial real properties will be across the street and less than 300

feet from the project's proposed northern trailhead. It is anticipated that the trailhead will be a developed site "purposefully designed to provide amenities to trail users, including some combination of parking, signage, information kiosks, drinking fountains, bike repair stations, seating (benches, picnic tables, etc.), public art, landscaping, and trash receptacles." The trail project and proposed trailhead location are anticipated to bring more visitors, pedestrians, and bicyclists to E. Commercial Street.

Therefore, it is reasonably foreseeable that the decisions regarding the Rails with Trails Project will have a material effect on Mayor Rodriguez's commercial properties located within 300 feet and across the street from the proposed trailhead. We advise that Mayor Rodriguez is disqualified from these decisions.

Vice Mayor Gonzalez

Applying the Regulation 18702.2(a)(7) standard, absent clear and convincing evidence that the decisions at issue would not have any measurable impact on his real property, the financial effect of the governmental decisions concerning the Rails with Trails Project on Vice Mayor Gonzalez's real property located 300 feet from the proposed trail, and trail access point, is presumed material.

No clear and convincing evidence is presented that the decisions regarding the Trail Project will not have any measurable impact on his property. The facts state that Vice Mayor Gonzalez's residential property is approximately 300 feet west of the proposed Rail Trail project at its intersection with E. San Francisco Street. While the trail is accessible from E. San Francisco Street, this is not a trailhead location, and no significant trail amenities are presently planned for this site. As noted previously, this 1.6-mile trail is intended to be a part of the Great Redwood Trail, providing public access for the 231-mile trail within Mendocino, Trinity, and Humboldt counties. Possible future amenities at the trail access point on E. San Francisco Street may include lighting, trash and recycling receptacles and trail signage. Moreover, there is no indication in the facts of how the trail relates to the existing usages along E. San Francisco Street or the anticipated implications on both vehicular and pedestrian traffic resulting from trail access from the street.

Therefore, barring additional facts, it is reasonably foreseeable that the decisions regarding the Rails with Trails Project will have a material effect on the official's real property located within 300 feet of the proposed trail access. Consequently, Vice Mayor Gonzalez is disqualified from these decisions.

Segmentation

You also inquire whether Mayor Rodriguez may participate in either project by means of segmenting the project's decisions. No specific facts were provided. The following is general advice. Pursuant to Regulation 18706(a), a city may segment a decision in which a public official has a financial interest to allow participation by the official if all of the following are met:

- (1) The decision in which the official has a financial interest can be broken down into separate decisions that are not inextricably interrelated to the decision in which the official has a disqualifying financial interest;⁴

⁴ For purposes of this regulation, decisions are "inextricably interrelated" when the result of one decision will effectively determine, affirm, nullify, or alter the result of another decision. (Regulation 18706(b).)

- (2) The decision in which the official has a financial interest is segmented from the other decisions;
- (3) The decision in which the official has a financial interest is considered first and a final decision is reached by the agency without the disqualified official's participation in any way; and
- (4) Once the decision in which the official has a financial interest has been made, the disqualified public official's participation does not result in a reopening of, or otherwise financially affect, the decision from which the official was disqualified.

As cautioned above, each of Mayor Rodriguez's financial interests will need to be considered should the City attempt to segment the decision to allow Mayor Rodriguez to take part in a subsequent decision. Please seek additional advice, with specific facts, if you have questions regarding the segmentation of the East Street Commercial Corridor Project or the Rails with Trails Project decisions.

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

Sincerely,

Dave Bainbridge
General Counsel

L. Karen Harrison

By: L. Karen Harrison
Senior Counsel, Legal Division

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