



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

March 26, 2025

Catherine C. Engberg
Chute Mihaly Weinberger
Town of Portola Valley
396 Hayes Street
San Francisco, CA 94102-4421

Re: Your Request for Advice
Our File No. A-25-037

Dear Ms. Engberg:

This letter responds to your request for advice on behalf of the Town of Portola Valley (“Town”) and Mayor Judith Hasko 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 Mayor Hasko have a prohibitive financial interest in Town decisions, including taking on the role of Town Council Liaison, related to Midpeninsula Regional Open Space District’s Hawthorns Area Plan due to her residential property located between 500 and 1,000 feet from the Area?

CONCLUSION

No. It is not reasonably foreseeable that the decisions to increase public access to the open space area, provide interior trails, trailheads, connections with other trails, add amenities such as benches, and select from two proposed parking sites located along Alpine Road, would change

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.

Mayor Hasko's parcel's character or its market value. Therefore, she does not have a disqualifying financial interest in these decisions. However, as more specific proposals are considered within the Area, Mayor Hasko should seek further advice for additional decisions that may change her parcel's character, as described below, or affect its market value.

FACTS AS PRESENTED BY REQUESTER

The 79-acre Hawthorns Area of the Windy Hill Open Space Preserve is owned by the Midpeninsula Regional Open Space District ("MidPen"). Initiated in 2021, MidPen is in the middle of a multiyear process to develop a plan for natural resource management and ecologically sensitive public access at the Hawthorns Area ("Hawthorns Area Plan" or "Plan"). The Hawthorns Area is located adjacent to and south of Alpine Road. Alpine Road is one of the main roadways connecting residents and businesses within Portola Valley and to I-280.

Development of the Hawthorns Area is limited by a conservation easement that allows low-intensity, ecologically sensitive recreation. The property is currently closed to the public. MidPen's goals include opening the Hawthorns Area to low-intensity public access and connecting it to existing trails, all while protecting, managing, and restoring native habitat, aquatic and terrestrial habitat, wildlife, and other natural resources. The Plan may involve the construction of a parking lot for 25 to 68 parking spaces and a driveway onto Alpine Road in one of two locations along Alpine Road. It may also include the construction of trailheads and an internal trail system, benches at viewing points, trail connections with surrounding Town trails and pathways, opportunities for regional trail connections, and designated trail uses that could include bicycle, equestrian, dog-on-leash, and/or hiking.

In 2023, MidPen formed the Hawthorns Area Public Access Working Group ("Working Group" or "PAWG") to help develop and evaluate conceptual alternatives for introducing public access to the Hawthorns Area in a manner consistent with MidPen's vision and goals. The Working Group is comprised of members of the public as voting members and a MidPen Board Liaison and Town Liaison as nonvoting members. After its March 12, 2025 board meeting, MidPen will develop the draft Hawthorns Area Plan and begin environmental review under the California Environmental Quality Act (CEQA). As MidPen continues its planning process, it may seek Town input on aspects of the Hawthorne Area Plan. Some considerations will require Town approvals, such as opening up bicycle use on Alpine Trail segments that connect to the proposed connector trails. In addition, MidPen would need the Town's involvement to connect to the Sweet Springs Trail and may need building and grading permits for aspects of the Hawthorns Area Plan.

Mayor Hasko's Real Property Interest

Ms. Hasko was elected as a Portola Valley council member on November 8, 2022, and currently serves as the Town Mayor. Ms. Hasko owns and resides in a single-family home on Applewood Lane. The front property line of that parcel is located more than 500 feet but less than 1,000 feet from the closest property line of the Hawthorns Area within the Windy Hill Open Space Preserve. From the map provided, the residence is approximately 900 to 1,000 feet from the Hawthorns Area and only a small sliver of the Hawthorns Areas is within this distance. To access any Alpine Road entrance to the Hawthorns Area from Hasko's residence, one would move approximately 560 feet downhill on the circular Applewood Lane around two neighboring downhill

parcels. One would then travel along Nathhorst Avenue before reaching Alpine Road. Applewood Lane dead-ends near Mayor Hasko's residence and therefore allows no through traffic.

Mayor Hasko's house is set back approximately 225 feet from the property line at Applewood Lane in the opposite direction from the Hawthorn Area and sits atop the hill that ascends up Applewood Lane. That setback area is densely landscaped and the area around Applewood Lane is heavily wooded with large trees. Additionally, the two parking areas are proposed along Alpine Road, at a distance of more than 1,000 feet from her property. Therefore, the likelihood of any parking lot or trail improvements being visible from Hasko's property is minimal.

This request does not seek advice on any Town decisions that may be required to implement or permit the Hawthorns Area Plan. Those decisions would occur after CEQA review, which is expected to be completed in 2027. Rather, this request seeks advice on preliminary activities that could involve the Town. Upcoming activities that Mayor Hasko may wish to participate in include serving as the Town Council Liaison for the Town Trails and Paths Committee and for the Town Open Space Committee.² These roles would require her participation in Committee meetings which may involve consideration of aspects of the Hawthorns Area Plan Project to develop Town positions, provide input to MidPen or make recommendations to the Town Council, or to develop comments on CEQA environmental review documents for the Plan. In her role as mayor, she anticipates that Town Council meetings may involve MidPen seeking Town Council input on the Plan, project alternatives, or to gauge interest in connecting to existing Town trails and/or whether to allow bikes on portions of trails that do not currently allow bike use. The Town may also participate in developing comments on behalf of the Town on CEQA environmental review documents for the Plan.

Portola Valley has a population of 4,607. The topography is characterized by steep canyons and gullies with dense vegetation. The Town is located in a Wildland Urban Interface area with large swaths of habitat for wild animals and plants. Much of the Town consists of open space preserve owned and controlled by MidPen. Wildfire hazards are present due to the deep vegetation, canyons, and autumn winds.

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 an interest in real property in which the official has a direct or indirect interest of \$2,000 or more. (Section 87103(b).)

² This request solely addresses the Hawthorne Area Plan decisions described above. We do not address any other decisions that may come before the Town Trails and Paths Committee or the Town Open Space Committee.

Mayor Hasko has a real property interest in her primary residence. We examine whether it is reasonably foreseeable that the Hawthorne Area Plan decisions will have a material financial effect on her financial interest in her real property under the standards set forth below.

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). Pertinent to these facts, an official’s property is the “subject of a decision” where that decision:

Involves 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).)

Because the Mayor’s residential property is set back 225 feet from the street that is two residential blocks from the Hawthorne Area, and does not allow for through traffic, the facts provided do not indicate that construction of the parking areas along Alpine Road, trailheads, an internal trail system, benches at viewing points, trail connections to surrounding Town or Regional trails and changes in the trails use (equestrian, biking, dogs and hiking) will provide either a disproportionate benefit or a detriment to the Mayor’s residential property. Therefore, Mayor Hasko’s property is not explicitly involved in the Hawthorne Area Plan decisions.

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.”

Relevant to a parcel located more than 500 feet but less than 1,000 feet from the Hawthorne Area Plan property at issue in the decisions, Regulation 18702.2(a)(8) states that the financial effect of a decision on the official’s parcel is material if the decision would change the official’s parcel’s development potential; income producing potential; highest and best use; character (by substantially altering traffic levels, the intensity of use, parking, view, privacy, noise levels, or air quality); or its market value.

The facts provided do not indicate that the decisions regarding the Hawthorne Area Plan would impact the Mayor’s residential property in any of these manners, particularly in regard to its character. Although the Hawthorne Area Plan will increase public access to the open space area, the facts indicate that the low-intensity public access, parking and traffic will not impact her property’s views, privacy, noise levels or air quality. Mayor Hasko’s property is located two residential blocks

from the Hawthorne Area (including the proposed parking sites) on a curved road, heavily wooded with large trees, which does not permit through-traffic. Due to the intervening properties, topography and wooded-nature, the planned improvements and parking are not likely to be visible from the Mayor's property. The increased traffic and parking will utilize Alpine Road, an already trafficked roadway connecting the Town to I-280.

The facts further do not indicate that the proposed public access improvements to the Hawthorne Area would change the Mayor's residential property's market value. The Hawthorne Area Plan will bring amenities (public access, interior trails allowing equestrian, hiking, biking, and dog-walking use, benches, trailheads, connections with other trails, and proposed parking) to the managed open space. However, the identified decisions involve low-intensity public access while managing the natural environment of the open space, in an area with developed residential housing, and the Mayor's property is located two blocks away. Therefore, it is not reasonably foreseeable that the decisions described above would have a material financial impact on the Mayor's real property interest, and the Mayor may take part in the decisions.

We caution that the Mayor should seek further advice for additional decisions not described above or any decisions—such as a change in the proposed parking site locations—that may change her parcel's character by altering traffic levels, the intensity of use, parking, view, privacy, noise levels, or air quality or change its market value.

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

KH:aja