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Conflict of interest in commissions is causing trust issues in Lafayette

By Pippa Fisher

The integrity of Lafayette's boards and commissions is currently under scrutiny for perceived conflict of interest.

For instance, can a member of the Planning Commission or Design Review Commission represent his or her own paying client when seeking approval for a project? What if they recuse themselves from meetings in cases when the firm they work for is involved?

This was discussed at the July 10 Lafayette City Council meeting, following a year of concerns about integrity within these commissions.

It's obvious that changes need to be made to Lafayette city policy regarding the question of conflict of interest within the city's commissions to provide clarity and to ensure no ethical boundaries are crossed. City Attorney Mala Subramanian reminded the council that although the city's draft resolution goes above and beyond what is required by the Political Reform Act, the regulations do not completely prohibit commissioners from representing clients and provide guidelines for such cases. For example, no commissioner may use his or her city position to influence the outcome of an application.

In fact currently, DRC Chair Bob Cleaver's firm is employed in the development of Woodbury Highlands and initial site planning work there was done by LPC member Thomas Chastain's firm. However, both commissioners recused themselves during presentations to the boards so are not technically in violation. There has however been at least one instance of a commissioner being fined by the Fair Political Practices Commission for violation of the California Political Reform Act back in 2008.

More recently, following concerns about conflict of interest, Commissioner Allen Sayles resigned from the Planning Commission on May 17, 2016 following a controversial application for the development of a pool house on which he was the architect.

The city council heard comments from Lafayette resident and attorney Scott Sommer who has been concerned about this issue for several years. He set forth documentation showing a series of misdemeanors and said that no progress had been made over the past 12 months, despite the Stanford Commission's involvement, which had been brought in by the council to address the issue.

Sommer pointed to Los Angeles' two-year "revolving door" policy, prohibiting representation of a client by commissioners for two years following their leaving the commission.

City Council Member Ivor Samson said that of all the issues facing the city he feels more strongly about this matter than anything else and sees tightening up the conflict of interest code as the most important priority. Samson went on to say that residents perceive a lack of integrity in government due to conflict of interest. He commented that the resolution is too complicated, too subjective and only applies to individuals. He said it needs to apply to firms and that there should be a "cooling off period" or revolving door of a year or so. Commissioners might feel asked to choose between public service, which is commendable and encouraged, and their livelihood, he said, but "Maintaining the city's integrity is priority."

Others on the council agreed. Council Member Mark Mitchell said that no commissioner should be doing business in Lafayette.

Mayor Mike Anderson called for the formation of a subcommittee made up of City Council Member Cam Burks and Samson to work further on the wording with the city attorney and for it to be brought back to the council by the first meeting in August - a motion that passed unanimously with all five council members present.

Anderson commented later, "My hope in forming the subcommittee is that they can really take a close look at the draft language from the last meeting and suggest an appropriate method of limiting commissioners from even the appearance of a conflict of interest, to assure our residents that these review processes are fair and impartial."

"I truly feel that all of our commissioners bring the highest level of integrity and expertise to bear on the issues that we ask them to review and approve." Anderson continued, "However, as it was stated at the last council meeting, the review and approval processes of the city must be fair and impartial. If this is not the case, the changes necessary to achieve this will be made."

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