



Agenda Report

TO: CITY COUNCIL

DATE: April 23, 1998

FROM: MICHELE BEAL BAGNERIS, CITY ATTORNEY

SUBJECT: RETENTION OF PROFESSIONAL APPRAISAL SERVICES TO ASSIST IN ANALYSIS OF POTENTIAL CONFLICT OF INTEREST ISSUES

RECOMMENDATION:

It is recommended that the City Council establish a policy which authorizes retention of professional appraisal services at an amount of up to \$5,000 per council member per issue, when necessary to assist in analysis of potential conflict of interest issues due to the council member's source of income.

Alternatively, if the City Council does not desire to establish such a policy, it is recommended that the City Council authorize retention of professional appraisal services for the purpose of analyzing a potential conflict of interest with respect to Paul Little's employer, the Pacific Asia Museum and the proposed Mid-City Civic Center project, of an amount not to exceed \$3,000.

BACKGROUND:

At the City Council meeting of June 17, 1996, the City Council established a policy authorizing retention of professional real estate appraisal services for city council members when the source of the potential conflict of interest involves the council member's personal residence. The policy which was approved in 1996 does not extend to situations in which the basis of the potential conflict is the council member's source of income, such as the member's employer. It is sometimes necessary to secure the services of an appraiser to assist in determining whether a conflict of interest exists based on the effect of a decision on council members' sources of income. It would be helpful to have a policy authorizing such appraisals without the need to obtain council approval in each instance, unless, in a particular instance, the appraisal exceeds the \$5,000 amount.

It has become necessary to secure the services of an appraiser to analyze the reasonably foreseeable financial effects of the Civic Center/Mid-City development project on the Pacific Asia Museum, which is Councilman Paul Little's employer. Pursuant to FPPC Regulation 18702.5, as a non-profit corporation, the analysis will include the reasonably foreseeable effect of the project on the assets of the museum, on the annual receipts of the corporation, and whether the project

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would likely cause the museum to incur reduced or additional expenses. Given the facts involved, it is anticipated that the required professional appraisal services will cost less than \$3,000.

ANALYSIS:

The Political Reform Act (Government Code Section 87100, et seq.) prohibits council members from making or participating in decisions which will have a material financial effect, as defined in the FPPC Regulations, on his or her source of income. The regulations vary regarding what constitutes a material effect, depending on the nature of the source of income and the relationship of the member to that source of income. In some instances, it may be necessary to secure the services of professional appraisers to determine the extent of the likely effect of the project on the member's source of income to analyze whether a conflict of interest exists.

The FPPC has concluded that if the member obtains an appraisal by an objective qualified professional showing the decision will not have a reasonably foreseeable financial effect on the source of income, the member may safely participate in the decision. Accordingly, it would be beneficial to the City and provide added protection to have such appraisal services conducted when necessary to determine the likely effect of a project on the member's source of income.

FISCAL IMPACT:

A number of council members have sources of income within the City, which may constitute the basis for potential conflicts of interest. The services of an appraiser would only be sought if it is not clear from the situation whether or not the council member has a likely conflict of interest. In many such situations, the cost of an appraisal would probably be less than \$5,000. If a real estate appraisal would establish that there is a likely material financial effect on property owned by a business entity, the cost would probably be less than \$2,000. If the real estate appraisal does not result in such a conclusion, a business valuation appraisal would be necessary to determine the likely financial effect on the value of the business, which in most straight-forward instances would total approximately \$3,000. Accordingly, it is reasonable to anticipate approximately \$5,000 for appraisal services to assist in determinations regarding analyses of potential conflict of interest issues.

Respectfully submitted,



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City Attorney