

**From:** Rutan, Ed

**Sent:** Wednesday, March 31, 2010 5:53 PM

**To:** Simonsen, Soren

**Cc:** Martin, JT; Love, Jill; Christensen, Carlton; Turner, Van; Penfold, Stan; Garrott, Luke; Becker, Ralph; Gust-Jenson, Cindy; Halladay, Karen; Ferguson, Boyd; 'LISA WATTS BASKIN'; Meeker, Chris

**Subject:** FW: Draft advice re Council member Simonsen and Planning Commission matters

Soren—

This is to confirm the oral advice that we gave to you on February 2, 2010 that you do not have a conflict of interest under SLCC Section 2.44.030 in the circumstances discussed below.

We understand that Kathleen Hill, a member of the Salt Lake City Planning Commission, is your business partner in your architectural firm. We have examined whether it would constitute a prohibited conflict of interest for you to vote on three matters that recently have been recommended by the Planning Commission to the City Council.

City Code § 2.44.030 requires Council members to disclose conflicts and recuse themselves if they are asked to take action on a matter involving their financial, professional, or personal interests, if that action would have an “individualized material effect on such interest, distinguishable from its effect on the public generally.”

With respect to one of the matters, we understand that Ms. Hill did not vote as a Planning Commission Member. Our office has taken the position that in such situations where the person with a relationship with a Council Member did not himself or herself vote on the matter being forwarded to the City Council there is no prohibited conflict of interest for the City Council member who votes on the matter.

With respect to the other two matters, they do not involve requests for money by or payment of money to the Planning Commission. Instead, the Planning Commission merely made a recommendation regarding City business, and the City Council’s decision would provide no particular benefit, financial or otherwise, to any individual commissioner or to the Planning Commission as a body.

You would not receive any financial benefit related to the votes, nor would your architectural firm receive any business as a result of these matters. Therefore we conclude that your “financial” interests are not involved.

In some situations a Council member’s official actions that relate to his or her business partner could have an effect on the Council member’s personal or professional interests, due to the presumably close working and financial relationship (and perhaps friendship) between business partners. In this case, however, Ms. Hill is not personally advocating anything before the City Council and does not have anything personally at stake beyond whether the Council agrees or disagrees with her recommendation. Moreover, it seems unlikely that she would be personally pleased or offended in any significant way by the Council’s vote on the Planning Commission recommendation. Therefore, we do not believe that you have either a “personal” or a “professional” interest in these Planning Commission matters coming before the Council.

For the foregoing reasons, we conclude that action by the City Council on the three Planning Commission recommendations will not materially affect your financial, professional, or personal interests, and therefore you need not disclose or recuse yourself from voting on those matters.

Thanks

Ed