



Memorandum

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TO Davis City Council
FROM Harriet A. Steiner
RE Covell Village: Alleged Conflict of Interest regarding the Rotary club

In our opinion, Council Members who are members of the Rotary Club do not have a conflict of interest due to their membership in Rotary Club.

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If built, Covell Village would include a community club building. Rotary has been identified as a potential owner of the building. City funds have not been advanced towards the building, and the City does not anticipate using City funds to construct the building. Further, the City and Rotary have not entered into an agreement concerning the building. One or more Council members is a member of the Rotary Club of Davis.

Under the law, there are two types of conflicts. The first is a Political Reform Act conflict. Under the Political Reform Act, a Council member cannot participate in any discussion, or vote on, any matter in which he or she has a financial interest. The second type of conflict occurs when the City Council considers a contract. Government Code section 1090, with some exceptions, prohibits the City Council from entering into a contract if one of its members has a financial interest. Since the City Council would not be entering into a contract here, any potential conflict would fall under the Political Reform Act.

The initial threshold question to ask in analyzing whether a Council member has a conflict of interest is whether the Council member has an economic interest in the decision. Economic interests may be created in one of 6 ways: (1) investment in a business entity; (2) interest in real property; (3) source of income; (4) source of gifts; (5) business positions; and (6) personal financial effect.

It is the city attorney's understanding that no Council member has an economic interest in the Rotary Club, as that term is defined under the Political Reform Act. While Council members may contribute towards Rotary, there has been no information presented that Rotary is a source of income or gift to any Council member or that Rotary owns real property in which a Council member has an interest. If a Council member does not have an economic interest in a decision, the conflict of



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interest analysis ends. Thus, it is the opinion of the City Attorney that membership in the Rotary in and of itself does not create a conflict of interest under the Political Reform Act.

In our opinion the Brown Act was not violated based on the comments made by the Mayor to the newspaper.

Mayor Asmundson was quoted in the Sacramento Bee newspaper on June 7, 2005 as saying that the fate of Covell Village is up to the community. A resident complained that the Brown Act was violated as Mayor Asmundson must have conferred with other Council members and that a majority of the Council must have decided, outside of a public meeting, to vote for Covell Village.

Absent any other information other than the quote in the newspaper, it is the city attorney's opinion that the Brown Act was not violated. The city attorney believes that the quote in the newspaper was stated in the context that, if Covell Village is approved by the City Council, the voters would make the ultimate decision about Covell Village.