



Town of Tiburon

STAFF REPORT

may exist can be a complicated one. Staff recommends that Boardmembers seek the advice of the Town Attorney in any cases where there is uncertainty.

The FPPC may need to be contacted by the Town Attorney in some cases. While FPPC staffers will often give “verbal” opinions on conflict questions, only a written response from that agency is binding, and these written opinions can take several weeks or months to arrive.

Questionable Impartiality

For any number of reasons, Boardmembers may feel that they cannot impartially act on an application, even though there is no financial conflict of interest. This may be because the applicant is a close personal friend or associate, or for similar reasons. In such cases, Boardmembers should abstain from consideration of the item. This does not mean that the Boardmember “recuses” himself; that procedure is used only for financial conflicts of interest.

In cases where there is questionable impartiality, the Boardmember should announce his concern immediately prior to consideration of the item and indicate that he will abstain from participation in the item and will not vote on the item. The Boardmember will keep his seat at the dais and will not step down or leave the room. Leaving the room could call into question the issue of whether a quorum has been retained. This is an issue that should be avoided and easily can be avoided if the Boardmember retains his seat.

When a Boardmember has announced his intention to abstain from an item, he should not speak, gesture, make facial expressions, or otherwise participate in any way during the Board’s deliberations on the item in question. A “poker face” is the appropriate demeanor. When the time for voting arrives, the Boardmember should simply say, “I abstain”. When the item is concluded, the Boardmember may participate in all remaining items on the agenda as usual.

Conclusion

Staff is hopeful that the above information will assist Boardmembers when facing conflict of interest or impartiality situations. Please don’t hesitate to seek advice from Staff if you have any questions.

Exhibits

1. Government Code Section 87105 (recusal procedure).
2. Booklet entitled “Can I Vote?” prepared by FPPC.

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