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Date: January 10, 2025 at 9:50:53 AM CST
To: jen.massey@comcast.net
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Subject: Request for Advice re Conflicts of Interest

Ms. Massey:

Thank you for your inquiry. The advice and analysis that follows is offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics Law may apply to the circumstances described in your inquiry. Oregon Government Ethics Commission (OGEC) staff may provide advice and guidance on future or hypothetical circumstances, but cannot opine on events that have already occurred.

You are the Mayor for the City of St. Helens (City) and serve as a member on the City Council. Prior to your election, you state that you also served in a voluntary unpaid capacity for a 501(c)(3) non-profit corporation (Other Business). Now that you are a member of the Council, you have asked whether you would be faced with a conflict of interest if you participated in Council meeting discussions related to topics or other matters which you were involved in as a member of the Other Business.

Relevant Statutes and Analysis

Initially, we need to clarify that we cannot comment or provide advice on matters that have already occurred therefore, we cannot opine on any “potential or actual litigation” involving matters that you were involved in prior to your election as Mayor. We encourage you to review the City’s policies or consult with legal counsel which may detail additional responsibilities and liabilities.

A statutory conflict of interest arises when a public official makes a decision or recommendation or takes action, in their official capacity, that would (actual conflict of interest) or could (potential conflict of interest) result in a financial impact (positive or negative) on the public official, their relative, or a business with which the official or their relative is associated. [ORS 244.020(1) and (13)]. To determine whether there

is an actual or potential conflict of interest, the public official needs to evaluate whether the decision or actions being taken would or could result in a financial impact on themselves, their relatives, or on a business with which they are associated.

To make that determination, first we need to consider whether the Other Business qualifies as a business with which you are associated. ORS 244.020(2) defines a business as any legal entity operated for economic gain, but excluding any income-producing not-for-profit a 501(c)(3) corporation for which the person is associated only as a member, on the board, or in an unpaid capacity. Assuming you are only associated with the Other Business as a member, board director, volunteer, and in a nonremunerative capacity, then the Other Business would not qualify as a business.

And if the Other Business does not qualify as a business under ORS 244.020(2), then it cannot be a business with which you are associated, as defined in ORS 244.020(3). Please note, however, that ORS 244.020(3)(d) provides that for public officials required to file a statement of economic interest (SEI), any business listed as a source of household income on their SEI qualifies as a business with which they are associated. As the Mayor, you are an SEI filer. So, if you or any member of your household received income in 2024 from the Other Business, it would qualify as a business with which you are associated.

Assuming that the Other Business does not qualify as a business, any financial impacts on the Other Business would not create a conflict of interest for you because it is not a businesses with which you are associated. Therefore, if the Council were to discuss the Other Business, regardless of whether it is a public meeting or an executive session, any decision, recommendation or action you take that would or could result in a financial impact on the Other Business would not give rise to a statutory conflict of interest.

As a reminder, as a public official, you are individually responsible for complying with Oregon Government Ethics Law, including identifying and properly declaring your conflict of interest (whether actual or potential) each time the conflict arises. If met with an actual conflict of

interest that would have a financial impact on yourself, a relative, or a business with which you are associated, you would be required to publicly announce the nature of your conflict of interest and refrain from any participation in the discussion or vote as provided in ORS 244.120(2).

I have included the Conflicts of Interest Quick Reference guide (attached). If you have any further questions, feel free to reach out to me directly at your earliest convenience.

Thank you,

Disclaimer

This analysis and advice is offered under the authority provided in ORS 244.284 as guidance on how current provisions of Oregon Government Ethics law apply to the specific circumstances you have presented.

Daniel Pacheco | Investigator

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