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CITY COUNCIL WRITTEN PETITION

Please provide the information requested below. When complete, please submit to the City Clerk's Office, 1500 Warburton Avenue, Santa Clara, CA 95050.

Date: May 26, 2022

I, Brian Doyle, am hereby requesting to be placed on the Santa Clara City Council Agenda for the following purpose:

An explanation by Councilmembers Hardy and Chahal as to why they did not comply with FPPC law and regulations, City of Santa Clara Lobbyist Ordinance and Council Policy 050 with respect to their acceptance of passes for admission to the November 15, 2021 49ers-Rams games from the San Francisco 49ers.

I understand that it is important that I attend the meeting in the event there are any questions the Council wishes to ask me.

Signed:

NAME: Brian Doyle

ADDRESS: Council District 5
Street

Santa Clara — 95050
City — Zip Code

TELEPHONE:* _____
Optional

DATE: May 26, 2022

*NOTE: This is a public document. If your telephone number is unlisted or if you do not want it to be public, please provide an alternate number where you can be reached.

WRITTEN PETITION REGARDING RAJ CHAHAL AND KAREN HARDY

On November 15, 2021 Santa Clara City Council Members Raj Chahal and Karen Hardy attended the Rams vs 49ers football game at Levi's Stadium at the invitation of the San Francisco 49ers. It is believed that the two council members received some type of "all access" pass which allowed them full access to the Stadium both before and during the game and which included the offer of food. It is believed that the value of such passes exceeds $520.

At the "Public Presentations" section of the Agenda for the City Council meeting on December 7, 2021, both Council Members admitted being at the game at the 49ers' invitation, did not claim that they paid for tickets to the game, and stated that they were at the game to observe "operations". In response to a public records act request for evidence of payment to attend the games, the following emails were provided:

From: Raj Chahal <RChahal@SantaClaraCA.gov>
Sent: Wednesday, April 13, 2022 6:51 PM
To: Melissa Lee <mlee@Santaclaraca.gov>
Subject: Re: PRA 22-370 DUE 4/13

Hi Melissa,

In regards to this PRA, here is what I have to report:

The attendance has been reported on my public calendar, visit was to observe stadium operations firsthand in my capacity as Santa Clara Stadium Authority (SCSA) board member.
While the game was in progress some of the operational teams we observed/interacted with were:
Public safety team
Fire Safety team
Traffic management team
Public safety/jails team
Food distribution operations
Ground operations
Other misc. operations teams.

No food was accepted other than a water bottle.

Please let me know if you have any additional questions.

Raj Chahal

Councilmember District 2

City of Santa Clara

1500 Warburton Ave.

Santa Clara, CA 95050

From: Karen Hardy <KHardy@SantaClaraCA.gov>
Sent: Saturday, April 23, 2022 12:55 PM
To: Melissa Lee <mlee@Santaclaraca.gov>
Subject: Re: PRA 22-370 DUE 4/13

This was on my public calendar. During the game Raj and I went to observe the stadium security, the team for emergency situations, traffic control on the streets and parking lots, observation of crowd control cameras on attendees, jail facilities, food operations and other misc operations. We were offered food but only accepted one water bottle each.

Hope this explanation is sufficient.

Karen

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The two after-the-fact emails indicate that the Councilmembers Hardy and Chahal did not pay for the passes that allowed them admission to the November 15, 2021 NFL game. This contrasts with the actions of Councilmembers Jain and Becker who paid for their tickets to the 49ers game that they attended on January 2, 2022.

Their statements also indicate that the admission did not fall within the ticket exceptions found in FPPC regulation 18944.1 which requires that a ticket or pass provided for official inspection purposes must be provided by the public agency in accordance with a policy adopted by the agency. Furthermore, no public report was ever filed on FPPC Form 802. The following are the requirements for reporting the acceptance of passes for sporting events:

> **Form 802 – Agency Report of Ceremonial Role Events and Ticket/Pass Distributions**: This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual's statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency

Because the passes were provided by the San Francisco 49ers and not the Stadium Authority or City, the passes provided at no cost to Councilmembers Hardy and Chahal constitute gifts under California conflict of interest laws and regulations.

Because neither Councilmember provided copies of the game-day passes, neither has established the value of the gifts received.

The following is an except from
https://www.fppc.ca.gov/content/dam/fppc/documents/advice-letters/1995-2015/2018/18125pdf.pdf
regarding the valuation of tickets or passes where there is no "face value":

> 6. How is the value of a luxury suite ticket established when there is no dollar amount listed on the ticket? For purposes of Regulation 18944.1, a "'ticket or pass' means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose." Regulation 18946(d)(2) defines a ticket as anything that provides admission to an event and for which similar tickets are sold to the public. The value of a ticket is the face value of the ticket (Regulation 18946.1.) "'Face value' means the price as offered for sale to the general public indicated on the ticket or pass, or if that price is not indicated, the price at which the ticket or pass would otherwise be offered for sale to the public by the operator of the venue." (Regulation 18946(d)(l).) As such, the value of a game-day all-access pass would be the price at which the pass would otherwise be offered for sale to the public.

It is difficult to place an exact value on the passes because no responsive records regarding their value have been provided by the Councilmembers. There were no tickets to the game with a face value less than $50, so at a minimum the Councilmembers were required to report the gifts on their Form 700 which they did not do. Gifts in excess of $50 must be reported on the elected official's statement of economic interests, so records should have been kept and be available to comply with reporting requirements. Neither Councilmember reported the gift of the passes on their annual statements of economic interest.

Based upon reports, the passes provided Councilmembers Hardy and Chahal with extensive access to the Stadium during the NFL game, including to the "Suite Tower" where security operations are located. Such passes would almost certainly be valued in excess of the current $520 regulatory maximum for gifts from a single source.[1]

The acceptance and use of game day passes by the Council Members was an apparent violation of Government Code Section 89503. The gifts appear to have exceeded the maximum allowable value and the Council Members failed to disclose the gifts on their Form 700's.

In addition Councilmembers Hardy and Chahal appear to have violated the City Council's Gift Policy and the City's Lobbyist Ordinance.

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[1] § 18940.2. Gift Limit Amount. (a) For purposes of Section 89503, the adjusted annual gift limit amount in effect for the period January 1, 2021, to December 31, 2022, is $520.

Santa Clara City Code Section 2.155.230 states: "It shall be unlawful for any lobbyist to deliver or cause to be delivered any gift to any City official, and for any City official to accept any gift from a lobbyist."

According to their public calendars, Councilmembers Hardy and Chahal met with Rahul Chandok and other 49ers lobbyists who had arranged for their admission to the game. Causing the game passes to be delivered to the Councilmembers constitutes a violation of the Gift Ordinance by the 49ers lobbyists; the acceptance of the passes by the Councilmembers constitutes a violation as well.

The acceptance of the passes by Councilmembers Hardy and Chahal also violated Council Policy & Procedure 050 which states as follows:

> This policy must comply with Santa Clara City Code Chapter 2.155, Regulation of Lobbying Activities, Section 2.155.130, entitled, "Gifts" which clearly forbids any lobbyist to deliver or cause to be delivered any gift to any City official, and for any City official to accept any gift from a lobbyist.
>
> 1. When a gift has been offered, the elected or appointed City official shall consider whether:
>
> a) The gift was provided by an individual who has interests that may be affected by the performance or nonperformance of the elected or appointed City official's official duties;
> b) The acceptance of the gift creates an appearance of impropriety;
> c) The timing of the gift creates the appearance that the gift-giver is seeking to influence an official action or obtain favorable treatment;
> d) The acceptance of the gift would give the gift-giver disproportionate access to the elected or appointed City official;
> e) The acceptance of the gift is compliant with the regulations set by the FPPC.

There is no indication that the Councilmembers considered any of the factors that are set forth in Council Policy 050. Indeed, at the Council meeting the very next day on November 16, 2021 Councilmembers Hardy and Chahal voted in favor of the 49ers' position on two agenda items that the 49ers had lobbied them on: support of the exemptions to the weekday curfew times and opposition to inquiry into possible conflicts of interests by Al Guido with respect to his submission of the bid for Levi's Stadium as a site for the 2026 World Cup.

These series of actions indicate an appearance of impropriety, the appearance of trying to obtain favorable treatment given the timing, disproportionate access, and a violation of FPPC regulations.

The public records and statements by Councilmembers Chahal and Hardy indicate the following serious violations:

- Acceptance of gifts in the form of NFL game passes in excess of the legal limit of $520
- Failure to report the acceptance of gifts on their annual statements of economic interest (Form 700)
- Acceptance of gifts from lobbyists in violation of the City of Santa Clara Lobbyist Ordinance
- Violation of Santa Clara City Council Policy 050

I hereby request the City Council to place an item on a future agenda to allow Councilmembers Chahal and Hardy to explain these serious violations of the public trust. Please do not vote to cover up their apparent breaches of conflict of interest laws and City Council ethics policies.