

Bob,

We have spoken previously about the potential for conflicts of interest to arise as it relates to the business interests of members of City Council. I am one of the partners and owners of FLS Energy, a solar energy development company in Asheville. I appreciate the counsel you have provided me in the past on this issue and would like to request your continued guidance to assure all ethical standards are upheld in respect to these interests. The purpose of this email is to provide an overview of my understanding of the protocols to confirm it is consistent with your understanding of state ethics policies. To assure transparency, I also want to provide a list of businesses and organizations my company has worked with.

The two main areas that we identified as having the potential for a conflict of interest or the appearance of a conflict of interest were in situations where FLS Energy may do business directly with the City (ie. installing solar energy systems on public facilities) and in situations where the City Council needs to vote on a proposed development where FLS Energy may have a business interest (ie. the developer has hired FLS to install a solar energy system on the proposed development).

In terms of the situations where FLS Energy may do business directly with the City, the boundaries seem fairly clear. I need to recuse myself from voting on a project if FLS Energy were bidding to do work for the City. This situation arose in my service on the board of the Asheville Airport. The airport is considering development of a solar energy system for their facilities (which is City owned property). FLS Energy is the developer on the project. This was clearly a situation where I should recuse myself from participating in the discussion or voting on the project. I requested to be recused from those discussions and the board did recuse me.

My understanding is that it would not be required or be appropriate for me to be recused from voting on proposals where FLS Energy may have a future interest in bidding on projects with the City. For example, the recent package of energy efficiency improvements for city facilities included, among many other items, solar thermal systems for city fire stations. FLS Energy may put in a bid for those projects to compete for this project, as will other solar companies in our area. As there is no existing contract between FLS and the City and the projects will go through the appropriate competitive vendor selection process, this is an example of a situation where I am required to vote as a member of Council.

In terms of voting on private sector developments that come before the City Council, the same basic distinction applies. If FLS Energy has a direct financial interest in the project (ie. we have a contract with the developer to install a solar energy system for the project), I should recuse myself. If we do not have a financial interest, I am required to vote on the project.

While this distinction seems straightforward, I can see the potential for some grey areas. For example, what if a developer submits a proposal to the City and FLS Energy has no financial stake in the project at the time it comes to us, but FLS has worked with the company on previous projects and there may be the potential for the developer to hire FLS again if the project goes forward?

This situation could arise for projects that require zoning approval from City Council. It also has the potential to arise for projects where the developer is seeking other types of support such as a Housing Trust Fund loan. As a member of the Housing and Community Development (HCD) Committee, I am involved in reviewing many of the affordable

housing developments that seek city support.

Based on the guidance you have given me to date, my understanding is that it would not be a conflict of interest to vote on a proposed development simply because there is the potential that the developer might choose to include a solar energy system on their project and might select FLS to install the system. I'd appreciate your continued guidance on this question.

You have also advised me that my work in the energy industry does not preclude me from fully participating in Council discussions and decision-making regarding broad public policies related to energy issues. For example, one issue I am interested in working on is the development of a PACE initiative (Property Assessments for Clean Energy), to promote energy efficiency and renewable energy at the community level. This program would foster investments in a broad range of clean energy improvements such as better high-efficiency lighting, windows and HVAC systems and improved insulation. It could also include solar thermal energy systems. You have advised that on broad public initiatives such as this, it is appropriate for me to fully participate even though my company has a general interest in the issue (along with all the other construction and energy trade groups in the community).

In the spirit of disclosure and transparency, I would like to provide a list of the organizations and businesses with whom my company has worked with on a solar development, which is listed below.

Bob, I appreciate your continued counsel on these questions. I want to make sure the way I understand my responsibilities is consistent with state ethics policies. I believe that last year you also spoke with the Institute of Government to solicit their input on these questions as well. If you feel it would be helpful to seek their input again, please feel free to do so.

Since it is ultimately City Council that needs to make decisions about what may or may not constitute a conflict of interest, I am sharing this email with Council. It is fine with me if you share any response with all the members of Council as well.

Best wishes for the holidays,

Brownie Newman

FLS Energy clients:

AB Tech
Actus Lend Lease -- Camp Lejeune Marine Corps Base
Asheville Housing Authority (FLS was selected to install solar on the Altamont and Bartlett Arms Apartments through a competitive RFP selection process)
Asheville Airport
Asheville Art Museum
Barleys
Biltmore Estate
Biltmore Farms
Bio-Wheels
Blue Ridge Paper/ Evergreen
Beaufort Marine Air Corps Station
Buncombe County Schools

Camp Rockmont
Duke Energy
Food Lion
Grandfather Mountain
Green Sage Cafe
Greenbridge development
Guilford College
Habitat for Humanity
Kanuga Conference Center
Knox County
McDowell County
McDowell County Schools
Marketplace Restarant
Mars Hill College
Mountain Housing Opportunities -- Glenrock Hotel
Penland School of Craft
Progress Energy
Progress Solar Solutions
Proximity Hotel
Robbins Senior Housing
REI
SAS Institute
Wake Forest University
Windor/ Aughtry Company
YWCA of Asheville

FLS Energy also has numerous residential clients and I am sure I have inadvertently left off some businesses that we have worked with in the past.