

Tammy Cloud-McMinn

From: Athena Runner <athena.runner@gmail.com>
Sent: Tuesday, July 28, 2020 7:43 AM
To: Council Internet Email; City Clerk
Subject: Agenda Item 14 - Clean Energy Alliance Loan Terms

All Receive - Agenda Item # 14
For the Information of the:
CITY COUNCIL
Date 7/28 CA CC
CM ACM DCM (3)

Dear Mayor Hall, Mayor Pro Tem Blackburn, Council Member Bhat-Patel, and Council Member Schumacher,

Please do not loan \$4.45 million in city reserve funds to this fledging project with zero income and no track record of success. With the economic uncertainty that currently exists and will only grow due to the global pandemic, why would our elected city officials take money out of our city reserves for something so risky? I know many of you, perhaps all of you, believe in CEA and that it will deliver all that it promises to deliver. I do not share your optimism, especially after watching some of the CEA board meetings, especially the July 23, 2020 meeting.

The CEA will have other options to obtain financing. Our city is not a bank, nor should it be.

Of the choices before you, please choose C and "take no further action on this matter."

Thank you.

Best regards,

Athena Runner
92011

CAUTION: Do not open attachments or click on links unless you recognize the sender and know the content is safe.

Tammy Cloud-McMinn

From: Council Internet Email
Sent: Tuesday, July 28, 2020 8:34 AM
To: City Clerk
Cc: Jason Haber; Sheila Cobian
Subject: FW: URGENT call for Council member Schumacher's recusal - Item 14, 7/28/20 Council meeting

All Receive - Agenda Item # 14
For the Information of the:
CITY COUNCIL
Date 7/28 CA CC
CM ACM DCM (3)

From: Arnie Cohen <asmallbizhelper@gmail.com>
Sent: Tuesday, July 28, 2020 12:06 AM
To: Attorney <attorney@CarlsbadCA.gov>; Manager Internet Email <Manager@CarlsbadCA.gov>
Cc: Council Internet Email <CityCouncil@carlsbadca.gov>
Subject: URGENT call for Council member Schumacher's recusal - Item 14, 7/28/20 Council meeting

We are Carlsbad residents and are writing to call on Council member Cori Schumacher to recuse herself on Item 14 of the July 28, 2020 City Council meeting. We provide the following information that makes such a recusal an imperative.

- Cori Schumacher serves as a member of the Carlsbad City Council, essentially the city's Board of Directors. She also serves as a Board member of the Clean Energy Alliance.
- She represents 25% of the City Council membership and 33.33% of the CEA Board membership. As such, her votes on each Board are extremely significant and could determine how this matter proceeds.
- In these roles Ms. Schumacher has the fiduciary responsibility to act in the best interests of each entity and of the citizens that those entities represent. When acting on behalf of one entity she must give a lower priority for the best interests of the other entity.
- The City of Carlsbad is proposing to act as a lender of \$4.45 million to the Clean Energy Alliance, the borrower. It is this specific business relationship that presents a unique set of standards for identifying conflicts of interest for anyone serving as a member of both Boards/agencies simultaneously.
- Item 14 of the July 28 Council meeting agenda requires a vote of the Council to give guidance to staff on proceeding with the negotiations of the terms for such a loan.
- During the July 23, 2020 meeting of the CEA Board it was stated that the CEA Board would also have to subsequently vote in order to accept those negotiated terms and to "Authorize financing from Carlsbad".
- Ms. Schumacher's fiduciary responsibilities in this proposed transaction are undeniably in conflict since she cannot fairly ensure that each entity would garner the most favorable financial terms in the proposed loan. The City's interests are to maximize its return on the investment in such a loan with the lowest risk possible, and the CEA's interests are to obtain the lowest cost loan possible with the lowest interest rate possible. Those interests appear to naturally conflict.
- If she does not recuse herself and proceeds to act in her role on each agency, Ms. Schumacher will become an active participant for both sides in detailed discussions about the negotiations of the terms of this loan. She would then be voting on granting the loan and also voting to accept the loan. Her respective roles and those votes might be in conflict if there is vigorous debate about the loan terms on either Board, making her fiduciary duties difficult to fully and fairly perform.

- There is likely not a Board of Directors of any bank or lending institution that would allow one of its Board members to take part in ANY aspect of a loan transaction where that member also serves on the Board of the entity that will be the borrower, unless there is full disclosure to and properly executed approval from their shareholders. To allow that would be a clear breach of its fiduciary responsibilities and make that Board subject to legal action by those shareholders as well as by multiple regulatory agencies.
- The burden is on Council member Schumacher to unequivocally state and prove to her constituency, in advance, that her participation in this matter would not be subject to prioritizing considerations for the needs of the CEA over the needs of the City. Then and only then could the citizens, if they so choose, elect to waive the obvious potential for conflicts that exist.
- To be clear, we are not suggesting any type of personal financial conflict exists here for Ms. Schumacher. However, her fiduciary responsibility as an elected official to the citizens of Carlsbad who she represents is preeminent. Inherent in that lies an expectation that she will not in any way act to put the competing priorities of another entity on which she serves ahead of those of the city and its taxpayers. That preeminence was not modified or impacted in any way by her subsequent appointment to the CEA Board.
- This call for recusal is only directed at Ms. Schumacher due to her current dual roles as a Council member and as a CEA Board member. The same standards for avoiding conflicts in this lender / borrower relationship would apply to any Council member serving in both positions at the same time.

It is incumbent on Council member Schumacher to recuse herself at this time from any participation on Item 14. If she does not do so, she would be placing herself in the position of negotiating loan terms and voting on its approval while being both the lender and the borrower. It would then be up to the citizens of Carlsbad to consider what subsequent actions they wish to take.

As a final point of clarification, this call for Council member Schumacher's recusal does not in any way represent an opinion on the implementation of the Clean Energy Alliance nor make a recommendation as to the City Council's action on this agenda Item. It is solely intended to bring this serious conflict of interest matter to the attention of the City Attorney, City Manager and City Council so that they may take the appropriate actions to protect the best interests of city's taxpayers and residents.

Please direct any questions, comments or responses to Arnie Cohen at asmallbizhelper@gmail.com

Sincerely,

Arnie and Teri Cohen
Carlsbad District 3 residents

Catherine Miller
Carlsbad District 2 resident

Julie Baker
Carlsbad District 1 resident

Larry Posner
Carlsbad District 2 resident

Tammy Cloud-McMinn

From: Shauna Hurst <hurst.shauna@gmail.com>
Sent: Tuesday, July 28, 2020 8:36 AM
To: City Clerk; Council Internet Email
Subject: Agenda Item 14 - Clean Energy Alliance Loan Terms

All Receive - Agenda Item # 14
For the Information of the:
CITY COUNCIL
Date 7/28 CA CC
CM ACM DCM (3)

Dear Council Members -

Please do not loan \$4.45 million in city reserve funds to this unproven project that currently shows no income. Our city faces economic uncertainty due to the pandemic. Our city continues to see businesses close and revenues fall. Given these tremulous times why would our council use precious city reserves for a risky unproven project? Our city is not a lending institution and it should not be.

Please choose C and "take no further action on this matter".

Thank you.

Shauna Hurst
92010

CAUTION: Do not open attachments or click on links unless you recognize the sender and know the content is safe.