

November 12, 2020

RE: Individuals sitting on both the non-profit board(s) and the Pliocene Ridge CSD board.

Rae,

I probably should not have addressed the Government Code section 1090 conflict of interest issue without doing a formal conflicts analysis.

I have briefly researched the issue and have found an exception to the section 1090 conflict of interest rules which applies to your situation. Section 1091.5(a)(8) provides that a financial non-interest exists (and therefore no conflict of interest) when a board member of your district is also a non-compensated officer of a non-profit tax exempt corporation which, as its primary purpose, supports the functions and activities of your public agency.

It appears to me that the functions of the non-profits are to support the same goals and objectives as the district regarding provision of fire services. Therefore there is no section 1090 conflict of interest due to this legislative exemption at section 1091.5(a)(8) and your board member may continue to serve as a non-compensated board member of one or both of the non profits and your board and may participate in the MOU preparation and approval process. Let me know if you have additional questions.

David W. McMurchie
MCMURCHIE LAW
PO Box 1846
Folsom, CA 95630
916-214-2244
dmcmurchie@mcmurchie.com