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HEADLINE: Conflict of interest charged

BYLINE: By Alison Hewitt Staff Writer

LA VERNE - Councilman Steve Johnson voted to approve a University of La Verne expansion plan despite a warning from the city attorney that he might have a financial conflict of interest.

Johnson, whose insurance office is across the street from the campus, said he chose to ignore the city attorney's advice because his brother, an attorney and real estate appraiser, had concluded that no such conflict existed.

City officials and government experts have said that opinion may not be enough, and the vote last week might have been illegal.

Because Johnson's insurance business is located within 500 feet of the campus, state law presumes that voting is a conflict of interest, unless there is proof that his property value will not change as a result, said Bob Stern, president of the Center for Governmental Studies.

La Verne City Attorney Robert Kress advised Johnson of the conflict at the Jan. 16 meeting and told him he must recuse himself.

Johnson denied having a conflict, and when asked why he considered it important to participate, he cited the strong community interest in the expansion. The expansion plan required three votes, and passed 4-0 with no changes or proposed amendments.

It is unusual for a council member to ignore a city attorney's advice, said Doug Johnson, a fellow at the Rose Institute for State and Local Government at Claremont McKenna College.

"I would guess that 95 to 99 percent of the time, they follow the city attorney's advice," said Johnson, who is no relation to the councilman. "It's odd that he would expose himself to such a controversy."

Kress said Tuesday that while he stood by his opinion, he would not pursue the issue or ask for a legal review.

"The legal standard there is whether there would be any financial impact on Johnson's property, even one penny," Kress said. "Councilman Johnson obtained a letter from an attorney and real estate appraiser who stated there would be no such impact, so he decided to participate in the decision."

The attorney and real estate appraiser was Kirk Johnson, Councilman Johnson's younger brother, who has an office in downtown La Verne about a block and a half from the university. Some councilmen questioned relying on family over the legal advice of the city attorney.

"It seems odd to me," said Councilman Dan Harden. "His brother deals in real estate. I would choose to rely on an authority that was experienced in government."

Mayor Jon Blickenstaff - Johnson's uncle - would only say that he expected someone would complain.

"It's my belief that the matter will be investigated by the state's Fair Political Practices Commission and the District Attorney, and that they will take the appropriate action," Blickenstaff said.

He added that he is not aware of any complaints having been filed. The FPPC would

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not confirm or deny whether a complaint had been received, and the District Attorney's Public Integrity Division said it has not received any complaints.

Regardless, the city would be protected against any penalties, Kress said.

"It's Councilman Johnson's issue," he said.

Johnson said he was convinced he had no conflict of interest, based on his brother's expertise in evaluating real estate in the downtown La Verne area.

"I didn't believe that the university's master plan would have any effect on the value of my property, and I confirmed that," Johnson said.

"I think the city attorney erred on the side of caution ... and he was justified in his concern, but on the flip side, as an elected official you're obligated to stay in a meeting when you personally feel there is not a conflict of interest," Johnson said.

Besides, he added, the city attorney "is not a real estate professional."

The University of La Verne's expansion plan stretches over 10 years and 50,000 square feet of construction, including new dorm space, 200 to 300 new parking spaces, demolition of several buildings and a mixed-use office-retail center near Bonita Avenue and D Street. Johnson's mother - Blickenstaff's sister - is a member of the university's board of trustees.

The letter from Johnson's brother states that the expansion "would not likely impact the value" of the councilman's property.

Stern, a former general counsel for the state's Fair Political Practices Commission, said he believed FPPC rules would require more proof than "not likely."

FPPC documents suggest that a formal appraisal would be required.

"I would think the university's expansion might have a negative impact on the councilman's property while construction is going on, and a positive impact after," Stern said. "The regulation says, 'will it have any financial effect?' and it would be pretty hard to show that it would not."

City Manager Martin Lomeli also advised Johnson not to vote on the item, and said this week that although the city has had several council members over the years who had a conflict of interest involving the university, this is the first time that a council member has ignored the city attorney's advice not to vote.

Councilman Don Kendrick, who runs a real estate office across the street from the university, was also advised by the city attorney that he had a conflict of interest and recused himself from the Jan. 16 vote.

Johnson initially called Kendrick to get an evaluation of how his property value might be affected by the expansion plan, Kendrick said.

"I don't do commercial real estate ... and I didn't think it was appropriate for me, when I was going to be recusing myself, to advise him whether or not to vote," he said.

Johnson remains adamant that it was important for him to be involved in the discussion.

"I was elected to serve the community and to be involved in these decisions," he said. "Since I felt that I did not have a conflict of interest, I felt that I should stay in the meeting."