MISSOURI ETHICS COMMISSION
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Jefferson City, MO 65102
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(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

April 24, 2015

Rick Elder
City of Herculaneum
1 Parkwood Court
Herculaneum MO 63048

MEC No. 15-0030-I

Dear Mr. Elder:

At its July 20, 2015 meeting, the Missouri Ethics Commission considered the complaint filed against the City of Herculaneum, Mayor Bill Haggard, current board of aldermen members Chris Baker, Joe Burke, Mike Burlage, Rick Elder, Norm Seithel, Mike Weldon, and former alderman Gabriel Novak.

The complaint alleges that the Respondents violated state conflict of interest laws when the Board of Aldermen approved the rezoning of two tracts of land from residential to commercial at the owner's request, knowing the owner of those two parcels of land had previously hired Govero Land Services to plan, develop, and grade the two tracts for the intended commercial project, while also knowing that Govero had assigned Alderman Novak, an engineer employed by Govero, to prepare the plans for this commercial project.

The investigation concluded that former Alderman Novak did not violate the conflict of interest laws, specifically, sections 105.452, 105.458 and 105.461, RSMo. Mr. Novak did not vote or participate in any board meetings concerning the rezoning proposals. Mr. Novak last participated in a board meeting on February 2, 2015. The city's Planning and Zoning Commission did not begin consideration of the rezoning request until its meeting of February 9, 2015. The board of aldermen did not begin considering the rezoning proposal until its meeting of March 16, 2015.

There is also no evidence that Mr. Novak, as an employee who worked on the development plans for Govero Land Services, used that position to speak with other board members in an attempt to influence their position on the proposed rezoning. While Mr. Novak was an employee for Govero at the time the board began considering the rezoning request, he had no direct financial interest in the result of the rezoning. Mr. Novak left his position at Govero Land Services on February 27, 2015, for a position in Texas. To the extent that Govero Land Services briefed the board about the rezoning proposal, Mr. Dan Govero, not Mr. Novak, communicated with the board.

Evidence obtained by staff indicates that the City of Herculaneum has adopted an ordinance providing guidance for its elected and appointed officials about disclosing certain financial interests. The ordinance provides that a member of the board of aldermen disclose an interest of: 1) 10% or more in any business entity; 2) an interest of $10,000 or more; or 3) the receipt of any salary or other compensation of $5,000 or more per year. In addition, board members, as well as certain appointed city officials, are required to disclose certain transactions over $500 that the board member or official had with the city during the previous year. In compliance with the ordinance, Mr. Novak provided a Disclosure of Interest memo to the City of Herculaneum in 2012 to disclose his employment as a civil engineer with Govero Land

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Services. There is no evidence that Mr. Novak's work on the development project triggered any further disclosure obligations under state law or the city ordinance.

Based on the evidence reviewed, the Commission finds no reasonable grounds to support a violation of Chapter 105, RSMo, or a violation of the Herculaneum Disclosure of Potential Conflict Ordinance and is dismissing the complaint

Sincerely,

James Klahr
Executive Director