



City of Long Beach
Working Together to Serve


Memorandum

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Office of the City Attorney

DATE: September 11, 2008

TO: Bonnie Lowenthal, Chair, Elections Oversight Committee
Val Lerch, Member, Elections Oversight Committee
Gerrie Schipske, Member, Elections Oversight Committee

FROM: Heather A. Mahood, Assistant City Attorney 

SUBJECT: Draft Lobbyist Ordinance

Pursuant to your request, I've prepared a draft lobbyist ordinance, which incorporates the City of Sacramento's ordinance, with the following changes:

1. Deletion of the prohibition on deceptive lobbying.
2. Deletion of requirement for reporting campaign contributions.
3. Addition of prohibitions on acceptance of gifts from lobbyists (2.08.150).
4. Addition of exemption for City-owned corporations (2.08.020 K).
5. Addition of prohibitions on undisclosed ex parte communications between councilmembers and lobbyists (2.08.160-2.08.190).

I will be available to answer any questions you may have regarding this matter.

HAM:abc
07-02213
I:\apps\citylaw\32\wpdocs\ld011\p008\00141680.doc
Attachment

cc: Larry Herrera, City Clerk (w/attach.)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY ADDING CHAPTER 2.08
REGARDING REGULATION OF PERSONS WHO LOBBY
PUBLIC OFFICIALS

NOW, THEREFORE, the City Council of the City of Long Beach ordains as
follows:

Section 1. Chapter 2.08 is hereby added to the Long Beach Municipal
Code to read in its entirety as follows:

Chapter 2.08

LOBBYISTS

2.08.010 Interpretation.

Unless the term is specifically defined in this Chapter or the
contrary is stated or clearly appears from the context, the definitions set
forth in Government Code Sections 81000, et seq., shall govern the
interpretation of this Chapter.

2.08.020 Definitions.

For the purposes of this Chapter, the following definitions shall be
applicable.

A. "Activity expense" means any payment made by a lobbyist to or
directly benefiting any City official, City official-elect or member of his or
her immediate family. Activity expenses include gifts, honoraria, consulting
fees, salaries and any other form of compensation, but do not include
campaign contributions.

B. "Administrative action" means the proposal, drafting,

1 development, consideration, advocacy, or recommendation of any rule,
2 regulation, agreement or contract, permit, license or hiring action.

3 C. "City official" includes, but is not limited to, any public official,
4 legislative staff member or City employee who participates in the
5 consideration of any legislative or administrative action other than in a
6 purely clerical, secretarial or ministerial capacity. It shall also include any
7 City board or commission member, or City representative to any joint
8 powers authority to which the City is a party, and any consultant to the
9 City.

10 D. "Consultant" means an individual who, pursuant to a contract
11 with the City:

12 1. Makes a governmental decision whether to:

- 13 a. Approve a rate, rule, or regulation;
- 14 b. Adopt or enforce a law;
- 15 c. Issue, deny, suspend, or revoke any permit,
16 license, application, certificate, approval, order, or similar authorization or
17 entitlement;
- 18 d. Authorize the City to enter into, modify, or renew a
19 contract provided it is the type of contract which requires City approval;
- 20 e. Grant City approval to a contract which requires
21 City approval and in which the City is a party or to the specifications for
22 such a contract;
- 23 f. Grant City approval to a plan, design, report, study
24 or similar item;
- 25 g. Adopt or grant City approval of policies, standards
26 or guidelines for the City, or for any subdivision thereof.

27 2. Serves in a staff capacity with the City and in the capacity
28 performs the same or substantially all the same duties for the City that

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1 would otherwise be performed by an individual holding a position specified
2 in the City's conflict of interest code.

3 E. "Client" means a person who is represented by a lobbyist.

4 F. "Compensation" includes, but is not limited to, money of any
5 denomination or origin; goods or services or anything of value, delivered
6 or rendered; or promises to perform or provide services or contractual
7 arrangements or awards.

8 G. "Gift" means gift as defined in the California Political Reform
9 Act, Government Code Section § 81000, et seq., as amended from time to
10 time.

11 H. "Influencing" means the purposeful communication, either
12 directly or through agents, promoting, supporting, modifying, opposing,
13 causing the delay or abandonment of conduct, or otherwise intentionally
14 affecting the behavior of a City official or official-elect, by any means,
15 including, but not limited to, providing or using persuasion, information,
16 incentives, statistics, studies or analyses; excepted from this definition is
17 communication made as a part of a noticed governmental public meeting;

18 I. "Legislative action" means the drafting, introduction,
19 consideration, modification, enactment or defeat of any resolution,
20 ordinance, amendment thereto, report, nomination or other action of the
21 Mayor, City Council, Redevelopment Agency of the City of Long Beach,
22 Housing Authority of City of Long Beach, any joint powers authority of
23 which the City is a party, or City board or commission, acting in its official
24 capacity.

25 J. "Lobbying" is the influencing or attempting to influence a
26 legislative or administrative action of the City.

27 K. "Lobbyist", unless exempt under subsection 4 hereunder,
28 means:

1 1. Contract Lobbyist. A person who engages in lobbying on
2 behalf of one or more clients (acting individually or through agents,
3 associates, employees or contractors) and who has received or has
4 entered into an agreement for compensation of three thousand two
5 hundred dollars (\$3,200.00) or more ("threshold compensation") for
6 engaging in lobbying during any consecutive three-month period.

7 2. Business or Organization Lobbyist. Any business or
8 organization, whose owner(s), officer(s) or employee(s) carry out lobbying
9 on its behalf, in an aggregate amount of one hundred (100) hours or more
10 within any three month period, whether or not such officers or employees
11 are specifically compensated to engage in lobbying; provided that the
12 activities of officers shall be considered lobbying only if those officers
13 receive compensation by the business or organization beyond
14 reimbursement for their reasonable, travel, meals or incidental expenses;
15 or

16 3. Expenditure Lobbyist. A person who makes payments or
17 incurs expenditures of five thousand dollars (\$5,000.00) or more during
18 any calendar year in connection with carrying out public relations,
19 advertising or similar activities with the intent of soliciting or urging, directly
20 or indirectly, other persons to communicate directly with any City official in
21 order to attempt to influence legislative or administrative action. The five
22 thousand dollars (\$5,000.00) threshold shall not include:

23 a. Compensation paid to contract lobbyists or
24 employees for lobbying; or

25 b. Dues payments, donations, or other economic
26 consideration paid to an organization, regardless of whether the dues
27 payments, donations or other economic consideration are used in whole
28 or in part to lobby.

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4. Exemptions to "lobbyist" are:

a. Any public official acting in his or her official capacity or acting within the scope of his or her employment or appointment;

b. The media, when limiting its action to the ordinary course of news gathering or editorial activity, as carried out by members of the press. "Media" shall mean newspapers or any other regularly published periodical, radio or television station or network or information published on the Internet. This exemption shall also apply to neighborhood newsletters, flyers or gazettes;

c. Persons reimbursed for only their reasonable travel, meals or incidental expenses, including but not limited to, uncompensated members or directors of non-profit organizations such as chambers of commerce;

d. Persons whose communications regarding any legislative or administrative action are limited to appearing or submitting testimony at any public meeting held by the City or any of its agencies, offices, or departments, as long as the communications thereto are public records available for public review. Notwithstanding the foregoing, persons who otherwise qualify as lobbyists must register and disclose their lobbying activities directed toward City officials, in the same manner and to the same extent such registration and disclosure is required of all other lobbyists;

e. Persons submitting bids or responding to requests for proposals, provided the provision of such information is limited to direct conversation or correspondence with the official or department specifically designated to receive such information;

f. Persons providing oral or written information

1 pursuant to a subpoena or otherwise compelled by law or regulation, or in
2 response to an official request provided that the request and response
3 thereto are public records available for public review;

4 g. Persons whose communications relate to:

5 (i) The establishment, amendment,
6 administration, implementation or interpretation of a collective bargaining
7 agreement or a memorandum of understanding between the City and a
8 recognized employee association.

9 (ii) Management decisions as to the working
10 conditions of represented employees that clearly relate to the terms of a
11 collective bargaining agreement or memorandum of understanding
12 between the City and a recognized employee association.

13 (iii) Proceedings before the City's Civil Service
14 Commission.

15 h. Boardmembers or employees of corporations in
16 which the City is the sole shareholder.

17 L. "Organization" means any person that is not an individual.

18 M. "Person" means any individual, domestic or foreign corporation,
19 for-profit or non-profit entity, firm, association, syndicate, union, chamber
20 of commerce, joint-stock company, partnership of any kind, limited liability
21 company, common-law trust, society, or any other group of persons acting
22 in concert.

23 2.08.030 Registration.

24 Lobbyists shall register with the City Clerk within fifteen (15) days
25 after qualifying as a lobbyist under Section 2.08.020.

26 2.08.040 Annual registration renewal.

27 A lobbyist shall renew his or her registration by January 15 of each
28 year unless he or she has terminated their status as a lobbyist pursuant to

1 Section 2.08.050, by such date.

2 2.08.050 Termination of lobbyist status.

3 After initial registration, annual registration renewal will not be
4 required if a declaration attesting to the termination of lobbying services
5 within the City has been filed with the City Clerk no later than January 15.

6 2.08.060 Active status.

7 All registrations, renewals and terminations will be deemed filed on
8 the date received by the City Clerk. A lobbyist shall be deemed active for
9 the duration of the year of registration ending December 31, unless a
10 declaration attesting to termination of lobbying services within the City is
11 filed.

12 2.08.070 Registration fees.

13 Persons subject to the registration requirements of this ordinance
14 shall pay an annual fee of one hundred dollars (\$100.00). Persons
15 registering for the first time on or after June 30 of a given year shall pay a
16 reduced registration fee of fifty dollars (\$50.00).

17 A. The applicable registration fee is due at the time of registration
18 or registration renewal. Payment will be deemed delinquent thereafter.
19 Delinquency fees may be assessed as specified in subsection (C) below,
20 if payment occurs after the due date.

21 B. In addition to the annual fee, each registrant shall pay twenty-
22 five dollars (\$25.00) per client for whom lobbying is undertaken for
23 compensation in excess of five hundred dollars (\$500.00). The fees for
24 clients as of the date of initial registration shall be submitted with the
25 registration. The fees for subsequent clients will be due and submitted at
26 the time of the submission of the relevant quarterly report as required
27 pursuant to Section 2.08.110 below.

28 C. A fine of twenty-five dollars (\$25.00) per day for delinquent fees,

1 up to a maximum of five hundred dollars (\$500.00), will be assessed until
2 compliance with the registration provisions herein.

3 2.08.080 Required registration information.

4 Registration statements shall contain the information set forth in
5 Section 2.08.090.

6 2.08.090 Disclosure.

7 The initial registration shall contain the name, business address,
8 telephone and fax numbers of all persons required to register pursuant to
9 this Chapter, including the names of all owners of sole proprietorships and
10 partnerships of fewer than ten (10) persons. If the registrant is a
11 corporation, it shall also include the names of the president, secretary,
12 chief financial officer, and agent for service of process, if any. Any
13 business or organization registering under this act shall also briefly
14 describe the nature of its business or organization. In addition to this
15 information, the report shall contain the following:

16 A. Contract Lobbyist. The name, business address, telephone
17 number of each client, the nature of each client's business and the item(s)
18 of legislative or administrative action the lobbyist is seeking to influence on
19 behalf of the client; and the name of each person employed or retained by
20 the lobbyist to lobby on behalf of each client.

21 B. Business or Organization Lobbyist. The names of owners,
22 officers or employees conducting lobbying activities and the item(s) of
23 legislative or administrative action the lobbyist is seeking to influence.

24 C. Expenditure Lobbyists. The item(s) of municipal legislative or
25 administrative action the lobbyist is seeking to influence.

26 D. Payment received by the reporting lobbyist for services as a
27 consultant or in any other capacity for services rendered to a City agency,
28 any City official or any City official-elect or their controlled committees, any

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1 officeholder committee, or ballot measure committee. The dates of
2 payment and name of each payer shall be included.

3 E. The name, address, title and telephone number of the person
4 responsible for preparing the report, together with that individual's
5 signature attesting to the authority of the signatory and the accuracy and
6 truthfulness of the information submitted.

7 2.08.100 Subsequent disclosures.

8 For each calendar quarter following the quarter in which the
9 lobbyist was required to register, the lobbyist must file a quarterly report in
10 duplicate with the City Clerk not later than fifteen (15) calendar days after
11 the end of the qualifying quarter whether or not any lobbying activities
12 have occurred during such period. Electronic reporting may also be
13 permitted by the City Clerk. Each quarterly report shall contain the same
14 information as required to be disclosed in the initial registration, for those
15 activities occurring in that quarter. If a lobbyist has terminated all lobbying
16 activities during such quarter, the lobbyist may file a declaration of
17 termination with the quarterly report. The final quarterly report shall
18 include disclosure of any lobbying activities during the quarter of
19 termination.

20 2.08.110 Quarterly reports.

21 Quarterly reports are to be filed in duplicate by April 15, July 15,
22 October 15 and January 15, for the prior calendar quarter, and are
23 delinquent thereafter. Electronic reporting may also be permitted by the
24 City Clerk.

25 2.08.120 Records retention.

26 Copies of the records pertaining to the above-required reports shall
27 be preserved by the lobbyist for inspection and audit for a period of four
28 years from date of production.

1. 2.08.130 Lobbyist identification.

2. When appearing in a lobbying capacity at a public meeting of the
3. City Council or other City board or commission, a contract lobbyist shall
4. identify himself/herself and the client(s) on whose behalf he/she is
5. appearing, and a business or organization lobbyist shall identify
6. himself/herself and the business or organization he/she represents.

7. 2.08.140 Prohibitions.

8. It shall be unlawful for any lobbyist to commit any one of the
9. following acts:

10. A. Unauthorized Communications. Sending or causing any
11. communication to be sent to any City official in the name of any non-
12. existent person or in the name of an existing person without the express
13. or implied consent of such person.

14. B. Fictitious Persons. Contacting any officer of the City in the name
15. of any non-existent person or in the name of any existing person, except
16. with the consent of such existing person.

17. C. Indirect Violations. Attempting to evade the requirements of this
18. ordinance through indirect efforts or through the use of agents, associates,
19. intermediaries or employees.

20. D. Creation of Obligations. Performing or sponsoring any act with
21. the purpose and intent of placing any City official under personal
22. obligation to the lobbyist.

23. 2.08.150 Gifts.

24. It shall be unlawful for any lobbyist to deliver or cause to be
25. delivered any gift to any City official, and for any City official to accept any
26. gift from a lobbyist.

27. 2.08.160 Disclosure of ex parte communications with Councilmembers.

28. A. No Councilmember shall conduct an ex parte communication

1 with a lobbyist unless the Councilmember fully discloses and makes public
2 the ex parte communication by providing a full report of the
3 communication to the City Clerk within seven days after the
4 communication or, if the communication occurs within seven days of the
5 next council meeting, to the City Council on the record of the proceeding
6 at that hearing.

7 B. The City Clerk shall adopt standard disclosure forms for
8 reporting ex parte communications which shall include, but not be limited
9 to, all of the following information:

- 10 1. The date, time, and location of the communication.
11 2. The identity of the person or persons initiating and the
12 person or persons receiving the communication.
13 3. A complete description of the content of the
14 communication, including the complete text of any written material that
15 was a part of the communication.

16 C. Communications shall cease to be ex parte communications
17 when fully disclosed pursuant to subsection A above.

18 2.08.170 Ex parte communication prohibited.

19 For purposes of this Chapter, except as provided below, an "ex
20 parte communication" is any oral or written communication between a
21 member of the City Council and a lobbyist, about a matter within the City
22 Council's jurisdiction, which does not occur in a public hearing, workshop,
23 or other official proceeding, or on the official record of the proceeding on
24 the matter. The following communications are not ex parte
25 communications:

- 26 A. Any communication limited entirely to procedural issues,
27 including, but not limited to, the hearing schedule, location, format, or filing
28 date.

1 B. Any communication which takes place on the record during an
2 official proceeding of a state, regional, or local agency that involves a
3 member of the City Council who also serves as an official of that agency.

4 C. Any communication between a member of the City Council, with
5 regard to any action of another state agency or of a regional or local
6 agency of which the member is an official, and any other official or
7 employee of that agency, including any person who is acting as an
8 attorney for the agency.

9 2.08.180 Definition of "within the City Council's jurisdiction."

10 For purposes of this Chapter, "a matter within the City Council's
11 jurisdiction" means any permit, license, appeal or application, or other
12 quasi-judicial matter requiring City Council action.

13 2.08.190 Participation prohibited.

14 No City Councilmember shall make, participate in making, or any
15 other way attempt to use his or her official position to influence a City
16 Council decision about which the Councilmember has knowingly had an
17 ex parte communication that has not been reported pursuant to Section
18 2.08.160.

19 2.08.200 The City Clerk.

20 The City Clerk shall:

21 A. Oversee compliance with this Chapter including creation of all
22 forms and explanatory materials.

23 B. Provide quarterly reports to the Mayor and City Council on
24 lobbyist activities, and pending complaints and enforcement proceedings
25 and provide an annual report to the Mayor and City Council including a
26 description of educational programs and materials that have been
27 produced regarding this Chapter and providing any recommendations for
28 amendment of this Chapter. Press releases summarizing the contents of

1 the reports shall be prepared and distributed with the respective reports.

2 C. Accept all required filings under this Chapter.

3 2.08.210 Criminal penalties.

4 Any person who knowingly or willfully violates or causes any other
5 person to violate any provision of this Chapter is guilty of a misdemeanor.

6 2.08.220 Injunction.

7 The City Attorney may seek injunctive relief in the courts to enjoin
8 violations of or to compel compliance with the provisions of this Chapter.

9 2.08.230 Practice restrictions.

10 No person convicted of a violation of this Chapter may act as a
11 lobbyist or otherwise attempt to influence municipal legislation for
12 compensation for one year after such conviction.

13 2.08.240 Limitation of actions.

14 Prosecution for violation of any provision of this Chapter shall be
15 commenced within four (4) years after the date on which the violation
16 occurred.

17 2.08.250 Cost of litigation.

18 The court may award costs of litigation including reasonable
19 attorney's fees to the prevailing party in any action to compel compliance
20 with the provisions of this Chapter.

21
22 Section 2. The City Clerk shall certify to the passage of this ordinance by
23 the City Council and cause it to be posted in three (3) conspicuous places in the City of
24 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
25 Mayor.

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I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

DRAFT

Approved: _____
(Date)

Mayor