




Date: April 16, 2013  
To: Honorable Mayor and City Council  
From: Councilwoman Gerrie Schipske, Fifth District 

Subject: **AGENDA ITEM:** Request City Council Committee on Elections Oversight to Review Potential Ordinances To: Ban Political Contributions from Contractors and Those Having Business Before the City Council; Require Elected Officials to Disclose Non-Public Communications About Public Business; Require Councilmembers to Disclose Any Communications Being Received During Council Meeting From Lobbyists and Request a Recommendation on Each Within 90 days.

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**Discussion:**

**Ban on Contributions from Contractors, Lobbyists and Those Having Business Before the City Council**

The District Court in the District of Columbia upheld the long time ban on political contributions from any person negotiating or performing a federal government contract stating:

*The ban on such contributions guards against "pay-to-play" arrangements, in which people seeking federal contracts provide financial support to political candidates in return for their help securing government business. It also protects such contractors from pressure to contribute or risk losing their work.*

The Court further stated that it was not the "courts' practice to "second-guess a ... [legislative] determination as to the need for prophylactic measures where corruption is the evil feared'."

It seems then it might be time for the City of Long Beach to enact a similar contribution ban. Conceivably, that ban could be applied to those who seek approval for a development, an entertainment permit, a city contract or those who are lobbying for a specific ordinance.

Long Beach should handle this situation in two ways: Ban the contributions from anyone who is negotiating/bidding with the City or doing work for the City and require the elected official to disclose before voting at City Council if he or she has received a contribution and a statement that he or she does not believe there is a conflict of interest.

Several cities have enacted laws which disqualify a council member from participating in decisions affecting his or her campaign contributors. These laws *disqualify* the council

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April 16, 2013

Page 2

member from participating in certain proceedings if the official has received campaign contributions from a party, participant or their agents within the 12 months preceding the decision. They also require *disclosure* on the record of the proceeding of all campaign contributions received from these persons during that period. In addition, these laws *prohibit* solicitation or receipt of campaign contributions during such proceedings, and for three months after the decision, from parties, participants or their agents.

The voters of the City of Los Angeles enacted changes to their charter in 2011 that create new campaign contribution restrictions on contractors bidding on contracts with the City. They have prohibited making campaign contributions to any elected City office, candidate for elected City office, or City committee controlled by an elected City official or candidate if the contract requires approval of the Council and the contract requires approval by the elected City office that is held or sought by the person to whom the contribution would be given. (In LA, the ban starts with contracts worth \$100,000 or more.)

Any ban needs to be carefully crafted in order to survive legal challenges in the wake of the US Supreme Court ruling in ***Citizens United v. Federal Election Commission***, 558 U.S. 310 (2010).

### **Non-Public Communications With Lobbyists During Council Meetings**

Just last month, the City Council of San Jose unanimously made permanent requirements that they disclose if a lobbyist contacts a councilmember by text, email or handwritten note during a public meeting and to announce the identity of the lobbyist and the subject of the communication before it comes to a vote.

### **Non-Public Communications About City Business**

In late March, a Superior Court judge ruled that private text messages, emails and other electronic communications sent and received by San Jose officials about city affairs are public records. This case came as a result of citizens requesting these communications concerning a redevelopment transaction which included the subsidization of the project.

### **Open and Transparent**

The most compelling argument for these proposals is that they will increase public confidence in our local campaign finance and contracting systems. Moreover, disclosure of discussions on public matters which take place out of the public view will likewise ensure that decisions are not influenced by impermissible off-the-record-communications between decision-makers and others and that the public is ensured

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Page 3

that decisions are not based more on special access and influence than on the facts, the laws, and the exercise of discretion to promote the public interest.

### **The City Council Committee on Elections Oversight**

This committee is charged with reviewing legislative proposals concerning city elections, campaign finance and lobbying. These issues are directly related to their scope.

#### **Fiscal Impact:**

None known.

#### **Recommendation:**

Refer to the City Council Committee on Elections Oversight Potential Ordinances To: Ban Political Contributions from Contractors and Those Having Business Before the City Council; Require Elected Officials to Disclose Non-Public Communications About Public Business; Require Councilmembers to Disclose Any Communications Being Received During Council Meeting From Lobbyists and Request a Recommendation on Each Within 90 days.