

Ad Hoc Committee on Lobbying Ordinance Report for June 2022 Study Session

At the Ethics Commission meeting on February 16, 2022, the City staff presented on the Long Beach Lobbying ordinance, LB Municipal Code Chapter 2.08. Following the City presentation, the Commission decided to establish an Ad Hoc Committee to study the efficacy of the current ordinance. The Ad Hoc Committee met and requested additional information, including but not limited to a survey of lobbying rules in several other jurisdictions, and calendars from the office of the Mayor and City Council members for the last six months of 2019.¹

The City staff responded to the Ad Hoc Committee's questions and provided a fact sheet by Bolder Advocacy / Alliance for Justice that summarized the lobbying rules in more than 30 CA jurisdictions. The City staff pursued open records requests for the requested calendars. The Ad Hoc Committee received and reviewed 6 Council member calendars² as well as the Mayor's calendar for the requested time frame. The Ad Hoc Committee also reviewed the reports of registered lobbyist activity for the same time frame.³

Questions for Study Session:

In a report to the Ethics Commission for the April 2022 meeting, the Ad Hoc Committee defined several questions for consideration. Based upon review of the issues, the Ad Hoc Committee submits the following supplemented list of questions for consideration by the full Commission at the full Commission Study Session:

- 1) Consider overall goal of lobbying ordinances, practicality of reporting mechanisms, and enforcement issues.
 - a) What should be disclosed?
 - b) When should lobbying information be disclosed? Is semi-annual reporting adequate?
 - c) Who reviews the disclosures? What is the purpose of the reviews? Are the reviews effective?
 - d) Is there an effective enforcement mechanism?
- 2) Definition of "lobbyist": What thresholds should trigger the requirement to register?
 - a) Hours spent and/or number of meetings or communications?
 - b) Include time spent in preparation for meetings?

¹ The Committee selected this time frame because the COVID pandemic in early 2020 would have created an unusual impact on calendars and we wanted to review a "typical" time frame.

² Council member calendars are retained for 1 year following the member's conclusion of term. Because three council seats (Districts 1, 2, and 6) changed hands after December 2019, and more than 1 year before our request, those calendars were not available.

³ Lobbyist disclosure reports are filed semi-annually, about 15 days following the end of the covered 6-month period, so there is a time lag in the availability of the information about registered lobbyist activity. Further, some lobbyists identify the topic of discussion with specificity, while others provide generalized descriptions. For example, some disclosures identify the specific issue before the City Council while others identify the industry represented in general terms. The City summary does not include the topics.

- 3) Status of non-profit entities:
 - a) Should all non-profits be excluded from application of the lobbying ordinance?
 - b) Should the exclusion be limited to non-profits that serve indigents?
 - c) Should social welfare and business organization non-profits be treated in the same fashion as 501(c)(3) (charitable) organizations?
 - d) Should there be a waiver of the registration fee for non-profits if the law required them to register?
 - e) Should the fee for non-profits be scaled or be dependent on their annual revenue or total assets?
- 4) Should electeds be required to disclose the identity of the persons/entities lobbying them?
 - a) If so, should the requirement extend to disclosures by staff of electeds?
 - b) Should electeds and City staff be required to disclose any materials received from outside entities on pending topics?
 - c) Should disclosure be required within a certain time frame?
- 5) Should the current registration fee for lobbyists be increased?
- 6) Question for City Attorney office: Is exemption of unions from all lobbying requirements required by law? Would a requirement of disclosure without fees be illegal?

Calendar Review

City policy does not prescribe a protocol for information to be included in calendars maintained by City Council members and the Mayor. It appears that certain of the calendars are used to record recurring meetings but not day-to-day activities, and several contain information about invitations regardless whether the member or member's staff attended the meeting or event. Most do not contain information on the subject(s) discussed, as none of the calendars appear to have information added after the meetings.

The calendars are not public facing. They are available under the public records act but must be reviewed for information exempt from public disclosure prior to release. As a consequence, the calendars are not available timely to inform the public about an issue that is considered by the Council or Mayor in the near term. Based upon the review by the Ad Hoc Committee, the calendars do, however, provide some information regarding potential influence by non-profit organizations and other people and entities that are not required to file Lobbying Disclosure reports.

Hypotheticals:

In order to facilitate the Study Session by the entire Ethics Commission, we have prepared a few hypothetical matters regarding which multiple parties met with City Council members and/or the Mayor. These hypotheticals are informed by review of the calendars but do not present actual matters. The use of hypotheticals enables discussion of types of matters on which people or entities have lobbied elected officials and City employees without filing lobbying disclosures reports either because of an

exemption, e.g. non-profit status, or because the entity does not reach the threshold (dollars or hours) for lobbying disclosure.⁴

Hypothetical #1: City Council Consideration of Housing Policy Issue:

Following attendance at meetings with neighborhood associations and individual citizens, the City Council considered a housing policy issue. At the first meeting to consider the issue, the City Council requested City staff to prepare a draft ordinance and a presentation regarding the potential impact of the change under review. Shortly prior to and/or during the time frame this issue was under consideration, several Council members met with: (a) one or more registered lobbyists on behalf of clients identified in lobbying disclosure reports; (b) residents (e.g. neighborhood associations); (c) private businesses potentially impacted by the matter under consideration; and (d) City staff. For purposes of this hypothetical, assume that at least one of the private businesses potentially impacted by the proposed ordinance spent over 100 hours in preparation of reports, which were delivered to City staff or electeds in meetings that took less than 50 hours in a three-month period. There is no public record to determine whether City staff used information from the reports provided by the private business in City Staff presentations to the Council. The Council considered this issue at 3 subsequent meetings and took no action other than to receive and file the reports presented by City staff.

Hypothetical #2: Business Licensing Issue:

The City Council considered a number of issues related to business licensing. During the same time frame, City Council members met with registered lobbyist(s) regarding the specific issue, non-profit(s) (501(c)(4) as well as 501(c)(3)) with an interest in the issue, and individual companies potentially impacted by the issue but not registered as engaging in lobbying activity (presumably because the meetings were below the threshold or the meeting was not considered to be advocacy). A number of entities in the impacted business community scheduled “meet and greet” meetings with the Mayor and City staff during the pendency of the issue before the Council; these meetings did not necessarily address the matters under consideration by the Council at that time, but may have been focused on impacting policy going forward.

Hypothetical #3: Revenue Issue

The City Council was advised of a revenue shortfall for the next fiscal year. Among other steps, the Council considered several actions that could generate revenue. During the time frame of the Council’s consideration of this issue, a number of officers or directors of non-profit organizations met with City Council members to highlight the importance of programs that could be cut if revenue fell short. A number of businesses, some represented by lobbyists, others on their own behalf, met with City Council members and the Mayor, to address the impact of potential new revenue streams on their business operations.

⁴ The Ad Hoc Committee did not review the materials with an investigative lens. Our focus was on possible changes to the ordinance and we proceeded on the assumption that all persons and entities complied with the Lobbying ordinance. Nothing in this report should be read to suggest any non-compliance by any person or entity.

The above summaries do not suggest any violation of law in letter or spirit. Instead, the summaries are provided to enable the entire Commission to consider whether the current lobbying disclosure ordinance is adequate to provide transparency of potential influences on City decision-making.

Lobbying Disclosure Requirements Survey
 Supplemental Information to the AD-Hoc Report
 June 29, 2022

What information is required to be disclosed by lobbyists (or electeds) regarding lobbying efforts?

	What city official the lobbyist met with?	Topics?	Position advocated for?	# of hours meeting with electeds or city officials?	Prep time?	Dates?	Unscheduled meetings?	Are electeds required to report anything?	Notes
Long Beach	Yes	Yes	No	No	No	No	No	No	Ordinance Ordinance Amendment Lobbyist Registration & Reporting Form
Los Angeles	Yes (‘Agencies lobbied)	Yes (“Project”)	No	No	No	No	No	No	LA City Ordinance Quarterly reports Required training every 2 years provided by EC, through the Lobbying Electronic Filing System David Tristan, Exec Dir
Oakland	Yes (elected, city mgmt, city staff)	Yes	Yes	No	No	No	No	No	Oakland Lobbying Ordinance Lobbyist Rules Quarterly reports Data dashboards Whitney Barazoto, Exec Dir
Pasadena	No	No	No	No	No	No	No	No	Pasadena does not have an ordinance/ disclosure requirements Mark Jomsky, City Clerk

Sacramento	Yes	Yes	Yes	No	No	No	No	No	Sacramento Lobbying Ordinance Mindy Cupp, City Clerk
San Francisco (City & County)	Yes	Yes	Yes	No	No	Yes	No	No	San Francisco Lobbying Ordinance SF seemingly has a very rich ethics program; website is very informative, lots of resources including data dashboards; requires lobbyist training w/i one year of registration
San Diego	Yes	Yes	Yes	Yes	Yes		No	No	San Diego Lobbying Ordinance 5 different forms Lobbying Disclosure Forms FAQ Other lobbying docs Must disclose the compensation earned for all 'lobbying activities' during reporting period – includes researching, monitoring, etc. Sharon Spivak, Exec Dir
Orange County	No	No	No	No	No	No	No	No	https://ocethics.com/lobbyists Denah Hoard, Exec Dir 'Registration only' law
Austin	Yes	Yes	Yes	No	No	Yes	No	No	Austin Lobbying Ordinance Bolder Advocacy FAQ Provides a FAQ for lobbyists Seems to focus on financial disclosures
Seattle	No	Yes	Yes	No	No	No	No	No	Seattle Lobbying Ordinance Report sample Primarily an expense report; required to include a narrative of subjects lobbied for
Federal									Lobbying Disclosure Act Guidance

RESOURCES AND ADDITIONAL NOTES:

<https://bolderadvocacy.org/wp-content/uploads/2018/06/CA-City-County-and-SD-Local-Lobbying-Ordinances.pdf>

State: <https://www.sos.ca.gov/campaign-lobbying/lobbying-disclosure-requirements/lobbying-forms-instructions>