

**BLUE RIBBON TASK FORCE ON ETHICS ORDINANCE
MEETING NOTES**

Thursday, April 29

Room 202-A, Health Building

Attending: Councilmember Ken Yeager (Chair), Councilmember Cindy Chavez, Vice Mayor Pat Dando, Councilmember Chuck Reed

Staff: Deanna Santana (Interim City Clerk), Norm Sato (City Attorney's Office), Peter Jensen (City Manager's Office)

DISCUSSION

Panel Presentations

The Task Force listened to opening statements by each of six panelists: Jerry Strangis, Sean Morley of Morley Brothers LLC, Joe Head of Summerhill Homes, Joan Gallo of Hopkins & Carley, Tom Saggau of Saggau & DeRollo, and Andy Faber of Berliner Cohen. Summaries of each statement are listed below:

- **Jerry Strangis** – Mr. Strangis stated that he had been a registered lobbyist in San José since 1986. He felt that registration requirements should be broad, and that lobbyists should be required to provide a description of what they are working on for their clients. He felt that disclosure requirements should be emphasized over prohibitions, and that they should include clients, compensation, and contributions to candidates and non-profits. He also stated his belief that the City should consider stiffer penalties for violations of the lobbyist ordinance.
- **Sean Morley** – Mr. Morley said that his lobbying activities focus primarily on land use and real estate issues. He said that felt that disclosure in and of itself is only a part of the equation: it is also important to collect and distribute the information provided. He felt that the definition of a lobbyist should not be limited to paid lobbyists, but should instead apply to everyone who attempts to influence decisions, since interest groups, neighborhood associations, and others seek to have influence in the process of City decision-making. He believes rules should be comprehensive, simple, draw a bright line between compliant and prohibited behavior so that they are easy to interpret, and not be amenable to be used in a political environment.
- **Joe Head** – Mr. Head explained that his contacts with government focus solely on Summerhill homes projects, and that the contacts necessary for a successful project extend well beyond government. In Summerhill's case, he felt that transparency would be achieved by virtue of the fact that they must file applications for permits for any of their projects, so their goals and position are clear. Their goal is to have public discussions early, so if the ordinance increases public knowledge of their activities related to projects, it would be positive.
- **Joan Gallo** – Ms. Gallo said that she has visited Councilmembers to help facilitate moving projects through the process, but does not consider herself to be a lobbyist.

- Jerry Strangis – agreed that such an approach would be fairly easy to do with land use items, but thought that a better explanation of what the lobbyist is trying to do for the client is needed, along with a list of the office holders contacted.
- Tom Saggau – suggested that disclosure could be which entities the lobbyist contacted, rather than individuals, mirroring the State requirements.
- Sean Morley – agreed that Ms. Gallo’s idea of disclosure by office holders at the Council meeting has merit.
- Joe Head – thought that formalizing a way for developers to document which stakeholders have been contacted (a question he is often asked at public hearings) would be worthwhile. He felt that it could be administratively burdensome for office holders to report on all their contacts on a particular issue, and that the ordinance should recognize that their job is to hear from a lot of people with different points of view in order to formulate a position on an issue.
- Since many past problems have been at the staff level rather than office holders, should disclosure requirements also apply to contacts with staff? (Vice Mayor Dando)
 - Sean Morley – felt the current definition of “designated officials” (includes Mayor, Councilmembers, their staffs, and various staff positions deemed to be in a position to make or influence decisions) was sufficient, but that it would be important to distinguish between information exchange and lobbying.
 - Joan Gallo – disagreed with the premise that past issues had been with staff. She felt that staff had been involved in past ethics issues, but not related to lobbying. She felt that contacts with staff are inherent in the process, and that disclosure should be limited to cases when staff is making the ultimate decision, otherwise so much information would be generated that people would no longer pay attention to it. She felt that public concern is generally related to contacts with elected officials and commissioners. She said one thing the Task Force may wish to consider is broadening requirements now used for RFP’s, which state that proposers cannot contact staff until a recommendation has been made.
- How do panelists feel about solicitation of contributions for candidates or non-profits that office holders support? (Vice Mayor Dando)
 - Tom Saggau – doesn’t feel pressured to contribute to community organizations, and said that his firm makes such decisions case by case.
 - Joe Head – rejected the “follow the dollar” theory for San José, because the City’s land use policy is well known. His company would not be affected by an office holder’s request for a charitable donation in either direction. His company’s chief interest is for the City to be well run and consistent in its decisions.

- Andy Faber – felt that the public has the right to know about anyone who talks to office holders about a project.
- Joe Head – doesn't see a strong purpose for certain groups (neighborhood associations, the Audubon Society) because you already know which side they're on. The need for disclosure is stronger when you don't know which side someone will be on. He doesn't feel interest groups have unduly influenced the Council.
- Sean Morley – doesn't believe that architects, engineers, and lawyers should be treated differently. He thinks the test should be whether someone communicated with a designated official. He feels lobbying is growing in San José because the process for land use decisions has become very complicated.
- Joan Gallo – advised the Task Force to remember the distinction between land use decisions and contract decisions. She felt that the public perceives that there is influence on basic policy issues, and that they are unaware of who office holders are talking to about them.

Chair Yeager suggested that the burden be on elected officials to disclose whom they are talking with regarding an issue. Councilmember Chavez responded that she has a large volume of meetings, and frequently attends events at which multiple conversations about multiple issues take place. She didn't feel it would be practical for elected officials to report on all of those conversations, and didn't want to create an environment in which office holders have to worry all the time that they may be doing something wrong.

- Is there information to which panelists need access that they do not get now? (Councilmember Chavez)
 - Sean Morley – occasionally (generally not in San José) he hears about an issue in the final public hearing. He emphasized the importance of not limiting the flow of information.
 - Joe Head – felt that San José was very consistent, and that he had never been caught by surprise with information that hadn't been made available to him.
- How do panelists feel about the institution of registration fees? (Chair Yeager)
 - Tom Saggau – felt it made sense if revenues are used for more training on the ordinance's provisions, as the State does. He emphasized his opinion that registration should be required only for those who derive some sort of financial gain.
 - Joan Gallo – supported fees, while suggesting that distinctions be made between those focused on a single issue and those who lobby continuously.
 - Jerry Strangis & Sean Morley – didn't see any problems with imposing fees.