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June 1, 2004

The Honorable Ken Yeager
Chair, Blue Ribbon Task Force on Ethics
City of San José
City Hall, 801 N. First St.
San Jose, CA 95110

Dear Councilmember Yeager:

On behalf of SVMG, I am writing with regard to the proposed changes to the San José Municipal Lobbying Ordinance. We applaud the efforts of the Blue Ribbon Task Force, the City Council, and the Mayor in your effort to bring even greater accountability and ethical standards to interactions between people who regularly engage in lobbying activities and the city's policy makers.

We recognize the diligent work of the Task Force to review these standards as they compare with federal, state and other local government lobbying regulations in a timely way. Like you, we have all been following the San José Mercury News coverage of the perceived influence and impact of doing business in San José. We concur with the recognition of the Task Force to move toward more transparency while maintaining a productive working climate that encourages the flow of information to key decision-makers.

With this in mind, SVMG would like to comment on several components of the draft ordinance and suggest that further discussion might occur in the following areas:

1. 12.12.160 Contact

As you know, SVMG represents a diverse cross-section of San José and Silicon Valley. The definition of contact may be overly broad to accomplish the intent of the Task Force. Particularly, the reference "associates or employees" leaves open the question as to who is required to register. More directly, the draft ordinance includes administrative functions, which we believe should be revisited (e.g., there are examples where operational employees, higher education representatives, constituent casework or others not directly involved with policy issues might conflict with this definition). Our recommendation would be to ensure that policy contacts are covered rather than day-to-day operational, administrative or coordination contacts.

2. 12.12.180 Expenditure Lobbyist Definition

Currently, the draft ordinance defines a lobbyist as someone who incurs expenditures of \$5,000 or more during a calendar year. Utilizing this measure presents an equity issue; it does not fairly reflect the number of contacts one may have made with policy-makers but rather measures the level of engagement on a monetary or salary basis.

For more clarity, using a de minimus measure of time for both in-house and contract lobbyists (e.g., setting a time test for in-house lobbyist for those in direct contact with elected officials with at least a 30 percent threshold) similar to state lobbying guidelines (FPPC, Lobbying Information Manual, p. 3), would perhaps be a more equitable approach.

3. 12.12.190 Lobbying

The inclusion of "City official-elect" may go beyond the city's ability to effectively regulate and should be revisited.

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Further, the inclusion of "a City official" and the wording "by any means, providing... information" could inhibit the city's ability to make informed decisions from individuals solely providing educational materials rather than requesting action.

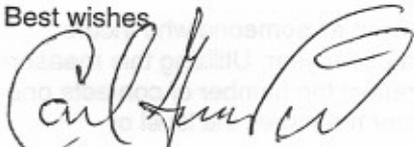
We believe the definition of "city official" should directly relate to Mayor, City Council, City Council staff, rather than the administrative arm of the City.

4. 12.12.420 Additional Required Information and Disclosures
Many of these provisions are currently covered in the city or state campaign finance laws and could be in conflict or, at minimum, add confusion to those participating in campaign fundraising and in those making donations to candidates. Also, in subsection E, the provision calling for the disclosure of donations to for-profit or nonprofit organizations made at the behest of the city official might more appropriately be reported by the elected official since that is usually the origination of requests.
5. 12.12.430 Quarterly Reports
Given the city's tight budget constraints and already strapped city resources, we are unconvinced about the enforceability and therefore achievable accountability that would result. Unless public officials are also required to report contacts, an adequate check and balance would not co-exist. As you know, many non-profits including SVMG and the Housing Action Coalition would be required under the ordinance to log all interactions with city officials for which they have limited resources to comply with the reporting requirement.
6. 12.12.440 Registration Fees
Finally, we would like to comment on the \$60 per client registration fee requirement that may be somewhat unclear to non-profits, organizations, or others. (e.g. would \$60 per client reflect \$60 times 190 per SVMG member company that are represented)? This provision seems to be unclear and we would like to seek clarification from the Task Force on this issue.

In summary, we appreciate your commitment and numerous hearings to develop clear and unambiguous lobbying rules. Like you, we are hopeful that a final ordinance will capture the tenor of better ethics and encourage a reasonable oversight and compliance by those who regularly interact in city government.

Again, thank you for your willingness to consider our comments. Please consider SVMG as a continued resource in this dialogue and contact us if you have any questions.

Best wishes



Carl Guardino
President and CEO

cc: Mayor Ron Gonzales
Vice Mayor Pat Dando, member of Blue Ribbon Task Force on Ethics
Councilmember Cindy Chavez, member of Blue Ribbon Task Force on Ethics
Councilmember Chuck Reed, member of Blue Ribbon Task Force on Ethics
San José City Council