



RECEIVED  
San Jose City Clerk  
*Memorandum*

TO: Rules Committee

FROM: Councilmember Ken Yeager  
2006 FEB -8 A 7:49

SUBJECT: SEE BELOW

DATE: February 7, 2006

APPROVED: *Ken Yeager*

DATE: *2-7-06*

**SUBJECT:** Approval to place the below recommendation on the February 14, 2006 City Council Agenda

**RECOMMENDATION:** Approval of an amendment of the City of San Jose's Municipal Lobbying Ordinance to include contribution amounts and corresponding sources in the "additional required information and disclosures" with regard to fundraising activity for any City official, candidate for elective City office, etc., made at the behest of a City official during the preceding calendar quarter.

**DISCUSSION:**

A revised municipal lobbying ordinance was approved by the City Council on August 10, 2004.

In the deliberations of the Blue Ribbon Task Force and in the discussions of the City Council, it appeared to be the intent that the lobbyist registration report would require disclosure of both contribution amounts and corresponding sources in those instances where registered lobbyists engage in fundraising activity for any City official, candidate for elective City office, etc., at the behest of the City official.

It has come to light that the lobbyist registration reports as currently implemented do not require lobbyists to disclose this information.

This request recommends that the Council amend the lobbying ordinance accordingly to reflect the original intent of the recommendations of the Blue Ribbon Task Force.

Given the legislative timeline, if this recommendation is placed on the February 14 Council Agenda, the earliest it could become effective (assuming approval) would be March 31. (The first reading would be on February 14, and the second reading would be on February 28. The amendment would become effective the 31<sup>st</sup> day after the second reading, which is March 31.)

In conversations with the City Attorney, it was determined that, since March 31 is the last day of the current reporting period, this would effectively impose retroactive disclosure requirements, mandating that lobbyists report information that they may not have retained for the first quarter of 2006. Therefore, to implement this amendment uniformly across a reporting period, it is further recommended that the amendment become effective for fundraising activity engaged in beginning April 1, for the second quarter of 2006.

**COORDINATION:**

This memorandum has been coordinated with the City Attorney's Office.

cc: Honorable Mayor and City Council



## Memorandum

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**TO:** Rules Committee

**FROM:** Lee Price  
City Clerk

**SUBJECT:** INFORMATION REQUESTED

**DATE:** February 9, 2006

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At the Rules Committee of February 8<sup>th</sup>, the Committee discussed a request by Council Member Yeager to place on the Council's agenda an amendment to the Lobbyist Ordinance. The item was referred to the City Attorney with direction to provide more information to the Rules Committee at the February 15<sup>th</sup> meeting. The Committee also requested that staff provide copies of the Mayor's December 2005 memo to the Council outlining the Mayor's 2005 Biennial Ethics Review and Recommendations, as background information for consideration. The Mayor's Memo is attached.

A handwritten signature in cursive script, appearing to read "Lee Price".

Lee Price, MMC  
City Clerk



# Memorandum

**TO:** City Council

**FROM:** Mayor Ron Gonzales

**SUBJECT:** Mayor's 2005 Biennial Ethics  
Review and Recommendations

**DATE:** December 9, 2005

Approved

Date

12/9/05

## RECOMMENDATION

1. **Accept the following work of the Blue Ribbon Task Force and City Council accomplished during the past year for the Mayor's Biennial Review on Ethics for 2005:**
  - a. Revisions to the Code of Ethics (6/28/05).
  - b. Revisions to the Lobbyist Ordinance, including the implementation of fees for annual registration (8/10/04).
  - c. Revisions to the Gift Ordinance (10/5/04).
  - d. Revisions to the Revolving Door Ordinance (10/26/04).
  - e. Revisions to provisions relating to the Officeholder Accounts (11/16/04).
  - f. Amendments made to provisions relating to definitions of independent expenditures and applicability of agents in section 12.06 of the Campaign Ordinance and penalties changed to be per violation in Chapter 12.04 covering the Elections Commission (11/16/04).
  - g. Adoption of amendments to Election Commission Regulations (3/1/05).
  - h. Termination of Council Office "special events accounts" (2/1/05).
  - i. Revision of the Council Conduct Policy (formerly Censure Policy) (11/30/04).
  - j. Approval of an ordinance adding regulations regarding the disclosure of fundraising activities by elected officeholders (3/15/05).
  - k. Review of ethics code and issues, including "sunshine" ordinances, council/commission relations, outside employment by councilmembers, and Independent Judgment Policy and Council interaction policies.
  - l. Completion of ethics training for City Council and management staff (1/28/05).
  - m. Launch of online campaign finance and lobbyist disclosure statements (early 2006)
  
2. **Approve the following direction:**
  - a. Direct the City Clerk and City Attorney to bring back to the Rules Committee a status report of the revised Gift Ordinance by February 2006.
  - b. Direct the City Attorney to review and bring forward to Council any possible updates to the "Commission/Liaison Code of Conduct and Ethics Guidelines," and once adopted, include this policy in the Council Policy Manual.



# Memorandum

**TO:** Rules Committee

**FROM:** RICHARD DOYLE  
City Attorney

**SUBJECT:** Mayor's 2005 Biennial Ethics  
Recommendations

**DATE:** February 13, 2006

## **Background**

On February 8, 2006, during the Rules Committee discussion of the City's Lobbyist Ordinance, the Committee requested information regarding the Mayor's 2005 Biennial Ethics Review approved by the City Council on December 13, 2005. The City Attorney was requested to provide a list of the outstanding recommendations and direction approved by the Council.

## **Mayor's Recommendations Approved by the City Council**

The City Council approved the following direction as recommended by the Mayor:

- a. City Clerk and City Attorney to bring back to the Rules Committee a status report of the revised Gift Ordinance by February 2006.
- b. City Attorney to review and bring forward to Council any possible updates to the "Commission/Liaison Code of Conduct and Ethics Guidelines," for inclusion into the City Council Policy Manual.
- c. City Attorney and City Manager to develop a Council Policy regarding "Conflict of Interest in Procurement" which includes the elements of the Procurement Process Integrity Guidelines developed by the Council on November 9, 2004. Staff was requested to bring this direction to the Council by March 2006.
- d. City Manager to continue the work on the Independent Judgment Policy and Interaction Policy, and bring to Council by Spring 2006.
- e. City Attorney and City Clerk to provide an information memo to the City Council, and to board and commission members and staff, regarding the letter and spirit of laws and policies regulating open meetings by public agencies, including Brown Act requirements and related matters.

**Status of Recommended Directions**

The City Attorney's Office will provide the Rules Committee with a status report on the revised Gift Ordinance in early March. A review and updates to the "Commission/Liaison Code of Conduct and Ethics Guidelines" and an information memo from the City Attorney and City Clerk on the Brown Act and summary of laws and policies on open meetings in other public agencies will be provided to the City Council in late March.



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RICHARD DOYLE  
City Attorney

cc: Les White  
Lee Price



# Memorandum

**TO:** RULES COMMITTEE

**FROM:** RICHARD DOYLE  
City Attorney

**SUBJECT:** Lobbying Ordinance

**DATE:** February 13, 2006

## Background

On February 8, 2006, the Rules Committee, in response to Councilmember Yeager's request to amend the Lobbying Ordinance, requested information from the City Attorney with regard to the Ordinance. This memorandum will provide a summary of the disclosure provisions of the Ordinance and address certain issues that were raised with regard to the disclosure requirements for lobbyist's fundraising activity made at the request of a City official.

## Lobbying Ordinance – General Provisions

The City's Lobbying Ordinance (San Jose Municipal Code Chapter 12.12), effective on September 24, 2004, regulates persons who are paid or compensated by others to attempt to influence City decisions. It requires certain individuals and entities to register as a lobbyist with the Office of the City Clerk and requires public disclosure by quarterly reporting of certain lobbying activities and including money spent and received in connection with their lobbying activities in the City.

Lobbying means influencing or attempting to influence a City official with regard to a legislative or administrative action or decision of the City of San Jose or the Redevelopment Agency. "Influencing" means purposeful communication for the purpose of promoting, supporting, changing, opposing, or otherwise, intentionally affecting the official actions of a City official by any means such as using persuasion, information, incentives, studies or analyses.

There are three kinds of lobbyists: Lobbyist (Contract), In House Lobbyist and Expenditure Lobbyist. If an individual meets the threshold requirements one of the three kinds of lobbyists, then the lobbyist is required under the Ordinance to register and file quarterly disclosure reports with the City.

### **Required Information and Disclosures - Client Information and Quarterly Reports**

Client information must include the name, business address, telephone of each client, the nature of each client's business and a brief description of the legislative or administration action(s) that the lobbyist is seeking to influence on behalf of the client and the name of each person employed or retained by the lobbyist to lobby on behalf of each client.

Quarterly Reports must have the same information required to be disclosed in the initial lobbyist registration, for those activities in that quarter. Each Quarterly Report must indicate the total economic compensation promised or received from each client listed during the reporting period for lobbyist services in accordance with the following ranges: (\$500 - \$1,000), (\$1,001 - \$10,000), (\$10,001 - \$100,000), and (Over \$100,000).

### **Additional Required Information and Disclosures**

The initial lobbyist registration and each quarterly report must contain the following information:

- Campaign and officeholder contributions to an elected City official or candidate.
- Campaign and officeholder contributions made at the behest of an elected City office or candidate to any other elected public official or candidate for public office.
- All independent expenditures made for or on behalf of a City official or candidate for City office.
- Fundraising activity for any City official, candidate for elective City office or any controlled committee of the elected City official or candidate for City office or for any political action committee, political party or candidate for elective office of a governmental organization made at the behest of a City official.
- Donations to for profit or nonprofit organizations made at the behest of a City official or candidate for elective City office of any contribution or payment of more than \$1,000 in the aggregate.
- Payments received for services as a consultant or in any other capacity for services rendered to any City department or Redevelopment Agency, City official or City official-elect, their controlled committees or officeholder committees.

- Lobbying contacts made with City officials or City officials-elect. Contact information must include a brief description of the item(s) of legislative or administrative action the lobbyist is seeking to influence and the number of contacts in the following ranges: (1), (2-5), (6-10) or (11 or more).
- Activity expenses such as payments that directly benefits any City official, City official-elect or member of his or her immediate family or domestic partner.

### **Lobbyist Fundraising Activity At the Request of a City Official**

The Lobbying Ordinance currently requires that registered lobbyists disclose fundraising activity which has been requested by the City official (SJMC 12.12.420 D.). Disclosure of fundraising activity applies to activity for an elective City official, candidate for City office, any political action committee, political party or candidate for elective office of a governmental organization. The Ordinance does not require disclosure of both contribution amounts and the sources of contributions where lobbyists engage in such reportable fundraising activity.

It should be noted that specific disclosure of contributions are currently expressly required of lobbyists who contribute to City officials or candidates (SJMC 12.12.420 A.). Additionally, lobbyist's campaign and officeholder contributions made at the behest of an elected City official or candidate to any other elected public official or candidate for public office are also required to be disclosed (SJMC 12.12.420 B.).

The Task Force in reviewing drafts of the Lobbying Ordinance recommended that the reporting of fundraising activity by lobbyists be expanded to apply to a "political action committee, political party or candidate for elective office of a governmental organization" made at the behest of a City official. This recommendation was approved by the Council. The Task Force records do not appear to reflect specific discussion regarding the disclosure of contributions with regard to lobbyist fundraising activity requested by City officials in Section 12.12.420 D.

### **Amendment to the Lobbying Ordinance**

If the City Council decides to require the reporting and disclosure of contributions that are solicited or received by lobbyists at fundraising events that are requested by City officials, then the Lobbying Ordinance can be amended to provide for disclosure of the names of contributors, the amounts of the contributions raised, received or delivered, or where the lobbyist acted as an intermediary for one or more contributions at the fundraising event.

This reporting requirement is similar to the disclosure of fundraising activity provisions implemented in 2004 by the city of Los Angeles.

Richard Doyle, City Attorney

By:   
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Norm Sato  
Chief Deputy City Attorney

cc: Lee Price, City Clerk