



Memorandum

TO: Mayor and City Council

FROM: Councilmember Campos
Councilmember Williams
Councilmember Chirco

SUBJECT: Lobbyist Ordinance

DATE: August 10, 2004

Approved

Stan Campos
Forest Williams Judy Chirco

Date

8/10/2004

RECOMMENDATION

We recommend approval of the following modifications to the draft lobbyist ordinance.

BACKGROUND

The present lobbyist ordinance does not adequately provide for full disclosure of lobbyists activities at City Hall. This has led to allegations that lobbyists are running City Hall. Our colleagues on the Blue Ribbon Task Force took on the tremendous task of enhancing the City's current lobbyist ordinance to better provide for full disclosure of lobbyist activities at City Hall. Their efforts are to be commended.

And while we acknowledge those efforts, we have concerns that certain language contained in the ordinance may have unintended consequences for neighborhood and non-profit organizations as well as certain professions that are already highly regulated. We recommend that the following modifications to the ordinance language:

1. 12.12.190 C. Expenditure Lobbyist. The definition of an expenditure lobbyist as written could include activities of non-profit organizations and small grassroots organizations. Amend text to include, "The five thousand dollar threshold shall not include leaflets or brochures distributed by 501c3 non-profit or other grassroots organizations to San Jose residents and/or newsletters mailed to the membership of a 501c3 non-profit or grassroots organization."
2. 12.12.300 Exceptions. On occasion, non-profit organizations contact City officials to communicate about policies that serve the public interest rather than private interests. We believe that this type of activity should be encouraged as part of the democratic process.
Include the following text under Exceptions: "Communications by staff or officers of 501c3 non-profit organizations to members of the City Council for the purpose of advocating a general public policy goal as opposed to the interests of a specific firm or organization should be excepted from the definition of lobbying."

3. 12.12.420 Additional Required Information and Disclosures. We understand that this ordinance is before us to further create transparency about the actions taken by elected officials and certain other city officials in the course of conducting government for the benefit of residents of the City of San Jose. The issue before us is to implement methods to track relationships and potential influence and while we agree with that goal, we find that pulling philanthropic activities into the mix could be detrimental to the support of non-profit organizations. We believe that donations made to 501c3 non-profit organizations at the behest of a City official should be reported but the reporting information should only include the name of the City official requesting the donation, the donation amount and that the donation was made to a 501c3 non-profit organization. We do not believe that it is necessary to name the non-profit specifically.
4. We believe that we need to separate the professional activities of architects and engineers from those of registered lobbyists. The current practices for these professions in doing official architectural or engineering work with the City already require full disclosure. In working on land use projects the names of engineers and architects is publicly available, usually from the time of application but always on the plan set whenever they are "of record". As projects move through the development process, architects and engineers are part of the community outreach and are introduced as part of the project team and often work directly with the community to understand community needs and concerns. It has been our experience that although architects and engineers may be part of a development team that includes professional lobbyists, their efforts have been focused on design and development issues not project approvals. This exemption shall only apply to advocacy done in an official capacity as a professional "of record" with a project.
5. Regarding real-time reporting of lobbyist activities, a login procedure must be developed that requires a lobbyist to sign-in, or report, whenever they meet with a City official. It can be as simple as using a paper login sheet that denotes name, time in and time out, and purpose of meeting or it can be computerized for on-line access. Either method would provide for public review of the information.
6. 12.12.430 Quarterly Reports. Our concern regarding the reporting calendar is with staff capacity. The Clerk's office will be responsible for accepting and filing these reports and assuring that they are accessible to the public. The Clerk's office is also working on making a variety of other public information more accessible at this time and has lost a significant number of staff due to our budget constraints. It may be more reasonable during the first year of the ordinance to have lobbyists file twice annually. And #5 above if implemented, offers the most immediate record of lobbyist's activities.

CONCLUSION

We believe that these revisions maintain the intent of the ordinance to provide public information on the activities of lobbyists at the City of San Jose while addressing concerns that have surfaced during the development of the ordinance.