

**CITY OF OAKLAND**  
**AGENDA REPORT**

2007 MAY 17 2 51 3: 27

**To:** Office of the City Administrator  
**Attn:** Deborah A. Edgerly  
**From:** Executive Director, Public Ethics Commission  
**Date:** May 17, 2007

**Re: An Ordinance Amending Chapter 3.20 of the Oakland Municipal Code (aka "The Lobbyist Registration Act") to Require Quarterly Disclosure of a Lobbyist's Campaign Fundraising Activities**

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**SUMMARY**

The Oakland City Council adopted the current Lobbyist Registration Act in June, 2002. The Act requires all professional lobbyists meeting certain criteria to disclose the names of their clients and to provide specific information about their lobbying activities. There are approximately 34 lobbyists currently registered in the City of Oakland.

In January, 2007, the City Council adopted a series of amendments to the Act. It also requested the Public Ethics Commission to return with additional language addressing the issue of public disclosure of a lobbyist's fundraising activities.

The proposed amendment would require professional lobbyists to disclose quarterly the names of those persons whom they solicit to make campaign contributions to Oakland candidates, and the name(s) of the local candidate(s) for whose benefit the solicitation was made. The proposed amendment also contains reporting exceptions for certain types of solicitations and permits lobbyists to disclose only the name of a registered organization client, rather than the names of its individual members or employees, if the lobbyist solicits all such members or employees of the organization or more than fifty (50) such members or employees. **See proposed Section 3.20.110(F).**

An additional, technical amendment is also proposed to correct an existing redundant reference in the current definition of "local governmental lobbyist." **See proposed Section 3.20.030(D).**

A "redline" version of all proposed amendments is attached as **Exhibit 1**.

**FISCAL IMPACT**

Public Ethics Commission ("Commission") staff administers the Lobbyist Registration Act. The proposed amendment would generally increase the amount of information that lobbyists are

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required to disclose on their quarterly activity reports. This information is currently posted to the Commission's website. Commission staff does not anticipate that this amendment will create any significant fiscal or administrative impacts. The proposed amendment imposes no reporting obligations on City officials or staff.

## **BACKGROUND**

Under current law, lobbyists are required to register with the Office of the City Clerk before they attempt to lobby local officials, City board and commission members, and employees. Thirty days after the end of every calendar quarter, registered lobbyists are required to disclose certain information about their lobbying activities, including a description of who they lobbied, what they lobbied about, and a brief description of their client's position. The Act currently prohibits certain activities, such as unregistered lobbying and making false and/or deceptive representations. The Oakland Public Ethics Commission is authorized to administer and enforce the Lobbyist Registration Act.

## **KEY ISSUES AND RATIONALE**

### **A. Proposed Amendment Requiring Quarterly Disclosure Of A Lobbyist's Campaign Fundraising Activities [See proposed §3.20.110(F)]**

Under existing state law, all candidates and officeholders must report the name, address, occupation and employer of any individual who contributes \$100 or more to their campaigns. If a lobbyist is the source of the contribution, the candidate or officeholder is required to identify the lobbyist as the source of the contribution. However, if a lobbyist recommends or advises that **some other person** make the contribution, then the candidate or officeholder would likely list the other person, and not the lobbyist, as the source of the contribution. Thus the role a lobbyist plays in arranging campaign contributions is not always fully disclosed.

The Commission's proposal to add Section 3.20.110(F) would require lobbyists to disclose on their quarterly activity reports the names of all persons whom the lobbyist solicited to make campaign contributions and the names of all local candidates for whose benefit the solicitation was made. This requirement would apply only to contributions made to local candidates or officeholders. Lobbyists would not have to disclose contributions that they solicited in a mass mailing to members of the public, in response to a request for a recommendation, at a public gathering, or in an advertisement published in a newspaper or other mass media. In lieu of listing the names of individual members or employees of an organization that is a registered client of the lobbyist, a lobbyist may choose to list the name of the registered client organization if the lobbyist solicits more than fifty (50) of its members or employees, or if the lobbyist solicits all the members or employees of a registered client organization.

The Commission noted that most of the major jurisdictions regulating lobbyist activity require disclosure of a lobbyist's campaign fundraising activity. The Commission reasoned that a lobbyist's influence can be enhanced by his or her ability to raise campaign contributions for

candidates and officeholders. The Commission contends that the extent to which a registered lobbyist arranges campaign contributions for candidates and officeholders should be a matter of public record.

**B. Proposed Technical Amendment Correcting An Existing Redundant Reference In The Definition Of "Local Governmental Lobbyist." [See proposed Section 3.20.030(D).]**

Existing Section 3.20.030(D) defines a "local governmental lobbyist" as a person paid or employed to influence "any proposed or pending governmental, legislative or administrative action of the city or redevelopment agency."

Existing Section 3.20.030(E) defines "governmental action" as "any administrative or legislative action of the city and the redevelopment agency other than which is ministerial in nature."

Since Section 3.20.030(E) defines a "governmental action" as either a legislative or administrative act, there is no need for these two terms to appear redundantly in the definition of "local governmental lobbyist" contained in Section 3.20.030(D). Commission and City Attorney staff propose simply to strike the words "legislative or administrative" from the definition of local governmental lobbyist and allow existing Section 3.20.030(E) to define what constitutes a "governmental action".

**SUSTAINABLE OPPORTUNITIES**

None of the actions taken in this report will result in sustainable opportunities.

**DISABILITY AND SENIOR CITIZEN ACCESS**

There are no disability or senior citizen access issues contained in this report.

**RECOMMENDATION AND ACTION REQUESTED**

The Oakland Public Ethics Commission recommends that the City Council adopt proposed Section 3.20.110(F) to the Lobbyist Registration Act.

Respectfully submitted,



Daniel D. Purnell  
Executive Director  
Public Ethics Commission

FORWARDED TO THE RULES AND LEGISLATION COMMITTEE

  
\_\_\_\_\_  
OFFICE OF THE CITY ADMINISTRATOR

Item: \_\_\_\_\_  
Rules And Legislation Committee  
May 17, 2007

OFFICE OF THE CITY CLERK

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

2007 MAY -2 PM 3:28

APPROVED AS TO FORM AND LEGALITY

*J. Bowden*  
CITY ATTORNEY

**ORDINANCE No. \_\_\_\_\_ C.M.S.**

**AN ORDINANCE AMENDING CHAPTER 3.20 OF THE OAKLAND MUNICIPAL CODE TO REQUIRE THAT LOCAL GOVERNMENTAL LOBBYISTS PUBLICLY DISCLOSE THEIR CAMPAIGN FUNDRAISING ACTIVITIES**

**WHEREAS**, registered local governmental lobbyists are known to solicit campaign contributions in support of candidates for elected city office; and

**WHEREAS**, public disclosure of the identity of interests which attempt to influence decisions of city government, as well as the means employed by those interests, is essential to the maintenance of citizen confidence in the integrity of local government; and

**WHEREAS**, the current Lobbyist Registration Act contains no provision requiring disclosure of the campaign fundraising activities by local governmental lobbyists;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed.

SECTION 3. Section 3.20.110 of the Municipal Code is hereby amended in its entirety to read as follows:

**3.20.110 QUARTERLY DISCLOSURE**

For each calendar quarter in which a local governmental lobbyist was required to be registered, he or she shall file a quarterly report with the City Clerk. The reports shall be due no later than 30 days after the end of the calendar quarter. The report shall contain the following information:

- A. The item(s) of governmental action and the name and address of the client(s) on whose behalf the local governmental lobbyist sought to influence.
- B. For each item of governmental action sought to be influenced, 1) the name of each city officer with whom the lobbyist communicated, 2) the name and title of any city boardmember or commissioner with whom the lobbyist communicated, and 3) the identity of any city employee with whom the lobbyist communicated identified only by the office or department in which the employee works and his or her job title.
- C. A brief narrative description (no longer than three sentences) of the position advocated by the local governmental lobbyist on behalf of the identified client.
- D. If any lobbyist, or a registered client at the behest of a lobbyist, employs or hires an elected city officeholder, candidate for elected office, a designated employee, or a member of the immediate family of one of these individuals, the lobbyist shall disclose 1) the name of the person employed or hired, 2) a description of the services actually performed, and 3) the total payments made during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; greater than \$1,000 but less than \$10,000; greater than \$10,000.
- E. If any elected city officeholder or candidate for elected city office employs or hires a lobbyist to provide compensated services to the officeholder or candidate, the lobbyist shall disclose 1) the name of the person who employed or hired the lobbyist, 2) a description of the services actually performed, and 3) the total payments made during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; greater than \$1,000 but less than \$10,000; greater than \$10,000.
- F. If a lobbyist solicits any person to make a contribution to an elected city officeholder, candidate for city office or to any committee or fund controlled by such officeholder or candidate, the lobbyist shall disclose the names of the persons whom the lobbyist solicited, and the officeholder or candidate for whose benefit each solicitation was made. A solicitation does not include a request for a contribution made (1) in a mass mailing sent to members of the public, (2) in response to a specific request for a recommendation, (3) to a gathering which members of the public may attend, or (4) in a newspaper, on radio or television, or in any other mass media. A lobbyist does not "solicit" solely because his or her name is printed with other names on stationary or a letterhead used to request contributions. If a lobbyist makes a solicitation to more than fifty (50) individual members or employees of a corporation, union or other association that is a registered client of the lobbyist, or if the lobbyist makes a solicitation to all members or employees of a corporation, union or association that is a registered client of the lobbyist, the lobbyist may choose to disclose the name of

the registered client instead of the names of the persons whom the lobbyist actually solicited.

SECTION 4. Section 3.20.030(D) of the Municipal Code is hereby amended in its entirety to read as follows:

### **3.20.030 Definitions**

For the purposes of this ordinance, the following definitions shall be applicable:

- A.** "Client" means the real party in interest for whose benefit the services of a local governmental lobbyist are actually performed. An individual member of an organization shall not be deemed to be a "client" solely by reason of the fact that such member is individually represented by an employee or agent of the organization as a regular part of such employee's or agent's duties with the organization as long as such member does not pay an amount of money or other consideration in addition to the usual membership fees for such representation.
- B.** "Contractor" means any party to an agreement in which the value of the consideration exceeds one thousand dollars, and, (1) The city is a party, or (2) the redevelopment agency is a party, or (3) the agreement or its effectiveness is in any way dependent or conditioned upon approval by the city council or redevelopment agency board or any board or commission, officer or employee of the city or the agency.
- C.** "Designated employees" mean city and redevelopment agency employees who are designated employees within the meaning of the Political Reform Act of 1974, as amended, and who are required by the Political Reform Act or a city or redevelopment agency conflict of interest code to file financial interest disclosure statements.
- D.** "Local governmental lobbyist" means any individual who: 1) receives or is entitled to receive one thousand dollars (\$1,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or 2) whose duties as a salaried employee, officer or director of any corporation, organization or association include communication directly or through agents with any public official, officer or designated employee, for the purpose of influencing any proposed or pending governmental, ~~legislative or administrative~~ action of the city or the redevelopment agency. No person is a local governmental lobbyist by reason of activities described in Section 3.20.030(A). In case of any ambiguity, the definition of "local governmental lobbyist" shall be interpreted broadly.
- E.** "Governmental action" means any administrative or legislative action of the city and the redevelopment agency other than an action which is ministerial in nature.

- F. "Payment" means a payment, distribution transfer, loan advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.
- G. "Person doing business with the city" means any person whose financial interests are materially affected by governmental action as defined by Section 3.20.030(E). It includes persons currently doing business with the city or the redevelopment agency, planning to do business with the city or agency, or having done business with the city or agency within two years. For purposes of this Act a person's financial interests shall not be found to be materially affected by the issuance of any license or permit which does not require the exercise of discretion by city or agency officers or employees.
- H. "Public official" means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies, the State of California, any political subdivision of the state, including cities, counties, districts, or any public corporation, agency or commission.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2007

**PASSED BY THE FOLLOWING VOTE:**

AYES-                    BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN,  
                              REID, AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk And Clerk Of The  
Council Of The City Of  
Oakland, California



**AN ORDINANCE AMENDING CHAPTER 3.20 OF THE OAKLAND MUNICIPAL CODE ENTITLED "CITY OF OAKLAND LOBBYIST REGISTRATION ACT" REQUIRING PROFESSIONAL LOBBYISTS TO DISCLOSE QUARTERLY SPECIFIC INFORMATION REGARDING CAMPAIGN FUNDRAISING**

**NOTICE AND DIGEST**

The proposed amendments would require registered lobbyists to disclose quarterly the names of those persons whom they solicit to make campaign contributions to local candidates, and the names of the local candidates for whose benefit the solicitation was made. *The amendments would also make a technical, non-substantive change in the definition of who constitutes a "local governmental lobbyist."*