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To: President Reid and Members of the Rules Committee
From: Councilmember Brunner
Date: March 3, 2011
RE: Amendments to the Lobbyist Registration Ordinance

Several people have complained about the current lobbyist registration ordinance and about the proposal offered by the Public Ethics Commission.

Many believe that the current definition for a lobbyist is much too broad. It defines a "lobbyist" in such a way that every salaried employee of every business and non-profit entity is a lobbyist if they talk or write to City of Oakland legislators or designated employees concerning any proposed or pending governmental actions.

I believe that the new proposed definition is still broad. The major change it makes is to say you must register as a lobbyist if you're employed by an organization and talk to city government officials about two items in six months.

This may be a problem for leaders of various community groups who may interact and have short conversations with different Oakland City officials numerous times in a six-month period. For example, if you are an employee of a non-profit community organization, and you talk to a City Council person about a neighborhood item one month, and then have one more conversation four months later with another public official about another item, you would then have to register, pay the annual fee and report all communications quarterly.

RECOMMENDATION:

The State has a long history of regulating this issue. I recommend using the definition from the California Political Reform Act that regulates lobbying activities. If a person or firm is hired by someone other than their employer specifically to lobby and is paid more than \$2000 in a month for that lobbying, they must register as a lobbyist, and if a person lobbies on behalf of their employer, they must register if they spend more than one-third of their work time lobbying.

Again, professional lobbyists must register if they get more than \$2000 a month specifically to lobby and employees must register if they lobby more than one third of their work time.

This means that governmental affairs directors of large corporations, who spend most of their time lobbying, must register. But salaried employees of corporations and non-profits, etc., who spend less than one-third of their work time lobbying do not have to register.

This standard is widely understood, recognized, and applied in California State politics, seems to have been long accepted, and is easily understood and applied. It has the advantage of putting Oakland in line with the State in having a clearly recognizable, understood, and historical standard in place.

Furthermore, it would leave those active citizens who take an interest in government but are not lobbyists the opportunity to talk to their leaders without the onerous burden of registration and reporting.

The following is the definition of a lobbyist from the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.

§ 18239. Definition of Lobbyist.

“(b) A lobbyist is an individual who receives or becomes entitled to receive \$2,000 or more in compensation in any calendar month for engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.

“(c) A lobbyist is an individual who spends one-third or more of the time, in any calendar month, for which he or she receives compensation from his or her employer, engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.”

I recommend that the above-language be incorporated into Section 3.20.030 of Oakland's ordinance instead of the Public Ethics Commission's proposed definition. The language I am proposing is underlined below.

3.20.030 Definitions

D. "Local governmental lobbyist" means any individual:

(1) who receives or becomes entitled to receive \$2,000 or more in compensation in any calendar month for engaging in direct communication, other than administrative testimony, with a public officer or designated employee for the purpose of influencing legislative or administrative action on behalf of any person other than his or her employer, or

(2) who spends one-third or more of the time, in any calendar month, for which he or she receives compensation from his or her employer, engaging in direct communication, other than administrative testimony, with a public officer or designated employee for the purpose of influencing legislative or administrative action only on behalf of his or her employer.