

**CITY OF SAN DIEGO  
ETHICS COMMISSION**

**Office of the Executive Director**

**MEMORANDUM**

**DATE:** June 25, 2009

**TO:** Chair and Members of the San Diego Ethics Commission

**FROM:** Stacey Fulhorst, Executive Director

**SUBJECT:** Effects of New Lobbying Laws in 2008  
Docketed for Ethics Commission meeting on July 9, 2009

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The Ethics Commission proposed an overhaul of the City's Lobbying Ordinance in 2007 in order to provide greater transparency to the public with regard to lobbyists' efforts to influence municipal decisions. The proposed amendments were approved by the City Council and went into effect on January 1, 2008. Because the new lobbying laws have been in place for a full calendar year, Commission staff has had an opportunity to review all of the registration forms and disclosure reports filed with the City Clerk's Office for 2008, and has compiled the summary below regarding the effects of the new laws.

Registration

During the 2008 calendar year, firms and organizations registered a total of 524 individual lobbyists with the City Clerk, as compared to 165 registered lobbyists in 2007. In addition, during 2008, a total of 77 lobbying firms and 50 lobbying organizations registered.

One of the deficiencies with the former registration threshold (based on quarterly earnings) was that in-house lobbyists were frequently able to avoid registration because their hourly rates were often lower than the hourly rates charged by lobbying firms. Under the new laws, in-house lobbyists are now subject to a completely different registration threshold (10 compensated contacts within 60 calendar days) applicable to the organization for which they work.

One of the indications that the new laws are working as intended is the dramatic increase in the number of organizations that have met the new threshold and have registered with the City Clerk. Specifically, 29 of the 50 organizations registered in 2008 are new registrants that were not registered in 2007. They include companies in the business of development, waste management, and environmental protection, as well as a variety of entities attempting to secure City funding for various endeavors, typically through the award of Community Development Block Grants.

### Disclosure of Lobbying Activities

Arguably the most important aspect of the new laws governing quarterly disclosure reports is the requirement that lobbying firms and organizations identify the name and department of the City Officials they contacted in an effort to influence a municipal decision. Staff's review of the quarterly disclosure reports filed during 2008 indicates that firms and organizations are complying with this new requirement. Because the City's laws do not require the itemization of each and every contact made during the reporting period, a lobbying firm is only required to disclose the name of a City Official one time on the firm's disclosure report even if the firm's representatives contacted the City Official multiple times during a calendar quarter. As a result, this new requirement has not resulted in voluminous filings by firms and organizations (one of the concerns expressed by Commissioners during the 2007 deliberations). Instead, it appears that the information the public is receiving regarding the efforts to influence municipal decisions is both relevant and succinct.

In addition, the new laws require lobbying firms to disclose the total compensation received from their clients, and require organization lobbyists to disclose the total number of lobbying contacts their employees and officers had with City Officials. During 2008, lobbying firms reported receiving a total of \$7,146,601 from their clients, and organization lobbyists reported making a total of 3,539 lobbying contacts with high-level City Officials. A breakdown by calendar quarter is as follows:

<u>Calendar Quarter</u>	<u>Amount Earned by Firms</u>	<u>Contacts by Organizations</u>
January – March	\$1,740,255	994
April – June	\$2,074,996	709
July – September	\$1,893,300	891
October – December	\$1,438,050	945

During the course of reviewing the 2008 quarterly disclosure reports, Commission staff found that many firms and organizations were identifying municipal decisions in a generic and vague manner (e.g. "land use issue," "property acquisition," "site development," etc.). At the direction of the Commission, staff asked these lobbying firms and organization lobbyists to amend their quarterly reports to describe with specificity the municipal decisions they were attempting to influence, as is required by the Municipal Code. Following staff's requests, all the firms and organizations contacted filed amended disclosure reports to add more descriptive information regarding these municipal decisions. In most cases, the addition of a street address or project name was sufficient to comply with the required level of specificity.

### Disclosure of Campaign-Related Activities

As the Commission noted while deliberating proposed amendments to the City's lobbying laws, campaign contributions and campaign fundraising are important means by which individuals and entities may demonstrate their financial support for a candidate and/or officeholder. There can be an appearance of undue influence or special access when someone attempts to influence a City Official regarding a municipal decision after providing that official with campaign

contributions or fundraising assistance. In order to shed light on the financial relationships that may exist between lobbying entities and City Officials, the Commission proposed, and the City Council approved, a requirement that lobbying firms and organization lobbyists disclose contributions and fundraising efforts by their owners, officers, and lobbyists.

Staff's review of the quarterly disclosure reports filed during the 2008 calendar year reveals that lobbyist-related campaign contributions to City candidates and officeholders totaled \$147,580. The quarterly reports also reveal that lobbyist-related fundraising activities resulted in a total of \$318,219 being raised for City candidates and officeholders. A breakdown of lobbyist campaign activity by quarter is as follows:

<u>Calendar Quarter</u>	<u>Campaign Contributions</u>	<u>Fundraising Activities</u>
January – March	\$26,545	\$120,194
April – June	\$33,115	\$ 66,205
July – September	\$43,055	\$ 62,433
October – December	\$44,865	\$ 69,387

Note that the definition of “fundraising” is limited to funds personally delivered to a City candidate and contributions for which the lobbyist “has identified himself or herself to a candidate or candidate’s controlled committee as having some degree of responsibility for raising.”

#### Gifts

Although the new laws include a \$10 limit on gifts from lobbyists to City Officials in a calendar month, the quarterly disclosure reports filed with the City Clerk indicate that quite a few lobbying firms and organization lobbyists were unaware of the new limit and therefore continued to give gifts to City Officials with a value of more than \$10. In accordance with the Commission’s direction to provide education in lieu of enforcement, staff has written to each of these firms and organizations to ensure that they are aware of the \$10 limit on a going-forward basis.

#### Education and Outreach

In order to notify lobbying firms and organizations of the new laws, staff undertook a series of education and outreach efforts in late 2007 and early 2008, including: ten live training sessions, seven fact sheets, a Lobbying Manual, a “frequently asked questions” section on the Commission’s website, and detailed instructions on registration and disclosure forms. In addition, staff responded to approximately 300 requests for informal assistance regarding the City’s lobbying laws. Such efforts appear to have been successful in that lobbying firms tended to register early in the year, indicating that they were aware of the new \$1 registration threshold. Moreover, many organizations throughout the County appear to have understood the new contacts-based threshold, as reflected in the fact that they timely registered after making 10 lobbying contacts within 60 calendar days, as well as the fact that approximately 60% of the organizations registered in 2008 were not registered in 2007.

In summary, the City's new lobbying laws appear to be working as intended. Many more lobbyists have registered with the City Clerk and significantly more information concerning lobbying related activities is being provided to the public. This additional information provides greater transparency, which in turn should reinforce public trust in the integrity of the City's decision-making process.

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Stacey Fulhorst  
Executive Director