CITY OF SAN DIEGO
ETHICS COMMISSION

Office of the Executive Director

M E M O R A N D U M

DATE: May 11, 2007

TO: Council President and Members of the City Council

FROM: Dorothy Leonard, Chair, San Diego Ethics Commission
Stacey Fulhorst, Executive Director, San Diego Ethics Commission

SUBJECT: Proposed Amendments to the Municipal Lobbying Ordinance
(San Diego Municipal Code sections 27.4001, et seq.)

Introduction

One of the responsibilities of the Ethics Commission, as set forth in SDMC section 26.0414(g), is to "undertake a review of the City's existing governmental ethics laws, and to propose updates to those laws to the City Council for its approval." As you will recall, the Commission completed an extensive review and overhaul of the City's campaign laws in 2004 and 2005. As soon as this process was completed, the Commission began working on proposed amendments to the City's Lobbying Ordinance. Beginning in November of 2005, the Commission held a series of eighteen public workshops on specific aspects of the City's Lobbying Ordinance. The Commission received input from members of the public as well as members of the regulated community. In addition, the Commission considered the results of staff research which included a review of lobbying regulations in place in other jurisdictions, particularly those in California, as well as legal research on the constitutional principles involved in developing lobbying regulations.

As a result of this comprehensive and deliberative process, the Commission has compiled a package of proposed amendments. As discussed in detail below, each one of the Commission's proposals has been tailored to address an actual problem with the existing laws or to address real or perceived corruption in the lobbying process.

The Commission initially presented its proposed changes to the City Council Committee on Rules, Open Government and Intergovernmental Relations on October 25, 2006. The Commission returned to the Rules Committee with several amended recommendations on March 7, 2007, at which time the Committee members unanimously decided to forward the package of proposed amendments to the full City Council. Note that several members of the Committee asked the Commission and/or the City Attorney to provide responses to several questions in the interim between the Rules Committee meeting and the time this matter is docketed for consideration by the full City Council. These questions and the majority of the Commission's responses are set forth in the attached memorandum

dated April 16, 2007 (Attachment A). Two additional responses (both concerning the definition of "City Official") are discussed below.

Proposed Amendments

A summary of the proposed changes forwarded by the Rules Committee for your consideration is as follows:

A. Definition of Lobbyist and Threshold Determination (SDMC §§ 27.4002 & 27.4005):

Proposed changes: Currently, lobbyists are required to register with the City and disclose their activities if they earn a total of $2,730 for lobbying and related activities in a calendar quarter. The Commission recommends changing this threshold to $1 for contract lobbyists. In other words, the Commission believes that any person who contracts with others to influence a municipal decision should register as a lobbyist when the person receives or becomes entitled to receive any type of compensation for lobbying activities. The Commission further recommends that the $1 threshold be based on any economic consideration for services rendered, including consideration that is contingent upon the accomplishment of a particular goal (whether or not the goal is accomplished).

With respect to organization lobbyists (companies that employ lobbyists in-house), the Commission believes that the registration threshold should be changed to ten lobbying contacts within sixty calendar days. The regulation of in-house lobbyists is the most difficult issue the Commission grappled with during the past eighteen months. On one hand, the public clearly has an interest in the disclosure of lobbying efforts by employees of companies when these employees attempt to influence municipal decisions that could have a substantial effect on the revenue of their employers. On the other hand, the Commission does not want to propose a law that would effectively require average citizens to register as lobbyists for simply exercising their right to petition their elected representatives on an issue that may affect their employers. The Commission's proposal seeks to resolve this balancing act by regulating only those employees who exhibit a substantial level of advocacy for their employer.

The Commission considered a variety of options for regulating in-house lobbyists, including thresholds based on compensation earned for lobbying, total hours spent lobbying, and percentage of time spent lobbying. Although no registration threshold methodology is perfect, the Commission determined that a threshold based on a number of contacts is the most preferable, particularly when compared to the other options. Because employees of organization lobbyists typically do not keep track of the time they spend on lobbying activities, it is very difficult to enforce a law that is based on the amount of time they spend or the amount of compensation they earn for those activities. In addition, the contacts threshold is more equitable than other options because it does not make distinctions based on level of income. For example, the City's current threshold, which is based on compensation earned for lobbying activities, requires an employee who earns $200,000 per year to register as a lobbyist much sooner than an employee who earns $50,000 per year, even if they both engaged in the same amount of lobbying activities. Because earnings do not necessarily equate to influence, the Commission concluded that a threshold based on actual lobbying contacts is the preferable means of identifying a substantial level of advocacy. Moreover, a contacts threshold is one that is easily verifiable from an enforcement perspective; it is much simpler for Commission staff

to determine the number of contacts a particular individual has had with City Officials than it is to calculate amount of time spent or dollars earned.

The Commission is recommending "ten contacts" within "sixty days" after considering a variety of factors. Although the Commission recognized that there are eight elected officials who can be lobbied on any municipal decision, it ultimately decided to recommend a threshold of ten contacts in order to ensure that the law is not inadvertently applied to constituents who contact council offices on several occasions over a two month period. The proposed sixty day period is intended to cover the general timeframe before a municipal decision when most lobbying takes place.

It is important to note that the members of the public and regulated community who communicated with the Commission on the threshold issue overwhelmingly indicated their support for the proposed $1 threshold for contract lobbyists, and the proposed contact-based threshold for organization lobbyists. In other words, the Commission heard no objections to the proposed registration thresholds, with the exception of several lobbyists who recommended that the Commission go further in its definition of lobbyist by including people who are not compensated for their lobbying activities. The Commission considered this option, but ultimately concluded that the regulation of uncompensated advocacy would have the unintended effect of also regulating constituents who are simply seeking to communicate with their elected officials. It is the Commission's view that regulating uncompensated lobbying activities would inevitably result in a complicated and overly broad ordinance, as well as a highly confused regulated community. Moreover, as evidenced in the attached comparison chart reflecting lobbying laws in place in other jurisdictions, it is highly unusual for government agencies to regulate unpaid individuals as "lobbyists."

In addition to the foregoing, the proposed changes include a new category of lobbyist referred to as an "expenditure lobbyist." This is an entity or individual that attempts to indirectly influence one or more municipal decisions by spending money on public relations, media relations, advertising, public outreach, etc. The Commission concluded that it is important for these activities to be disclosed to the public if the related costs meet or exceed $5,000 within a calendar quarter. The proposed $5,000 threshold is intended to avoid regulating the true grass-roots efforts of those who participate in the legislative process.

Rationale for proposed changes: There are a variety of public policy and enforcement problems with the current registration threshold, including the following:

- Persons who are currently engaging in lobbying activities are not registering as lobbyists because they do not meet the registration threshold. In other words, the current system is not working as intended. For example, an individual who earns $100,000 per year would not meet the current registration threshold of $2,730 in a calendar quarter, even if he or she met with representatives from each of the 8 Council offices once a week for each of the 12 weeks in a calendar quarter (8 meetings per week @ 0.5 hours per meeting = 4 hours per week; 4 hours x 12 weeks = 48 hours; 48 hours x $50/hour = $2,400). This means that a substantial amount of lobbying efforts are not being disclosed to the public.

- The current system inappropriately equates earnings with influence; a lobbyist with a high hourly rate reaches the threshold sooner than a lobbyist with a low hourly rate, even if they

both engage in the same amount and type of lobbying activities. This system is contrary to good public policy because it enables lower-paid lobbyists to avoid registration and disclosure while effectively lobbying on behalf of clients. In addition, because the current threshold is based on compensation actually earned, it exempts lobbyists whose compensation is based on a contingency agreement and whose efforts are unsuccessful.

- The Commission has had difficulty enforcing the current registration threshold for in-house lobbyists primarily because they generally do not keep track of the time they spend on lobbying activities. It is difficult, therefore, for the Commission to ascertain the precise amount of time a person spends on lobbying activities and to determine whether or not that person meets the registration threshold. As a result, an investigation can boil down to a dispute concerning the amount of time that an individual actually spent preparing a letter or waiting to meet with a City Official. In addition, employees of companies are generally reluctant to provide information regarding their salaries, benefits, stock options, bonuses, etc. This creates yet another obstacle in the enforcement process.

- The fact that the current threshold is based on a calendar quarter means that a lobbyist who earned just over the threshold level of compensation from March through May would not have to register as a lobbyist because the compensation was spread out over two calendar quarters. This results in a regulatory system that is both arbitrary and illogical.

- The current system does not capture "expenditure lobbying." The Commission learned through several enforcement actions that special interests in San Diego have spent substantial sums of money on public relations, media, outreach, etc., to generate support for a particular issue. In most of these instances, the sources of the expenditures were never disclosed, and both the public and the City Officials involved in the municipal decisions failed to receive important information that would have been relevant to their assessment of the issues.

After extensive discussion and consideration, the Commission concluded that the proposed changes to the registration threshold would remedy above-referenced problems and create the desired transparency in the lobbying process.

B. Information Provided on Registration Form (SDMC §§ 27.4007, 27.4009, 27.4012):

Proposed changes: The current Lobbying Ordinance requires individual lobbyists to register and disclose their activities. The Commission recommends changing this system to require lobbying firms or organization lobbyists to register and disclose the activities of their lobbyist employees. In addition, in the event that information on a registration form changes (e.g., a lobbyist obtains a new client), the lobbyist is currently required to provide the new information at the time he or she files the next quarterly disclosure report. The changes proposed by the Commission would require lobbyists to amend their registration forms within ten calendar days.

On the form itself, the Commission recommends that the following additional information be disclosed:

(1) the identity of all clients, including members of a coalition or membership organization who pay $1,000 or more for a lobbyist's services;

(2) the outcome sought with respect to the particular municipal decisions the lobbyists intend to influence;

(3) the number of lobbying contacts with City Officials within the past sixty days (organization lobbyists only);

(4) the identity of any owners, officers, or lobbyists at the firm or organization who have engaged in campaign fundraising activities (which are defined as those that resulted in $1,000 or more raised for a candidate) for any current elected official within the past two years, together with the name of the elected official who benefited from the fundraising effort;

(5) the identity of any owners, officers, or lobbyists at the firm or organization who provided compensated campaign-related services to a current elected official within the past two years, together with the name of the elected official who received the services;

(6) the identity of any owners, officers, or lobbyists at the firm or organization who provided compensated services under a contract with the City within the past two years, together with the name of the City department, agency, or board for which the services were provided; and

With respect to the disclosure of fundraising activities, campaign-related services, and City contracts, it should be noted that the proposals include a "grandfather" provision that exempts the disclosure of such activities if they occurred prior to January 1, 2007. In addition, it should be noted that the disclosures are extremely limited and do not require the disclosure of specific dates or dollar amounts. Finally, uncompensated officers (e.g. volunteer board members) of organization lobbyists are excluded from these disclosure requirements.

Rationale for proposed changes: Registration by lobbying firms and organization lobbyists (in lieu of registration by individual lobbyists) is intended to ensure that all lobbying activities by the firm or organization are disclosed to the public. For example, under the proposed registration threshold for organization lobbyists, the lobbying activities of all employees of a particular company count toward the proposed 10-contact threshold. This eliminates the potential for a company to avoid registering and disclosing its lobbying activities by simply spreading the work out amongst multiple employees. Similarly, as discussed in greater detail below, it is important for the public to receive information concerning the campaign fundraising activities of all owners, officers, and lobbyists of a particular company. In other words, if the members of a lobbying firm or organization lobbyist have raised substantial sums of money for a particular candidate, but the individuals primarily responsible for the fundraising efforts are not personally engaging in lobbying activities, then the public would not receive relevant information regarding fundraising efforts if only individual lobbyists were required to register and disclose their activities.

The shortened time period for amending the form is designed to ensure that the public receives information in a timely manner regarding lobbying efforts to influence municipal decisions. It simply does not serve the stated purpose and intent of the lobbying laws to delay informing the public of the identity of the person paying to influence a particular decision until months after the decision is made.

With respect to the proposed requirements for additional information on the registration form, the rationale for each proposal is as follows:

(1) Including within the definition of "client" those members of coalitions or organizations who pay $1,000 or more for a lobbyist's services will ensure that all relevant information regarding the financing of lobbying activities is disclosed to the public on the lobbyist registration forms. This change was made as a result of information obtained by the Commission during the course of recent enforcement activities. The Commission saw evidence of a trend in "grassroots" lobbying wherein a lobbyist retained and financed by an unpopular or unsympathetic client will recruit members of the public to join the cause, and then hide the identity of the original client by disclosing that the firm's client is a "coalition" of "concerned citizens."

(2) Information regarding the outcome sought by lobbyists is clearly relevant in terms of fully informing the public regarding lobbying efforts.

(3) Information regarding the number of lobbying contacts within the previous sixty days is intended to correspond to the proposed contacts-based threshold, while also informing the public of the organization's pre-registration level of advocacy.

(4) Disclosures regarding previous campaign fundraising efforts over the past two years are intended to provide the public with information regarding the access that lobbyists may have "earned" by fundraising for officials whose vote they now seek to influence. As discussed below, the Commission feels strongly that campaign fundraising efforts must be disclosed on lobbyists' quarterly disclosure reports. It follows, therefore, that information regarding fundraising efforts that occurred before registration is also relevant and should be disclosed to the public. Because the Commission recognizes that it may be difficult to retrieve specific information regarding fundraising efforts that took place years earlier, the Commission's proposal would require lobbyists to merely list the names of those who raised $1,000 or more for a current elected official within the past two years.

(5) Information regarding the provision of campaign-related services over the past two years is intended to provide the public with information regarding a special relationship that might exist as a result of a lobbyist's efforts to help a City Official win an elective office.

(6) Although several lobbyists advised the Commission that a special relationship between an officeholder and his or her campaign consultant are unlikely, several Councilmembers disagreed with this assertion at the October 25, 2006, Rules Committee meeting. The Commission staff subsequently conducted additional research and heard from various Council staffers that elected officials generally have a very good relationship with the

campaign consultants who helped them gain elective office. By way of example, one Council staffer reported that Larry Remer had such a close relationship with former Councilmember Ralph Inzunza after he served as Councilmember Inzunza's campaign consultant that the Councilmember used a list of concerns prepared by Remer and printed on the letterhead of Remer's company (The Primacy Group) when the City Council was considering the creation of the Ethics Commission and the adoption of the Ethics Ordinance. Council staffers pointed out that it is typically only losing candidates who have complaints regarding the services provided by their consultants.

(7) Disclosures regarding work performed by lobbyists pursuant to a City contract are intended to provide the public with information regarding a close working relationship that might exist between a particular City Official and a lobbyist. In the Commission's experience, the City sometimes retains lobbying firms, including some lobbying firms that are registered with the City to influence local municipal decisions, to assist with the City's lobbying efforts at the state and federal level. In addition, many lobbyists are former City employees. Scenarios such as these support the notion that lobbyists should disclose their current or prior status as City employees or City consultants.

C. Information Provided on Quarterly Disclosure Reports (SDMC §§ 27.4017, 27.4018):

Proposed changes: In order to ensure transparency in the lobbying process and to avoid the appearance of corruption and/or undue influence, the Commission recommends that lobbyists disclose the following additional information on their quarterly disclosure reports:

(1) The names and departments of individual high-level City Officials contacted by lobbyists during the reporting period.

(2) The total compensation received by lobbying firms from each client (rounded to the nearest $1,000), and the total number of contacts by employees of organization lobbyists, during the reporting period.

(3) Information regarding the outcome sought for each municipal decision influenced.

(4) Information regarding campaign contributions of $100 or more made during the reporting period to candidate committees, including candidate-controlled ballot measure committees.

(5) Information regarding campaign fundraising efforts that resulted in contributions totaling $1,000 or more for a candidate or a candidate-controlled ballot measure committee during the reporting period.

(6) Information regarding compensated campaign-related services provided to a candidate or candidate-controlled ballot measure committee during the reporting period.

(7) Information regarding compensated services provided under contract with the City during the reporting period.

Rationale for proposed changes: The above-referenced recommendations are based on the following underlying principles:

(1) The Commission believes that identifying the names and departments of individual high-level City Officials contacted by lobbyists is key information that should be disclosed to the public. It is critical for the public to know which City Officials were contacted by a lobbyist. There is a substantive difference between a lobbyist meeting with an elected Councilmember and a lobbyist meeting with a council staffer.

The Commission heard from several lobbyists who argued that it is burdensome to identify each City Official they lobby. The Commission believes that the public's right to have this information far outweighs any inconvenience for lobbyists. In the spirit of compromise, however, the Commission recently revised its initial proposal by narrowing the definition of "City Official" to a select group of high-level positions at the City and City agencies. By way of comparison, it is relevant to note that the current lobbying laws broadly define a "City Official" as any City employee who participates in the consideration of a municipal decision, other than those who work in a purely clerical, secretarial, or ministerial capacity.

At the March 7, 2007, Rules Committee meeting, the Commission was asked whether the list of high-level positions includes all of the positions recently created under the "strong Mayor" form of government. Additional research conducted by Commission staff revealed that the job titles of high-level positions do not sometimes correspond to their working titles. Consequently, at its May meeting, the Commission decided to modify the proposed definition of "City Official" in order to add the following additional job titles: Council Representative, Management Assistant to City Manager, Financial Operations Manager, and Budget/Legislative Analyst. Because these additional positions were not included at the time the Rules Committee considered the Commission's proposals, we have attached an "Alternative A" to the proposed ordinance that includes these four additional job titles.

The list of high-level positions included within the proposed definition of "City Official" includes members of City boards and commissions who file Statements of Economic Interests. At the March 7, 2007, Rules committee meeting, the Commission was also asked to consider whether some boards should be excluded from the definition, such that lobbyists would not have to disclose lobbying contacts with these officials. The Commission considered this issue at its May 10, 2007, meeting, and concluded that it would not be appropriate to exclude any boards or commissions from this definition. The Commission based this recommendation on the fact that the members of these boards have some type of decision-making capabilities, as reflected in the City's prior determination that the members must file Statements of Economic Interests [SEIs]. In other words, if the members of a particular board must disclose their personal economic interests because their board has been determined to be more than "solely advisory" in nature, then lobbying contacts with these members should be disclosed to the public. (Note that the members of approximately seventy percent of City boards are required to file SEIs.)

Several lobbyists have objected to the proposed disclosure of specific City Officials contacted, and claimed that the disclosure of this information would have a "chilling effect"

because City Officials will not want to speak to lobbyists if their names will appear in a disclosure report. During the course of the Commission's discussions on the City's lobbying laws, the Commissioners repeatedly reiterated their view that there is nothing inherently wrong with lobbying, which they recognize as a valuable and integral part of City government. Accordingly the appearance of a person's name in a lobbying disclosure report should not be considered as evidence of anything more than the performance of normal City duties. That said, the Commission would strongly encourage any high-level City Official who has reservations about the public disclosure of a particular meeting with a lobbyist to reconsider the appropriateness of having that meeting.

(2) The Commission does not believe that the current system, which requires lobbyists to disclose their compensation in certain ranges ($0-$5,000, $5,000-$25,000, $25,000-$50,000, over $50,000), provides the public with sufficient information regarding the financing of lobbying activities. Because it may be difficult for a lobbyist to ascertain the precise dollar amount earned for lobbying efforts, the Commission has proposed that lobbyists disclose an amount rounded off to the nearest $1,000. Note that other jurisdictions in California require lobbyists to disclose the exact amount earned.

As discussed above, the proposed threshold for organization lobbyists is based on a number of contacts because of the difficulty inherent with in-house lobbyists (employees of organization lobbyists) calculating the amount of compensation they earn for City lobbying activities. Accordingly, in lieu of disclosing the amount of compensation received for lobbying, it is more appropriate for organization lobbyists to disclose the total number of contacts with City Officials in connection with a particular municipal decision.

(3) As discussed above, an important aspect of the information regarding a lobbyist's efforts to influence a particular municipal decision is the actual outcome sought by the lobbyist or his/her client. Depending upon the identity of the client and the specific municipal decision, the outcome sought might not be readily apparent to the public.

(4) Although campaign contributions are disclosed on reports filed by City candidate and ballot measure committees, this information may not be disclosed until long after a municipal decision is made (in non-election years, candidates only file semi-annual campaign statements). In addition, it can be difficult for the public to connect a contribution on a campaign statement with a municipal decision identified on a lobbying statement. The Commission concluded, therefore, that this information should be included on quarterly disclosure reports to ensure that the public receives it in a timely and efficient manner.

(5) Because of the City's campaign contribution limits, campaign fundraising has become the means by which individuals and entities may demonstrate their financial support for a candidate. When these individuals and entities contact officeholders who benefited from their fundraising efforts and attempt to influence their official decisions, the appearance of improper influence is created. In other words, the public may believe that a lobbyist obtained special access to, and/or undue influence over, an elected official when he or she has helped finance that official's election campaign. This perception is underscored by recent events in San Diego involving the prosecution of local elected officials and a lobbyist

who fundraised for them. In addition, as discussed in greater detail in the Memo to the Rules Committee dated February 21, 2007 (attached as Exhibit B), there are many documented examples throughout the country in which lobbyists obtain, or appear to obtain, special access to elected officials via campaign contributions and campaign fundraising. The Commissioners also considered the personal experience of one of the Ethics Commissioners, who explained that he received special access (e.g., private telephone numbers and email addresses) for public officials only after he engaged in campaign fundraising efforts to benefit these officials.

In order to address the public's perception that corruption exists in the lobbying arena, it is critical to provide transparency in the lobbying process wherever possible and practical. Accordingly, the Commission believes that quarterly disclosures should detail all fundraising efforts that result in $1,000 or more in campaign contributions for a City candidate or candidate-controlled ballot measure committee. It is important to note that the Commission's proposal is narrowly tailored and would require that lobbyists only disclose (1) contributions personally delivered by the lobbyist, and (2) 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." In other words, if the lobbyist takes credit for providing a candidate with contributions, then the lobbyist would disclose the amount of those contributions on a quarterly disclosure report.

Several lobbyists have objected to this proposed disclosure requirement and suggested that lobbyists should only be required to disclose contributions that they personally deliver to a candidate. In the Commission's experience, this approach would enable lobbyists to easily circumvent disclosure rules by simply asking someone else to deliver the contributions on their behalf. Moreover, this approach would ignore prevalent practices in campaign fundraising that involve the coding of contribution envelopes so that lobbyists receive credit for contributions sent directly by contributors to a candidate's campaign committee.

In addition to their objections on the grounds that they should be required to disclose only contributions personally delivered to candidates, some lobbyists have suggested that the fundraising disclosure requirement should apply to all fundraisers and should be included in the City's campaign laws. Although the Commission may ultimately recommend such disclosure by candidate committees under the City's campaign laws, it is the Commission's view that it is certainly appropriate to impose this requirement on paid lobbyists at this time because of the role that they play in influencing municipal decisions. The public has an undeniable interest in obtaining information regarding the different ways in which paid lobbyists obtain access and/or influence.

(6) As discussed above, the disclosure of campaign-related services is intended to provide the public with information regarding a special relationship that might exist as a result of a lobbyist's efforts to help a City Official win an election. Although it is important for a lobbyist to disclose on a registration form whether he or she has provided campaign-related services to a candidate in the past (possible months or years before a lobbying contact with the same official), it is just as important – arguably even more important – for a lobbyist to

disclose on a quarterly report that he or she is engaged in providing campaign related services to an elected official at the same time that he or she is lobbying that same official.

(7) As discussed above, information gathered by the Commission suggests that lobbyists who perform work under contract with the City may develop special relationships with certain City Officials, and that such relationships should be disclosed if these lobbyists are also paid by private parties to influence decisions made by City Officials. The rationale behind this recommendation is very similar to the rationale discussed above with respect to the disclosure of campaign-related services. In both instances, disclosures create a higher degree of transparency than currently exists.

D. Limits on Gifts from Lobbyists (SDMC § 27.4030):

Proposed changes: The amendments proposed by the Commission include a $10 limit on gifts from lobbyists to City Officials in a calendar month. They also include a $10 limit on gifts delivered by lobbyists when they are acting as an agent or intermediary for the donor of the gift.

Rationale for proposed changes: The $10 gift limit proposal stems from the Commission's belief that, in the view of the public, City Officials may be influenced in the performance of their official duties if they receive an expensive meal or a ticket to an event from a lobbyist. The recent conviction of a United States Congressman in connection with excessive gifts from a lobbyist has reinforced the public's belief that gifts from lobbyists to government officials are indications of undue influence.

It is relevant to note that, as reflected in the comparison chart (Attachment B, Exhibit 4), other jurisdictions throughout California have similar gift limits, or have imposed an outright ban on gifts from lobbyists. Rather than ban all gifts outright and potentially expose City Officials to an enforcement action for simply accepting a cup of coffee from a lobbyist, the Commission ultimately settled on the $10 limit to allow officials to accept gifts with a nominal value.

<u>Conclusion</u>

Throughout many months of deliberations, beginning in November of 2005, the Commission has received extremely valuable input from lobbyists and members of the public regarding a variety of proposals under consideration. Each recommendation was seriously considered and most were incorporated into the Commission's proposals. The input the Commission received was instrumental to the preparation of preparing amendments that are straightforward, practical, and comprehensible, while incorporating important public policy considerations.

As explained in detail in the Memo to the Rules Committee dated February 21, 2007 (Attachment B), each of the Commission's proposals has been drafted to address an actual problem with the existing laws, or to address real or perceived corruption in the lobbying process. If adopted, these reforms will dramatically improve what is largely an ineffective ordinance. The proposed amendments will ensure that people who are compensated to influence municipal decisions are required to register as lobbyists, and will allow the Ethics Commission to effectively enforce the law when such individuals fail to register.

In addition, the proposed reforms will require lobbyists to disclose more information than is presently required, which will in turn create more transparency and combat the appearance of corruption that surrounds lobbying and related activities. Although some lobbyists and City officials may object to the notion that there is anything untoward in the lobbying process, the volume of empirical evidence recited in the exhibits to Attachment B shows that it is commonplace for lobbyists to obtain access and/or influence through campaign contributions and fundraising, and that these activities engender an appearance of corruption.

Finally, as explained in Attachment B, the Commission is confident that there has been a thorough legal analysis of the proposed amendments to the City's lobbying laws. In the opinion of the Commission's General Counsel, Cristie McGuire, the proposed reforms do not substantially interfere with the ability of a lobbyist to exercise his or her First Amendment rights. Because there is a rational basis for each proposal, and because each provision has been crafted to achieve a specific goal, Ms. McGuire is confident that the proposals do not impermissibly infringe on constitutionally protected activities. Although the Commission certainly defers to the Office of the City Attorney to ultimately determine whether the proposed ordinance is "legal," the Commission is confident that the City has sufficiently demonstrated the need for the proposed reforms, and that they would survive any legal challenge.

We look forward to the City Council considering the proposed amendments as soon as docketing of this issue is feasible. The Commission is hopeful that the proposed reforms will be considered and adopted by the City Council this June, following final budget modifications on June 11. In order for the new laws to take effect on January 1, 2008, the Commission will need four to six months to create new registration and disclosure forms, prepare new fact sheets, and educate the regulated community regarding the changes to the Lobbying Ordinance. If you have any questions, please contact Stacey Fulhorst at your convenience.

Dorothy Leonard	Stacey Fulhorst
Chair, San Diego Ethics Commission	Executive Director, San Diego Ethics Commission

Attachments:

A) Memorandum from Dorothy Leonard and Stacey Fulhorst to City Council and City Attorney dated April 16, 2007
B) Memorandum from Stacey Fulhorst to Rules Committee dated February 21, 2007

cc: Catherine Bradley, Chief Deputy City Attorney
Kris Michel, Deputy Chief Community & Legislative Services