



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

FROM: Robert V. Wadden Jr., City Attorney

DATE: October 21, 2008

SUBJECT: Adopt Ordinance No. 2117 Regarding Municipal Lobbying

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 2117 regarding municipal lobbying.

FISCAL IMPLICATION:

The proposed ordinance does require the City Clerk to accept and keep lobbyist registration information, however the ordinance also authorizes the Council to adopt a fee to cover the cost of this service.

BACKGROUND:

At the City Council meeting of September 2 the Council reviewed lobbying ordinances from a number of cities and provided direction for staff to bring back an ordinance which provided for simple and basic regulation of paid lobbyists. At the October 7 City Council meeting the Council, with one revision, introduced and waived further reading of Ordinance 2117 imposing regulations on lobbyists.

DISCUSSION:

The proposed ordinance requires registration of all engaged in lobbying activities and disclosure of their status as lobbyists while engaged in such activities. The ordinance has broad, inclusive definitions of who a lobbyist is and what lobbying activity is considered. It does not limit the activity to contacts between lobbyists and commissions or council but also includes staff contacts. The ordinance specifically exempts public officials or public employees acting in their official capacity, officials or employees of nonprofits representing those entities' interests, architects and engineers retained primarily for their professional services, attorneys functioning only in their professional capacity, employees of an applicant whose job duties do not normally include lobbying and owners of businesses which are applicants. Violation of the ordinance is made a misdemeanor. The final version of Ordinance 2117 incorporates the change made by Council at the October 7 meeting altering the exemption section of the ordinance to exempt any business owner rather than just majority owners.

cc: Geoff Dolan, City Manager

ORDINANCE NO. 2117

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADDING A NEW CHAPTER 4.132 TO TITLE 4 OF THE MANHATTAN BEACH MUNICIPAL CODE REGARDING MUNIICPAL LOBBYING.

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. On occasion individuals accept remuneration for the purpose of representing applicants before the various levels approval including staff, commissions and the City Council;
- B. It is in the best interest of fairness and open public discourse for any such person to fully and openly disclose their status as a paid spokesperson, or lobbyist;
- C. In order to accomplish such disclosure many California cities have passed local ordinances regulating such paid spokesperson without in any way abrogating their right to speak;
- D. It is in the best interests of the public health, safety and welfare to adopt the proposed regulations requiring registration and disclosure of lobbyists operating within the City of Manhattan Beach'

SECTION 2. A new Chapter 4.132 "Municipal Lobbying" is hereby added to Title 4 of the Manhattan Beach Municipal Code to read as follows:

"CHAPTER 4.132 Municipal Lobbying"

Section 4.132.010 Definitions

For purposes of this chapter, the following terms shall have the following meanings:

City Official – shall mean any elected official, commission member or salaried staff member of the City of Manhattan Beach;

Compensation – shall mean receipt of money, gifts or of anything of value;

Government Action – any policy creation or implementation by any element of City government including but not limited to passage or consideration of ordinances, processing of and grant or denial of permits whether by staff a commission or City Council, hearing and ruling on any appeal, adoption of rules or regulations, changes to zoning or General Plan, passage or consideration of any resolution or minute order;

Influencing – means contacting, either directly or indirectly, for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of, or otherwise intentionally affecting government action at any level;

Lobbyist – means any individual or entity employed, retained or otherwise engaged for compensation to communicate with, appear before, or influence in any way City staff, commissions or the City Council with regard to any governmental action;

Lobbying Activity – means influencing or attempting to influence a City official government action of the City;

Section 4.132.020 Prohibited Activity

It shall be unlawful for any person or entity to act as a lobbyist or conduct lobbyist activity in the City without having registered in compliance with this Chapter and without disclosure of their status as a lobbyist as required herein or to employ a person who fails to comply with the forgoing.

Section 4.132.040 Registration

Prior to acting as a lobbyist or conducting any lobbying activity in the City an individual or entity shall register with the City Clerk by filing a written statement containing the following information:

- A. the lobbyist's full name, business address and telephone number (if the lobbyist is an entity the names of all individuals conducting lobbyist activity must also be provided);
- B. the name, business address and telephone number of any individual or entity by whom the lobbyist is employed, retained or engaged for compensation to perform lobbying services in the City;
- C. The government action or actions of the City as to which the lobbyist has been engaged.

Upon the material change in any of the forgoing information the registered individual or entity shall update their registration to reflect the changed information within ten days of the change.

Section 4.132.060 Registration Fee

The City Council may, by resolution, set a fee for lobbyist registration to be collected by the City Clerk upon filing of the registration required by Section 4.132.040 above. Registration shall not be considered complete until the fee is paid.

Section 4.132.080 Exemptions

The following shall be exempted from the requirements of this Chapter:

- A. a public official acting in his or her official capacity;
- B. an employee or consultant of a public agency acting in the course and scope of their duties;
- C. an architect or engineer hired primarily to provide professional services in their area of expertise by an applicant;
- D. a member of the California Bar who is engaged only in providing professional legal services to a client;
- E. an employee of an entity which is an applicant whose primary job duties do not include lobbying activities;
- F. the owner of a business which is an applicant;
- G. officers, officials or employees of a nonprofit corporation engaged in representing the interests of that entity.

Section 4.132.100 Disclosure

Every individual or entity engaged in lobbying activity shall, prior to conducting any such activity, identify themselves as a lobbyist to the person or body with whom they are communicating.

Section 4.132.100 Enforcement

Any violation of this Chapter shall be punishable as a misdemeanor

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 21st day of October, 2008.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk