

Date: August 26, 2024

To: Mayor and Members of the City Council

From: Thomas B. Modica, City Manager 

Subject: **Ethics Commission Recommended Changes to the City's Lobbyist Ordinance**

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On [August 14, 2024](#), the Ethics Commission (Commission) unanimously approved a recommendation to the City Council to request the City Attorney prepare an ordinance that amends the City's Lobbyist Ordinance (Ordinance). This recommended amendment includes nine separate elements that would expand the scope of the Ordinance as outlined in the attached report.

Please find the Ethics Commission recommendations to the Mayor and City Council attached.

If you have any questions, please contact Heather Van Wijk, Ethics Officer, at (562) 570-7443.

ATTACHMENT

CC: DAWN MCINTOSH, CITY ATTORNEY  
DOUGLAS P. HAUBERT, CITY PROSECUTOR  
LAURA L. DOUD, CITY AUDITOR  
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GRACE YOON, DEPUTY CITY MANAGER  
TYLER BONANNO-CURLEY, DEPUTY CITY MANAGER  
KEVIN LEE, CHIEF PUBLIC AFFAIRS OFFICER  
MONIQUE DE LA GARZA, CITY CLERK (REF # [24-54520](#))  
DEPARTMENT HEADS

**CITY OF LONG BEACH  
ETHICS COMMISSION  
Ad Hoc Committee on the Lobbyist Ordinance**

**Margo Morales, Commissioner  
Barbara Pollack, Commissioner  
Susan Wise, Commissioner**



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August 14, 2024

Ethics Commission  
City of Long Beach  
411 West Ocean Boulevard  
Long Beach, CA 90802

**RE: Proposed Changes to Lobbyist Ordinance for August 14, 2024, Ethics Commission meeting**

At the July 2024 Ethics Commission meeting, two issues were raised by the Commission: (1) a recommendation that the proposal make reference to the Audit Report on the Long Beach Ethics Program, particularly the auditor's recommendation that the City Attorney draft an ordinance to define City Leader calendars as public records; and (2) a suggestion that the recommendation include provision for the possibility a lobbyist will disclose proprietary information in materials provided to a City Official. The Ad Hoc Committee met with the City Attorney assigned to the Commission to discuss these points and held a follow-up meeting that included the Deputy City Manager responsible for the Office of Ethics and Transparency.

The attached memorandum includes the reference to the Audit Report and provides for redaction of proprietary information from a lobbyist public filing. If the lobbyist provides the proprietary information to a City official, however, that disclosure is subject to the CA Public Records Act, as noted in the attached memorandum, and will be disclosed if required by the PRA.

No other changes have been made.

Thank you for your consideration.

Margo Morales, Commissioner  
Barbara Pollack, Commissioner  
Susan Anderson Wise, Commissioner

ETHICS COMMISSION  
RECOMMENDED AMENDMENTS TO  
THE LONG BEACH LOBBYIST ORDINANCE

Pursuant to the City Charter, the Ethics Commission (Commission) is responsible for making recommendations to the City Council concerning the effectiveness of laws and policies related to governmental ethics, including lobbying.

After a comprehensive review of the City's Lobbyist Ordinance in Long Beach Municipal Code (LBMC) Ch. 2.08, (Lobbyist Ordinance or Ordinance), best practices, policies of other jurisdictions in the US and Canada, and consideration of public comment and input from the full Commission, the Commission finds that the current Lobbyist Ordinance does not capture major influences on the City's decision-making processes that the public deserves to know about. Further, the provisions that do exist in the Ordinance have not been sufficiently monitored or enforced to be effective. The Ordinance is vague in certain respects and needs to be updated. The changes recommended below are proposed to address these issues and clarify the intent of the Ordinance to ensure the public can see who is influencing City decision-makers and for what cause(s).

Therefore, the Commission recommends the City Council request the City Attorney to prepare an ordinance amending the City's Lobbyist Ordinance to expand the scope of the Ordinance as outlined below.

**BACKGROUND**

From the Commission's first meeting, the topic most often raised during public comment pertained to lobbying and the need for greater understanding of the influences brought to bear on elected officials and staff.

The Commission created an Ad Hoc Committee that has been meeting and studying this issue for over two years. The Commission has held several public meetings regarding the Lobbyist Ordinance and engaged in other outreach. The Ad Hoc reported out to the full Commission regularly on the status of its work and the ideas under consideration and received and considered feedback from the full Commission and the public who participated in those meetings. The Commission deployed an anonymous community survey tool used by the City in other contexts. The community survey showed a desire for more disclosure regarding the operative influences on decision-making.<sup>1</sup> The top four issues about which people want a high

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<sup>1</sup> Some responses expressed concern the survey could be "gamed" by individuals submitting multiple responses. We took those concerns into consideration and used the survey results as one source of information with recognition the tool could be abused. A summary of the survey results is attached as Attachment 1.

level of disclosure are: (1) Land use and zoning; (2) Housing; (3) City Budget; and (4) Tax proposals.

Based on the public comments received, best practices in municipal government,<sup>2</sup> and the materials reviewed by the Ad Hoc Committee, the Commission recommends modification of the Ordinance to improve the transparency of City decision-making.

Lobbying is not inappropriate or inherently problematic. Lobbying is one way in which the community exercises their First Amendment rights to free speech and to petition the government for redress. Through lobbying, businesses and non-profit entities help decision-makers understand the broad implications and possible unintended consequences of proposed actions on neighborhoods, the business community, and on non-profit entities and the interests they represent. Lobbying is important to informed decision-making. At the same time, disclosure to the public of major influences on the decision-making process will build and improve trust in the outcomes and in City government. The public wants and deserves to know what the major influences are.

The Commission supports the continued application of several of the City's current exemptions in its Ordinance from disclosure, for example, for neighborhood associations, City business improvement districts, media when news gathering, and advocacy in public meetings. The Commission further recommends continuation of the exemption from registration and reporting for 501(c)(3) non-profits. Other public access features may provide adequate transparency for those activities, particularly when coupled with the recommendation to require calendar disclosure by public officials. As set forth in Recommendation #9 below, the Commission recommends review of the effectiveness of the changes including review of the adequacy of calendar disclosure to provide the degree of transparency sought by the public.

Recommended changes to the Ordinance are outlined in detail below.

**RECOMMENDATION #1**  
**Simplify the Threshold for Disclosure of Lobbying Contacts**

The Commission recommends simplification of the thresholds for registration and reporting of lobbying. Instead of looking at dollar amounts paid to Contract Lobbyists and number of hours spent by representatives of Businesses or Organization Lobbyists, the threshold should be the number of contacts with City Officials. The San Francisco lobbying statute uses a similar approach by requiring registration based on the number of contacts. The Commission believes this approach would be simpler, easier to measure, easier to report, and overall, more straightforward.

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<sup>2</sup> See Attachment 2 for a summary of the Lobbyist rules in other jurisdictions reviewed by the Ad Hoc.

The Commission therefore recommends the following:

- Under LMBC Section 2.08.020.K, combine “business or organization lobbyist” and “contract lobbyist” into one category and rename it as “contact lobbyist.” A “contact lobbyist” means any individual who:
  - Makes three or more contacts in a calendar month with City officials on behalf of the individual’s employer or an organization that the individual is representing as a volunteer, member, officer or director, excepting an individual who is making the contact as an employee, volunteer, member, officer or director of an entity organized under Internal Revenue Code 501 (c) (3); or
  - Makes one or more contacts in a calendar month with City officials on behalf of any person<sup>3</sup> who pays or who becomes obligated to pay the individual or the individual's employer for lobbyist services.
  - An individual is not a “contact lobbyist” if that individual is lobbying on behalf of a business of which the individual owns a 20% or greater share.
- Add a requirement that contacts on behalf of a “person” that is not an individual (e.g., corporation, non-profit, etc.) by agents of said person are aggregated for purposes of the reporting requirement. Agents include owners, officers, directors, employees, or any other person acting on behalf of said person. The duty to register as a lobbyist lies with any person who has multiple agents contacting City officials to influence or attempt to influence legislative or administrative action of the City.

For example, Blue Circus, Inc. is advocating for a change to laws in the City applicable to traveling circuses. The following contacts are made on behalf of Blue Circus, Inc. to advocate for change to circus regulations:

- An employee speaks with the Mayor.
- The CEO speaks with the Council District 1 Councilmember.
- The President speaks with Council District 2 Councilmember.
- The Vice President speaks with the City Attorney.

In this example, there have been 4 contacts made on behalf of Blue Circus, Inc. Since a contact lobbyist is any person that makes three or more contacts in a calendar month with City officials on behalf of the individual’s employer, Blue Circus, Inc. is required to register on behalf of its agents for all contacts made seeking a change to laws in the City applicable to traveling circuses.

Blue Circus, Inc. is not required to register on behalf of an individual lobbyist or a lobbyist firm that Blue Circus, Inc. pays for their services. If Blue Circus retains an

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<sup>3</sup> For this purpose, the term “person” means any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or the manager, lessee, agent, servant, officer or employee or any of them. LB Municipal Code Section 1.08.030 R.

independent contractor to contact a City official on its behalf, that contractor must register and report following its first contact.

This proposed change would simplify the requirement for filing and capture potentially influential contacts that fall outside of the current Ordinance.

### **RECOMMENDATION #2**

#### **Replace “Expenditure Lobbyist” with “Grass Roots Lobbyist” and Reduce the Expenditure Threshold**

Under the current Ordinance, an “expenditure lobbyist” is an individual or entity seeking to initiate a “grass roots” campaign to encourage individuals to lobby on behalf of a position. The Commission recommends replacement of the term “Expenditure Lobbyist” with “Grass Roots Lobbyist,” with registration required when an individual or entity, i.e. a grassroots lobbyist, spends or incurs expenses of \$2,500 or more in a calendar year to urge members of the community or other group to seek to influence City Officials to take specific action. Current exclusions from this amount for compensation, dues payments, and the like would remain. This reduction from \$5,000 to \$2,500 reflects the cost efficiencies available in the age of digital communications and social media outreach but remains high enough to avoid impacting residents seeking to communicate on neighborhood issues.

When a grass roots campaign is underway, transparency is critical to provide an understanding that the contacts are part of a coordinated initiative.

### **RECOMMENDATION #3**

#### **Require Additional Information and Monthly Reports**

The Commission recommends changing the title of LBMC Section 2.08.090 to “Registration and Reporting Requirements.” Section 2.08.090 should also be amended to require the following details from all types of lobbyists:

- Mailing address (in addition to business address);
- A specific description of each municipal question, administrative action, or subject of a contact on which the registrant communicated and, if real property is the subject of the contact, the address or legal description of the property;
- The position taken (i.e., for/against a matter);
- The names of all individuals involved in the contact, including those engaged in preparation for the lobbying or advocacy contact (e.g., authors of reports provided to the City, but excluding purely clerical or administrative assistance).
- Copies of any materials provided to the City Officials (via any medium) in connection with the contact.

Regarding materials uploaded by the lobbyist, the lobbyist may redact from the filing, non-public proprietary information that has commercial value and is otherwise protected from

public disclosure by the owner of the information and the lobbyist. Non-public proprietary information shall not include the municipal question, administrative or legislative action sought or opposed, the specific relief sought or position advocated, and / or the individuals or companies involved in the contact. The existence of redactions shall be shown on the face of the filing. The allowance for redaction in materials filed with reports under this section will not preclude full disclosure of the documents in unredacted form by the City, if the redacted information is provided to a City Official and disclosure is required to comply with the CA Public Records Act. California Government Code sections 7920.000 et seq. The City Clerk should provide up-to-date information regarding the Public Records Act process on the website and implement the applicable records retention policy.

The requirements in Sections 2.08.090.A. and B. should be combined into one category for “contact lobbyists.”<sup>4</sup>

The Commission recommends the City Council direct the City Clerk to amend the registration and reporting website to provide drop down menus with agenda item numbers or space to provide license or application numbers. The website should also be designed to make copies of the materials provided to the City Officials available to the public through the website. If an individual or entity is serving multiple reportable roles (e.g., Contact lobbyist and Grass Roots lobbying), the form should capture the dual roles in a single filing. The Commission also recommends that lobbyists and lobbying entities register within 5 days of a qualifying contact, file monthly disclosure reports, rather than semi-annual reports, and submit the monthly report within 5 business days following the month in which the contact(s) occurred.

The City Council intended the Ordinance to provide residents with information regarding influences on City decision-making. In several instances, the required registrations and periodic reports do not provide sufficient information for members of the public to comprehend fully the nature of the matter discussed. Also, to be more transparent in a useful way, the information must be made available in a timelier manner, particularly when a matter is scheduled to appear on an upcoming City Council agenda.

#### **RECOMMENDATION #4**

#### **Maintain Exemption for 501(c)(3) Non-Profits and Eliminate Exemption for other Types of Non-Profits**

Non-profits have access to and the ability to influence the decision-making of elected officials, as well as other members of City leadership. Therefore, their activities influencing City Officials regarding administrative and legislative action are of interest to the public.

A significant portion of the public comments on the Commission’s review of the Lobbyist Ordinance came from non-profits, most if not all of which are 501(c)(3) non-profits. While they

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<sup>4</sup> The Ad Hoc recognizes the need to both minimize the burden of filing and ensure the lobbyist reports provide useful information to the public.

focused much of their input on the addition of non-lobbying advocacy (see Recommendation #5), a number of non-profits noted the burden of compliance with registration requirements on non-profits with limited resources and reliance on volunteer labor.

The Commission feels strongly that more transparency is needed surrounding advocacy of non-profits with City officials. Several other jurisdictions require reporting of lobbying by non-profits, e.g. Los Angeles, Sacramento, and San Diego. However, the Commission has received extensive public comment from the community that they are not supportive of any change that requires reporting by non-profits.

To balance the significant influence on decision-making that many non-profits may have against the burden of registration and reporting by such organizations, the Commission recommends greater transparency of their activity may be accomplished through disclosure of the calendars of City Officials.

Assuming such disclosure by City officials, the Commission recommends retention of the exemption for non-profits organized under Section 501(c)(3) of the Internal Revenue Code. The Commission also recommends amending Section 2.08.020.K.4.h to include within the exemption officers and unpaid volunteers/members of non-profits acting on behalf of a non-profit 501(c)(3) corporation.

The Commission recommends elimination of the exemption for non-profits such as industry trade associations organized under sections of the IRC other than 501(c)(3) by deletion of Section 2.08.020.K.4.c. With this change, persons reimbursed for only their reasonable travel, meals or incidental expenses, including but not limited to, uncompensated volunteers, members or directors of non-profit organizations organized under 501(c) (4) – (7) will be required to register as a lobbyist.

#### **RECOMMENDATION #5**

#### **Make Clear a “Contact” Under the Ordinance is Considered “Lobbying” Regardless of Whether There is a Pending Agenda Item Before a City Body**

The current Ordinance defines “lobbying” to include attempts to influence legislative or administrative action. (See LBMC 2.08.020 J). Although the term “influence” is defined quite broadly under the Ordinance, lobbying registration generally follows only when there is a specific legislative or administrative matter pending. Many lobbying contacts focus on seeking support for an issue not yet under consideration by City Officials, as distinct from lobbying regarding a particular agenda item for legislative or administrative action. Treatment of such contacts as “lobbying” is consistent with the Internal Revenue Code. See, e.g., Treasury Regulation 1.501(c)(3)-1: lobbying action includes proposing as well as supporting or opposing legislation. The Commission expects the Ordinance to adopt the definition and scope of lobbying set forth in the Internal Revenue Code and its implementing regulations.



While the language of the current Ordinance does not explicitly state that a matter must be related to a particular agenda item, the community appears to be under the impression that lobbying only occurs when a contact is made to influence a legislative or administrative action of an agenda item. Considering the foregoing, the Commission believes explicit clarification is needed. The Commission recommends clarifying that “lobbying” takes place any time a contact is made with a City Official to influence an administrative or legislative action, and regardless of whether said action is pending before a City body.

#### **RECOMMENDATION #6**

#### **Change the Title of the Ordinance to “Lobbying and Transparency in Government Decisions” and Require Disclosure of Calendar Information by “City Leaders”**

For purposes of this recommendation only, the term “City Leaders” should include the Mayor, Members of the City Council, other elected officials, the City Manager, Assistant and Deputy City Manager(s), City Clerk, Department Heads, non-City Manager Department heads or equivalent, Assistant Department heads or equivalent, bureau managers or equivalent, and Commissioners on Charter Commissions: Civil Service, Harbor, Utilities, Ethics, Redistricting, Police Oversight, and Planning Commissions.

Disclosure of calendar information by certain City Leaders will go a long way to improve transparency and build public confidence in City decision-making. The Commission recommends that City Leaders be required to maintain publicly available calendars in the same manner prescribed by the City of Santa Clara’s [Ordinance No. 1950](#) with the changes outlined herein.

The Mayor, Members of the City Council, all other elected officials, the City Manager, and non-City Manager Department heads, would be required to upload from their City-provided electronic calendars to the City website by the 10<sup>th</sup> of each month for the previous month. The remaining City Leaders, as identified above, shall maintain calendars as a public record subject to inspection and disclosure under the Public Records Act starting the 10<sup>th</sup> of each month for the prior month.

The Performance Audit of the City of Long Beach Ethics Program, conducted by an outside firm under the auspices of the City Auditor in 2020, recommended that the City Attorney prepare a draft ordinance to provide for treatment of the calendars of City Leaders as public records. Audit Recommendation #24. The City of Santa Clara has implemented such a disclosure requirement since 2016. The calendars must show all scheduled non-internal meetings, public events or speaking engagements, and non-scheduled meetings with persons regarding City business. The calendars are disclosed monthly, for the prior month. The City of San Jose has also implemented a calendar disclosure requirement. The Commission recommends mirroring the exemptions under the Santa Clara ordinance and the California Public Records Act, for

example, to protect attorney-client privileged information, information important to protection of security, personnel issues, investigations, etc.

The Council should also direct the City Clerk to develop an on-line form for Commissioners who do not have access to City computers or printers to maintain a record of meetings related to Commission business. Other City Leaders may use the same form or upload specified information categories directly from their calendars to a uniform report form.

Disclosure by City Leaders will demonstrate the commitment of the City and of the City's Leaders to transparency and open government. Such disclosure will help build the community's trust in our municipal government. Based upon the Ad Hoc review of some of the calendars, it likely would also demonstrate the diligence of City Leaders in seeking and listening to input from the Community. This disclosure obligation is not intended to cover instances when a community member tries to grab two minutes of a council member's time in the grocery store or at a café about a neighborhood issue, such as issues with refuse or tree trimming, but rather to capture substantive discussions regarding City business that influence the decision-making of City Leaders related to legislative and administrative actions.

The disclosure by City Leaders also will provide data against which the adequacy of filings by lobbyists may be assessed. At present, there is virtually no mechanism to enforce the requirement for filing by lobbyists so there is little deterrence for non-compliance. The disclosure by City Leaders would help provide that check and incentive. It also may provide data that can inform future revisions and improvements to this and related ordinances.

In light of the additions to the Lobbying Ordinance recommended by this section, the Commission recommends the title of the Ordinance be changed to "Lobbying and Transparency in Governmental Decisions." Sections related to the disclosure of calendars by City Leaders should be included in LBMC Chapter 2.08.

#### **RECOMMENDATION #7**

#### **Enforcement To Include Funding for Compliance with the Changes and Education of those Impacted**

The Commission recommends the City provide additional staffing and requisite funding for the City Clerk to monitor registrations and reports for compliance and to conduct (1) education sessions upon approval of the changes and annually thereafter and (2) audits of lobbying registrations and reports. In addition, implementation of calendar disclosures may require additional funding for staff supporting City officials, at least in the initial phase of the change. We recommend the City also monitor any potential fiscal impact on the City Attorney's office.

The office of the City Clerk reviews lobbyist registrations to verify that the report contains responsive information in all required fields. The City Clerk currently does not, however, have

the personnel or funding to conduct regular audits of the adequacy of the filings or full compliance with the filing requirements. Upon approval of the changes noted above, there will be a need for a significant education effort. Education needs to explain the requirements in an easy and simple way.

Currently, the Ordinance may be enforced by misdemeanor or infraction pursuant to Long Beach Municipal Code Chapter 1.32. The Commission recommends expanding enforcement in the Ordinance to include any civil and administrative remedies available, such as administrative citations. Expansion of the Ordinance to include multiple enforcement remedies will provide the City more options to ensure compliance with its requirements. It is possible that these changes will have an impact on the workload of the City Prosecutor, although the addition of civil and administrative remedies may cause a reduction in workload. We recommend a review of the workload impact on the Office of the City Prosecutor two years after approval of the changes to the Ordinance.

**RECOMMENDATION #8**  
**Clarify certain requirements of the Ordinance**

The Commission also recommends that the Ordinance provide clear authority for enforcement against a business or organization, as well as its employees or agents, that fail to comply with the Ordinance, including addition of a clause to provide clarity to the exemptions in 2.08.020 K.4.g applicable to discussions regarding collective bargaining agreements with recognized City employee associations, e.g. unions and other bargaining units. The exemption needs to expressly state that it does not exempt from the lobbying registration and reporting requirements other matters discussed in the same meeting or communication and does not exempt communications between unions and decision-makers about anything other than an agreement with an existing recognized City employee association, working conditions that clearly relate to a collective bargaining agreement or MOU with City employees, or proceedings before the Civil Service Commission. For example, if a union representative meets with a City Official regarding an issue of working conditions of represented City employees and in the same meeting discusses the City's position on minimum wage rates for a particular non-municipal industry, the latter discussion must be reported if the thresholds for registration and reporting are met.

The Commission further recommends addition of an exemption for communications by a party or prospective party to a contract or grant, provided the contact is in accordance with City rules governing RFPs and the contracting or grant-making process.

Finally, the Commission recommends deletion of the definition of "activity expenses" as it is not used in the Ordinance. Eliminate reference to the Redevelopment Agency, which no longer exists.

**RECOMMENDATION #9**  
**Ethics Commission Review of the Lobbying Ordinance**

In furtherance with its duties pursuant to City Charter Section 2402(b), the Commission recommends Section 2.08.220 is amended to require the Ethics Commission to review the effectiveness of the amended Ordinance no later than the fifth anniversary of the effective date of the amended Chapter, and as necessary, and to make recommendations to the City Council regarding the same.