

ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: December 9, 2009
To: Members, Ethics Commission
From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director
Re: Regulations Implementing Lobbyist Ordinance

Amendments to the Lobbyist Ordinance, which the Ethics Commission approved at several meetings earlier this year, have been signed into law and will take effect on January 1, 2010. The changes simplify the Ordinance such that there is only one type of lobbyist: any individual who receives or is promised \$3,000 or more within three consecutive calendar months and, on behalf of the persons providing the economic consideration, makes any lobbying contact with a City officer. *See* S.F. Campaign and Governmental Conduct Code (C&GC Code) § 2.105(g). The changes also enable the Commission to adopt an online filing system, which staff anticipates will be unveiled in schedule in January. In order to implement the changes, staff recommends that the Commission consider deleting two of three existing regulations and approving four new regulations.

Regulations adopted by the Commission shall become effective 60 days after their adoption unless before the expiration of the 60-day period, two-thirds of all members of the Board of Supervisors vote to veto the regulation. S.F. Charter § 15.102.

I. Existing Regulations under Lobbyist Ordinance

Set forth below in this section are three existing regulations that implement the Lobbyist Ordinance. For the reasons discussed below, staff recommends that the Commission delete two of them and make no changes to the remaining one.

Regulation 2.110(a)-1: Time for Registration

Each individual or entity that qualifies as a lobbyist pursuant to [the Lobbyist Ordinance] shall register with the Ethics Commission before contacting City officers, or making payments to influence local legislative or administrative action, and in any event no later than 10 days after the date of qualification.

New San Francisco Campaign and Governmental Conduct Code ("C&GC Code") section 2.110(a) requires lobbyists to register with the Ethics Commission "no later than five business days of qualifying as a lobbyist, but the lobbyist shall register prior to making any additional contacts with an officer of the City and County of San

Francisco.” Because the Ordinance now explicitly sets the deadline for registration, the regulation is no longer necessary. Accordingly, staff recommends that current Regulation 2.110(a)-1 be deleted.

Decision Point 1:

Shall the Commission delete Ethics Commission Regulation 2.100(a)-1?

Ethics Commission Regulation 2.145(a)-1: Holidays and Weekends Not Included in Calculation of Certain Late Fines

In calculating the number of days late for which a late fine will be assessed under Campaign and Governmental Conduct Code section 2.145(a), when a filing deadline falls on the day before a weekend or holiday, the Commission will not count any weekend days or holiday that immediately follow the filing deadline. For purposes of this regulation, the term “weekend” means Saturday and Sunday and the term “holiday” means any holiday on which the Ethics Commission is authorized by law to close.

Current Regulation 2.145(a)-1, set forth above, was approved by the Ethics Commission on November 15, 2002. Staff recommends no changes to Regulation 2.145(a)-1.

Decision Point 2:

Shall the Commission make any changes to Ethics Commission Regulation 2.145(a)-1?

Ethics Commission Regulation 2.160(c)-1: Holidays and Weekends Not Included in Calculation of Certain Late Fines

In calculating the number of days late for which a late fine will be assessed under Campaign and Governmental Conduct Code section 2.160(c), when a filing deadline falls on the day before a weekend or holiday, the Commission will not count any weekend days or holiday that immediately follow the filing deadline. For purposes of this regulation, the term “weekend” means Saturday and Sunday and the term “holiday” means any holiday on which the Ethics Commission is authorized by law to close.

Regulation 2.160(c)-1, set forth above, was also approved by the Ethics Commission on November 15, 2002. C&GC Code section 2.160, which dealt specifically with the electronic filing of statements and reports, was deleted by the recently adopted Lobbyist Ordinance amendments. For this reason, and because current Regulation 2.145(a)-1 provides the same information regarding the calculation of certain late fines, staff recommends deletion of Regulation 2.160(c)-1.

Decision Point 3:

Shall the Commission delete Ethics Commission Regulation 2.160(c)-1?

II. Proposed New Regulations

Under new C&GC Code section 2.105(d)(1)(Q), the following is not a contact for the purposes of the Ordinance:

A person communicating, on behalf of a labor union representing City employees, regarding the establishment, amendment, or interpretation of a collective bargaining agreement or memorandum of understanding with the City, or communicating about a management decision regarding the working conditions of employees represented by a collective bargaining agreement or a memorandum of understanding with the City.

It is implicit in this exception that all other lobbying contacts by labor unions *are* contacts for the purposes of the Lobbyist Ordinance. Indeed, on page 6 of staff's March 4, 2009 memo regarding proposed section 2.105(d)(1)(Q), staff explained:

staff recommends adding language to provide that a communication by a labor union relating to a collective bargaining agreement or a memorandum of understanding with the City is not a contact. *Communications by a labor union with City officers regarding other matters would be considered a contact (emphasis added).*

To avoid any confusion, staff proposes that the Commission adopt a regulation to codify that intent: a person who is paid to represent a labor union and contacts a City officer on any legislative or administrative matter that does not relate to the working conditions of employees represented by a collective bargaining agreement or memorandum of understanding should qualify as a lobbyist. Thus, for example, a person paid by a labor union to lobby members of the Board of Supervisors regarding a universal health care or land use priorities would be making contacts for the purpose of the Lobbyist Ordinance. Staff's proposed regulation is:

Proposed Regulation 2.104(d)(1)(Q)-1:

A person communicating with a City officer on behalf of a labor union to influence a decision regarding a legislative or administrative matter other than the working conditions of employees represented by a collective bargaining agreement or memorandum of understanding with the City is making a contact under the Ordinance.

Decision Point 4:

Shall the Commission approve proposed Regulation 2.104(d)(1)(Q)-1?

Under new C&GC Code section 2.110(b), at the time of initial registration, each lobbyist must report to the Commission certain information such as the lobbyist name, address and telephone number. Staff recommends that the Commission adopt a regulation to require a lobbyist to provide a digital color photograph of the lobbyist's head and shoulders. The photograph will be posted on the Commission's webpage and would help City officers and others to identify registered lobbyists. The state requires lobbyists to provide photos; see <http://cal-access.ss.ca.gov/Lobbying/Lobbyists/Detail.aspx?id=1287375&session=2009>. For a visual, attached at the end of this memo is a mock-up of the SF lobbyist web site for viewing lobbyist data where staff used a lobbyist's photo at a lobbyist e-filing IP meeting. Staff's proposed regulation is:

Proposed Regulation 2.110(b)-1:

At the time of registration with the Ethics Commission, the lobbyist must supply a digital color photograph of the lobbyist's head and shoulders. The photograph must be delivered via email or compact disc and must be recent and of professional quality.

Decision Point 5:

Shall the Commission approve proposed Regulation 2.110(b)-1?

Under new C&GC Code section 2.110(d), the Commission is authorized to establish procedures to permit the registration and filing of lobbyist disclosures by a business, firm, or organization on behalf of the individual lobbyists employed by those businesses, firms, or organizations. Staff recommends that the Commission adopt a regulation allowing businesses, firms or organizations to register and submit lobbyist disclosures on behalf of their employees. Staff's proposed regulation is:

Proposed Regulation 2.110(d)-1:

A business, firm or organization may register and submit reports on behalf of individual lobbyists who are employed by the business, firm or organization. Such business, firm or organization must comply with the provisions of Section 2.110 regarding registration and disclosures.

Decision Point 6:

Shall the Commission approve proposed Regulation 2.110(d)-1?

A primary impetus for adoption of the amendments to the Lobbyist Ordinance was to enable the Commission to require lobbyists to register and submit reports online. Staff recommends that the Commission adopt a regulation that clarifies the online filing requirement. Staff's proposed regulation is:

Proposed Regulation 2.140(a)-1:

Under Chapter 1, Article 2 of the Campaign and Governmental Conduct Code ("Lobbyist Ordinance"), each individual lobbyist must register with the Ethics Commission and submit information required under the Lobbyist Ordinance using the Commission's online filing system.

Decision Point 7:

Shall the Commission approve proposed Regulation 2.140a)-1?

Search

Clients

Lobbyists

Firm/Employer

Filed Statements

Transaction Activity

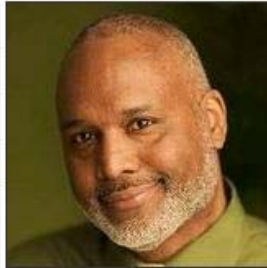
Client Payments

Activity Expenses

Reported Contacts

Contributions Made

Lobbyist Details



Joe Lobbyist

Employer: Kaster, Fanning & Buntz Law Offices

Clients: Clipper Wind Power
Enertech
GE Wind Energy
Green Mountain Energy Company
Lorax Energy
Mitsubishi
Norwin
Siemens
SunWize Solar
Vestas

Activity by Year: 2007

Reported Contacts: 10

Client Payments: \$4,000,000.00

Total Activity Expenses: \$100,000.00

Total Contributions: \$2,000,000.00

E-Filed Statements for 2007:

Period	Filed
01/01/2007 - 01/31/2007	02/05/2007
02/01/2007 - 02/28/2007	03/05/2007
03/01/2007 - 03/31/2007	04/05/2007
04/01/2007 - 04/30/2007	05/05/2007
Amended	05/10/2007
05/01/2007 - 05/31/2007	06/05/2007
06/01/2007 - 06/30/2007	07/05/2007
07/01/2007 - 07/31/2007	08/05/2007
08/01/2007 - 08/31/2007	09/05/2007
Amended	09/13/2007
09/01/2007 - 09/30/2007	10/05/2007
10/01/2007 - 10/31/2007	11/05/2007
Amended	11/06/2007
11/01/2007 - 11/30/2007	12/05/2007
12/01/2007 - 12/31/2007	01/05/2008