ITEM NO. 30

ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ADDING CHAPTER 16C TO THE OCEANSIDE CITY CODE RELATING TO MUNICIPAL LOBBYIST REGISTRATION AND REPORTING REQUIREMENTS

WHEREAS, the people of the City of Oceanside have the need and right to know the identity of lobbyists who attempt to influence the decisions of City government and the means employed by them to advance their interests; and

WHEREAS, full disclosure of lobbying activities of such persons and the identity of their employers, will contribute to public confidence in the integrity of local government; and

WHEREAS, full disclosure is necessary to ensure that City officials are kept informed about the identity of persons whose interests the lobbyists represent.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

SECTION 1. The Oceanside City Code is amended to add Chapter 16C, to read as follows:

CHAPTER 16C

MUNICIPAL LOBBYIST REGISTRATION AND REPORTING REQUIREMENTS

Sec. 16C.1. Title.

This Chapter shall be known as the Municipal Lobbyist Registration and Reporting Requirements of the City of Oceanside, and may be referred to herein as the Lobbyist Requirements.

Sec. 16C.2. Findings and Declarations.

The City Council of the City of Oceanside finds and declares as follows:

The people of the City of Oceanside have the need and right to know the identity of lobbyists who attempt to influence the decisions of City government and the means employed by them to advance their interests. Full disclosure of lobbying activities of such persons and the identity of their employers will contribute to public confidence in the integrity of local government. Full disclosure is also necessary to ensure that City officials are kept informed about the identity of persons whose interests the lobbyists represent.

Sec. 16C.3. Purpose of the Lobbyist Requirements.

The purposes of the Lobbyist Requirements are to maintain a fair and open decision-making process in City government and to ensure that the public and City officials have full knowledge of lobbying activities that have been brought to bear on any legislative or administrative action.

Sec. 16C.4. Interpretation of the Lobbyist Requirements.

Unless the term is specifically defined in this Chapter or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974, Government Code sections 81000 et seq., shall govern the interpretation of this Chapter. Any term herein expressed in the plural may also apply to the singular.

Sec. 16C.5. Definitions.

(a) *Administrative action* means the proposal, drafting, development, consideration, advocacy or recommendation of any rule, regulation, agreement or contract, permit, license, hiring action, or other similar action taken or proposed to be taken by administrative staff of the City.

(b) *City official* includes the Mayor, the Deputy Mayor, any councilmember, any commissioner, any public official, department director, or any City employee specified in the City's Local Conflict of Interest Code who participates in the consideration of any legislative or administrative action other than in a purely clerical, secretarial or ministerial capacity. It shall also include any City representative to any joint powers authority to which the City is a party and any consultant to the City.

(c) *Compensation* means any economic consideration for services rendered or to be rendered in the future, including, without limitation, promises to perform or provide services, contractual arrangements, contingency fees, success fees, bonuses or awards. *Compensation* includes economic consideration, including a salary, to a person who is an officer, owner or employee of a business entity, trust, corporation, association, committee or any other organization or group and who engages in lobbying in the City on behalf of the business entity, trust, corporation, association, committee, organization or group that provides the economic

consideration to the person.

(d) *Consultant* means an individual who, pursuant to a contract with the City, either:

1. Makes a governmental decision or recommendation whether to:

i. Approve a rate, rule or regulation, or adopt or enforce a law;

ii. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;

iii. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract which requires City approval;

iv. Grant City approval of a contract, or the specifications for a contract, which requires City approval and in which the City is a party;

v. Grant City approval of a plan, design, report, study or similar item; or

vi. Adopt or grant City approval of policies, standards or guidelines for the City or for any subdivision thereof.

2. Serves in a staff capacity with the City and in that capacity performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Local Conflict of Interest Code.

(e) *Legislative action* means the drafting, introduction, consideration, modification, enactment or defeat of any minute order, resolution, ordinance, amendment thereto, report, nomination or other action of the Mayor, City Council, any City board or commission, the redevelopment agency, or any joint powers authority of which the City is a party, acting in its official capacity.

(f) *Lobby* means to influence or attempt to influence a legislative or administrative action of the City of Oceanside by direct communication with any City official or any commission, committee, board, task force or other body of the City.

(g) *Lobbyist* means any person who is employed, retained or otherwise engaged for compensation to lobby, on behalf of another person, any elected or appointed City official or

any commission, committee, board, task force or other body of the City. No person is a lobbyist by reason of activities described in Sec.16C.6

(h) *Person* means any individual, business entity, trust, corporation, association, committee or any other organization or group of individuals acting in concert.

Sec.16C.6 Exemptions.

The provisions of this Chapter are not applicable to:

(a) Any City official, or any federal, state or local elected or appointed official, acting in his or her official capacity, or any employee of the City, or of any federal, state or local governmental entity, acting within the scope of his or her employment.

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television station or individual, engages in no further or other activities in connection with urging legislative or administrative action other than to appear before the City Council or any commission, body or board in support of or in opposition to such action.

(c) Any person whose sole activity includes one or more of the following:

1. To submit a bid on a competitively bid contract;

2. To submit a written response to a request for proposals or qualifications;

3. To participate in an oral interview for a request for proposals or qualifications; or

4. To negotiate the terms of a contract or agreement with the City, once the City has authorized, either by action of the City Council, City manager, or voters, entering an agreement with that person, whether that person has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.

(d) A person whose communications are solely related to the establishment, amendment, administration, implementation or interpretation of a collective bargaining

agreement or a memorandum of understanding or memorandum of agreement between the City and a recognized City employee organization.

Sec. 16C.7. Registration.

Lobbyists shall register with the City Clerk within fifteen (15) days after qualifying as a lobbyist under Section 16C.5. No lobbyist shall engage in lobbying unless he or she is registered with the City Clerk, has paid any and all fees and fines as provided for in Section 16C.10, and has complied with the lobbyist ethics training course requirements of Section 16C.15.

Sec. 16C.8. Annual Registration Renewal.

A lobbyist shall renew his or her registration by January 15 of each year unless he or she has terminated his or her status as a lobbyist pursuant to Section 16C.9 on or before January 15.

Sec. 16C.9. Termination of Lobbyist Status.

A person or entity that was registered as a lobbyist shall be deemed to be a lobbyist for purposes of this Chapter until such time as that person or entity files a declaration with the City Clerk attesting to the termination of lobbying services within the City. The declaration shall be executed on a form prescribed by the City Clerk for that purpose, and shall be filed with the City Clerk within thirty (30) days of the termination of a lobbyist status.

Sec. 16C.10. Registration Fees and Fines.

Persons subject to the registration requirements of this ordinance shall pay an annual fee to be established by resolution of the City Council.

(a) The applicable annual registration fee is due at the time of registration or registration renewal, and will be deemed delinquent thereafter. Delinquency fees may be assessed as specified in Subsection (c) below, if payment occurs after the due date.

(b) In addition to the annual fee, each registrant shall pay an annual client fee, to be established by resolution of the City Council, per client per year for whom lobbying is undertaken for compensation. The fees for clients as of the date of initial registration shall be submitted with the registration. The fees for clients who retain a lobbyist subsequent to date of the initial registration shall be due and submitted at the time of the submission of the relevant

supplemental report required pursuant to Sec. 16C.12(b), and shall be deemed delinquent thereafter.

(c) Any person who fails to pay any fees required under this Chapter may be cited and fined according to the provisions of the Administrative Remedies Ordinance, Sec. 1.14 et seq., of this Code. No person who owes any delinquent fees under this Chapter shall file, and the City Clerk may not accept, any registration, registration renewal, quarterly report, supplemental report or notice of termination required by this Chapter, until all delinquent fees and fines are paid.

Sec. 16C.11. Required Annual Registration Information.

The initial and subsequent annual registration shall be in a format prescribed by the City Clerk, and shall contain the following information:

(a) The name, business address, photograph, telephone and fax numbers of all persons required to register under this Chapter, including the names of all owners of sole proprietorships and partnerships of fewer than ten persons. If the registrant is a corporation, it shall also include the names of the president, secretary, chief financial officer and agent for service of process, if any. The registrant shall inform the City Clerk, in writing, within fifteen (15) days, of any change in address, telephone, fax number or agent for service of process. Any business entity or other organization registering under this Chapter shall also briefly describe the nature of its business or organization.

(b) The name, business address, and telephone number of each client, the nature of each client's business and the item(s) of legislative or administrative action that the lobbyist is seeking to influence on behalf of the client; and the name of each person employed or retained by the lobbyist, if any, to lobby on behalf of each client.

(c) All campaign contributions by a lobbyist or a client at the lobbyist's behest, to any City official or City official-elect, identified by name and by office, to a controlled committee, office holder's fund or legal expense fund, given personally or through an intermediary, totaling $100 or more, made during any calendar quarter as defined in Sec. 16C.12.

(d) Payment received by the reporting lobbyist for services as a consultant or in any

other capacity for services rendered to a City agency, any City official or any City official-elect or their controlled commissions or committees, any officeholder committee, or ballot measure committee. The dates of payment and name of each payer shall be included.

(e) The name, address, title and telephone number of the person responsible for preparing the registration, together with that individual's signature attesting to the authority of the signatory and the accuracy and truthfulness of the information submitted.

(f) Any person notified by the City to file an amended registration, registration renewal, quarterly report or subsequent report pursuant to Section 16C.16(c) shall provide the information within the time period specified in the notice from the City. Failure to receive notification from the City shall not excuse compliance with, and shall not be a defense to any action to enforce, the provisions of this Chapter.

Sec. 16C.12. Quarterly and Supplemental Reports.

(a) Lobbyists shall file quarterly reports with, and in a format prescribed by, the City Clerk, on or before April 15, July 15, October 15 and January 15, for the prior calendar quarter. Quarterly reports shall contain the information as specified in Sec. 16C.11(b), (c), (d) and (e) and are subject to the provisions of Sec. 16C.11(f).

(b) Lobbyists shall file supplemental reports with, and in a format prescribed by, the City Clerk, within 10 days of being retained to lobby on behalf of any person who was not listed on the lobbyist's initial or annual report. Supplemental reports shall contain the information as specified in Sec. 16C.11(b) and are subject to the provisions of Sec. 16C.11(f).

Sec. 16C.13. Records Retention.

Copies of the records pertaining to the reports required by this Chapter shall be preserved by the lobbyist for inspection and audit for a period of four years from date of filing of the report with the City Clerk.

Sec. 16C.14. Lobbyist Identification.

When appearing in a lobbying capacity at any meeting with a City official or at a public meeting of the City Council or any other City board, commission or hearing, a lobbyist shall identify himself or herself and the client(s) or the business or organization that he or she

represents.

Sec. 16C.15. Ethics Training.

Within 180 days after a lobbyist's initial registration, a lobbyist shall:

(a) Attend a lobbyist ethics training provided by the City Clerk and file proof of completion of the ethics training course with the City Clerk; or

(b) File proof of completion of the ethics training course mandated by Government Code section 8956(b) or file a statement of compliance with the provisions of Government Code section 86103(d) with the City Clerk.

Sec. 16C.16. Administration by the City Clerk.

The City Clerk shall:

(a) Subject to review and approval of the City Attorney, create all forms and explanatory materials, adopt all reasonable and necessary procedures to implement this Chapter, and provide ethics training courses for lobbyists.

(b) Provide yearly reports to the Mayor and City Council on lobbyist activities and pending complaints and enforcement proceedings and a description of educational programs and materials that have been produced regarding this Chapter and providing any recommendations for amendment of this Chapter. Press releases summarizing the contents of the reports may be prepared and distributed with the respective reports by the City Clerk.

(c) Accept all filings required by this Chapter. The City Clerk shall inspect or cause to be inspected all filings and may refuse to accept any filing that is incomplete or from which the required information is missing or omitted. The City Attorney has the authority to review all filings accepted by the City Clerk and to notify, or cause to be notified, any person submitting an incomplete filing to file an amended registration, quarterly report or supplemental report and the date upon which it must be filed.

Sec. 16C.17. Criminal Penalties.

Any person who violates Sec.16C.7, Sec16C.11, Sec16C.12 or Sec. 16C.14 of this Chapter is guilty of a misdemeanor, and is subject to the provisions of Sec. 1.7. The Oceanside Police Department shall be responsible for investigating criminal violations of this Chapter.

Sec. 16C.18. Civil Actions.

In addition to or in lieu of a criminal action, the City Attorney may bring a civil action against any person who violates the provisions of this Chapter, and/or may seek injunctive relief in the courts to enjoin violations of or to compel compliance with the provisions of this Chapter.

Sec. 16C.19. Administrative Remedies.

In addition to or in lieu of a criminal or civil action, the provisions of the Administrative Remedies Ordinance, Sec. 1.14 et seq., are applicable to any violation of this Chapter.

Sec. 16C.20. Practice Restrictions.

No person convicted of a criminal violation of this Chapter may act as a lobbyist or otherwise attempt to influence municipal legislation for compensation under this Chapter for two years after such conviction.

Sec. 16C.21. Effective Date.

The registration, reporting and other requirements of this Chapter shall apply to lobbying occurring on or after the effective date of this Chapter. Lobbying that occurs prior to the effective date of this Chapter and payment for lobbying services rendered prior to the effective date of this Chapter, whether such payment is made prior to or after the effective date of this Chapter, shall not be considered for purposes of the registration, reporting and other requirements of this Chapter.

SECTION 2. Severability.

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

SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish this ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15) days after its passage in the North County Times, a newspaper of general circulation published

in the City of Oceanside.

SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California, held on the ___ day of _____, 2006, and, thereafter,

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside California, held on the ____ day of _____, 2006, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

SDCA

_____
CITY ATTORNEY

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