ITEM NO. 9A

STAFF REPORT

CITY OF OCEANSIDE

DATE: May 25, 2011

TO: Honorable Mayor and City Councilmembers

FROM: John P. Mullen, City Attorney

SUBJECT: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 16C OF THE OCEANSIDE CITY CODE RELATING TO MUNICIPAL LOBBYIST REGISTRATION AND REPORTING REQUIREMENTS.**

SYNOPSIS

The City Attorney submits for City Council's consideration, introduction, and subsequent adoption an ordinance amending Chapter 16C of the Oceanside City Code relating to municipal lobbyist registration and reporting requirements.

BACKGROUND

In April 2006, the City Council adopted an ordinance establishing Municipal Lobbying Registration and Reporting Requirements ("the Lobbying Ordinance"). In addition, the City Council adopted a resolution authorizing the City Clerk to collect fees from registered lobbyists to cover the cost of implementing the Lobbying Ordinance. In April 2007, the City Council discussed the Lobbying Ordinance with general direction to keep the current version essentially intact, but develop minor revisions to clarify any potentially ambiguous provisions. The Council also discussed the prospect of reducing the number of reports required to be filed by lobbyists. At a City Council meeting on January 9, 2008, the City Council elected not to make any changes to the Lobbying Ordinance.

At a City Council meeting held in March 2, 2011, the City Council directed the City Attorney to draft amendments to the Lobbying Ordinance to simplify the reporting requirements. As directed by the City Council, the proposed amendment eliminates the requirement for lobbyists to file quarterly reports while retaining the initial and annual registration requirements. The amendment also permits lobbyists to file required reports on-line with the City Clerk's Office. Finally, the amendment requires lobbyists to take an ethics training covering the same topics mandated for local elected officials under AB 1234.

ANALYSIS

Based on the Council's previous direction, the City Attorney has developed technical amendments to the City's Lobbyist Ordinance. The amendment includes the following proposed changes directed at the City Council's March meeting:

1. Section 16C.12. Quarterly and Supplemental Reports

Under the proposed ordinance, lobbyists will no longer be required to file quarterly reports. However, the requirement to file an initial and annual report is retained. The initial and annual registration is required to contain, among other things, 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 (10) 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 one hundred dollars ($100.00) or more, made during any calendar quarter as defined in section 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.

The proposed amendment also retains the requirement to file supplemental reports. Lobbyists must file supplemental reports 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 noted above.

In order to ensure consistency in the proposed ordinance, amendments to Section 16C.10(c) (Registration fees and fines) and Section 16C.11 (Required annual registration information) have been prepared to remove all references to quarterly reports.

2. Electronic Filing

The City Council directed on March 2, 2011, that lobbyists have the ability to file required reports electronically. The draft ordinance includes an amendment to Section 16C.16. ("Administration by the city clerk"), to provide lobbyists with the option of filing required reports electronically.

3. Mandatory Ethics Training

Finally, the City Council included in its motion on March 2, a requirement to compel lobbyists to take the same ethics training required for council members under AB 1234. Ethics training is already required under the current ordinance. At council's direction, a revised ethics training program has been included in amended section16C.15. (Ethics Training).The proposed amendment mandates that within 180 days after a lobbyist's initial registration, a lobbyist shall attend ethics training covering the topics mandated by Government Code section 53234 and file proof of completion of the ethics training course with the City Clerk. Completion of the ethics training provided on-line by the Fair Political Practices Commission or by a comparable training offered by the city attorney shall satisfy the requirements of this section.

FISCAL IMPACT

The City Council has adopted a resolution requiring lobbyists to pay an annual registration fee to cover the City's costs of implementing the Lobbying Ordinance. The City Clerk recommends that the fee remain in place to ensure that sufficient revenues are available to cover the estimated costs of enforcing the Lobbying Ordinance. In the event that fee revenue exceeds the actual costs of enforcement, staff will return to Council for a reduction in the annual fee.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The proposed revisions to the Lobbying Ordinance involve a policy decision for the City Council. The City Attorney has drafted the proposed ordinance and approved it as to form.

RECOMMENDATION

The City Attorney submits for City Council's consideration, introduction, and subsequent adoption an ordinance amending Chapter 16C to the Oceanside City Code.

PREPARED BY:

John Mullen
City Attorney

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

ATTACHMENTS

Redlined Version of Chapter 16C showing proposed changes.

G:\Word Documents\RO\CHAPTER 16C LOBBYIST\Ch16C Staff Report Lobby Ord Revisions 5-25-11 (JPM) 2.doc

ORDINANCE NO._____

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

WHEREAS, Chapter 16C of the Oceanside City Code sets forth the City's Municipal Lobbying Registration and Reporting requirements; and

WHEREAS, the City Council desires to amend Chapter 16C to eliminate the requirement for Lobbyists to file quarterly reports while retaining the initial and annual registration requirements; to enable Lobbyists to file required reports on-line with the City Clerk's Office, and to require Lobbyists to take the same ethics training mandated for local elected officials;

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

SECTION 1. Chapter 16C of the Oceanside City Code is amended as follows:

Section 16C.10(c) Registration fees and fines is amended as follows:

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, section 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, supplemental report or notice of termination required by this chapter, until all delinquent fees and fines are paid.

Section 16C.11 Required annual registration information is amended as follows:

Any person notified by the city to file an amended registration, registration renewal, 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.

Section 16C.12. Quarterly and Supplemental Reports is amended as follows:

Supplemental Reports

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.15. Ethics Training.

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

(a) Attend ethics training covering the topics mandated by Government Code section 53234 and file proof of completion of the ethics training course with the City Clerk. Completion of the ethics training provided on-line by the Fair Political Practices Commission or by a comparable training offered by the city attorney shall satisfy the requirements of this section; 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.

Section 16C.16. ("Administration by the city clerk") is amended as follows:

The city clerk shall:

(a) Subject to the review and approval of the city attorney, create all forms and explanatory materials, adopt all reasonable and necessary procedures to implement this chapter.

(b) Accept all filings required by this Chapter. Lobbyists shall have the option to electronically file all reports mandated by Chapter 16C. 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, or supplemental report and the date upon which it must be filed.

SECTION 2. 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 3. 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 _____, 2011, and, thereafter,

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside California, held on the ____ day of _____, 2011, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

John P. Mullen
_____
CITY ATTORNEY

G:\Word Documents\RO\CHAPTER 16C LOBBYIST\Lobbyist Registration Amendment-Final Ordinance-5-10-11 (JPM) FINAL.doc