



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

Supervisor Rich Gordon

DATE: May 23, 2007

BOARD MEETING DATE: June 5, 2007

SPECIAL NOTICE/HEARING: None

VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Supervisor Rich Gordon *RA*

SUBJECT: Regulation of lobbying activities by persons or organizations with members of the Board of Supervisors and their legislative aides

RECOMMENDATION:

1. Adopt an ordinance Adding Chapter 2.04 to the San Mateo County Ordinance Code regulating lobbying activities.
2. Adopt a resolution setting the lobbyist registration fee pursuant to San Mateo County Ordinance Code section 2.04.50.

VISION ALIGNMENT:

Commitment: The County Shared Vision 2010 creates a commitment to responsive, effective and collaborative government.

Goal(s): Goal #20 calls for government decisions that are based on careful consideration of future impact, rather than temporary relief or immediate gain. The Shared Vision also has a commitment to realize the potential of our diverse population.

Goal #2 calls for civic engagement – including voting, public service, charitable giving, volunteerism, and participation in public discussions of important issues – to be uniformly high among the diverse population.

BACKGROUND:

At the annual Progress Seminar in 2004 there was a panel presentation on ethics in

local government. Following that presentation the Board of Supervisors requested a report from the County Counsel's office on the regulations typically in place in local jurisdictions relating to ethics for public office holders. This report presented to the Board on May 2, 2006 compared regulations in San Mateo County to those in place in other jurisdictions (a copy of that report is attached to this memo). In almost all cases, San Mateo County seemed to have adequate protections and regulations.

DISCUSSION:

One area where San Mateo County provided no regulation was the registration of lobbyists. This is an area generally regulated by other local governments. The attached ordinance was developed to provide for the registration of lobbyists. In addition to completing an annual registration, those who lobby the Board of Supervisors or the Legislative Aides of Board members will complete semi-annual activity reports. The registration program will be administered by the County Counsel's office.

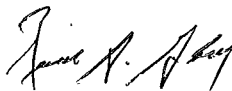
One of the hallmarks of the San Mateo County Board of Supervisors over the years has been an adherence to high ethical standards. This ordinance is presented for consideration not because of any real or perceived breach of ethical standards. Rather, it is presented in order to protect members of the Board of Supervisors and their staff. It will align San Mateo County with practices in other jurisdictions and will guarantee the public that there is transparency in the decision making for County government.

Accompanying this ordinance is a resolution setting the annual registration fee for lobbyists at \$100. This fee not only covers the administrative costs for processing the registration, but also the administration of the lobbyists' semi-annual reports. This fee is considerably less than the \$500 fee required by the City of San Francisco and \$350 fee required by the City of San Jose.

In order to give notice to persons and organizations that currently lobby the Board and to prepare for the administration of the registration, the ordinance and the accompanying resolution are both not effective until January 1, 2008.

FISCAL IMPACT:

There will be slight fiscal impact for the Office of the County Counsel. This impact is expected to be mitigated by the fees collected for the registration of lobbyists.



SUPERVISOR RICH GORDON

cc: John Maltbie, County Manager
Thomas F. Casey III, County Counsel



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

County Counsel

DATE:

BOARD MEETING DATE:

SPECIAL NOTICE/HEARING: N/A

VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: Thomas F. Casey III, County Counsel
SUBJECT: Various Ethics Related Laws and Ordinances

RECOMMENDATION:

Accept Preliminary Report Regarding Various Ethics Related Laws and Ordinances.

BACKGROUND:

The Board of Supervisors requested County Counsel to prepare a preliminary report that catalogues the various ethics related laws and ordinances that are available for the County to consider and that identifies some techniques to engage the public in the review of the way the County conducts its business.

DISCUSSION:

In addition to state law and regulations, we reviewed several techniques used by the City and County of San Francisco, City of San Jose, County of Los Angeles and County of Santa Clara to regulate Board member activities. These techniques include regulating: (1) campaign activities relating to contributions, (2) officeholder activities relating to officeholder accounts, gifts, and incompatible activities, (3) former officeholder activities and (4) activities of persons other than the officeholders such as lobbyists.

REGULATING ACTIVITIES DURING OFFICE

Campaign Contribution and Spending Limits

State Law Applicable to San Mateo Elected Officials

While state law does not limit the amount of contributions that a candidate for local

office can receive, the Political Reform Act does require disclosure of campaign contributions and expenditures for candidates and officeholders who receive contributions totaling \$1,000 or more in a calendar year. There are also restrictions on how campaign funds are to be used. In general, expenditures from a candidate or recipient committee's campaign funds must be reasonably related to a political, legislative, or governmental purpose. Any expenditure that confers a substantial personal benefit on an individual must be directly related to a political, legislative, or governmental purpose. The Political Reform Act does not require limits on spending for local campaigns.

Existing San Mateo County Limitations by Charter or Ordinance

Chapter 2.205 of the ordinance code sets the campaign contribution limit at \$1,000, from any person or entity, per primary/general elections.

City and County of San Francisco

San Francisco restricts candidates from accepting contributions of more than \$500, from any person, for the primary and general election and \$250 for a run-off election.

City of San Jose

City of San Jose has a separate \$100 limit per primary and general election from any person, with a \$250 limit if voluntary spending limits are not exceeded.

County of Los Angeles

The County of Los Angeles has a limit, from any person, of \$200 per primary and general election with a \$1,000 limit if voluntary spending limits are not exceeded.

County of Santa Clara

County of Santa Clara has a \$250 per election, with a \$500 limit if voluntary spending limits are not exceeded.

Officeholder Accounts

State Law Applicable to San Mateo Elected Officials

At one time state law regulated officeholder accounts. Those provisions have been repealed. Presently, the Political Reform Act provides that after an election, a successful candidate has the option of maintaining his or her committee and campaign bank account. An officeholder who maintains a committee may: (1) continue to receive contributions, (2) use campaign funds to offset officeholder expenses and (3) use the funds for future elections. An unsuccessful candidate may use the money remaining in the campaign fund account for a future election for either the same office or a different office; however, new bank accounts must be set up.

The Political Reform Act does require disclosure of campaign contributions and expenditures for officeholders who receive contributions totaling \$1,000 or more in a

calendar year.

Existing San Mateo County Limitations by Charter or Ordinance

There are no limitations other than the applicable sections of the Political Reform Act.

City and County of San Francisco

San Francisco prohibits officeholder accounts.

City of San Jose

Contributions to officeholder accounts are limited to \$250 per calendar year with a \$10,000 aggregate limit. In addition, no officeholder contributions may be collected or spent during a campaign contribution period. The funds from the account can only be used for officeholder expenses. These funds cannot be used for campaign purposes.

County of Los Angeles

Los Angeles County limits the annual contribution to \$1,000 per contributor with an aggregate limit of \$75,000 per year. No contributions or expenditures can be made from the account during the campaign period.

County of Santa Clara

There are no limitations other than the applicable sections of the Political Reform Act.

Gift Limits

State Law Applicable to San Mateo Elected Officials

Government Code § 89503 limits the amount Board members may accept as gifts. Gifts valued in excess of \$360 generally may not be accepted from any single source in any calendar year. This gift limit is adjusted every odd-numbered year. The gift limit is applicable only to individuals and entities that would have to be disclosed on the Board member's Form 700.

Existing San Mateo County Limitations by Charter or Ordinance

There are no limitations other than those set forth in Government Code § 89503. County Administrative Memorandum B-3 further limits gifts to county officers and employees to \$50, if business is transacted or is in a recommending, advisory, or decision-making capacity with respect to such business. This memorandum does not apply to members of the Board of Supervisors.

City and County of San Francisco

San Francisco has a gift limit of \$100 from certain sources. The restricted sources are persons doing business with or seeking to do business with the official's department or persons who during the prior twelve months knowingly attempted to

influence the officer in any administrative or legislative action.

City of San Jose

Council members cannot accept gifts over \$50 from any person who is subject to the decision-making or recommending authority. The reporting and disclosure of gifts, which are not prohibited, as well as the gift limitations and disqualification requirements are in accordance with Government Code § 89503.

County of Los Angeles

There are no limitations other than those set forth in Government Code § 89503.

County of Santa Clara

There are no limitations other than those set forth in Government Code § 89503.

Incompatible Activities of Officers

State Law Applicable to San Mateo Elected Officials

Government Code § 1090 and the Political Reform Act prohibit or restrict Board members from having financial interests in business transactions or contracts over which they have authority. In regards to "incompatible activities," Government Code § 1126 prohibits local agency officers or employees from "engaging in any employment and activities which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer." Section 1126 is not self-executing and it mandates local agencies to adopt rules governing its application.

Existing San Mateo County Limitations by Charter or Ordinance

Chapter 2.188 of the ordinance code mandates department heads to formulate rules regulating incompatible activities of officers, employees and Board appointed members of boards and commissions. These rules may prohibit outside activity or employment that involves: (a) the use of County time, facilities, equipment or supplies or the badge, uniform, prestige or influence of his County office or employment, (b) the receipt of money for work that the employee was required to do in his or County employment, (c) the performance of an act that may be subject to control, inspection, review, audit, or enforcement of any other officer or employee of the County, or (d) it involves such time demands as would interfere with the efficient performance of County duties. The rules also provide for disclosure and review of outside activities. Chapter 2.188, however, does not apply to members of the Board of Supervisors.

City and County of San Francisco

Board members cannot engage in employment of activities that are incompatible. The definition of incompatible activities essentially mirrors state law.

City of San Jose

The City Charter provides that no member of the Council shall hold any other City

office or City employment, other than Mayor, during the term for which he or she was elected to the Council; provided and excepting, however, that a member of the Council may become a member of any advisory, administrative or governing body of any special purpose district, entity, organization or committee when such is authorized by State law or where the offices are not incompatible. The City of San Jose does not have any ordinances that regulate incompatible activities of City Council members.

County of Los Angeles

The County of Los Angeles does not have any ordinances that regulate incompatible activities of members of the Board of Supervisors.

County of Santa Clara

The Santa Clara County ordinance restricts outside activities of members of the Board of Supervisors. It prohibits a Board member from participating in outside employment for compensation if: (1) it would substantially interfere with the member's ability to carry out official duties or exercise independent judgment on behalf of the public interest, or (2) where the amount of time expended in such engagement exceeds an average of one day per week, or (3) where any part of the Board member's effort will be subject to approval by the Board of Supervisors or any other County board, officer or employee. In addition, Board members are "discouraged from participating" in non-compensated activities which involve: (1) a substantial commitment of time or (2) matters which come regularly before the Board.

Limitation of Board Member Activities Relating to Spouses and Domestic Partners

State Law Applicable to San Mateo Elected Officials

The Political Reform Act requires Board Members to disclose income from spouses and domestic partners. In addition, state law limits the participation of an official in decision making where an economic conflict of interest exists. This economic conflict of interest is based upon income, investments and real property interests that the elected official has a community property or domestic partnership interest.

Existing San Mateo County Limitations by Charter or Ordinance

There are no limitations other than those set forth in the Political Reform Act.

City and County of San Francisco

San Francisco prohibits Board members from making, participating in making, or otherwise seeking to influence a decision of the City regarding an employment action involving a relative. They can, however, write a letter of reference.

City of San Jose

The ordinance code does not contain any limitations.

County of Los Angeles

The ordinance code does not contain any limitations.

County of Santa Clara

The ordinance code prohibits Board members from participating "in a governmental decision in which he or she has a close personal interest which would tend to impair the exercise of independent judgment in the public interest." Personal, as distinguished from financial, interests include interests arising from blood or marriage relationships or very close personal associations which would constitute a conflict of interest under the common law. The ordinance code provides that: "The purpose of this section is to disqualify Board members from participating in decisions in which there would be a conflict of interest under the common law."

**REGULATING ACTIVITIES RELATING TO PROSPECTIVE EMPLOYERS
AND AFTER LEAVING OFFICE.**

Limitation of Former County Officials

State Law Applicable to San Mateo Elected Officials

There is no state law regulating Board member activity after the term of office. However, Government Code § 87407 prohibits Board members from making, participating in, or influencing a governmental decision that directly relates to a prospective employer.

Existing San Mateo County Limitations by Charter or Ordinance

Section 204 of the County Charter provides: "No Supervisor during the term of office or for one year thereafter is eligible for appointment to any County office, position or employment carrying compensation except for reimbursement of authorized expenses." Any change to Section 204 of the Charter would need to be approved by the electorate.

City and County of San Francisco

The City of San Francisco has a one year restriction for former members of the Board of Supervisors in regards to communication with city departments, boards or commissions. Former Board members are not eligible for city employment or for appointment to a board or commission for one year.

City of San Jose

The City of San Jose prohibits former city officials, including city council members, for one year from: (1) working on any legislative or administrative matter on which the official worked on during the twelve months prior to termination of service, or which was within the former city or agency official's or designated employee's area of job responsibility (2) representing anyone else, whether or not for compensation, before the city council, redevelopment agency board, any commission thereof, or any staff of the city or agency.

County of Los Angeles

The Los Angeles County Charter provides that Board members "shall devote all their time during business hours to the faithful service of the public." There are no further limitations listed in the Los Angeles County ordinance code.

County of Santa Clara

The County Charter has the same prohibition as our charter. In addition, the ordinance code prohibits Board members from engaging in paid representation ("lobbying") on any matter within the employee's responsibility for a period of four years after leaving office.

REGULATING ACTIVITIES OF OTHERS

Lobbying

State Law Applicable to San Mateo County

There is no state law regulating lobbying activities that is applicable to the County.

Existing San Mateo County Limitations by Charter or Ordinance

There is no county regulation of lobbying activities.

City and County of San Francisco

Certain persons or firms that lobby the city must register annually and file quarterly reports. The definition of a lobbyist is a person who, pursuant to contract or multiple contracts, receives at least \$3,200 in any three consecutive month period or has at least 25 separate contacts with officers of the City. In addition persons who send \$3,200 to influence legislative or administrative action within three consecutive calendar months has to register and file reports regarding the payments.

City of San Jose

The municipal code requires individuals who engage in lobbying on behalf of one or more clients and who has received or has entered into an agreement for compensation of \$1,000 or more for lobbying during any consecutive three-month period must register and file quarterly reports. The municipal code also requires that any employer shall disclose concurrent employment, in any capacity, of any officer of the city, redevelopment agency or any full-time employee of the city or agency when: the employer is a local governmental lobbyist or a client of a lobbyist, who made the offer of employment based on the request or recommendation of the lobbyist.

County of Los Angeles

The ordinance code requires individuals and firms that are paid to communicate with the Board either directly or through agents must register as a lobbyist and file quarterly reports.

County of Santa Clara

Every person or entity, who has a matter on the agenda of the Board of Supervisors as part of an application for a County contract, permit, license or franchise, shall file a declaration and shall state prior to the appearance on the matter, the names of any individual(s) or firm(s) paid \$100 or more to present the position of the applicant to the Board of Supervisors, or to any individual member or members of the Board of Supervisors, or county staff with the ability to make administrative decisions regarding such applications. Any person who is a lobbyist under the terms of the ordinance must identify themselves to the Board or county staff prior to speaking on a matter.

THOMAS F. CASEY III, COUNTY COUNSEL

cc: John Maltbie, County Manager

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