



AGENDA REPORT

Meeting Date: March 4, 2014

Item Number: D-4

To: Honorable Mayor & City Council

From: Laurence S. Wiener, City Attorney

Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING TITLE 1, CHAPTER 9, ARTICLE 1 OF THE MUNICIPAL CODE REGARDING COMPENSATED LEGISLATIVE ADVOCATES

Attachments:

1. Ordinance
2. Legislative Advocate Registration

RECOMMENDATION

The City Attorney's Office recommends that the City Council move to waive the full reading and adopt the ordinance as amended entitled "An Ordinance of the City of Beverly Hills amending Title 1, Chapter 9, Article 1 of the Municipal Code regarding Compensated Legislative Advocates".

INTRODUCTION

Last year, the Mayor formed a sunshine task force which recommended that the City Council update the City's lobbyist disclosure form to include additional information and more specificity. The City Council approved an updated form and requested accompanying changes to the Municipal Code in order to implement the form. At the February 18, 2014 meeting, an ordinance was presented, which included those changes to the Municipal Code to implement the form, as well as other changes requested by the City Council. In addition, the City Council directed that the ordinance be amended to provide a remedy that violators' names will be posted on the City's website, and to amend the form to explain the remedy.

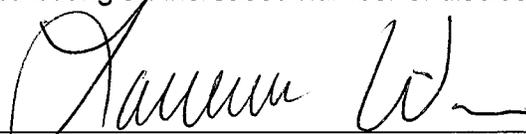
DISCUSSION

At its meeting of February 18, 2014, the City Council conducted a first reading of this ordinance and introduced it, as amended.

FISCAL IMPACT

The ordinance may result in some increased costs to the City. Because the ordinance adds additional lobbyist registration requirements and adds an additional remedy for violating those requirements (suspension of lobbying privileges), the ordinance increases the likelihood of violations and therefore increases the likelihood of hearings to impose penalties for violations. Any hearing will likely result in out of pocket costs to engage both a City prosecutor and a hearing officer. At this time it is difficult to provide an educated estimate of total potential costs for such hearings as it is difficult to predict how often the ordinance may be violated and whether any hearing will be vigorously contested. However, the cost of any individual hearing is not expected to exceed ten thousand dollars (\$10,000). Additional costs are not anticipated to manifest this fiscal year. However, budget adjustments may be necessary next year for City prosecution and hearing officer services.

In addition to hearing costs, there will be some additional staff time associated with posting disclosure forms on the City's website and distributing an increased number of disclosure forms.

A handwritten signature in black ink, appearing to read "Laurence S. Wiener", is written over a horizontal line.

Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 14-O-

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING TITLE 1, CHAPTER 9, ARTICLE 1 OF THE
MUNICIPAL CODE REGARDING COMPENSATED
LEGISLATIVE ADVOCATES

THE COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS
FOLLOWS:

Section 1. Section 1-9-102 (Definitions) of Article 1 of Chapter 9 of Title 1 of
the Beverly Hills Municipal Code is amended to read as follows:

“1-9-102: DEFINITIONS:

The following terms used in this Article shall have the meanings set forth below. For any term not specifically defined herein, the definitions shall be as set forth in the California Political Reform Act of 1974, as amended, and in the regulations of the California Fair Political Practices Commission, if defined therein.

ATTEMPTING TO INFLUENCE: Promoting, supporting, opposing, seeking to modify, or seeking to delay municipal legislation by any means, including, without limitation, providing or generating political contacts, presenting information, statistical analyses or studies.

CITY OFFICIAL: The mayor, any member of the city council and any member of a City of Beverly Hills commission.

CLIENT: Any Person who provides compensation to a Legislative Advocate for Legislative Advocacy, whether the compensation is provided directly, indirectly or through an intermediary.

COMPENSATION: Monetary or in-kind payment or remuneration in an amount in excess of fifty dollars, or the expectation of such remuneration, for engaging in the Legislative Advocacy. Compensation does not include the salary of an employee who devotes less than twenty percent (20%) of that employee's work time to Legislative Advocacy during any one year and who engages in legislative advocacy only on behalf of a single employer. Compensation also does not include reimbursement of or payments for reasonable travel or business expenses, such as copying, telephone charges and meals.

DIRECT COMMUNICATION: Appearing as a witness before, talking to (either in person or by telephone), corresponding with, or answering questions or inquiries from,

any City Official either personally or through an agent who acts under one's direct supervision or control.

LEGISLATIVE ADVOCACY: Includes the following and similar conduct for compensation when the conduct is related to Attempting to Influence Municipal Legislation:

A. Engaging in, either personally or through an agent, written, electronic, or oral Direct Communication with a City Official;

B. Drafting ordinances, resolutions, or regulations;

C. Attempting to Influence the position of any third party on Municipal Legislation or an issue relating to Municipal Legislation by any means, including, but not limited to, engaging in community or media relations activities.

D. Advising clients regarding strategy for Legislative Advocacy.

LEGISLATIVE ADVOCATE: Any individual who is Compensated or who is hired, directed, retained or otherwise becomes entitled to be compensated for engaging in Legislative Advocacy.

MUNICIPAL LEGISLATION: Any legislative, quasi-judicial, or administrative matter proposed by or pending before the City Council or any City commission. "Municipal Legislation" includes, without limitation, those matters involving the granting, denial, amendment, revocation, or restriction of any license, permit or entitlement for use (including all land use permits); the consideration, adoption, amendment or repeal of all municipal ordinances; and the consideration and award of bids and proposals for city contracts. "Municipal Legislation" does not include purely ministerial actions. A development application shall be considered to be pending before the City Council or a City commission once any preliminary material, including an application for concept review, has been filed with the City."

Section 2. Section 1-9-105 (Registration) of Article 1 of Chapter 9 of Title 1

of the Beverly Hills Municipal Code is amended to read as follows:

"1-9-105: REGISTRATION:

A. Within 10 days after a Legislative Advocate begins to engage in Legislative Advocacy that includes Direct Communication with a City Official other than in an open public

meeting, the Legislative Advocate shall register as a Legislative Advocate with the City Clerk on a form provided by the City for that purpose. The registration form shall include the name, telephone number, business address, email address and fax number of the Legislative Advocate and the Legislative Advocate's employer, the identity of the Client, the contact information for the Client, a description of the specific business in which the Client is involved, a description with specificity of the matter of Municipal Legislation the Legislative Advocate is attempting to influence, and the outcome desired by the Client. The form shall also include a description of Legislative Advocacy conducted during the previous twelve months that was not previously reported to the City by the Legislative Advocate.

Any form submitted by a Legislative Advocate shall be signed under penalty of perjury, shall be available for public view in the City Clerk's office as well as posted on the City's website in a searchable database and shall be forwarded by the City Clerk to each City Official, the City Manager and the City Attorney."

Section 3. Section 1-9-106 (Remedies) of Article 1 of Chapter 9 of Title 1 of the Beverly Hills Municipal Code is revised to address disclosure at public meetings and to read as follows:

1-9-106: DISCLOSURE AT PUBLIC MEETINGS

At any time that a Legislative Advocate engages in Legislative Advocacy at a City Council or City Commission meeting, the Legislative Advocate shall announce the specific matter being addressed and shall identify the Client who is being represented by the Legislative Advocate.

Section 4. Section 1-9-107 (Remedies for Violations) is hereby added to Article 1 of Chapter 9 of Title 1 of the Beverly Hills Municipal Code to read as follows:

1-9-107: REMEDIES FOR VIOLATIONS:

Pursuant to the administrative remedies and procedures set forth in Chapter 3 of this Title, any person who knowingly and willfully violates any provision of this Article, may be assessed an administrative penalty not to exceed five hundred dollars (\$500) per violation.

Additionally, the City Prosecutor is delegated the authority to investigate any charge that a person has knowingly and willfully violated this Article. If the City Prosecutor determines that there is probable cause to believe that a Legislative Advocate has knowingly, willfully and materially violated the provisions of this Article, the City Prosecutor may request that the City conduct an administrative hearing to determine whether such a violation has occurred and, if so, whether the Legislative Advocate should be prohibited from engaging in Legislative Advocacy for a period of time.

Upon the request of the City Prosecutor, a hearing officer shall be retained and an administrative hearing shall be conducted substantially in accordance with the procedures set forth in Chapter 3 of this Title for conducting hearings on administrative citations.

If, after conducting a hearing pursuant to this Section, a hearing officer determines that the Legislative Advocate has knowingly, willfully and materially violated the provisions of this Article, then for the first violation of this Article, the hearing officer may prohibit the Legislative Advocate from engaging in Legislative Advocacy for a period of up to six months, for a second violation, the hearing officer may prohibit the Legislative Advocate from engaging in Legislative Advocacy for a period of up to one year, and for a third or subsequent violation, the hearing officer may prohibit the Legislative Advocate from engaging in Legislative Advocacy for a period of up to four years. The hearing officer may issue an order prohibiting the Legislative Advocate from engaging in Legislative Advocacy for a period of less than the maximum period set forth in this paragraph if the hearing officer determines that mitigating circumstances justify a lesser period of prohibition.

If the hearing officer determines that the Legislative Advocate has knowingly, willfully and materially violated the provisions of this Article, or if the Legislative Advocate accepts the allegation of knowing, willful and material violation and waives the opportunity for a hearing, then the City's website shall identify the Legislative Advocate and indicate that the Legislative Advocate has violated the City's regulations governing Legislative Advocacy. The website identification shall remain posted on the website for one year.

Notwithstanding the provisions of Chapter 3 of this Title, any decision by a hearing officer pursuant to this Section 1-9-07 shall be a final decision and not subject to appeal or review by the City Council.

Section 5. The City Council hereby approves this Ordinance and authorizes the Mayor to execute the Ordinance on behalf of the City.

Section 6. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

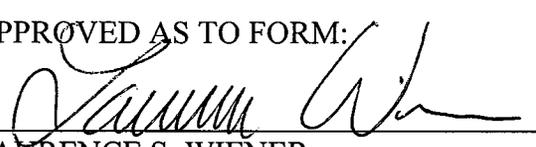
JOHN A. MIRISCH
Mayor of the City of
Beverly Hills, California

ATTEST:

BYRON POPE
City Clerk

(SEAL)

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager

Attachment 2

LEGISLATIVE ADVOCATE REGISTRATION AND CERTIFICATION STATEMENT

Pursuant to Beverly Hills Municipal Code Title 1, Chapter 9, Article 1 entitled "Legislative Advocates," the undersigned hereby submits and signs the attached form **UNDER PENALTY OF PERJURY** in accordance with the laws of the State of California:

INSTRUCTIONS

A. Definitions and Exemptions.

The terms used in this form shall be defined as set forth in the Beverly Hills Municipal Code. Certain definitions from the Municipal Code are summarized here.

1. Definition of Legislative Advocate.

Legislative Advocate is defined as any person who receives monetary or any other form of compensation, in excess of \$50, or has the expectation of such compensation, for the purpose of influencing any discretionary action, including recommendations, of the City Council or any Commission of the City of Beverly Hills.

2. Definition of Client

A "client" is defined as any person or other legal entity who provides compensation to a Legislative Advocate for Legislative Advocacy services, whether the compensation is provided directly, indirectly, or through an intermediary.

3. Exemptions

This form is not required of any person who is not a "Legislative Advocate" as defined in the Municipal Code, including anyone who does not receive more than fifty dollars of compensation for engaging in Legislative Advocacy.

This form is also not required in connection with any Legislative Advocacy that occurs solely on the record at an open and public meeting of the City Council or a City Commission. However, at any such meeting, the Legislative Advocate must disclose that he or she is a compensated Legislative Advocate and must identify his or her Client.

B. Completing form.

Please provide the following information on the attached form:

1. Contact Information for the Legislative Advocate.

- Please set forth your name, business address, telephone number, e-mail address and fax number

2. Description of Matter that Legislative Advocate is Attempting to Influence

- Please describe with specificity the Municipal Legislation that you are attempting to influence

LEGISLATIVE ADVOCATE REGISTRATION AND CERTIFICATION STATEMENT

- Please describe the outcome desired by your client
 - Please provide the initial date of your engagement
3. Information Pertaining to the Client of the Legislative Advocate.
- Please identify your client
 - Please provide the Contact Information for the client.
 - Describe in detail the specific business in which the client is involved.
4. Contact Information of Employer of Legislative Advocate
- Please set forth the name, business address, telephone number, and website address of your employer
5. Description of Past Legislative Advocacy that has not otherwise been reported
- Please provide a detailed summary specifically describing each legislative advocacy activity in which you or your employer engaged involving the City of Beverly Hills during the prior year including the issue involved, the position advanced by you or your employer and the outcome. **This information need not be repeated if the information, other than outcome, has already been submitted to the City of Beverly Hills' searchable database.**
 - Please provide contact information for each client who retained you in connection with activity identified in the immediately preceding paragraph. **This information need not be repeated if the information has already been submitted to the City of Beverly Hills' searchable database.**

C. Deadline for Submitting Form

This form must be completed and submitted within ten (10) calendar days after a legislative advocate commences legislative advocacy on any matter.

D. Public Availability of Form

Copies of this form shall be available for public view in the City Clerk's Office as well as posted on the City's website in a searchable database and shall be forwarded to each City Council member, each City Commissioner, the City Manager and the City Attorney.

LEGISLATIVE ADVOCATE REGISTRATION AND CERTIFICATION STATEMENT

E. Advisories to Legislative Advocates

On any occasion in which the Legislative Advocate makes a presentation to the City Council or City Commission, the Legislative Advocate shall announce the specific matter being addressed and shall identify the client who the Legislative Advocate is representing.

Pursuant to Title 1, Chapter 3 of the Beverly Hills Municipal Code, any person who knowingly and willingly violates any Code requirement regarding registration of Legislative Advocates may be assessed a penalty not to exceed five hundred dollars (\$500) per violation, may be prohibited from lobbying in the City of Beverly Hills for a period of up to four years and may be identified for a period of one year on the City's website as a person who has violated the City's regulations concerning Legislative Advocacy.



City of Beverly Hills Legislative Advocate Registration

Contact Information for the Legislative Advocate	
Name	Telephone
Business address	E-mail
(Line 2)	Fax
City, State & Zip	
Employer (if applicable)	
Description of Matter that Legislative Advocate is Attempting to Influence	
Description of Municipal Legislation that is subject of Advocacy	
Desired Outcome	
Initial Date of Engagement	
Client Information	
Client name	Telephone
Client Address	Website Address (if any)
(Line 2)	
City, State, Zip	
Specific business of client	



**City of Beverly Hills
Legislative Advocate Registration**

Legislative Advocate Employer

Employer Name	
Business Address	
(Line 2)	
City, State, Zip	
Website Address (if applicable)	Telephone

Recent Legislative Advocacy Activity

Other than the matter described above, please describe in detail each matter for which you or your employer has been hired involving the City of Beverly Hills during the previous twelve months, as well as the date thereof. Please identify the outcome that the Client is seeking to achieve with respect to each matter that has been described. (Append additional sheets as necessary.) Information that has already been provided by submitting this form in connection with a previous legislative advocacy matter need not be repeated.

Item 1	
Client Name	Telephone
Business Address	Web site address (if any)
City, State, Zip	
Specific Business of Client	
Description of the subject of the Advocacy	Date of engagement
Desired Outcome	
Outcome (f any)	



City of Beverly Hills Legislative Advocate Registration

Item 2	
Client Name	Telephone
Business Address	Web site address (if any)
City, State, Zip	
Specific Business of Client	
Description of the subject of the Advocacy	Date of engagement
Desired Outcome	
Outcome (if any)	

Sign and Date

I declare under penalty of perjury that the information which has been included in this Registration Form is true and correct.

Signed

Date