



AGENDA REPORT

Meeting Date: August 16, 2016
Item Number: D-7
To: Honorable Mayor & City Council
From: Kevin Kearney, Senior Management Analyst
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING RESTRICTIONS PERTAINING TO FORMER ELECTED OFFICIALS, FORMER PLANNING COMMISSIONERS AND FORMER CITY OFFICIALS

Attachments:

1. Ordinance
2. Legislative Digest

RECOMMENDATION

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING RESTRICTIONS PERTAINING TO FORMER ELECTED OFFICIALS, FORMER PLANNING COMMISSIONERS AND FORMER CITY OFFICIALS" be introduced and read by title only.

INTRODUCTION

At the July 5, 2016 Study Session, the City Council directed Staff to draft an ordinance amending the City's Revolving Door Prohibition to extend the prohibition on lobbying for four (4) years. This prohibition is to apply to former City employees who are required to file a form 700, former elected officials and former planning commissioners.

DISCUSSION

The City's Revolving Door Prohibition was created to promote and maintain the highest standards of personal and professional conduct among all involved and city government and in order to avoid any appearance of undue influence on City and elected officials in making governmental actions and decisions. At the time of original implementation in 2006, the City Council desired to impose reasonable restrictions on the ability of former City employees, elected officials and planning commissioners to influence the City, or its officers and employees.

At the July 5, 2016 Study Session, Staff transmitted to the City Council a Staff Report on the Revolving Door Prohibition. After discussion, the Council directed Staff to draft an ordinance increasing the City's Revolving Door policy to four (4) years. This policy is to include former City employees who were required to file a form 700, elected officials and planning commissioners. This extended provision will only affect City officials and elected officials upon their leaving of office or employment on or after October 1, 2016 and for planning commissioners who are appointed or reappointed on or after October 1, 2016. The current standards in the municipal code will be applied to those City officials and elected officials who left office prior to October 1, 2016 and for planning commissioners who were appointed prior to October 1, 2016.

Additional changes in the ordinance affect the acceptance of gifts. Elected officials and City officials who participate in a decision to approve a land use matter are prohibited from accepting anything of value that exceeds five hundred dollars (500.00) for a period of thirty (30) months from the date of the decision if the decision was made prior to October 1, 2016, or for a period of four (4) years from the date of any decision to approve a land use matter made on or after October 1, 2016. Planning commissioners appointed prior to October 1, 2016 who participated in a decision to approve a land use matter will be prohibited from accepting anything of value that exceeds five hundred dollars (\$500.00) for a period of thirty (30) months from the date of the land use matter decision, or for a period of four (4) years from the date of the decision to approve a land use matter for planning commissioners appointment or reappointed on or after October 1, 2016.

The ordinance also restricts former elected officials from accepting positions of employment, in which the individual receives compensation of more than fifty percent (50%) of its funding from the City, or which has fifty percent (50%) or more of its board members, officers or directors are appointed by the City Council, provided that such prohibitions are within the following time periods after leaving the City:

1. For elected officials who leave office prior to October 1, 2016 for a period of two (2) years after leaving City office
2. For elected officials who leave office on or after October 1, 2016 for a period of four (4) years after leaving City office.

FISCAL IMPACT

This ordinance does not have any known significant budget or fiscal impacts to the City.



George Chavez

Approved By

Attachment 1

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING RESTRICTIONS PERTAINING TO
FORMER ELECTED OFFICIALS, FORMER PLANNING
COMMISSIONERS AND FORMER CITY OFFICIALS**

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. The city council hereby amends and restates the title of Article 2 (“Restrictions Pertaining To Former City Officials And Elected Officials”) of Chapter 9 (“LEGISLATIVE ADVOCATES”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code to read as follows:

Article 2. Restrictions Pertaining To Former Elected Officials, Former Planning Commissioners and Former City Officials

Section 2. The city council hereby amends and restates Section 1-9-203 (“PROHIBITION OF CERTAIN ACTIVITIES”) of Article 2 (“Restrictions Pertaining To Former City Officials And Elected Officials”) of Chapter 9 (“LEGISLATIVE ADVOCATES”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code to read as follows:

1-9-203: PROHIBITION OF CERTAIN ACTIVITIES:

A. Revolving Door Prohibition:

1. No former city official, elected official or planning commissioner shall represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, the city, the city council or any member thereof, or any commission, committee, subcommittee of the city or member thereof, or any other officer or employee of the city, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property; provided, however, that such prohibition shall only be applicable for the following time periods after leaving city office or employment:

a) For city officials who leave office or employment prior to October 1, 2016, for a period of two (2) years after leaving city office or employment;

b) For elected officials who leave office prior to October 1, 2016, for a period of thirty (30) months after leaving city office;

c) For city officials and elected officials who leave office or employment on or after October 1, 2016, for a period of four (4) years after leaving city office or employment;

d) For planning commissioners who are appointed prior to October 1, 2016, for a period of thirty (30) months after leaving city office.

e) For planning commissioners who are appointed or reappointed on or after October 1, 2016, for a period of four (4) years after leaving city office.

B. Representation By Former Elected Official: No former elected official shall represent, for compensation, any person or entity, by making any communication to the city, if the communication is related to a land use matter which was voted upon by the elected official during his or her term of office.

C. Acceptance Of Gifts From Applicant: Elected officials and city officials who participate in a decision to approve a land use matter, shall be prohibited for a period of thirty (30) months from the date of any decision to approve a land use matter made prior to October 1, 2016, or for a period of four (4) years from the date of any decision to approve a land use matter made after October 1, 2016, from receiving from the applicant anything of value that exceeds five hundred dollars (\$500.00), including, without limitation, any gift, payment of money, or other compensation that exceeds five hundred dollars (\$500.00). Planning commissioners appointed prior to October 1, 2016 who participate in a decision to approve a land use matter, shall be prohibited for a period of thirty (30) months from the date of any decision to approve a land use matter, or for a period of four (4) years from the date of any decision to approve a land use matter for planning commissioners appointed or reappointed on or after October 1, 2016, from receiving from the applicant anything of value that exceeds five hundred dollars (\$500.00), including, without limitation, any gift, payment of money, or other compensation that exceeds five hundred dollars (\$500.00). This prohibition shall continue in effect after the elected official, city official or planning commissioner leaves office for the applicable period. For the purposes of this prohibition, the "applicant" shall include partners, majority shareholders, and officers of the applicant, as well as any other person who provides anything of value to the elected official, city official or planning commissioner on behalf of the applicant. If the applicant is making an application as an agent of a principal, then for the purposes of this subsection the applicant shall be considered the principal, not the agent.

Section 3. The city council hereby amends and restates Section 1-9-204 ("RESTRICTIONS ON EMPLOYMENT OF FORMER ELECTED OFFICIALS") of Article 2 ("Restrictions Pertaining To Former City Officials And Elected Officials") of Chapter 9 ("LEGISLATIVE ADVOCATES") of Title 1 ("GENERAL PROVISIONS") of the Beverly Hills Municipal Code to read as follows:

1-9-204: RESTRICTIONS ON EMPLOYMENT OF FORMER ELECTED OFFICIALS:

No former elected official shall accept any position of employment or management for compensation, or act as a director or officer for compensation of any organization or entity which: a) receives more than fifty percent (50%) of its funding from the city, as determined by the city; or b) has fifty percent (50%) or more of its board members, officers

or directors appointed by the city council; provided, however, that such prohibition shall only be applicable for the following time periods after leaving city office:

- a) For elected officials who leave office prior to October 1, 2016, for a period of two (2) years after leaving city office; or
- b) For elected officials who leave office on or after October 1, 2016, for a period of four (4) years after leaving city office.

Section 4. The city council hereby deletes Section 1-9-206 (“APPLICATION OF REQUIREMENTS”) of Article 2 (“Restrictions Pertaining To Former City Officials And Elected Officials”) of Chapter 9 (“LEGISLATIVE ADVOCATES”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code and rennumbers Section 1-9-207 (“DISAPPROVAL OF TRANSACTIONS”) as Section 1-9-206 as follows:

1-9-206: DISAPPROVAL OF TRANSACTIONS:

A. If a former city official, elected official or planning commissioner violates any provision of this article, such violation or violations shall be grounds for the city to disapprove any contract, approval, permit, or transaction that was related to any such violation.

B. A violation of this article shall not be a basis for invalidating any city decision.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

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 the city Clerk’s 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.

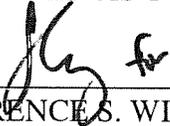
Adopted:
Effective:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager

Attachment 2

LEGISLATIVE DIGEST

ORDINANCE NO. 16-O-_____

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
REGARDING RESTRICTIONS PERTAINING TO
FORMER ELECTED OFFICIALS, FORMER PLANNING
COMMISSIONERS AND FORMER CITY OFFICIALS**

Amendments to Article 2 (“Restrictions Pertaining To Former City Officials And Elected Officials”) of Chapter 9 (“LEGISLATIVE ADVOCATES”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code:

Article 2. Restrictions Pertaining To Former ~~City Officials And~~ Elected Officials, Former Planning Commissioners and Former City Officials

1-9-201: FINDINGS AND INTENT:

In order to make the city of Beverly Hills a better community, built on mutual respect and trust, and in order to promote and maintain the highest standards of personal and professional conduct among all involved in city government, and in order to avoid any appearance of undue influence on city officials and elected officials in making governmental actions and decisions, the city council finds it desirable to impose reasonable restrictions on the ability of former city officials, elected officials and planning commissioners to influence the city, or its officers and employees.

1-9-202: DEFINITIONS:

The following words and phrases shall have the following meanings for purposes of this article, unless otherwise indicated:

ADMINISTRATIVE OR LEGISLATIVE ACTION: The proposal, drafting, introduction, development, consideration, amendment, enactment, or defeat by the city, the city council, or any commission, committee, or subcommittee of the city of any ordinance, amendment, resolution, report, initiative or other matter, including any rule, regulation, or other action in any regulatory proceeding, whether legislative, administrative, quasi-legislative or quasi-judicial. Administrative action does not include any action that is solely ministerial.

CITY OFFICIAL: Every officer or employee of the city who is required to file a statement of economic interests pursuant to the city's conflict of interest code, except that “city official” shall not include any member of the city council or a member of a city commission, committee or subcommittee.

COMMISSION AND COMMITTEE: Any body created by the city council as set forth in title 2, chapter 2 and title 10, chapter 1 of this code.

COMMUNICATION TO THE CITY: For purposes of section 1-9-203 of this chapter shall mean any formal or informal appearance before, or the making of any oral or written communication to, the city, the city council or any member thereof, or any commission, committee, subcommittee of the city or member thereof, or any other officer or employee of the city, if the appearance or communication is made for the purpose of influencing a land use matter.

ELECTED OFFICIAL: Any person elected or appointed to hold an elected office of the city.

LAND USE MATTER: For purposes of section 1-9-203 of this chapter shall mean those matters for which an application has been submitted to the city for administrative or legislative action pursuant to the provisions set forth in title 10 of this code such as, but not limited to, a general plan amendment, specific plan, conditional use permit, variance or a planned development.

PLANNING COMMISSIONER: Each member of the Beverly Hills planning commission.

VOTED UPON BY THE ELECTED OFFICIAL: For purposes of section 1-9-203 of this chapter shall refer to a land use matter on which the city council has taken action at a formal meeting during the elected official's term of office, unless the elected official was absent from all meetings at which the land use matter was considered.

1-9-203: PROHIBITION OF CERTAIN ACTIVITIES:

A. Revolving Door Prohibition:

1. No former city official, ~~for a period of two (2) years after leaving city office or employment and no~~ elected official or planning commissioner ~~for a period of one year after leaving city office,~~ shall represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, the city, the city council or any member thereof, or any commission, committee, subcommittee of the city or member thereof, or any other officer or employee of the city, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property: provided, however, that such prohibition shall only be applicable for the following time periods after leaving city office or employment:

a) For city officials who leave office or employment prior to October 1, 2016, for a period of two (2) years after leaving city office or employment;

b) For elected officials who leave office prior to October 1, 2016, for a period of thirty (30) months after leaving city office;

c) For city officials and elected officials who leave office or employment on or after October 1, 2016, for a period of four (4) years after leaving city office or employment:

d) For planning commissioners who are appointed prior to October 1, 2016, for a period of thirty (30) months after leaving city office.

~~2. For any elected official or planning commissioner who is in office as of April 1, 2009, such elected official or planning commissioner shall not, for a period of thirty (30) months after leaving city office, represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, the city, the city council or any member thereof, or any commission, committee, subcommittee of the city or member thereof, or any other officer or employee of the city, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.~~
e) For planning commissioners who are appointed or reappointed on or after October 1, 2016, for a period of four (4) years after leaving city office.

B. Representation By Former Elected Official: No former elected official shall represent, for compensation, any person or entity, by making any communication to the city, if the communication is related to a land use matter which was voted upon by the elected official during his or her term of office.

C. Acceptance Of Gifts From Applicant: Elected officials, and city officials ~~and planning commissioners~~ who participate in a decision to approve a land use matter, shall be prohibited for a period of thirty (30) months from the date of ~~the~~ any decision to approve a land use matter made prior to October 1, 2016, or for a period of four (4) years from the date of any decision to approve a land use matter made after October 1, 2016, from receiving from the applicant anything of value that exceeds five hundred dollars (\$500.00), including, without limitation, any gift, payment of money, or other compensation that exceeds five hundred dollars (\$500.00). Planning commissioners appointed prior to October 1, 2016 who participate in a decision to approve a land use matter, shall be prohibited for a period of thirty (30) months from the date of any decision to approve a land use matter, or for a period of four (4) years from the date of any decision to approve a land use matter for planning commissioners appointed or reappointed on or after October 1, 2016, from receiving from the applicant anything of value that exceeds five hundred dollars (\$500.00), including, without limitation, any gift, payment of money, or other compensation that exceeds five hundred dollars (\$500.00). This prohibition shall continue in effect after the elected official, city official or planning commissioner leaves office during for the ~~thirty (30) month~~ applicable period. For the purposes of this prohibition, the "applicant" shall include partners, majority shareholders, and officers of the applicant, as well as any other person who provides anything of value to the elected official, city official or planning commissioner on behalf of the applicant. If the applicant is making an application as an agent of a principal, then for the purposes of this subsection the applicant shall be considered the principal, not the agent.

1-9-204: RESTRICTIONS ON EMPLOYMENT OF FORMER ELECTED OFFICIALS:

No former elected official, ~~within two (2) years after his or her office holding has ceased,~~ shall accept any position of employment or management for compensation, or act as a director or officer for compensation of any organization or entity which: a) receives more than fifty percent (50%) of its funding from the city, as determined by the city; or b) has fifty percent (50%) or more of its board members, officers or directors appointed by the city council; provided, however, that such prohibition shall only be applicable for the following time periods after leaving city office:

- a) For elected officials who leave office prior to October 1, 2016, for a period of two (2) years after leaving city office; or
- b) For elected officials who leave office on or after October 1, 2016, for a period of four (4) years after leaving city office.

1-9-205: EXCEPTIONS:

The prohibitions in this article shall not apply to the following:

A. Appearances or communications by former city officials, elected officials or planning commissioners representing their personal interests, such as, but not limited to, an appearance before a city commission or committee concerning development of their home.

B. Appearances or communications by former city officials, elected officials or planning commissioners at the request of, or on behalf of any government entity or public agency, including the city of Beverly Hills.

C. Appearances or communications by former city officials, elected officials or planning commissioners who are engaged in such activity without compensation.

D. Any former city official, elected official or planning commissioners whose only activity is submitting a bid on a competitively bid contract, who submits a written or oral response to a request for more information, or who participates in an oral interview process. This exemption shall not apply to any person who attempts to influence the actions of any city official or elected official with regard to any such contract outside an interview or public meeting.

1-9-206: ~~APPLICATION OF REQUIREMENTS:~~

~~The requirements imposed by this article shall not apply to any person whose employment or term of office terminates prior to the effective date of this article, except that any such person who returns to employment or office with the city on or after the effective date of this article shall thereafter be covered thereby.~~

1-9-207: DISAPPROVAL OF TRANSACTIONS:

A. If a former city official, elected official or planning commissioner violates any provision of this article, such violation or violations shall be grounds for the city to disapprove any contract, approval, permit, or transaction that was related to any such violation.

B. A violation of this article shall not be a basis for invalidating any city decision.

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