



AGENDA REPORT

Meeting Date: October 16, 2007
Item Number: E-3
To: Honorable Mayor and City Council
From: Roxanne Diaz, Chief Assistant City Attorney
Subject: **AN ORDINANCE OF THE CITY OF BEVERLY HILLS REVISING THE RESTRICTIONS ON ACTIVITIES BY FORMER ELECTED OFFICIALS AND PLANNING COMMISSIONERS AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE**

Attachments: 1. Ordinance

RECOMMENDATION

The City Council waive full reading of the ordinance and the ordinance entitled: "An Ordinance of the City of Beverly Hills Revising the Restrictions on Activities by Former Elected Officials and Planning Commissioners and Amending the Beverly Hills Municipal Code" be introduced and read by title only.

INTRODUCTION:

At the informal meeting of October 2, 2007, the Ad Hoc Committee provided its report on the proposed revisions to the Ethics Ordinance. The City Council gave direction to return with an ordinance for introduction at the October 16, 2007 meeting. The following is a summary of the proposed revisions.

DISCUSSION:

First, the revolving door provision of one year for Elected Officials and Planning Commissioners will be amended to 30 months from one year. This provision, however, will not affect current Elected Officials or Planning Commissioners and will be applied only when an Elected Official or Planning Commission begins a new term of office.

Second, the provision set forth in Section 1-9-203.B pertaining to the prohibition against representing for compensation a person or entity on a specific matter needs has been

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simplified. The provision will now provide that a former Elected Official is prohibited from representing, for compensation, any person on a land use matter that was voted upon by that Elected Official during that official's term in office. Land use matters are defined as a matter for which an application has been filed pursuant to the provisions of the City's zoning code such as a general plan amendment, specific plan or conditional use permit. Since this provision makes the original section more clear as to its application, the City Attorney's Office recommends that there be no delay in its application.

Third, the provision in Section 1-9-203.C that states that an Elected Official, City Official or Planning Commission who participates in a land use matter be prohibited for three years from the date of the decision from receiving anything of value that exceeds \$500, has been revised so that the time-frame is 30 months. This will be consistent with the 30 month revolving door provision.

Last, the exceptions in Section 1-9-205 have been clarified so that it is clear that officials may continue to represent their own personal interests and that appearances by an official on behalf of the City of Beverly Hills is exempt.

FISCAL IMPACT

There is no fiscal impact.



Roxanne Diaz
Chief Assistant City Attorney

ORDINANCE NO. 07-O-

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
REVISING THE RESTRICTIONS ON ACTIVITIES BY
FORMER ELECTED OFFICIALS AND PLANNING
COMMISSIONERS AMENDING THE BEVERLY HILLS
MUNICIPAL CODE

Section 1. Section 1-9-202 of Article 2, Chapter 9 of Title I of the Beverly Hills Municipal Code, is hereby amended to read as follows:

1-9-202. Definitions.

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

A. "Administrative or Legislative Action" means 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.

B. "City Official" shall mean 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 sub-committee.

C. "Commission" and "Committee" shall mean any body created by the city council as set forth in Chapter 2 of Title 2 and Chapter 1 of Title 10 of the Beverly Hills Municipal Code.

D. "Elected Official" shall mean any person elected or appointed to hold an elected office of the City.

E. "Planning Commissioner" shall mean each member of the Beverly Hills Planning Commission.

F. "Land Use Matter" for purposes of Section 1-9-203 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 the Beverly Hills

Municipal Code such as, but not limited to, a general plan amendment, specific plan, conditional use permit, variance or a planned development.

G. "Communication to the City" for purposes of Section 1-9-203 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.

H. "Voted Upon By the Elected Official" for purposes of Section 1-9-203 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."

Section 2. Section 1-9-203 of Article 2, Chapter 9 of Title I of the Beverly Hills Municipal Code, is hereby amended to read as follows:

A. Revolving Door Prohibition.

1. No former City Official, for a period of two 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.

2. For any Elected Official or Planning Commission who assumes elected office or is appointed or reappointed to the Planning Commission after December 4, 2007, such Elected Official or Planning Commission shall not, for a period of 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.

B. 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. Elected Officials, City Officials and Planning Commissioners who participate in a decision to approve a Land Use Matter, shall be prohibited for a period of thirty months from the date of the decision from receiving from the applicant anything of value that exceeds \$500, including without limitation, any gift, payment of money, or other compensation that exceeds \$500. This prohibition shall continue in effect after the Elected Official, City Official or Planning Commissioner leaves office during the three year 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 Commission on behalf of the applicant. If the applicant is making an application as an agent of a principal, then for the purposes of this Section the applicant shall be considered the principal, not the agent.

Section 3. Section 1-9-205 of Article 2, Chapter 9 of Title I of the Beverly Hills Municipal Code, is hereby amended to read as follows:

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."

Section 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

Section 5. 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 attest and 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 6. 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:

JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

BYRON POPE
City Clerk

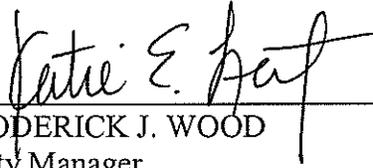
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APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



LAURENCE S. WIENER
City Attorney



for RODERICK J. WOOD
City Manager