

ORDINANCE NO. 4001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE IV ENTITLED "OFFICERS AND EMPLOYEES" OF THE CITY'S CODE OF ORDINANCES BY CREATING A NEW SECTION ENTITLED "LOBBYIST REGISTRATION"; PROVIDING FOR SEVERABILITY, CONFLICTS AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach City Council has determined that the open and responsible operation of municipal government requires that the fullest opportunity be afforded to its citizens to petition and freely express to their elected and appointed officials, their opinions on legislation and other actions and issues; and

WHEREAS, in order to preserve and maintain the integrity of the legislative decision making process, it is necessary that the identity and activities of those persons who engage in efforts to influence elected officials either by direct communication to such officials or by solicitation of others to engage in such efforts be publicly and regularly disclosed; and

WHEREAS, the City Council has determined that the Lobbyist Registration Ordinance will serve the interests of its citizens by preserving and maintaining its policy of open government.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

SECTION 1. That Chapter 2, Article IV, entitled "Officers and Employees," of the City of Riviera Beach Code of Ordinances is hereby amended by creating a new section under Division 1, entitled "Lobbyist Registration."

Sec. 2-162. TITLE AND PURPOSE.

(a) This article shall be cited as the "City of Riviera Beach Lobbyist Registration Ordinance."

(b) The City Council hereby determines that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their city government for the redress of grievances and to express freely to the elected officials their opinions on legislation and other actions and issues; to preserve and maintain the integrity of the governmental decision-making process, it is necessary that the identity and activities of certain persons who engage in efforts to

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influence city council, advisory board members, and employees on matters within their official duties, be publicly and regularly disclosed.

Sec. 2-163. DEFINITIONS.

Unless expressly provided herein to the contrary, for purposes of this article, the following definitions will apply:

Advisory board means any advisory or quasi-judicial board created by the City Council.

City Council or council means the Mayor or any member of the City of Riviera Beach City Council.

Employee means all personnel employed by the City of Riviera Beach.

Lobbying means seeking to influence the decision of the mayor or any city council person, any advisory board member, or any employee with respect to the passage, defeat or modification of any item anticipated to be presented for consideration to the city council or the city's advisory boards as applicable.

Lobbyist means any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal or most significant responsibilities to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government. "Lobbyist" shall not include any employee as defined by this article when acting in the course of his or her employment, any elected official when the official is lobbying on behalf of the governmental agency which the official serves, or any member of the official's staff when such staff member is lobbying on an occasional basis on behalf of the governmental agency by which the staff member is employed.

Person means individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations (profit or not-for-profit), professional corporations, or associations, and all other groups or combinations however constituted.

Principal means the person or entity a lobbyist represents for the purpose of lobbying.

Sec. 2-164. REGISTRATION AND EXPENDITURES.

(a) *Registration required.* Prior to lobbying, all lobbyists shall submit an original, fully executed registration form to the city clerk. A separate registration is required for each principal represented. A registration fee of twenty-five dollars (\$25.00) must be included with each registration form submitted. A registrant shall promptly send a written statement canceling the registration for a principal upon termination of the

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lobbyist's representation of that principal. This statement shall be signed by the lobbyist. Lobbying prior to registration is prohibited.

(b) *Registration form.* The registration form shall require the following information: 1) the name and address of the lobbyist; 2) the name and address of the principal represented; 3) the date the lobbyist was initially retained by the principal; 4) the nature and extent of any direct business association or partnership the lobbyist and principal might have with any current city councilperson, advisory board member, or employee; 5) the area of legislative interest; and 6) a statement confirming that the registrant is authorized to represent the principal. The form shall be signed by the registrant and the principal.

(c) *Registration exceptions.* Registration shall not be required for the following:

(1) City Council members, advisory board members or employees discussing matters relevant to their official duties;

(2) Persons under contract with the city who communicate with city council persons, advisory board members or employees regarding issues related only to the performance of their services under their contract;

(3) Any person who lobbies only in his or her individual capacity for the purpose of self-representation; or

(4) Any person who appears before the city council or advisory board in a quasi-judicial proceeding.

(5) A representative of a labor union or an employee of the City who is a member of a labor union which has a collective bargaining agreement with the City.

(d) *Reporting of expenditures.* Commencing October 1, 2011, and on October 1 of each year thereafter, the lobbyist shall submit to the city clerk a signed statement under oath listing all expenditures made by the lobbyist in lobbying city officials and employees in excess of twenty-five dollars (\$25.00) for the preceding year. A statement shall be filed even if there have been no expenditures during the reporting period. The statement shall list in detail each expenditure category, including food and beverage, entertainment, research, communications, media advertising, publications, travel, lodging and special events.

(1) The administration shall provide notice of violation to any lobbyist who fails to timely file an expenditure report and shall also notify the Palm Beach County Commission on Ethics of this failure. In addition to any other penalties which may be imposed under this article, any lobbyist who fails to file the required expenditure report within thirty (30) days of the date of notice of violation shall be suspended from lobbying unless the notice of violation has been appealed to the commission on ethics.

(e) *False statements.* A lobbyist shall not knowingly make, or cause to be made, a false statement or misrepresentation in maintaining registration or when lobbying city councilpersons, advisory board members, or employees.

Sec.2-165. RECORD OF LOBBYING CONTACTS.

(a) *Contact log.* Except when appearing before the city council or any advisory board, all persons shall sign, for each instance of lobbying, contact logs maintained and available in the office of each department of city government. The person shall provide his or her name, whether or not the person is a lobbyist as defined in this article, the name of each principal, if any, represented in the course of the particular contact, and the subject matter of the lobbying contact. All contact logs shall be transmitted to the city manager at the end of each calendar quarter.

(b) *Lobbying outside of city offices.* In the event that a lobbyist engages in lobbying which is outside of city offices, and which is a scheduled appointment initiated by any person for the purpose of lobbying, the lobbyist shall advise the city manager's office, legislative office, or the employee's department as appropriate of the calendar scheduling of an appointment and the subject matter of the lobbying contact.

Sec 2-166. CONE OF SILENCE.

(a) *Cone of silence* means a prohibition on any communication, except for written correspondence, regarding a particular request for proposal, request for qualification, bid, or any other competitive solicitation between:

(1) Any person or person's representative seeking an award from such competitive solicitation; and

(2) Any city councilperson or legislative staff, or any employee authorized to act on behalf of the council to award a particular contract.

(b) For the purposes of this section, a person's representative shall include, but not be limited to, the person's employee, partner, officer, director, consultant, lobbyist, or any actual or potential subcontractor or consultant of the person.

(c) The cone of silence shall be in effect as of the deadline to submit the proposal, bid, or other response to a competitive solicitation. The cone of silence shall remain in effect and subject to the terms of this section for any person or person's representative who responds to a particular request for proposal, request for qualification, bid, or any other competitive solicitation, and such response is either rejected by the city or withdrawn by the person or person's representative. Each request for proposal, request for qualification, bid or any other competitive solicitation shall provide notice of cone of silence requirements and refer to this article.

(d) The provisions of this article shall not apply to oral communications at any public proceeding, including pre-bid conferences, oral presentations before selection committees, contract negotiations during any public meeting, presentations made to the council, and protest hearings. Further, the cone of silence shall not apply to contract negotiations between any employee and the intended awardees, any dispute resolution process following the filing of a protest between the person filing the protest and any employee, or any written correspondence at any time with any employee, city council member, or advisory board member or selection committee member, unless specifically prohibited by the applicable competitive solicitation process.

(e) The cone of silence shall not apply to any purchases made in an amount less than the competitive bid threshold set forth in the city procurement ordinance.

(f) The cone of silence shall terminate at the time the city council or the city manager, acts on behalf of the city, awards or approves a contract, rejects all bids or responses, or otherwise takes action which ends the solicitation process.

(g) Any contract entered into in violation of the cone of silence provisions in this section shall render the transaction voidable.

Sec 2-167. ENFORCEMENT.

(a) If the administration is informed of any person who has failed to comply with the requirements of this article, the administrator shall conduct a preliminary investigation as deemed necessary under the circumstances. In the event it is determined that a violation may have occurred based on the results of the investigation, the city manager shall forward the matter to the Palm Beach County Commission on Ethics for further investigation and enforcement proceeding as set forth by the code of ethics procedures. A complaint submitted under this subsection by the City manager or designee shall be deemed legally sufficient evidence of such violation to transfer the matter to the Palm Beach County Commission on Ethics for further investigation and enforcement proceedings.

(b) The Commission on Ethics may process any other legally sufficient complaints of violations under this ordinance pursuant to the procedures established.

Sec. 2-168. PENALTIES.

Violations of this article shall be punishable as follows:

(a) Failure to properly register as required by section 2-164 of this article shall be deemed a single violation, punishable by a fine of two hundred fifty dollars (\$250.00) per day for each day an unregistered lobbyist engages in lobbying activity, in an amount not to exceed a total of two thousand five hundred dollars (\$2,500.00).

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(b) Failure to properly provide lobbying contact information as required by section 2-165 of this article shall be punishable by a fine of two hundred fifty dollars (\$250.00) for each violation.

(c) Violations of the cone of silence set forth in section 2-166 of this article shall be punishable by a fine of two hundred fifty dollars (\$250.00) for each violation.

(d) Any person who knowingly makes or causes to be made a false statement or misrepresentation in maintaining a lobbyist registration shall be subject to a fine of two hundred fifty dollars (\$250.00) for each violation.

(e) Any person who violates the provisions of this article more than once during a twelve-month period shall be prohibited from lobbying as follows: A second violation shall result in a prohibition of one (1) year; a third violation shall result in a prohibition of two (2) years.

(f) The penalties provided in this section shall be exclusive penalties imposed for any violation of the registration, contact log, and cone of silence requirements of this article. Willful violations of this article may be referred by the commission on ethics to the state attorney for prosecution. Failure or refusal of any lobbyist to comply with any order of the commission on ethics shall be punishable as provided by law, and shall otherwise be subject to such civil remedies as the city may pursue, including injunctive relief.

SECTION 2. That all sections or parts of sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 3. If any word, phrase, clause, subsection or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portion of this Ordinance.

SECTION 4. Specific authority is hereby granted to codify this Ordinance.

SECTION 5. That this Ordinance shall be in full force and effect immediately upon its final passage and adoption.

PASSED AND APPROVED ON FIRST READING THIS 17TH DAY OF AUGUST, 2011

PASSED AND ADOPTED THS 7TH DAY OF SEPTEMBER, 2011.

[Signatures on the following pages]

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1ST READING

MOTIONED BY: D. Pardo

SECONDED BY: C. Thomas

J. DAVIS aye

B. BROOKS aye

D. PARDO aye

C. THOMAS aye

S. LOWE aye

2ND & FINAL READING

MOTIONED BY: D. Pardo

SECONDED BY: C. Thomas

J. DAVIS aye

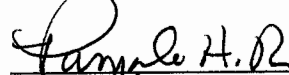
B. BROOKS aye

D. PARDO aye

C. THOMAS aye

S. LOWE aye

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 8/15/11