

..Title

Lobbyist Registration Referral (B)

..Explanation

On June 11, 2007, the City Commission accepted the City Auditor's report on the Status of Outstanding Audit Recommendations and referred the issue of lobbyist registration to the Charter Officers for further development and a recommendation back to the Audit, Finance and Legislative Committee (legislative item 070099). Staff presented information regarding various lobbyist registration options at the November 29, 2007 Committee meeting.

Since that time, staff have continued to work on this issue and have prepared a presentation for Committee consideration.

..Recommendation

The Audit, Finance and Legislative Committee hear a presentation on lobbyist registration options and take whatever action is deemed appropriate.



## Lobbyist Registration Referral

June 10, 2008

## Lobbyist Registration Referral

- Group representing the Charter Officers formed in June 2007 to review the issue of lobbyist registration.
- The group presented a draft plan to the AF&L Committee in November 2007 and received feedback.
- Two options were reviewed by the group based on AF&L Committee input.

## Lobbyist Registration Referral

- Lobbyist self-disclosure (Informal)
  - Modification to Rules of the City Commission
  - Voluntary self-disclosure
  - Pertains to the City Commission
- Lobbyist Registration Act (Formal)
  - Ordinance
  - Required registration
  - Pertains to the City Commission or CRA

**Discussion Topic:** Is there a need to pertain to certain City and CRA employees?

## Lobbyist Registration Self-Disclosure Rule

- Adds “Lobbyist Self-Disclosure” to City Commission Rule XIII
- Rule pertains to people speaking before the Commission
- Lobbyist defined as anyone being compensated directly or indirectly for their representation

## Lobbyist Registration Self-Disclosure Rule

- Under revised Rule XIII, Lobbyists are:
  - Encouraged to self-disclose and to state who they represent;
  - Required to complete a Speaker's Card and indicate if they are compensated for their representation; and
  - Indicate verbally if they are a lobbyist and who they are representing when speaking before the City Commission.

5

## Lobbyist Registration Self-Disclosure Rule

- Records of lobbyists will be maintained via the Speaker's Card.
- Information collected will include:
  - Name and address of lobbyist
  - Name of client(s)
  - Subject matter
  - Date self-disclosed
  - Date self-disclosure is withdrawn

## Lobbyist Registration Act

- A lobbyist is any person who is paid to lobby or principally employed by another person or governmental entity to lobby.
- Person defined as any individual, business, corporation, association, firm, partnership, not-for-profit, or any other organization or group.

7

## Lobbyist Registration Act

### Lobbyist does not Include:

- Employee, public officer or appointee of an agency, acting in the normal course of his or her duties;
- An attorney, or any person, representing a client in a judicial or administrative proceeding, or in a quasi-judicial hearing before an agency, board, CRA or Commission;
- Persons merely communicating with the Commission or the CRA for the purpose of self-representation;
- Any person appearing as a representative of a not-for-profit community based organization for the purpose of requesting a grant or funds without special compensation or reimbursement for the appearance.

8

## Lobbyist Registration Act

Lobbying means communicating, directly or indirectly, with any City Commission or CRA member with intent to encourage the passage, defeat, modification or repeal of any item that may be presented for a vote before the Commission or CRA.

Communications include:

- In person
- Telephone
- Letter
- Any other form of communication

9

## Lobbyist Registration Act – Registration Procedure

- Registration is required prior to engaging in lobbying.
- The lobbyist must disclose:
  - Lobbyist's name, residence address, business address, and nature of business;
  - Name and address of employer;
  - General and specific subject matters seeking to influence;
  - Extent of direct business association with current elected or appointed official or City employee; and
  - Authorization to lobby on behalf of group lobbyist claims to represent.

10

## Lobbyist Registration Act – Registration Procedure

- Registration is valid for one year.
- Lobbyist must annually file a registration for each employer represented.
- The Clerk of the Commission will maintain a current list of registered lobbyists and the registration statements.
- All documentation will be open for public inspection.

## Lobbyist Registration Act – Penalties

- Penalties will be levied on lobbyists not complying with the requirements of the Act.
- Penalties will be levied in the following manner:
  - Clerk of the Commission mails a notice of violation requesting compliance with the Act;
  - If no action is taken within five days of receipt of the notice, the matter will be brought before the Commission for a hearing;

## Lobbyist Registration Act – Penalties

- o At the conclusion of the hearing, the City Commission may warn, reprimand, or censure the violator or may suspend or prohibit the violator from lobbying on behalf of any employer for the period of one year.
- o The City Commission also has the option to rescind the Notice of Violation if it deems appropriate.

13

## SUMMARY

Lobbyist registration is about providing greater transparency in government by making visible the influences on government decision making

Registration is not intended to control or prohibit lobbying

14



## SUMMARY

Lobbyist will not be required to:

- Pay an annual fee
- File quarterly compensation reports

## Discussion/Comments

ORDINANCE NO. 0-08-12

An ordinance of the City of Gainesville, Florida, relating to registration of lobbyists; creating and adding a new Chapter 29, City of Gainesville Lobbyist Registration Act, creating and adding a new section 29-1, Intent and purpose; creating and adding a new section 29-2, Definitions; creating and adding a new section 29-3, Registration of lobbyists required; registration statements; creating and adding a new section 29-4, Exceptions; creating and adding a new section 29-5, Penalties; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a public hearing to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Chapter 29, consisting of sections 29-1 through 29-5 of the Gainesville Code of Ordinances, is hereby created and added to read as follows:

Chapter 29. City of Gainesville Lobbyist Registration Act

Sec. 29-1. Intent and purpose.

The City Commission of the City of Gainesville, Florida, hereby determines and declares that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their municipal government for the redress of grievances and to express freely to the elected officials their opinions on legislation and other actions and issues; and that

1 to preserve and maintain the integrity of the governmental decision-making process, it is  
2 necessary that the identity and activities of certain persons who engage in efforts to influence  
3 City Commissioners or the Community Redevelopment Agency (“CRA”), on matters within  
4 their official jurisdictions, either by direct communication or by solicitation of others to engage  
5 in such efforts, be publicly and regularly disclosed.

6 **Sec. 29-2. Definitions.**

7 (a) *Agency* means any federal, state, regional, county, local, or municipal government entity  
8 of this state, whether executive, judicial, or legislative; any department, division, bureau,  
9 commission, authority, or political subdivision of this state therein; or any public school,  
10 community college, or state university.

11 (b) *Employer* means any person providing compensation of any kind to a lobbyist in  
12 consideration for his or her performance of lobbying activities.

13 (c) *Lobbying* means communicating directly or indirectly, either in person, by telephone or  
14 by letter, or any other form of communication, with any City Commissioner or the CRA, where  
15 the lobbyist seeks to encourage the passage, defeat, modification, or repeal of any item which  
16 may be presented for a vote before the City Commission or the CRA.

17 (d) *Lobbyist* means any person who is employed and receives payment, or who contracts for  
18 economic consideration of any kind, for the purpose of lobbying, or a person who is principally  
19 employed for governmental affairs by another person or governmental entity to lobby on behalf  
20 of that other person or governmental entity.

21 (e) *Person* means any individual, business, corporation, association, firm, partnership, not-  
22 for-profit organization, or other organization or group.

23 **Sec. 29-3. Registration of lobbyists required; registration statements.**

1 (a) Prior to engaging in lobbying, every lobbyist shall file with the Clerk of the Commission  
2 a registration statement containing the following information:

3 (1) The lobbyist’s full name, residence address, business address, and nature of  
4 business.

5 (2) The full name and address of his or her employer, if any.

6 (3) The general and specific subject matters which the lobbyist seeks to influence.

7 (4) The extent of any direct business association by the lobbyist with any current  
8 elected or appointed official or employee of the City of Gainesville. For the purposes of this  
9 article, the term "direct business association" shall mean any mutual endeavor undertaken for  
10 profit or compensation.

11 (5) A lobbyist representing a group, association, or organization shall, prior to  
12 engaging in lobbying, receive appropriate authorization from said group, association, or  
13 organization to lobby on its behalf upon a particular subject matter. A copy of the applicable  
14 minutes, motion, or other documentation of action shall be attached to the statements required by  
15 paragraph (a) of this section.

16 (b) List of Employers. A lobbyist shall file, on an annual basis, a registration statement for  
17 each employer on whose behalf he or she lobbies before the City Commission or the CRA.

18 (c) List of Current Lobbyists. The Clerk of the Commission shall maintain a current list of  
19 registered lobbyists and the registration statements required under this section, all of which shall  
20 be open for public inspection.

21 **Sec. 29-4. Exceptions.**

22 The following persons are not required to register as a lobbyist pursuant to this Act:

23 (a) Any employee, public officer or appointee of an agency, acting in the normal course of  
24 his or her duties;

1 (b) An attorney, or any person, who represents a client in a judicial proceeding or an  
2 administrative proceeding, or in a quasi-judicial hearing before an agency, board, CRA or  
3 Commission;

4 (c) Those persons who, in their individual capacity and without compensation of any kind,  
5 merely communicate with the City Commission or the CRA for the purpose of self-  
6 representation;

7 (d) Any person who appears as a representative of a not-for-profit community based  
8 organization for the purpose of requesting a grant or funds without special compensation or  
9 reimbursement for the appearance.

10 **Sec. 29-5. Penalties.**

11 (a) If the Clerk of the Commission, or their designee, becomes aware of any person engaged  
12 in lobbying who has failed to comply with the requirements of this act, he or she shall mail a  
13 notice of violation by certified mail, return receipt requested, to the person informing them of the  
14 requirements of this ordinance, outlining the process by which they may comply with the  
15 ordinance, and providing them with the right to contest the violation.

16 (b) There shall be no penalty assessed against a lobbyist the first time any registration  
17 statement for which the lobbyist is responsible is not filed. However, to receive the one-time  
18 penalty waiver, the registration statement must be filed within five (5) days of receipt of the  
19 notice of violation.

20 (c) If the required registration statement is not filed within five days of receipt of the notice  
21 of violation, the matter will be brought before the Commission for a hearing after reasonable  
22 notice. The lobbyist will be afforded notice of the hearing and an opportunity to be heard  
23 regarding the failure to comply with this ordinance. At the conclusion of the hearing, the City  
24 Commission may warn, reprimand, or censure the violator or may suspend or prohibit the

1 violator from appearing on behalf of any employer before the Commission or the CRA for a  
2 period of time not to exceed one (1) year. The City Commission may also rescind the Notice of  
3 Violation if it deems appropriate.

4 (d) The penalties provided in this section shall be the exclusive penalties imposed for  
5 violations of the requirements of this act. The intentional failure or refusal of any lobbyist to  
6 comply with any order of the Commission suspending or prohibiting the lobbyist from lobbying  
7 shall subject the lobbyist to such civil remedies as the City may pursue, including the issuance of  
8 a civil citation and/or injunctive relief.

9 (e) The validity of any action taken by the City Commission or the CRA shall not be affected  
10 by the failure of any person to comply with the provisions of this article.

11 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 shall  
12 become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and  
13 that the sections and paragraphs of this Ordinance may be renumbered or relettered in order to  
14 accomplish such intentions.

15 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance or the  
16 application hereof to any person or circumstance is held invalid or unconstitutional, such finding  
17 shall not affect the other provisions or applications of the ordinance which can be given effect  
18 without the invalid or unconstitutional provisions or application, and to this end the provisions of  
19 this ordinance are declared severable.

20 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such  
21 conflict hereby repealed.

22 **Section 5.** This ordinance shall take effect on November 1, 2008.

23 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2008.

24

\_\_\_\_\_  
PEGEEN HANRAHAN  
MAYOR

Approved as to form and legality

\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

ATTEST:

\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11

12 This Ordinance passed on first reading this \_\_\_ day of \_\_\_\_\_, 2008.

13 This Ordinance passed on second reading this \_\_\_ day of \_\_\_\_\_, 2008.