



# City of San Marcos

630 East Hopkins  
San Marcos, TX 78666

## Work Session - Final City Council

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Tuesday, March 20, 2018

3:00 PM

City Hall Conference Room

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### 630 E. Hopkins - Work Session

#### I. Call To Order

#### II. Roll Call

1. Receive a presentation and discuss recommendations from the Ethics Review Commission, and provide direction to the City Attorney.

#### EXECUTIVE SESSION

2. Executive Session in accordance with § 551.074 - Personnel Matters: Discuss and review Appointee Evaluation Goals for the City Manager, City Attorney, and City Clerk.

#### III. Adjournment.

**POSTED ON MONDAY, MARCH 12, 2018 AT 6:35PM**

**JAMIE LEE CASE, CITY CLERK**

#### Notice of Assistance at the Public Meetings

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to [ADArequest@sanmarcostx.gov](mailto:ADArequest@sanmarcostx.gov)



Legislation Text

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**File #:** ID#18-141, **Version:** 1

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**AGENDA CAPTION:**

Receive a presentation and discuss recommendations from the Ethics Review Commission, and provide direction to the City Attorney.

**Meeting date:** 3/20/2018

**Department:** City Attorney's Office

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Goal:** [Please select goal from dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Not Applicable

**Master Plan:** [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

**Background Information:**

Click or tap here to enter text.

**Council Committee, Board/Commission Action:**

Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.

# Presentation To City Council – From the Ethics Review Commission

Tuesday, March 20, 2018

## Requested Council Action

Receive presentation from the Ethics Review Commission regarding proposed amendments to the City's Code of Ethics; discuss and provide direction to ERC and city staff pertaining to the recommendations

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Receive presentation from the Ethics Review Commission regarding proposed amendments to the City's Code of Ethics; discuss and provide direction to ERC and city staff pertaining to the recommendations

## Overview of Recommended Amendments

- Limit campaign contributions
- Require lobbyists to register and submit periodic lobbying activity reports
- Require city officials and employees to report ethics violations
- Prohibit city officials from voting on contracts with business entities they serve in any capacity
- Require remedial ethics training for employees or officials found to have violated the ethics ordinance

## Campaign Contribution Limits

- Individual contribution limit: \$500 per candidate per election cycle
- Aggregate fund raising limits per election cycle:
  - For mayoral candidates: \$2.00 x number of registered city voters on date of last mayoral election [32,682 registered voters on 11/07/2017]
  - For council candidates: \$1.00 x number of registered city voters on date of last election for any council place
  - Runoff candidates: \$3.00 x number of registered city voters on the date of the last regular municipal election



## Campaign Contribution Limits (continued)

Contributions – include monetary, in-kind, and pledged contributions

Election Cycle – begins on January 1<sup>st</sup> of year following the last election for mayor or a particular council place or on the start of the candidate's campaign (whichever is later) and ends on October 31<sup>st</sup> prior to the next election for that position

# Lobbying Regulations

## Key Terms Defined:

Lobbying – oral, written, or electronic communication with a city official, employee, or staff member to influence a municipal decision on behalf of the lobbyist himself, or on behalf of another person or entity

Includes: attempts to adopt or defeat adoption of an ordinance or resolution, to gain the award of a contract or approval of a land use/land development application

## Lobbying Regulations (continued)

Excludes: communications regarding homestead property; family matters that are not business related; matters not involving financial benefit or detriment

Lobbyist – any person, including an attorney, who engages in lobbying on behalf of his/her principal, employer, or the owner of a business. Both the lobbyist and the principal would be subject to proposed registration and reporting requirements

## Lobbying Regulations (continued)

Registration – required; failure to register can delay city's award of contract or land use decision until registration occurs

### Activity Reports:

- required to be filed for each two month period
- include the name of the client, list of issues, matters or decisions
- names of city officials or employees contacted
- dollar amount of each gift, benefit or expenditure conferred on a city official in excess of \$50 or in a cumulative amount greater than \$200 per reporting period
- setting annual limit of \$500 on meals or gifts to a city official

## Lobbying Regulations (continued)

### Violations and Enforcement:

- complaints regarding lobbying violations would be heard by the ERC
- repeated violations – three violations within a five year period – results in suspension for one year
- could also result in municipal court prosecution

## Other Proposed Amendments

### Mandatory Reporting of Ethics Violations:

Amend Section 2.444 of the ethics ordinance to require city officials and employees who have knowledge of a violation of the code of ethics or state conflict of interest law to report the violation to the ERC

### Voting on Certain Contracts Prohibited:

Amend Section 2.423 to prohibit a city official from voting on a contract with the city for any business entity that the official serves in any capacity

## Other Proposed Amendments (continued)

### Remedial Ethics Training:

Amend Section 2.444 to include, as a sanction for violation of the ethics ordinance, a requirement that the official or employee attend remedial ethics training including any updates to the ordinance

# Q&A

- Questions?
- Direction to Ethics Review Commission and staff?



**ORDINANCE NO. 2017-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 2, ARTICLE 5, CODE OF ETHICS, OF THE SAN MARCOS CITY CODE; ADDING A NEW DIVISION 4 – CAMPAIGN FINANCES; SETTING A LIMIT OF \$500 ON INDIVIDUAL CONTRIBUTIONS TO CANDIDATES FOR MAYOR OR CITY COUNCIL PER ELECTION CYCLE; SETTING AGGREGATE LIMITS ON CONTRIBUTIONS TO CANDIDATES FOR THE OFFICE OF MAYOR AND COUNCIL MEMBER; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**SECTION 1.** Chapter 2, Article 5, Code of Ethics, of the San Marcos City Code is hereby amended to add a new Division 4, Campaign Finances, to read as follows:

**ARTICLE 5. CODE OF ETHICS**

**DIVISION 4. CAMPAIGN FINANCES**

**Sec. 2.466. Definitions.**

In this division;

*Campaign contribution* means and includes a contribution to a candidate for mayor or city council in any of the following forms: a monetary contribution; a non-monetary contribution (in-kind contribution); or a pledged contribution.

*Election cycle* means the period of time beginning on January 1<sup>st</sup> of the year following the last election for the office of mayor or council member of a particular council place or on the start of a candidate's campaign, whichever is later, and ending on October 31<sup>st</sup> prior to the next election for the position a candidate is seeking to be elected or re-elected.

**Sec. 2.467. Individual Contribution Limit.**

An individual may not make campaign contributions in an amount exceeding \$500 per election cycle to a candidate for mayor or to a candidate for council member of a particular council place.

**Sec. 2.468. Aggregate Fund Raising Limits.**

- (a) *Candidates for mayor.* A candidate for the office of mayor, including an incumbent mayor, shall not accept campaign contributions during an election cycle in an amount

exceeding an aggregate limit to be determined as follows: an amount equal to \$1.25 multiplied by the number of registered voters in the city on the date of the last election for the office of mayor.

- (b) *Candidates for city council positions.* A candidate for the position of council member of a particular council place, including an incumbent council member, shall not accept campaign contributions during an election cycle in an amount exceeding an aggregate limit to be determined as follows: an amount equal to \$0.75 multiplied by the number of registered voters in the city on the date of the last election for any council position.
- (c) *Candidates in a run-off election or special called election.* A candidate in a run-off election or special called election for the office of mayor or council member shall not accept campaign contributions during an election cycle in an amount exceeding an aggregate limit determined as follows: an amount equal to \$1.50 multiplied by the number of registered voters on the date of the last regular municipal election.

**SECTION 2.** In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

**SECTION 3.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 4.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 5.** This ordinance will take effect after its passage, approval and adoption on second reading.

**PASSED AND APPROVED** on first reading on the \_\_\_ day of \_\_\_\_\_, 2017.

**PASSED, APPROVED AND ADOPTED** on second reading on the \_\_\_ day of \_\_\_\_\_, 2017.

John Thomaides  
Mayor

Attest:

Approved:

Jamie Lee Case  
City Clerk

Michael J. Cosentino  
City Attorney

DRAFT

## **Lobbying Rules and Requirements for Lobbyists**

### **Purpose of this ordinance:**

The lobbying provisions of this ordinance are designed to improve transparency with regard to city business and services to the public. To maintain public confidence and public trust in our city officials and employees when public resources are used and municipal decisions are made, this lobbying ordinance requires certain individuals to register and report exchanges with city officials and city employees.

### **I. Definitions.**

**Lobbying** means any communication (oral or written or electronic) by a lobbyist for the purpose of influencing a municipal decision on behalf of that person or another person, company, corporation, partnership, or group. It may include an attempt to introduce, pass, defeat, or amend any local legislation, resolution, or decision. Any communication with city staff or employee, city officials, appointed city officials (permanent or temporary), or contracted employees of the city for the purpose of influencing a municipal decision is included.

**Lobbyist** is any person, including an attorney, who engages in lobbying, whether directly or through the act(s) of another. If an agent or employee engages in lobbying for a principal or employer or owner of a business, both the agent and principal, or the employee and employer, are lobbyists.

**Qualifying contracts, applications, and activities that trigger lobbying registration** include but are not limited to: Contracts with the city or subcontractors under a city contract, Procurements with the city, Requests for Proposal (RFP), Requests for Information (RFI), Applications for zoning changes or preferred scenario amendment requests, requests for special considerations for city services or a change in the Master Plan, or Comprehensive Plan, Planned Development Districts applications (PDD), Public Improvement Districts (PID), Municipal Utility Districts (MUD), Conditional Use Permits (CUP), Tax Increment Financing, Economic Development Incentive Agreements, Variances considered by the Planning and Zoning Commission (P&Z) or Zoning Board of Adjustments (ZBOA), Warrants, Waivers, Development Agreements, Platting or re-platting of land for a development, or any special requests that are a deviation from the comprehensive plan or Land Development Code (LDC) for the purpose of increasing or acquiring profit or avoiding loss. It may not be necessary to prove the intention of increasing or acquiring profit or avoiding loss in order to be a qualifying application. Not all variances, waivers, or the platting or re-platting of land automatically trigger lobbying registration (see Exceptions to lobbying).

**Exceptions to lobbying:** individuals whose communications represent their own interests for their homestead, or family other than business, or other matters that do not involve possible personal financial benefit or detriment are not required to register as lobbyists. Individuals who file a complaint or seek information or advice, regarding a matter that does not involve possible financial benefit to a business with which the individual is involved or whose interest the individual is

representing are also exempted.

## **II. General requirements.**

### **(a) Initial compliance and continued adherence to lobby ordinance required.**

If a lobbyist fails to comply with any provision of this ordinance, his or her principal shall not be awarded a contract with the city or obtain any land development permit or legislative approval or other similar services from the city until registration as a lobbyist has occurred or other compliance is made. Any failure to comply with registration or ongoing lobbying activity requirements will result in postponement of land development or other services.

### **(b) Contested status of lobbyists or registration information.**

Requests for determinations regarding requirements to register as a lobbyist or complaints regarding an individual's failure to register as a lobbyist shall be referred to the Ethics Review Commission for a final decision to be made within thirty (30) days. During the Ethics Review Commission's review process, any contract awards, activities, and applications that require a determination regarding the lobbyist registration requirement shall not be considered or approved.

### **(c) Lobbyists.**

Lobbyists are required to identify themselves as lobbyists and disclose their principals, or employers and the project, interest, or business they are representing when speaking before the city council or any board or commission.

## **III. Registration and disclosures.**

All lobbyists are required to register prior to applying for qualifying applications with the city clerk's office or online at the city's website unless exempted (see exceptions to lobbying).

### **(a) Registration required.**

Initial or subsequent registration shall be on a form prescribed by the Ethics Review Commission and available from the City Clerk and shall include the following information:

- (1) Full name, telephone number, permanent address, and nature of the business for:
  - a. The lobbyist;
  - b. The client (or Principal);
  - c. Any person, other than the client, on whose behalf the lobbyist has been engaged by the client to lobby;
  - d. Any person, other than the client, who is known by the lobbyist to contribute financially to the compensation of the lobbyist, or which, in whole or in major part, plans, supervises, or controls the lobbyist's lobbying activities on behalf of the client;

- e. Any lobbying firm for which the lobbyist is an agent or employee with respect to the client; and
  - f. Each employee or agent of the lobbyist who has acted or whom the lobbyist expects to act as a lobbyist on behalf of the client;
- (2) A statement of all municipal questions on which the lobbyist or its agents or employees have lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby;
  - (3) A list of any positions held by the lobbyist or its agents or employees as an official or employee of the City, as those terms are during the past two (2) years;
  - (4) If the lobbyist or an agent or employee is a former City official or employee, a statement that the lobbyist's lobbying activities have not violated and will not foreseeably violate former City officials and employees of the Ethics Code.

**(b) Activity reports.**

Each lobbyist shall file with the City Clerk a separate report signed under oath concerning the lobbyist's lobbying activities. A firm, entity, or individual that employs agents or employees who lobby on behalf of that organization's or employer's clients may file activity reports regarding lobbying activities on behalf of all the organization's or employer's clients, so long as all activities by agents and employees that must be disclosed are reported on consolidated reports to be filed on or before the 15<sup>th</sup> day of every other month beginning in March of each year. Each report shall list lobbying activities for the preceding two (2) calendar months. Activity reports shall be filed for every reporting period whether or not lobbying activities occurred. When a lobbyist files an activity report disclosing the lobbying activities of its agents or employees, the lobbyist's agents and employees are not required to file separate activity reports. If the lobbyist is not an individual, an authorized officer or agent of the lobbyist shall sign the form. The report shall be on the form prescribed by the Ethics Review Commission and available from City Clerk and shall include, with respect to the previous reporting period, the following information:

- (1) The name of the lobbyist, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed;
- (2) A list of the specific issues upon which the lobbyist or its agents or employees engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;
- (3) A list of the City officials contacted by the lobbyist or its agents or employees on behalf of the client with regard to a municipal question;
- (4) A list of the employees or agents of the lobbyist who acted as lobbyists on behalf of the client;
- (5) The dollar amount of each gift, benefit, or expenditure greater than fifty dollars (\$50) or in a cumulative amount greater than two hundred dollars (\$200) per reporting period made to, conferred upon, or incurred on behalf of a City official or his or her immediate family by the lobbyist, or by anyone acting on behalf of the lobbyist, shall be itemized by date, City official, actual cost, entity and address, and circumstances of the transaction;

- (6) The name and position of each City official or member of a City official's immediate family who is employed by the lobbyist.

**(c) Preservation of records.**

Each lobbyist shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this section for seven (7) years from the date of filing of the report containing such items. These records must be provided to the Ethics Review Commission upon request by the Commission.

**V. Restricted activities.**

**(a) False statements.**

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not intentionally or knowingly make any false, misleading, or incomplete statement of fact to any City official, or, knowing a document to contain a false statement, cause a copy of such document to be received by a City official without notifying such official in writing of the truth.

**(b) Failure to correct erroneous statement.**

A lobbyist who learns that a statement contained in a registration form or activity report he or she filed during the past three (3) years is false shall correct that statement by written notification to the City Clerk within thirty (30) days of learning of the falsehood.

**(c) Personal obligation of City officials.**

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any City official under a personal obligation to such lobbyist or person.

**(d) Improper influence.**

A lobbyist—(City official?) shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

**(e) Use of false identification.**

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a City official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

**(f) Prohibited representations.**

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that he or

she can control or obtain the vote or action of any City official.

**(g) Limitations on gifts.**

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such persons, shall not give gifts to a City official or a City employee or his or her immediate family, with the exception of: an individual meal or gift with a cost or value of fifty dollars (\$50) or less, and not more than a cumulative value of five hundred dollars (\$500) in a single calendar year, on behalf of a single principal.

**(h) Prohibited lobbying or anti-lobbying clause.**

A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, is prohibited from lobbying activities with City officials and employees regarding a contract after a Request for Proposal (RFP), a Request for Qualifications (RFQ) or other solicitation has been issued. If contact is required with City officials and employees, such contact will be made in accordance with procedures incorporated into the solicitation document. Violation of this provision by respondents or their agent(s) shall lead to disqualification of their offer from consideration at the time of the award. **Violations of this clause shall be enforced by the Purchasing Department head or city manager.**

**VI. Enforcement and Sanctions.**

The Ethics Review Commission will hear complaints on Lobbying.

**(a)** Three (3) violations of this lobbying ordinance requirements, as determined by the Ethics Review Commission, within five (5) years, will bar the individual lobbyist and/or the principal from engaging in lobbying activities with the City of San Marcos for one (1) year.

**(b)** Each violation of this ordinance may be prosecuted as a separate offense.





## Legislation Text

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**File #:** ID#18-142, **Version:** 1

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**AGENDA CAPTION:**

Executive Session in accordance with § 551.074 - Personnel Matters: Discuss and review Appointee Evaluation Goals for the City Manager, City Attorney, and City Clerk.

**Meeting date:** 3/20/2018

**Department:** City Clerk's Office on behalf of the City Council

**Amount & Source of Funding**

**Funds Required:** Click or tap here to enter text.

**Account Number:** Click or tap here to enter text.

**Funds Available:** Click or tap here to enter text.

**Account Name:** Click or tap here to enter text.

**Fiscal Note:**

**Prior Council Action:** Click or tap here to enter text.

**City Council Goal:** [Please select goal from dropdown menu below]

Choose an item.

Choose an item.

Choose an item.

**Comprehensive Plan Element (s):** [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
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- Transportation - Choose an item.
- Not Applicable

**Master Plan:** [Please select the corresponding Master Plan from the dropdown menu below (if applicable)]

Choose an item.

**Background Information:**

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Click or tap here to enter text.

**Alternatives:**

Click or tap here to enter text.

**Recommendation:**

Click or tap here to enter text.