

# City of San Marcos

## City Council Workshop

September 15, 2020

# Reasoning

- To ensure a government that is accountable to its citizens and whose actions demonstrate a willingness to govern on behalf of them, **not** special interest groups or for personal agendas (Open San Marcos)
- Austin, Denton, Kyle, San Antonio, New Braunfels, and Buda **all** have anti-lobbying ordinances in place
- Enhance the **trust** of constituents
- Department of Purchasing and Contracting already has an Anti-Lobbying clause; however, **we think that an expanded ordinance ought to be in place for all city employees/officials**

# Department of Purchasing and Contracting

## V. Anti-Lobbying

Vendors are prohibited from directly or indirectly communicating with City Council members regarding their qualifications or any other matter related to the eventual award of Contract. Vendors are prohibited from contacting City staff or committee members regarding their qualifications or the award of a contract, unless in response to an inquiry from a staff or committee member. Any violation of this provision will result in immediate disqualification of the Vendor from the selection process.

# Precedents in San Marcos

- Ethics complaint 2018-1
- Recent firing/charging of city employee
- Recent ethics complaints (2020-1, 2020-3, 2020-5, 2020-6, 2020-7)
- Lindsey Hill Project (ongoing)

# Timeline

- 2017 – first drafts
- March 20, 2018 – Ethics Review Commission (ERC) presentation to City Council (CC)
- November 2018 – letter correspondence
- January 2019 – CC workshop discussing lobbying
- March 6, 2019 – meeting with City Manager reps
- June-August 2019 – revisions by subcommittee
- September 2019 – submitted draft to CC
- Spring 2020 – letter sent to CC requesting correspondence
- September 15, 2020 – CC workshop

# Current Draft

- *Purpose of this ordinance: The lobbying provisions of this ordinance are designed to **improve transparency** regarding 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.*

# Current Draft

- **Lobby or lobbying**, means any oral or written communication (including an electronic communication) to a City official or city employee, made directly or indirectly by any person for compensation or economic benefit in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question.
- Exceptions to lobbying: municipal questions, statements made at public meetings, matters of public record,

## Lobbying

- “Will you consider our project?”
- “What do you think of the other RFPs submitted?”
- Closed meeting information

## Not Lobbying

- “What is the status of the lobbying ordinance proposal?”
- “Was this contract awarded?”
- Information that is a matter of public record?



- **II. Action Triggers:**
  - Include but are not **limited** to:
    - (1-18)
- *It may not be necessary to prove the intention to benefit in order to be a qualifying contract, application, or activity for lobbying registration. Not all variances, waivers, or the platting or re-platting of land automatically trigger lobbying registration (see Exceptions to Registration).*

- **III Essential Requirements:**
  - Lobbyist
    - identify themselves (and principals and employers)
    - List their interests, projects, etc.
  
  - City Official/Employee
    - *City official is required to document the conversation with an **identified** lobbyist per the requirements for a city official outlined in Section IV (D) of this ordinance.*

- **IV. Registration and Disclosures**
  - Lobbyists
    - Register
  - City Employee/Official
    - Activity report

- **V. Exceptions to Registration (p. 6-7)**
  - *Additionally: Any individual regardless of their registration status who engages in sanctionable action(s) referenced in Section VI (Sanctionable Action) will still be subject to their respective sanctions.*

- **VI. Sanctionable Actions:**
  - Lobbyists (infraction title)
    - False statements
    - Failure to correct erroneous statements
    - Personal obligation of city officials
    - Use of false identification
    - Prohibited representation
    - Limitations on gifts
  - City Officials/Employees
    - Limitations on gifts
    - Improper influence

# Current Draft

- **VII. Complaints, Enforcement, and Sanctions**
  - Follows standard complaint/hearing procedure
  
- **VII (E) Sanctions for Violations**
  - (1) *City Officials and City Employees Sanctions. If the commission determines at the conclusion of a hearing that a violation has occurred, it may impose or recommend any of the following sanctions per Section 2.444, subsection (e).*
  - (2) *Lobbyists or Others That Have Committed Restricted Activities as Defined in Section VI If the commission determines at the conclusion of a hearing that a violation has occurred, it may impose or recommend any of the following sanctions:*
    - *a. A letter of notification, if the individual in question's action was made in reliance on a written opinion of the city attorney. A letter of notification shall advise the individual in question of any steps to be taken to avoid future violations.*
    - *b. Suspension of Lobbying Privileges for a determined period of time.*
    - *c. Indefinite revocation of registered lobbying privileges.*
    - *d. Any business brought before the city or currently being processed by the registered lobbyists or the people they represent may be suspended.*

# Questions?