

ATTACHMENT A

DRAFT

[Council File 22-0560](#)

(Municipal Lobbying Ordinance / Updates)

Position: FOR

The Bel-Air Beverly Crest Neighborhood Council supports the updates to the Municipal Lobbying Ordinance (MLO) recommended by the Ethics Commission. We urge Committee Chair Paul Krekorian to schedule this council file for consideration and for a vote in either the Ad Hoc Committee on City Governance Reform or the Rules, Elections, and Intergovernmental Relations Committee. The MLO has not been comprehensively updated since it was adopted in 1994, and two previous revisions from the Ethics Commission died in committee. The updated MLO would close a number of loopholes in the original Ordinance and make the Ordinance itself more user-friendly: clearer; better organized; more self-consistent; more consistent with the Campaign Finance Ordinance and the Governmental Ethics Ordinance; and more reflective of the technological environment in which the City currently conducts its business.

In addition, the Bel-Air Beverly Crest Neighborhood Council requests that a lobbying disclosure for City Council and Committee meetings be added to the Updated MLO. This disclosure would parallel and complement the disclosure in the Updated MLO for Neighborhood Councils (48.11,B) and would require that lobbyists verbally identify themselves as such at City meetings (or be identified by the presiding officer). Such disclosure would ensure that the public is fully aware when a speaker is a paid lobbyist. Neighborhood council members, and members of the general public, frequently listen to City Council meetings or recordings of them: this addition to the Updated MRO would bring greater transparency to the City processes.

The BABCNC also requests that the second of the exemptions for 501(c)(3) non-profits in the updated MLO (48.03, E 2) be changed from “The organization had gross receipts of less than \$2 million in the previous tax year” to “The organization had gross receipts of less than \$500,000 in the previous tax year.”

Only 16% of Southern California non-profits have annual gross receipts of \$1 million or more, so an exemption set at twice that amount might have a grave effect on transparency. On the other hand, we see no compelling reason to lower, as some have suggested, the threshold all the way down to \$200,000, simply because this is the figure the IRS uses to distinguish which non-profits have to file the regular 990 form and which may file the 990-EZ form.

Finally, the BABCNC recommends that the updated MLO make explicit that its definition of “Client” (48.02, G) includes the principal person or persons—the officer or officers—who direct Limited Liability Corporations that hire lobbyists or lobbying firms to influence City Matters. To be sure, the updated MLO specifies (48.07, E, 4a) that lobbying firms, in registering, shall provide “if the client is a business or other organization, [the name of] an individual who is an owner or employee with the authority to act on behalf of the client.” But this stipulation seems vague, and it is not altogether clear why it is required of lobbying firms but not of other lobbying entities. In recent years, unscrupulous political donors have used LLCs and various shell companies to conceal their identities and obscure their activities. Any check on such practices would be welcome. Requiring the names of the principal players of LLCs and related organizations would be a step towards greater transparency.

These recommendations notwithstanding, we very warmly commend the Ethics Commission’s efforts to update the MLO.

Notes on Proposed Updates to MLO

Background

Most of the proposed Updates to the Municipal Lobbying Ordinance seem straightforward and unobjectionable. Some are long overdue. When the MLO was adopted in 1994, the Los Angeles City Ethics Commission was mandated to review and recommend updates to it periodically. The Commission did so in 2008 and 2016, but the City Council took no action on the recommendations. In the wake of the recent scandals and controversies involving our municipal government, these current proposed Updates are likely to receive more favorable treatment from the Council than their predecessors did.

The Updates

Some updates don't affect substantive matters but improve current provisions in the MLO by making them more compact and comprehensible. For instance, the current requirements for the "Education" of lobbyists (p. 14, Attachment B) are 135 words long and confusing, whereas the updated "Education" requirements (p. 30, Attachment B) are 44 words long and clear.

Many other updates concern refinements of terminology. The Executive Director of the Ethics Commission discusses these in the "Definitions" section of his 15-page letter to the City Council. A good example is the proposal to drop from the current MLO the term "Municipal legislation" (p. 7, Attachment B) and replace it with "City Matter" (p. 2-3, Attachment B), on the grounds that the latter more comprehensively describes the range of issues that lobbyists try to influence.

Other updates attempt to establish consistency between the MLO and the two other major ordinances under the aegis of the Ethics Commission—the Campaign Finance Ordinance and the Governmental Ethics Ordinance. For example, the updated MLO substitutes "City personnel" for "City official" (p.3, Attachment B) to bring the MLO's terminology into line with the GEO's and the CFO's. And the proposed updates to the MLO's definitions related to fund-raising (pp. 4-5, Attachment B) aim to make them consistent with the fund-raising activities identified in the CFO.

Yet other recommended Updates aim to make the MLO more internally self-consistent and even-handed in its treatment of different lobbying entities. As is indicated in the tables on pp. 7, 9, and 10 of the Executive Director's letter, the current MLO's registration and disclosure requirements vary from one lobbying entity to another. For instance, a lobbying firm is required, in registering, to state each city matters it is attempting to influence, whereas an individual lobbyist isn't. In addition, the proposed lowering of the qualifying threshold for major filers from \$5,000 per quarter (or \$20,000 per annum) to \$5,000 per annum (p. 6, Attachment B) is evidently aimed at, among other things, making the requirements for major filers consistent with those for other lobbying entities.

Finally, some of the recommended Updates reflect technological changes that have occurred since 1994 and that have produced anomalies that need remedying. For example, under the current MLO, all lobbying entities must file disclosures, but only lobbyists and lobbying firms are required to register with the Ethics Commission. But all disclosures must now be filed electronically and, to do this, you must register online with the Ethics Commission. So, practically speaking, all lobbying entities have to register. The updated MLO reflects this reality by clarifying that all lobbying entities are subject to the same method of registering and reporting (p. 11, Attachment B).

A particularly important, principle-involving recommendation

A critical recommendation involves characterizing a lobbyist not according to a *time-based* standard but according to a *compensation-based* one. The current MLO states that you qualify as a lobbyist if you spend 30 hours in a three-month period trying to influence city matters. The proposed update recommends that you be qualified if you receive at least \$5,000 annually for your work. As the Executive Director's letter notes (pp. 3-4), the current time-based standard is spongy (lobbyists don't punch clocks), whereas a compensation-based measure enables greater precision and transparency: you can follow the money and count it. The Executive Director also notes that most other major cities in the country use a compensation-based standard to determine who qualifies as a lobbyist.

The most important proposed update for Neighborhood Councils

Among the proposed Updates is one (p. 26-27, Attachment B) that requires lobbyists to identify themselves when communicating with neighborhood councils. This includes identifying themselves with a spoken disclaimer when verbally addressing a Neighborhood Council meeting, whether in person or virtually. Professional politicians are used to dealing with lobbyists and can readily identify them. We board members of neighborhood councils are volunteers. Identifying a lobbyist is not so easy for us, especially in virtual meetings. A number of neighborhood councils have complained of sneaky lobbyists who call in as a concerned citizens and don't divulge their ulterior motives.

What isn't in the proposed Updates that might be added?

Other Neighborhood Councils have requested that a spoken lobbying disclosure be applied not only for NC meetings but also for City Council and Committee meetings. Such a provision would ensure that everyone in attendance (whether on site or tuning in virtually), or listening to a recording of a meeting after the fact, would be fully aware of which speakers were lobbyists. This proposal or amendment seems reasonable and could be easily slotted into SEC. 48.11 of the updated MLO (p. 18, Attachment A).

Other possible changes or amendments to the updates

Certain other neighborhood councils have objected to exempting 501(c)(3) organizations—religious, charitable, educational etc. non-profits—from regulation if their gross receipts are less \$2,000,000 per annum (p. 9, Attachment B). These councils have pointed out that only 16% of Southern California non-profits have annual gross receipts of \$1 million or more, so an exemption set at twice that amount might gravely affect transparency. More specifically, they argue that the threshold should be lowered to \$200,000 in gross receipts, using the IRS's standard for distinguishing a smaller non-profit (which may file the short 990-EZ form) from a larger non-profit (which has to file the longer, regular 990 form). But filing tax forms and lobbying require different expenditures of time and money, and it seems to our working group that \$500,000 in gross receipts would be a better and fairer dividing line for exemptions for the MLO.

Our working group also recommends that the “Client” definition in the updated MLO (pp. 2-3, Attachment A) be slightly expanded to include the specification that lobbying entities, in registering and reporting, should supply in the interests of transparency the names of the principals of any Limited Liability Corporations they may be representing.

Summary

If a comparison is helpful, we can note that the proposed updates to the Municipal Lobbying Ordinance do not involve something new and far-reaching as, for instance, the proposed Wildlife Ordinance does. Rather than trying to realize a vision or concept to which our community aspires (or objects), the MLO attempts to build on and profit from 30 years of practical public policy. The devil is always in the details of course, but, overall, the recommendations seem reasonable in their attempt to clarify the ordinance and enable it to serve the City more effectively and efficiently. At last count, 37 other neighbor councils had sent Community Impact Statements to the City Council in favor of the Updated MLO, and we recommend that we add our support to theirs.

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