

MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 1

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
June 8, 2016

Mayor Philip Levine
Commissioner John Elizabeth Alemán
Commissioner Ricky Arriola
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Kristen Rosen Gonzalez
Commissioner Micky Steinberg

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

R5 - Ordinances

- R5J An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 5, Entitled "Campaign Finance Reform," By Adding Thereto Section 2-491 Entitled "Prohibited Lobbying By Campaign Consultants," Prohibiting Campaign Consultants And Certain Affiliated Persons Or Entities From Lobbying City Commission For 12 Months Subsequent To Swearing In Of Subject Elected Official(s), Establishing Definitions, And Limited Exemption; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**
(Sponsored by Commissioner Kristen Rosen Gonzalez)
(Legislative Tracking: Office of the City Attorney)
(Deferred from April 27, 2016 - R5B)
(Memorandum & Ordinance)
- R5J1 An Ordinance Amending Miami Beach City Code Chapter 2, Article VII, Division 3 Entitled "Lobbyists", Section 2-482(a)(4) Thereof, By Requiring A Lobbyist Who Has Within The Past Election Cycle Provided Campaign Consulting Services To An Incumbent Member Of The City Commission To Disclose Such Particular Service On His/Her Lobbyist Registration Form, Providing Definitions, Providing For Repealer, Severability, Codification, And An Effective Date.
(Sponsored by Commissioner Kristen Rosen Gonzalez)
(Legislative Tracking: Office of the City Attorney)
(Memorandum & Ordinance)

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: MAYOR PHILIP LEVINE
MEMBERS OF THE CITY COMMISSION
CITY MANAGER JIMMY MORALES

FROM: RAUL J. AGUILA 
CITY ATTORNEY

DATE: April 27, 2016

SUBJECT: INCREASING STRINGENCY OF CITY OF MIAMI BEACH ETHICS LAWS BY AMENDING CITY CODE CHAPTER 2, ARTICLE VII "STANDARDS OF CONDUCT", DIVISION 5, ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491, ENTITLED "PROHIBITED LOBBYING BY CAMPAIGN CONSULTANTS," PROHIBITING CAMPAIGN CONSULTANTS AND CERTAIN AFFILIATED PERSONS OR ENTITIES FROM LOBBYING CITY COMMISSION FOR 12 MONTHS SUBSEQUENT TO SWEARING IN OF SUBJECT ELECTED OFFICIAL(S), ESTABLISHING DEFINITIONS, AND LIMITED EXEMPTION; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Pursuant to the request of Commissioner Kristen Rosen Gonzalez, the attached Ordinance is being submitted for the purpose of amending the City's Campaign Finance laws to include provisions prohibiting campaign consultants from lobbying the City Commission. This amendment to the City's ethics laws serves to augment the City's intent of good government, and will once more place the City of Miami Beach at the forefront of local ethics legislation.

The proposed Ordinance was previously considered by the City Commission on January 13, 2016, but did not pass on second reading. As the three (3) month period has passed, as required in Section 2-12(d)(5) of the City Code for the consideration of an ordinance that previously failed for lack of the requisite vote for adoption, this Ordinance may be considered by the City Commission at this time.

RJA:DT/mmm

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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 5, ENTITLED "CAMPAIGN FINANCE REFORM," BY ADDING THERETO SECTION 2-491 ENTITLED "PROHIBITED LOBBYING BY CAMPAIGN CONSULTANTS," PROHIBITING CAMPAIGN CONSULTANTS AND CERTAIN AFFILIATED PERSONS OR ENTITIES FROM LOBBYING CITY COMMISSION FOR 12 MONTHS SUBSEQUENT TO SWEARING IN OF SUBJECT ELECTED OFFICIAL(S), ESTABLISHING DEFINITIONS, AND LIMITED EXEMPTION; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, corruption and the appearance of corruption in the form of campaign consultants exploiting their influence with City elected officials on behalf of private interests may erode public confidence in the fairness and impartiality of City governmental decisions; and

WHEREAS, the City of Miami Beach has a paramount interest in preventing corruption or the appearance of corruption which could result in such erosion of public confidence; and

WHEREAS, prohibitions on campaign consultants lobbying former clients/members of the City Commission will protect public confidence in the electoral and governmental processes. It is thus the purpose and intent of the people of the City of Miami Beach in enacting this Ordinance to prohibit campaign consultants from exploiting or appearing to exploit their influence with City elected officials on behalf of private interests.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Miami Beach City Code Chapter 2, Article VII, Division 5, entitled "Campaign Finance Reform," is hereby amended by adding the following City Code section 2-491 entitled "Prohibited Lobbying by Campaign Consultants" to read as follows:

Sec. 2-491. Prohibited Lobbying by Campaign Consultants.

A. Prohibition.

No campaign consultant shall lobby the City Commission for a period of 12 months following the swearing in of any elected official(s) for whom the campaign consultant provided campaign consulting services within the past election cycle.

B. Definitions.

(a) "Campaign consultant" means any person or entity that receives or is promised economic consideration in exchange for campaign consulting services to a candidate for elected office in the City of Miami Beach.

(1) "Campaign consultant" shall include any individual who has an ownership interest of 10% or greater in the campaign consultant, and any employee of the campaign consultant, except as otherwise excepted below.

(2) "Campaign consultant" shall not include:

i) any vendor for a campaign whose primary responsibility is to supply goods or services for a campaign.

ii) any employee of a campaign consultant whose sole duties are primarily clerical; or

iii) any employee of a campaign consultant who did not personally provide campaign consulting services.

(b) "Campaign consulting services" means primary responsibility for campaign management or campaign strategy.

(c) "Campaign management" means conducting, coordinating or supervising a campaign to elect a candidate.

(d) "Campaign strategy" means formulation of plans for the election of a candidate.

(e) "Candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

(f) "Economic consideration" means any payments, fees, commissions, gifts, or anything else of value received directly or indirectly as consideration for campaign consulting services. The term "economic consideration" does not include reimbursements for out of pocket expenses.

(g) "Past election cycle" means the subject immediately preceding City of Miami Beach General Election/Special Election held for the purpose of electing a member of the City Commission.

(h) "Lobby" for purposes of this Code Section shall mean the act of seeking to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of any member of the City Commission.

C. Limited Exemption.

A campaign consultant who has within the past election cycle provided campaign consulting services to an incumbent member of the City Commission, and has entered into a lobbying contract prior to the effective date of the ordinance creating this code section, the term of which lobbying contract includes the subject proscribed 12 month period established in Subsection A above, is exempt from the proscription herein with limited regard to that subject lobbying contract.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten (10) days after its adoption.

PASSED and ADOPTED this _____ day of _____, 2016.

ATTEST:

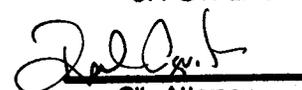
Rafael E. Granado, City Clerk

Philip Levine, Mayor

(Sponsored by Commissioner Kristin Rosen Gonzalez)

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6/13/16

Date



MIAMI BEACH

**OFFICE OF THE CITY ATTORNEY
RAUL J. AGUILA, CITY ATTORNEY**

COMMISSION MEMORANDUM

**TO: MAYOR PHILIP LEVINE
MEMBERS OF THE CITY COMMISSION
CITY MANAGER JIMMY MORALES**

FROM: RAUL J. AGUILA *RJ Aguil*
CITY ATTORNEY

DATE: JUNE 8, 2016

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 3 ENTITLED "LOBBYISTS", SECTION 2-482(a)(4) THEREOF, BY REQUIRING A LOBBYIST WHO WHO HAS WITHIN THE PAST ELECTION CYCLE PROVIDED CAMPAIGN CONSULTING SERVICES TO AN INCUMBENT MEMBER OF THE CITY COMMISSION TO DISCLOSE SUCH PARTICULAR SERVICE ON HIS/HER LOBBYIST REGISTRATION FORM, PROVIDING DEFINITIONS, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Pursuant to the request of Commissioner Kristen Rosen Gonzalez, the attached ordinance has been drafted for the purpose of amending the City's ethics code to require lobbyists who have within the past election cycle provided campaign consulting services to an incumbent member of the City Commission to disclose such particular service on his/her lobbyist registration form. Although existing City Code section 2-482(4) requires lobbyists to disclose in their registration "...the general nature..." of contractual relationships held with City personnel to be lobbied, this proposed measure will ensure greater transparency by requiring lobbyists to additionally provide specific disclosure of their contractual provision of campaign consulting services to incumbent members of the City Commission.

Inasmuch as the United States Supreme Court has acknowledged that: "The activities of lobbyists who have direct access to elected representatives, if undisclosed, may well present the appearance of corruption",¹ it is believed that this legislation supports the City's governmental interest in serving to enhance public confidence in the electoral and municipal processes of the City of Miami Beach.

¹ See *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 356 n. 20, 115 S.Ct. 1511, 1523 n. 20 (1995).

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 3 ENTITLED "LOBBYISTS", SECTION 2-482(a)(4) THEREOF, BY REQUIRING A LOBBYIST WHO WHO HAS WITHIN THE PAST ELECTION CYCLE PROVIDED CAMPAIGN CONSULTING SERVICES TO AN INCUMBENT MEMBER OF THE CITY COMMISSION TO DISCLOSE SUCH PARTICULAR SERVICE ON HIS/HER LOBBYIST REGISTRATION FORM, PROVIDING DEFINITIONS, PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Miami Beach City Code Chapter 2, Article VII, Division 3 entitled "Lobbyists", section 2-482 (a)(4) thereof, is hereby amended to read as follows:

Sec. 2-482. - Registration.

(a) All lobbyists shall, before engaging in any lobbying activities, register with the city clerk. Every person required to register shall register on forms prepared by the clerk, pay a registration fee of \$350.00, as specified in appendix A and state under oath:

* * *

(4) The commissioner or personnel sought to be lobbied, and whether the lobbyist has entered into any contractual relationship (paid or unpaid) with said city commissioner or personnel from 12 months preceding such person's commencement of service with the city to the present date, stating the general nature of the subject contractual relationship.

i) A lobbyist who who has within the past election cycle provided campaign consulting services to an incumbent member of the City Commission shall disclose such particular service on his/her lobbyist registration form.

ii) For purposes of subsection (i) above, the following definitions shall apply:

- "Past election cycle" means the immediately preceding City of Miami Beach Election held for the purpose of electing a member of the City Commission.
- "Campaign consulting services" means primary responsibility for campaign management or campaign strategy.
- "Campaign management" means conducting, coordinating or supervising a campaign to elect a candidate.
- "Campaign strategy" means formulation of plans for the election of a candidate.
- "Candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

* * *

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2016.

PASSED and ADOPTED this _____ day of _____, 2016.

ATTEST:

Philip Levine
Mayor

Rafael E. Granado
City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

(Sponsored by Commissioner Kristen Rosen Gonzalez.)

Paul Esposito 6/2/16
City Attorney Date

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