

Meyers, Robert (COE)

JNG 04-40

To: Rubin, Nancy (DP&Z)
Subject: RE: Lobbyist issues/questions from the Dept of Planning and Zoning

Nancy,

Sorry I haven't responded sooner, but things have been rather hectic. Let me do my best to answer the questions that you have posed.

- 1) If an employee has knowledge that a particular lobbyist has been retained by a particular party, then there is no need to ask the lobbyist everytime he/she appears on behalf of that client. Because there is no longer issue-by-issue registration, a lobbyist who has been retained by a principal has the right to lobby on the principal's behalf with respect to any item in front of the County.
- 2) No, this type of exchange would not be considered lobbying.
- 3) There is no need to register.
- 4) Pursuant to the Code, government employees are not defined as lobbyists -- no matter their titles.
- 5) Lobbying is prohibited if a person is not properly registered whether it be a face-to-face meeting, a telephone conversation or an e-mail exchange. Currently, the sign-in requirement applies only to office visits.
- 6) Yes, the Ethics Commission addressed this question recently and concluded much of what plans runners do is lobbying. I will forward you the opinion.
- 7)
 - a) In this case, I find that members of the CDC who are lobbying would have to register, but because they are lobbying for a non-profit entity, there is no registration fee.
 - b) Is the applicant representing himself/herself? If so, no need to register. Also, if this is a quasi-judicial proceeding and there is no contact with staff outside the public meeting, then this appearance would be exempt from the lobbying rules.
 - c) Once again, is the applicant appearing in his/her personal capacity or is he/she representing a third party? If the Charette plan could foreseeably go before the County Commission or a County Board and the applicant appeared on behalf of another, then the applicant would have to register.
- 8) Simply gathering information by the architect and/or the owner would not lobbying.
- 9) As long as he/she appears in his/her individual capacity, then this is not lobbying.

I don't understand the facts in your last paragraph. Please call me and I would be happy to discuss this with you.

Thanks,

Robert

-----Original Message-----

From: Rubin, Nancy (DP&Z)
Sent: Friday, April 16, 2004 1:47 PM
To: Meyers, Robert (COE)
Subject: Lobbyist issues/questions from the Dept of Planning and Zoning

Robert:

I have set forth below some questions and situations which staff of the department has raised in connection with lobbyist registration. Once you or someone on your staff have had a chance to review these, should you have any questions, please call me.

Joe McManus our zoning consultant working on the zoning code rewrite project posed the following:
Zoning Code Rewrite.

1. I periodically convene an informal building industry committee to review progress on the Zoning Code Rewrite, offer comments, and which will endeavor to persuade DP&Z staff to amend the draft text, and even offer substitute draft text. This informal committee is composed of land-use lawyers, architects and engineers, builders and developers, all of whom attend the meetings either representing themselves (builders and developers) or clients (lawyers, architects, engineers). Representatives of Builders Association of South Florida and Latin Builders Association usually attend and summarize written comments and objections. These people may very well already be registered as lobbyists, but do I have to ask them if they are registered lobbyists at every meeting?

2. Planning Committee, Greater Miami Chamber of Commerce; AIA Miami. I periodically present a PowerPoint presentation(30 minutes) of the Zoning Code Rewrite before these groups and invite questions and comments after. The general membership is invited and I suspect that some fraction of the audience are registered lobbyists, but the purpose of the presentation is to share information. Among the comments and questions after, is there some point at which, upon being asked a question which is really an editorial statement, I must respond and ask if the questioner is a lobbyist?

3. Miami-Dade County League of Cities. In a short 5-minute presentation to this group, all of whom are public officials (mayors, managers, councilpersons) I present the highlights of the Zoning Code Rewrite. In this capacity, should I be registered as a lobbyist?

4. Job Title My job title "Zoning Consultant", even though part-time civil service, may inadvertently portray me as a lobbyist. Should I seek to have the title changed?

Additionally the following questions have arisen and we would appreciate your guidance and opinion on these:

5. Do we need to keep track of a) email and b) telephone questions and discussions on the log and are we responsible to ensure that these people are registered as lobbyists.

6. The permitting process has many private individuals who are called plans runners. They run plans for different entities and property owners.

In many instances when a plan is denied by zoning they will contact us for interpretation to see if their plans can get approved. Do we have to ask them if they are registered lobbyists?

We seriously doubt that any of these individuals are registered since this is not the way that the permitting process has conducted business in the past. If they have to register then what about the plans that get denied because of a structural design or calculation? Architects and engineers come in all the time to speak to plans examiners for the building department on these types of issues. Do they have to register too when they meet to discuss the denial of their plans and state their case?

7. The Community Planning Section wanted to pose the following:

Lobbying Questions and Example Determinations

- a. Non-profit organization such as CDC proposed a Store Porch District. They do not own or control the land for the proposed district but the CDC wants to implement store porch district in a Charrette area (Goulds). Those that want to implement the district are members of the steering committee and are also staff of the CDC. Is this an instance of an organization lobbying for a proposed district through their organization as members of the steering committee?
- b. Applicant went to hearing and condition of hearing was to allow parking on grass, however the applicant wants to option not to pave in area of tourist attraction. Applicant actively requested staff to be able to preserve option to pave or not pave.
- c. Applicant wants to modify Charrette plan that staff feels that such modification would have to be reviewed by steering committee. Does that constitute lobbying

Tom, I think maybe the first two questions might just be too specific. I think what we need to do is

determine how we can generalize these and so it covers all of the issues.

Shailendra:

8. Property/Parcel Owner along with his Architect wants to meet Community Planning staff in relation to a certain Charrette area, with a view to gather information on what was proposed on their parcel (and the general area) during that actual design Charrette. Does that constitute lobbying?

9. Applicant wants to meet with Community Planning staff as a follow up and to get a better understanding on the Draft overlay ordinance for a certain Charrette area & eventually as to how it actually affects future development on their property/parcel. Does that constitute lobbying?

I strongly believe that because of the fact that the Charrettes were public design workshops and everything that happened there and/or was put into the Report and executive summary later occurred on a public forum and is now public record, therefore any related updates and reports etc that we have to give anyone should practically be exempt from lobbying. (Same for Ordinances etc. that become public record immediately once they are presented before the community councils.)

Now in terms of how can it be defined when actual requests do arise from these client/applicant meetings with the staff? Well, our stand has always been that any changes will be incorporated only once presented before the Charrette steering committee (at a public meeting) and if and only if it meets their approval. Should such requests be considered as lobbying by the person/organization when really these queries would need to be brought forth, considered and then voted on a public podium before any changes are made?

Nancy Rubin
Legal Advisor
Department of Planning and Zoning
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