

1 Introduced by Council Member Yarborough and substituted by the
2 Rules Committee:

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4
5 **ORDINANCE 2008-839-E**

6 AN ORDINANCE AMENDING CHAPTER 602 (ETHICS
7 CODE), PART 1 (IN GENERAL), SECTION 602.101
8 (LEGISLATIVE INTENT AND DECLARATION OF POLICY;
9 ASPIRATIONAL GOALS) TO RECOGNIZE THE PUBLIC
10 PURPOSE FOR ETHICS LEGISLATION; AMENDING
11 SECTION 602.201 (DEFINITIONS), *ORDINANCE CODE*,
12 TO ADD THE WATER AND SEWER EXPANSION AUTHORITY
13 (WSEA) TO THE INDEPENDENT AGENCIES OF THE
14 CITY; AND TO AMEND SECTION 602.453 (PUBLIC
15 OFFICIAL BID AND CONTRACT DISCLOSURES), PART 7
16 (GIFTS AND HONORARIA) AND PART 8 (LOBBYING) TO
17 APPLY THESE ORDINANCES TO THE INDEPENDENT
18 AGENCIES OF THE CITY; PROVIDING AN EFFECTIVE
19 DATE.

20
21 **BE IT ORDAINED** by the Council of the City of Jacksonville:

22 **Section 1. Section 602.101, (Legislative intent and**
23 **declaration of policy; aspirational goals) *Ordinance Code Amended.***

24 Chapter 602 (Ethics Code), Part 1 (In General), Section
25 602.101 (Legislative intent and declaration of policy; aspirational
26 goals), *Ordinance Code*, is hereby amended to read as follows:

27 **PART 1. IN GENERAL**

28 **Sec. 602.101. Legislative intent and declaration of policy;**
29 **aspirational goals.**

30 It is declared to be the policy of the City of Jacksonville
31 that all officials, officers and employees of the City of

1 Jacksonville ~~or an~~ and its independent agencies are public
2 servants of the people and hold their positions for the benefit of
3 the public, and that imposing ethical standards upon officials,
4 officers, and employees of all of these agencies serves an
5 important public purpose and serves the public welfare. These
6 public servants shall perform efficiently and faithfully their
7 duties under the laws of the federal, state, and local governments.
8 Such officers and employees shall strive to meet the highest
9 standards of ethics consistent with this Code, regardless of
10 personal considerations, recognizing that maintaining the respect
11 of the people must be their foremost concern. This Code shall serve
12 not only as a basis for discipline of public servants who violate
13 these provisions, but also as an aspirational guide for conduct.

14 * * *

15 **Section 2. Section 602.201, (Definitions) Ordinance Code**
16 **Amended.**

17 Chapter 602 (Ethics Code), Part 2 (Definitions), Section
18 602.201 (Definitions), *Ordinance Code*, is hereby amended to read
19 as follows:

20 * * *

21 (t) Independent agency means the Duval County School
22 Board, the Jacksonville Transportation Authority, the Jacksonville
23 Port Authority, the Jacksonville Aviation Authority, the Police and
24 Fire Pension Fund, JEA, ~~and~~ the Jacksonville Housing Authority, and
25 the Water and Sewer Expansion Authority.

26 **Section 3. Section 602.453, (Public official bid and**
27 **contract disclosure) Ordinance Code Amended.**

28 Section 602.453 (Public official bid and contract disclosure),
29 *Ordinance Code*, is hereby amended to read as follows:

30 **PART 4. CONFLICTS OF INTEREST**

31 * * *

1 **Sec. 602.453. Public official bid and contract disclosure.**

2 (a) a public official of the City or an independent agency,
3 who knows that he or she has a financial interest in a bid to be
4 submitted to their own agency or contract with their own agency,
5 shall make disclosure in writing to the Procurement Division or
6 using agency, whichever is receiving or has received the bid
7 contract, (i) at the time that the bid or contract is submitted or
8 subsequently no later than the close of the second, full, regular
9 work day after the bid or contract is submitted (not including the
10 day that the bid is submitted or any Saturday, Sunday or City
11 holiday), or (ii) prior to or at the time that the public official
12 acquires a financial interest in the bid or contract and such
13 disclosure shall include but not be limited to the following: the
14 bid number, the name of the public official and his or her public
15 office or position, the name and address of the business entity in
16 which the public official has a financial interest, and the
17 position or relationship of the public official with that business
18 entity.

19 (b) It shall be unlawful and a Class D offense for a public
20 official of the City or an independent agency, to fail or refuse to
21 make the disclosure required in subsection (a) of this Section.

22 (c) For purposes of this Section, bid means any telephone or
23 written bid, written proposal, written quote or written offering of
24 any kind or description whatsoever submitted for the purpose of
25 being awarded or entering into a contract, purchase agreement,
26 sales transaction, or other contractual agreement with the City
27 under the provisions of the Procurement Code, Section 126.110,
28 Ordinance Code, or with an independent agency of the City under its
29 procurement code.

30 (d) For purposes of this Section, contract means any
31 contract, agreement, purchase order or other document used to

1 evidence the existence of a purchase or sales transaction under the
2 provisions of the Procurement Code, Chapter 126, Ordinance Code, or
3 with an independent agency under its procurement code, or any
4 subsequent change order or amendment to any such contract document.

5 (e) For purposes of this Section public official means any
6 one or more individuals who have been elected to any state or local
7 office and which office has a geographical jurisdiction or
8 description covering all of, more than but including all or a
9 portion of, or less than but including a portion of, Duval County,
10 Florida, any one or more individuals who have been appointed to the
11 governing body of any independent agency of the City, or an
12 appointed employee of the City.

13 (f) For purposes of this Section, financial interest means
14 any ownership interest of a public official in any proposer,
15 bidder, contractor, or first tier subcontractor (that is, a person
16 or business entity under contract to provide or providing capital
17 improvement services, professional design services, professional
18 services, labor, materials, supplies or equipment directly to the
19 proposer, bidder, or contractor) whereby the public official knows
20 that he or she has received or will receive any financial gain
21 resulting from or in connection with the soliciting, procuring,
22 awarding, or making of a bid or contract; provided, however,
23 financial interest shall not include any interest in any increase
24 in value of, or dividends paid on, any stock which is publicly
25 traded on any public stock exchange.

26 (g) The City, independent agency, or using agency, as the
27 case may be, acting by and through its awarding authority may: (i)
28 nullify and terminate the purchase and sales transaction and any
29 contract arising from or in connection with any bid or contract
30 involving failure or refusal to disclose a financial interest of a

1 public official as described in this Section; (ii) declare the same
2 null and void.

3 (h) In addition to all other penalties described herein, any
4 person or company that violates this Part shall be subject to
5 withholding of payments under the contract, termination of the
6 contract for breach, contract penalties, decertification and/or
7 being debarred from or deemed non-responsive to future City
8 solicitations and contracts for up to three years (for less
9 egregious violations, as determined by the Chief, a period of
10 probation may be proposed, any violations during which period will
11 result in debarment of no less than three years). For purposes of
12 this Chapter, the words and phrases defined in this Section shall
13 have the following meanings:

14 * * *

15 **Section 4. Part 7 (Gifts and Honoraria) of Chapter 602**
16 **(Ethics Code) Ordinance Code Amended.** Part 7 (Gifts and Honoraria)
17 of Chapter 602 (Ethics Code) *Ordinance Code* is amended to read as
18 follows:

19 **PART 7. GIFTS AND HONORARIA**

20 **Sec. 602.701. Prohibited receipt of gifts.**

21 (a) No officer or employee of the City or of an independent
22 agency, or any other person on his or her behalf, shall knowingly
23 accept, directly or indirectly, any one gift with a value greater
24 than \$100 or an accumulation of gifts in any one calendar year that
25 exceeds \$250 from any person or business entity that the recipient
26 knows is:

27 (1) A lobbyist who lobbies the recipient's agency or
28 executive department;

29 (2) Any principal or employer of a lobbyist who lobbies the
30 recipient's agency or executive department;

1 (3) A person or business entity which is doing business with,
2 or has made written application within the previous six months, to
3 do business with an agency of which he or she is an officer or
4 employee;

5 (4) A person or business entity which is subject to the
6 permit approval of an agency of which he or she is an officer or
7 employee.

8 For purposes of the \$250 annual accumulation of gifts, gifts of
9 food and beverage not exceeding \$25 on any given day shall not be
10 included.

11 (b) No officer or employee of the City or of An independent
12 agency, or any other person on his or her behalf, shall knowingly
13 accept, directly or indirectly, any one gift with a value greater
14 than \$100, or an accumulation of gifts in any one calendar year
15 that exceeds \$250 dollars, from any person or business entity, when
16 the gift is given as a result of the officer or employee's official
17 position, or as a result of the business relationship developed as
18 a result of the officer or employee's position or employment. For
19 purposes of the \$250 annual accumulation of gifts, gifts of food
20 and beverage not exceeding \$25 on any given day shall not be
21 included.

22 (c) The Mayor and the Council Secretary shall identify a mayoral
23 and a council representative who will be officers or employees
24 responsible for the receipt of and distribution of business-related
25 gifts to the City through its executive and legislative branches.
26 The chief executive officer of an independent agency shall identify
27 a designee or designees who will be officers or employees
28 responsible for the receipt of and distribution of business-related
29 gifts to the independent agency. Registries shall be established
30 wherein gifts will be identified by date, donor, type, purpose, and
31 City or independent agency officer or employee carrying out the

1 purpose; and shall be posted on a City or independent agency
2 internet site. (Examples of gifts covered by this subsection
3 include, but are not limited to, tickets or travel to events where
4 City or independent agency official or employee presence is
5 requested, or travel and per diem to inspect products and
6 equipment, or gifts of personal property to the City or independent
7 agency.)

8 (d) It shall be unlawful and a class A offense for any officer or
9 employee of the City or an independent agency, or any person on his
10 or her behalf, to violate subsections (a) and (b) of this Section.

11 **Sec. 602.702. Prohibited offering of gifts.**

12 It is unlawful and a Class A offense for a lobbyist, or principal
13 or employer of a lobbyist, or any person or entity listed in
14 Section 602.701, to knowingly offer a gift to an officer or
15 employee of the City or an independent agency which would cause a
16 violation of Section 602.701 if accepted.

17 * * *

18 **Section 5. Part 8 (Lobbying) of Chapter 602 (Ethics Code)**
19 **Ordinance Code Amended.** Part 8 (Lobbying) of Chapter 602 (Ethics
20 Code) *Ordinance Code* is amended to read as follows:

21 **PART 8. LOBBYING**

22 **Sec. 602.801. Registration of lobbyists; registration**
23 **statements.**

24 (a) For purposes of the registration provisions of this
25 Part, lobbying is defined as the attempt to influence the
26 governmental decision making of an officer or employee of the
27 City, or of an independent agency, or the attempt to encourage
28 the passage, defeat, or modification of any legislation,
29 proposal or recommendation of the City or of an independent
30 agency, or of an officer or employee of the City or of an
31 independent agency. Lobbying shall not include the following:

1 (1) Legal or settlement discussions directed toward an
2 attorney for the City or of an independent agency; or

3 (2) Participation in a quasi-judicial proceeding
4 involving the City or an independent agency (except that all ex-
5 parte communication to a decision maker or non-lawyer city or
6 independent agency employee constitutes lobbying).

7 (b) Each person who lobbies, for compensation as a
8 lobbyist, any officer or employee of the City, or of an
9 independent agency, shall, prior to commencement of lobbying
10 activities on any issue, register his or her name, the person or
11 entity for which the lobbying is taking place (principal), and
12 the purpose and issue for which the lobbying is taking place,
13 with the City's Council Secretary. Registration may be for an
14 annual period or for a lesser, stated period, but no person may
15 lobby unless he or she is first registered. A person may
16 register as a lobbyist on his or her own volition or he or she
17 may be required by any officer or employee to register before he
18 or she addresses such officer or employee if he or she is not
19 already registered with the Council Secretary. The Council
20 Secretary shall maintain a book in which the registration
21 statements and oaths submitted by lobbyists shall be entered,
22 together with corrections and amendments as herein authorized
23 and required. If a person shall cease to be a lobbyist, his or
24 her registration statement and oath shall be removed from the
25 book of active lobbyists and shall be placed in a book of
26 inactive or former lobbyists; but no person may have a
27 registration statement and oath on file in both books.

28 (c) (1) When a person registers as a lobbyist, he or
29 she shall file a registration statement and oath in the form
30 developed from time to time by the Office of General Counsel, in
31 consultation with the City Ethics Officer, the Council Secretary

1 and the Ethics Commission. The Council Secretary, in
2 consultation with the Office of General Counsel, is authorized
3 to reject or strike non-conforming registrations. No person may
4 commence or continue lobbying activity related to a rejected or
5 stricken registration statement until such time as a corrected
6 registration statement is submitted and accepted by the Council
7 Secretary.

8 (2) A registration statement may be corrected or amended
9 at any time by the registrant by the submission of a subsequent
10 registration statement and oath setting forth the correcting or
11 additional information that the registrant wishes to place on
12 file. A statement that the subsequent registration statement
13 corrects or amends the previous registration statement shall be
14 inserted in the body of the statement, above the lobbyist's
15 signature, noting the substance of the correction or amendment.
16 A registration statement shall be corrected or amended if any
17 material fact concerning the purpose for which or persons on
18 whose behalf the registrant filed the registration statement
19 changes.

20 (3) A registration statement and oath that is not renewed
21 by the end of the period for which it is filed shall expire and
22 may not thereafter be relied upon by the lobbyist in support of
23 lobbying activities.

24 (d) The following persons shall not be required to
25 register as lobbyists:

26 (1) A public official, City or independent agency
27 employee or salaried employee of a public agency acting in his
28 or her official capacity or in connection with his or her job
29 responsibilities or as authorized or permitted to lobby pursuant
30 to a collective bargaining agreement;

1 (2) A person who only addresses the Council or
2 independent agency board during ~~it's~~ the "public comment"
3 portion of ~~the Council~~ its meeting agenda;

4 (3) A person who appears at the specific request or under
5 compulsion of the Council or a Council committee; or of the
6 board or committee of the board of an independent agency;

7 (4) Expert witnesses and other persons who give factual
8 testimony about a particular matter or measure, but do not
9 advocate passage or defeat of the matter or measure or any
10 amendment thereto-;

11 (5) A person, not exempt under paragraphs (1) through (4)
12 and otherwise meeting the definition of a lobbyist who received
13 no compensation as a lobbyist-;

14 (6) A Principal or an officer or employee of a principal
15 who performs lobbying activities as part of his or her assigned
16 duties.

17 (e) This section is limited to registration issues only,
18 and nothing contained in this section shall be interpreted to
19 limit the gift and honoraria solicitation and acceptance
20 prohibitions set forth in Part 7 of this Chapter.

21 * * *

22 **Sec. 602.803. Fee disclosure.**

23 A lobbyist who attempts to persuade or influence a Council
24 Member, a Council committee, or the Council as a whole; or an
25 independent agency board member, committee, or the independent
26 agency as a whole; on any project, contract, development,
27 ordinance, ~~or~~ resolution, or agenda item, shall, prior to
28 commencing lobbying efforts, file with the City's Council
29 Secretary a disclosure revealing whether the lobbyist has a
30 financial interest in the contract, development or project that
31 extends beyond its approval, and the percent of that interest.

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Section 6. Effective Date. This ordinance shall become effective upon signature by the Mayor or upon becoming effective without the Mayor's signature.

Form Approved:

Office of General Counsel

Legislation Prepared By: Steven E. Rohan

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