

**Lee County Board of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20020361

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Conduct Public Hearing to consider and approve Lee County Lobbying Ordinance.

**WHY ACTION IS NECESSARY:** A Public Hearing is required by law to adopt ordinance redraft with revisions.

**WHAT ACTION ACCOMPLISHES:** Repeals and replaces Lee County Ordinances 89-40, as amended by Lee County Ordinance 90-07. Provides for lobbying registrations, record-keeping and lobbying statements.

**2. DEPARTMENTAL CATEGORY:**  
**COMMISSION DISTRICT #**

5:00 # 4

**3. MEETING DATE:**

04-23-2002

**4. AGENDA:**

CONSENT  
 ADMINISTRATIVE  
 APPEALS  
 PUBLIC  
 WALK ON  
**TIME REQUIRED:**  
 15 minutes

**5. REQUIREMENT/PURPOSE:**  
(Specify)

STATUTE  
 ORDINANCE  
 ADMIN. CODE  
 OTHER Lee County  
 Ordinance 89-40 as amended by  
 Lee County Ordinance 90-07.

**6. REQUESTOR OF INFORMATION:**

**A. COMMISSIONER**  
**B. DEPARTMENT** County Attorney's Office  
**C. DIVISION**  
**BY:** James G. Yaeger  
 County Attorney

**7. BACKGROUND:**

Revisions to the Lee County Lobbying Ordinance were discussed at the March 11, 2002 Management and Planning Meeting and on April 2, 2002 the Board of County Commissioners directed to Public Hearing. The ordinance has been re-stated as a new ordinance with revisions discussed with Board and as outlined in memorandum dated March 19<sup>th</sup> and March 25<sup>th</sup>, 2002 (attached).

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i>	OA 4/8/02	OM 4/8/02	RISK 4/9	GC 4/9	<i>[Signature]</i>

**10. COMMISSION ACTION:**

APPROVED  
 DENIED  
 DEFERRED  
 OTHER

CO. ATTY.  
FORWARDED  
TO CO. ADMIN.  
4/8/02

REC'D BY  
ADMIN.  
4/8/02  
11:00am  
COUNTY ADMIN.  
FORWARDED  
4/9 yno

**LEE COUNTY ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE RELATING TO LOBBYING ACTIVITIES IN LEE COUNTY; REPEALING ORDINANCE NOS. 89-40 AND 90-07; PROVIDING FOR DEFINITIONS; PROVIDING FOR RECORD-KEEPING RESPONSIBILITIES; ANNUAL REGISTRATION; EXEMPTIONS; QUARTERLY LOBBYING STATEMENTS; CLERK TO MAINTAIN REGISTRATION, LOBBY LOGS AND LOBBYING STATEMENTS; PROHIBITED CONDUCT OF COUNTY OFFICIALS AND EMPLOYEES; PENALTIES; ENFORCEMENT; SEVERABILITY; AND EFFECTIVE DATE.

**SECTION ONE                      REPEALER**

Lee County Ordinance Nos. 89-40 and 90-07 are hereby repealed in their entirety.

**SECTION TWO                      DEFINITIONS**

A. "Lobbying" means communications whether written or oral by a lobbyist, with any member or members of the Board of County Commissioners, or any member or members of any decision-making body under the jurisdiction of the Board, or any county employee, whereby the lobbyist seeks to encourage the passage, defeat, modification or repeal of any item which may be presented for vote before the Board of County Commissioners, or any Decision-Making Body under the jurisdiction of the Board, or which may be presented for consideration by a county employee as a recommendation to the Board or decision-making body.

B. "Lobbyist" means any person, firm, corporation or other legal entity, paid or unpaid, who, on behalf of another, engages in the activity of lobbying as defined in this ordinance.

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LEE COUNTY ATTORNEY'S OFFICE  
MARCH 19, 2002**

C. "Immediate Family" shall mean the lineal descendants, antecedent and the collateral kin of both the individual involved and the spouse of any such person.

D. "Principal" means the person, firm, corporation, or other legal entity which has arranged for a lobbyist to engage in lobbying.

E. "Employee" means:

- (1) County Manager, Deputy County Manager, Assistant County Managers, and Public Works Director;
- (2) County Attorney, Deputy County Attorney, Chief Assistant County Attorneys, and Assistant County Attorneys;
- (3) Executive Director of the Port Authority;
- (4) Department Heads, Division Heads and Office Directors.
- (5) All employees within the Purchasing Department with the exception of the secretarial staff.

F. "Decision-Making Body" means any body established by the Board of County Commissioners which is subject to its jurisdiction.

### **SECTION THREE                      RECORD-KEEPING RESPONSIBILITIES**

County Commissioners and employees, as specified in Section Two (E), who make regulatory decisions or recommendations to the Board of County Commissioners shall be responsible for maintaining a written log which documents each oral lobbying communication or meeting with a lobbyist held for the purpose of lobbying. The written log shall be of uniform form (Exhibit "A", hereto). In addition, Commissioners shall document

their contact with county employees who are employed in positions which either make recommendations to the Board or make regulatory decisions as a part of their job functions. County employees shall not be required to maintain a record of their contact with Commissioners. The log shall, at a minimum, reflect the name of the lobbyist, or employee(s), the date of the oral lobbying communication or lobbying meeting, and the subject matter discussed.

County Commissioners shall deliver their logs to the Clerk of Court at the end of each quarter and at the conclusion of their final term in office. County employees as designated in Section Two (E) must deliver their logs to the Clerk at the end of each quarter and upon the conclusion of their employment with Lee County. All lobby logs must be in the form provided for in Exhibit "A", hereto.

Individuals who serve as members of advisory boards or advisory committees to the county, who are either volunteers or receive no compensation from the county for their services, are not required to maintain the logs as described in this section.

All individuals subject to the requirements of this section must file lobby logs as set out above, regardless of whether any lobbying contacts are reported during any reporting period.

#### **SECTION FOUR**                      **ANNUAL REGISTRATION OF LOBBYISTS**

All lobbyists shall register with the Clerk of the Board of County Commissioners on an annual basis. Every unregistered lobbyist shall register prior to the first occasion such unregistered lobbyist engages in the activity of lobbying as defined in this ordinance. All

unregistered lobbyist appearing at public hearings or meetings shall register concurrently with seeking the passage, defeat, modification or repeal of any item which may be presented to the Board or decision-making body. Every person, firm or other entity required to register as a lobbyist shall register on forms prepared by the Clerk's Office. The lobbyist shall state under oath their name, business address, the name and business address of each principal represented, the general and specific areas of legislative interest and the nature and extent of any direct business association or partnership with any current member of the Board, a county employee, or person sitting on a decision-making body under the jurisdiction of the Board of County Commissioners. Each firm, corporation or other legal entity, may register in the name of such firm, corporation or legal entity, provided the registration shall list the names of all persons which may engage in lobbying as defined in this ordinance.

**SECTION FIVE                  EXEMPTIONS**

The following persons are not lobbyists as defined in Section Two, and shall not be required to register as lobbyists or keep records as lobbyist:

- (A) Lee County employees discussing government business;
- (B) Law enforcement personnel conducting an investigation;
- (C) Persons who communicate with Board members in their individual capacity for the purpose of self-representation, or on behalf of their family, without compensation or reimbursement;
- (D) Individuals who appear at public meetings and speak on their own

behalf or on behalf of others with whom they have a personal interest in the item being discussed; and

- (E) Consultants under contract with Lee County who communicate with Commissioners or employees regarding issues related to the scope of services in their contract.

**SECTION SIX**                      **QUARTERLY LOBBYING STATEMENT**

All lobbyists shall quarterly submit to the Clerk's Office a signed statement under oath listing lobbying expenditures, the sources of the funds, and an itemization as to the amount expended for each member of the Board of County Commissioners, a county employee or any other person on a decision-making body under the jurisdiction of the Board of County Commissioners. The statement shall be rendered on forms as provided by the Clerk's Office.

**SECTION SEVEN**                      **MAINTAINING REGISTRATIONS AND LOBBYING STATEMENTS**

The Clerk of the Board of County Commissioners shall accept and maintain the Lobbyist Registrations, Quarterly Lobbying Statements and Lobbying Logs, which shall be open for public inspection.

**SECTION EIGHT**                      **PROHIBITED CONDUCT OF COUNTY OFFICIALS AND EMPLOYEES**

No county official or employee of Lee County shall solicit or accept any compensation, payment, favor, service, or thing of value from a lobbyist when such county official or employee, as specified in Section Two (E), knows, or with the exercise of reasonable care, should know, that it was given to influence a vote or recommendation

favorable to the lobbyist.

**SECTION NINE                      PENALTIES**

The penalties for an intentional violation of this ordinance are those as specified in Section 125.69, Florida Statutes, as it may be amended or re-numbered from time to time.

**SECTION TEN                      SEVERABILITY**

The provisions of this ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted had such unconstitutional provision not been included therein.

**SECTION ELEVEN                      EFFECTIVE DATE**

This ordinance will become effective immediately upon receipt of official acknowledgment of the Office of Secretary of State of Florida that this ordinance has been filed with said office.

The foregoing ordinance was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and being put to a vote, the vote was as follows:

BOB JANES	_____
DOUGLAS ST. CERNY	_____
RAY JUDAH	_____
ANDREW COY	_____
JOHN ALBION	_____

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LEE COUNTY ATTORNEY'S OFFICE  
MARCH 19, 2002**

DULY PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

ATTEST: CHARLIE GREEN  
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of the County Attorney



**LOG OF LOBBYIST CONTACTS PURSUANT TO THE LEE COUNTY LOBBYING ORDINANCE**

I hereby certify that the below information is true and accurate to the best of my knowledge.

Signature: \_\_\_\_\_ Week Ending: \_\_\_\_\_ Quarter Ending: \_\_\_\_\_

Typed Name of Individual: \_\_\_\_\_ Date Signed: \_\_\_\_\_

Date	Type of Contact (T or V)*	Name of Lobbyist	Principal Represented by the Lobbyist	Topic of Discussion	Comments (if any)

\*T = Telephone Call  
 V = Personal Visit  
 Distribution: Original to Clerk of Courts  
 Copy to Filer  
 Copy to Office File

**[EXHIBIT A]**

**MEMORANDUM**  
**FROM THE**  
**OFFICE OF COUNTY ATTORNEY**

DATE: March 19, 2002

TO: Lee County Board of  
County Commissioners

FROM:

  
James G. Yaeger  
County Attorney

RE: LOBBYING ORDINANCE

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Attached is a re-draft red-lined version of the Lee County Lobbying Ordinance revised pursuant to discussions at the March 11, 2002 Management and Planning Meeting. This draft is basically a restatement of Lee County Ordinance 89-40, as amended by Lee County Ordinance 90-07, with the addition of revisions for clarification and/or enhancement as previously noted by the State Attorney's Office, either in its previous correspondence or comments. Thus, the material changes are contained in Section Three, Record-keeping Responsibilities and the lead-in paragraph to Section 5, Exemptions. There are no changes to the definition of lobbying, who is or is not a lobbyist, the Employees required to keep written logs, the Exemptions, or the Penalties.

The document is presently being scheduled for your April 2, 2002, Administrative Agenda for direction to Public Hearing. Prior to the April 2<sup>nd</sup> agenda item, I will provide you a general outline as to the legal parameters of the draft. In the interim if you have any questions or wish us to address any specific issues, let us know.

JGY:cdd

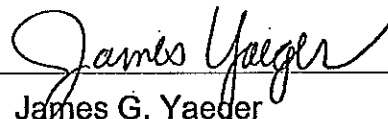
xc: Donald Stilwell, County Manager  
David M. Owen, Assistant County Attorney

**MEMORANDUM**  
**FROM THE**  
**OFFICE OF COUNTY ATTORNEY**

DATE: March 25, 2002

TO: Board of County Commissioners

FROM:



James G. Yaeger  
County Attorney

RE: **Lee County Lobbying Ordinance - Revisions**

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As directed, draft revisions on the above will be discussed on April 2<sup>nd</sup>, 2002. As presently re-drafted, the ordinance generally provides for regulation as set forth in the attached outline. As noted in my March 19<sup>th</sup>, 2002 memo, the material revisions are contained in Sec. Three, Record-Keeping Responsibilities and related Exhibit A (the Uniform Log of Lobbyist).

Of particular note are the following:

- (A) It is the responsibility of the Board Member and Designated Employee (Sec. 2E) to maintain the Log, properly record the lobbying contact (telephone, private meeting) and see that the Log is timely filed.
- (B) The information to be noted on the Log is set forth in the ordinance and on the Log form.
- (C) The Logs must be timely filed at the end of each quarter and upon the conclusion of the elected term or employment, as appropriate. (Must be filed within a reasonable time).
- (D) The Log must be filed as above, whether there is a noted lobbying contact or not. The notation can be as simple as "none."
- (E) The ordinance requires a uniform Log of lobbyist contacts (see Exhibit A). You should note the Log now requires:
  - 1. Certification
  - 2. Signature
  - 3. Date of Signature
  - 4. Distribution - Clerk, Office, Individual
- (F) As presently written, except as listed in the Exemptions, the ordinance requires the

Re: Lee County Lobbying Ordinance - Revisions

notation of a lobbyist contact, as defined, whenever any person or entity on behalf of another (3<sup>rd</sup> party principal) either talks to you in private or over the phone and attempts to influence (passage, defeat, modification, repeal) any item which may be presented for a vote. (If employee - any item which may be presented for consideration as a recommendation to a Board or Board of County Commissioners.

Further to the above parameters, the following issues may be relevant for your consideration and direction as you deem appropriate:

- (A) The effective date (p.6, Sec. 11). It may be prudent to provide for an effective date approximately 20 days after public hearing adoption. This time may be necessary to allow the Exhibit A Uniform Log form to be printed, distributed and education provided. An option would be to pre-print the Log prior to the hearing, at an estimated cost of \$500.00.
- (B) Additional Section. Specifically provide that any violation of the ordinance would not affect the validity of any official act or vote taken.
- (C) Exemptions (p.4, Sec. 5). Provide that all government employees and officials who are acting in their official capacity or in the normal course of their duties would be exempt from registration as Lobbyist, not to include any competitive procurements.
- (D) Lobbyist (p.4, Sec. 4) and Exemptions (p.4, Sec. 5). Clarify whether lobbying effort only at and during public hearing or meeting on the record should be exempt from Lobbying definition and registration requirements.
- (E) It would be beneficial to add some formatting changes and non-substantive verbiage changes for additional clarity.

April 23<sup>rd</sup>, 2002 would be the earliest scheduled public hearing date should the Board determine to so proceed. Due to the previous amendment, we intend to re-state and adopt the provisions as a new ordinance with any revisions directed by the Board. If you have any questions or wish to discuss further, please let me know.

JGY/smr

xc: David Owen, Chief Assistant County Attorney  
Donald Stilwell, County Manager  
Bill Hammond, Deputy County Manager  
Bruce Loucks, Assistant County Manager  
Jim Lavender, Director, Public Works Administration  
Robert Ball, Executive Director, Port Authority

## LEE COUNTY LOBBYING ORDINANCE

Lee County Ordinance #89-40, Amended by Ordinance #90-07 as revised draft, April 2, 2002

### Required:

- Lobbyist registration and quarterly filings
- Record keeping responsibilities (Lobbying Logs) on Board of County Commissioners and designated County Employees

Lobbyist - any person, firm, entity "paid or unpaid" who on behalf of another engages in lobbying.

Question: Are they attempting to influence on behalf of another (principal)?

Lobbying - communication whether written or oral by a lobbyist with:

1. Board of County Commissioners;
2. Decision-making body under jurisdiction of Board;
3. Or County Employee.

Intent - To influence (encourage the passage, defeat, or modification of) any item which may be presented for a vote before:

1. Board of County Commissioners; or
2. Decision-making body; or
3. Consideration by a county employee as a recommendation to the Board or decision-making body.

Question: Is it reasonably likely the matter will be presented for a vote or as an employee recommendation to County Board?

Record keeping Responsibilities:

Board and designated employees who make regulatory decisions or recommendations to the Board of County Commissioners:

1. County Manager, Deputy, Assistant and Public Works Director
2. County Attorney, Deputy County Attorney, Chief Assistant County Attorneys and Assistant County Attorneys
3. Executive Director of Port Authority
4. Department Heads, Division Heads and Office Directors
5. Employees within the Purchasing Department except clerical

Keep a notebook (log) documenting oral lobbying contacts or private meetings with a lobbyist (telephone calls, personal visits). Writings to include e-mail received, whether at the office or home on County business matters are public records and must be retained for public inspection but need not be noted in log. Board members: Also includes contacts with the designated employees.

Log Information - Name of Lobbyist, date of contact or meeting, and subject matter discussed.

Filed - designated county employees - with Clerk at end of each quarter and upon ending of employment. Board members: At end of each quarter and at conclusion of final term in office.

Lobby Log in uniform form

Lobby Log filed whether lobbying contacts made in that quarter or not.

Registration of Lobbyist:

1. With Clerk on annual basis
2. Prior to first occasion engages in the activity of lobbying
3. If at Public Hearing - register concurrently
4. Can register in firm or corporate name, but need to list the names

- of those actually engaging in lobbying
5. Forms provided by Clerk (name, address, principal represented, areas of legislative interest, nature and extent of any direct business association or partnership with Board, county employees or decision-making board).

### Quarterly Lobbying Statement

Filed with Clerk's Office - signed statement listing: lobbying expenditures, sources of the funds, and itemization of any amount expended on Board, employee, etc.

### Exemptions from Registration (Not Lobbyist)

1. Lee County Employees discussing government business (not Lobbyist, but see Board Log Keeping Responsibility).
2. Law Enforcement personnel conducting an investigation
3. Persons who communicate with Board members in their individual capacity (self-representative) or on behalf of their family without compensation or reimbursement.
4. Individuals at public meeting speaking on their own behalf or on behalf of others with whom they have a personal interest in the item being discussed.
5. Consultants under contract with county, communicating within scope of services.

Prohibited Conduct - Board and designated employees not to solicit or accept compensation or gift from a lobbyist if with the exercise of reasonable care should know it was given to influence official action.

### Penalty

1. Requires an intentional violation.
2. Misdemeanor. Fine up to \$500.00/60 days.