

TO: Partnership Advisory Committee

FROM: Charter and Ordinance Review Subcommittee

DATE: March 9, 2016

Section 7.6 of the Charter. – Lobbyists. This section contains two parts. Part (B) requires that lobbyists register and make a full disclosure.¹ This approach is consistent with the practices of the federal and virtually all state governments. Part (A), however, raises several constitutional issues which we believe makes the section subject to legal challenge and possibility invalid. Part (A) reads:

No person or firm who directly or through a member of the person's immediate family or through a political action committee or through any other person makes a contribution to a candidate who is elected Mayor, Vice-Mayor or Council member, shall be permitted to lobby on behalf of another, any elected official, employee or appointed board or committee member for a period of four (4) years following the swearing in of the subject elected official.

The word “lobbying” refers to addressing or soliciting members of a legislative body for the purpose of influencing their vote. Lobbying has been described as an indispensable element of the legislative process, by communicating the people’s needs and wishes to the legislature. Lobbying is considered political speech and is protected by the First Amendment. Prohibiting “lobbying” is an unconstitutional restraint on free speech.

Also, prohibiting political donors from lobbying, also violates the equal protection clause of the Constitution. Finally, the language of the section is vague and ambiguous.

A legal challenge to this section would be expensive for the Village and completely unnecessary. Section (B) achieves the goals of the Village. Accordingly, we recommend that Section (A) be stricken from the Charter.

¹ The Village Council shall pass, maintain and enforce an ordinance, which requires all lobbyists as may be defined by the Miami-Dade County Code and/or as may be made more stringent by the Village Council to:

- (1) Register with the Village Clerk prior to lobbying any Village government official, i.e.: Village Council member, employee, board or committee member.
- (2) Disclose in writing all persons and/or entities the lobbyist is representing and submit a letter of permission from said person or entity.
- (3) Submit a full disclosure of the comprehensive terms of all compensation or consideration the lobbyist is being paid for such activities.
- (4) Disclose in writing all Village government officials directly contacted by the lobbyist, any expenditures involved, any fundraising or campaign contributions made directly or indirectly by the lobbyist to any Village government officials or on their behalf.
- (5) Direct the Village Clerk to disseminate to the Village Council, prior to any public hearing, on the event or matter for which such lobbyist may appear all disclosures required herein or as otherwise required by State or County law.