



County of Orange
California

Thomas G. Mauk
County Executive Officer

December 7, 2010

Honorable Kim G. Dunning
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "Lobbying:
The Shadow Government"

Dear Judge Dunning:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. Respondent is: Orange County Board of Supervisors. If you have any questions, please contact Kathleen Long at (714) 834-7410 in the County Executive Office who will either assist you or direct you to the appropriate individual.

Sincerely,

A handwritten signature in cursive script that reads "Thomas G. Mauk".

Thomas G. Mauk
County Executive Officer

Enclosure

cc: 2009-10 Orange County Grand Jury

County Executive Office
333 W. Santa Ana Blvd.
Third Floor
Santa Ana, California
92701-4062

Tel: (714) 834-6200
Fax: (714) 834-3018
Web: www.ocgov.com

2009-2010 Grand Jury Report
Lobbying: The Shadow Government
Board of Supervisors
Responses to Findings and Recommendations

Responses to Findings F.1 through F.4

F.1 Orange County does not have a lobbying ordinance. This is in stark contrast to other large government entities.

Response: *Partially disagrees with the finding.*

The County of Orange agrees that it does not have a lobbying ordinance. However, there are several large counties that also do not have a lobbying ordinance including: Riverside County, San Bernardino County, Ventura County, and Sacramento County.

F.2 With at least \$4.4 billion dollars at stake, the public deserves to know:

- How the money is spent
- How decisions are made to allocate these funds and
- The influence of paid lobbyists in this decision process

Response: *Agrees with the finding.*

The public deserves to know how Orange County allocates and spends the funds entrusted to it. The public is informed about how money is spent through the agenda items which are considered during the Board of Supervisors meetings and which are available to the public on the County's website. In addition, each Board agenda includes a recurring item titled: "Approve recommended positions on introduced or amended legislation and consider other legislative subject matters" which can be accessed and reviewed by the public prior to each Board of Supervisors meeting. The public is informed about how funds are allocated through the annual Public Budget Workshop and the Public Budget Hearings. In addition, the Budget Workbook and Annual Budget documents, as well as the Quarterly Budget Reports, are available on the County's website.

F.3 The lack of a lobbying ordinance reduces transparency of County Government.

Response: *Disagrees with the finding.*

The County engages in a continual effort to provide transparency to the public. Board of Supervisors meetings are open to the public and are available for viewing via the County's website. All agenda items are available to the public on the County's website. In addition, each Board agenda includes a recurring item titled: "Approve recommended positions on introduced or amended legislation and consider other legislative subject matters" which can be accessed and reviewed by the public prior to each Board of Supervisors meeting. The budget

process is open to the public through the annual Public Budget Workshop and the Public Budget Hearings. In addition, the Budget Workbook and Annual Budget documents, as well as the Quarterly Budget Reports, are available on the County's website.

The 1978 campaign-reform ordinance referred to as TINCUP, for Time Is Now, Clean Up Politics, was designed to reduce the influence of the financial strength of certain individuals or organizations on the election of Orange County candidates. The ordinance established limitations on the amount of campaign contributions that a candidate may accept and it is believed that Orange County is the only county in California to have such an ordinance. The County also has a gift ban ordinance prohibiting the donation and receipt of specified gifts in order to maintain public confidence in the impartiality of decisions made by County officials. Furthermore, State law requires that a candidate or officeholder who has a controlled committee, or who has raised or spent or will raise or spend \$1,000 or more during the calendar year must file a California Form 460, the Recipient Committee Campaign Statement.

- F.4 Most lobbying ordinances apply both to elected and appointed officials as well as department heads.

Response: Agrees with the finding.

Responses to Recommendations R.1 through R.3

- R.1 Orange County Board of Supervisors should adopt a lobbying ordinance that includes the following key elements:

1. **Registration:** Any individual as defined as a lobbyist shall register with the County Clerk of the Board as a "Registered Lobbyist" prior to contact with or within 10 calendar days after contact with any member of the Board of Supervisors or other elected or appointed County Officeholder or Department Head. All lobbyists or lobbying firms will update their registration annually.
2. **Fees:** The County should establish a fee schedule for initial and annual registration of lobbyists. The fees should be adequate to offset the cost of administering the lobbyist registration and reporting process.
3. **Reporting:** Each lobbyist and lobbying firm should file a quarterly report with the Clerk of the Board detailing their lobbying activities during the preceding quarter, including the following:
 - a. A description of the matters for which the lobbyist or lobbyist firm attempted to influence official action.
 - b. The payments made to the lobbyist or lobbyist firm for their services and the source of payment.

- c. Payments in any form given to County officials during the preceding month.
- d. Campaign contributions made to County elected officials.
- 4. **Data Base:** The Clerk of the Board should maintain comprehensive data regarding all registered lobbyists including quarterly reports and registration information. These data will be part of the public record and be fully accessible to the public including electronic access to records.
- 5. **Enforcement:** Lobbyist or Lobbying firms failing to register or report should be subject to fines and penalties up to and including the filing of misdemeanor charges. Fees and penalties should be progressive and tough enough to ensure compliance.

Response: The recommendation requires further analysis.

The Board of Supervisors considered the first reading of "An Ordinance of the County of Orange, California Adding Article 5 to Division 1 of Title 1 of the Codified Ordinances of the County of Orange Pertaining to Lobbying Reporting" at the meetings of November 9 and November 23, 2010. The motion to approve the ordinance on November 9 failed. On November 23, 2010, the Board reconsidered and continued a similar but modified ordinance for 60 days pending further analysis and revision of the Ordinance; the Board directed the County Executive Office and County Counsel to review the previous discussions on this item and return with a proposal that synthesizes the concepts and topics raised during the two meetings on this topic.

- R.2** The language in the lobbying ordinance should be written in a manner to improve the community's trust in county government.

Response: The recommendation requires further analysis.

The Board of Supervisors considered the first reading of "An Ordinance of the County of Orange, California Adding Article 5 to Division 1 of Title 1 of the Codified Ordinances of the County of Orange Pertaining to Lobbying Reporting" at the meetings of November 9 and November 23, 2010. The motion to approve the ordinance on November 9 failed. On November 23, 2010, the Board reconsidered and continued a similar but modified ordinance for 60 days pending further analysis and revision of the Ordinance; the Board directed the County Executive Office and County Counsel to review the previous discussions on this item and return with a proposal that synthesizes the concepts and topics raised during the two meetings on this topic.

- R.3** The Orange County ordinance should apply to all elected and appointed County Officers as well as all County Department Heads.

Response: The recommendation requires further analysis.

The Board of Supervisors considered the first reading of "An Ordinance of the County of Orange, California Adding Article 5 to Division 1 of Title 1 of the

Codified Ordinances of the County of Orange Pertaining to Lobbying Reporting” at the meetings of November 9 and November 23, 2010. The motion to approve the ordinance on November 9 failed. On November 23, 2010, the Board reconsidered and continued a similar but modified ordinance for 60 days pending further analysis and revision of the Ordinance; the Board directed the County Executive Office and County Counsel to review the previous discussions on this item and return with a proposal that synthesizes the concepts and topics raised during the two meetings on this topic.

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

December 07, 2010

Submitting Agency/Department: County Executive Office

Approve proposed response to 2009-10 Grand Jury Report "Lobbying: The Shadow Government." - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

APPROVED WITH MODIFICATION THAT COUNTY'S RESPONSE TO FINDING #3 BE EXPANDED TO DISCUSS TINCUP AND GIFT BAN ORDINANCES AND FORM 460 DISCLOSURE MANDATES, INCLUDING THAT ORANGE IS ONLY COUNTY WITH TINCUP

Unanimous (1) NGUYEN: Y (2) MOORLACH: Y (3) CAMPBELL: Y (4) NELSON: Y (5) BATES: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s)
- Ordinances(s)
- Contract(s)

Item No. 35

Special Notes:

Copies sent to:

*CEO
CEO/Budget
Superior Court
Grand Jury*



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
DARLENE J. BLOOM, Clerk of the Board

By: *Darlene Bloom*
Deputy



AGENDA STAFF REPORT

Agenda Item

35

ASR Control 10-001725

MEETING DATE: 12/07/10
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Rob Richardson 714-834-3481
 Frank Kim 714-834-3530

SUBJECT: Grand Jury Response: Lobbying: The Shadow Government

CEO CONCUR Concur	COUNTY COUNSEL REVIEW N/A	CLERK OF THE BOARD Discussion 3 Votes Board Majority
-----------------------------	-------------------------------------	---

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S):

1. Approve proposed response to 2009-10 Grand Jury Report titled "Lobbying: The Shadow Government."
2. Direct the Clerk of the Board to forward this ASR with exhibits to the Presiding Judge of the Superior Court and the Foreperson of the Grand Jury.

SUMMARY:

Approve proposed response to the 2009-10 Grand Jury Report titled "Lobbying: The Shadow Government."

BACKGROUND INFORMATION:

In June 2010 the Grand Jury released a report titled "Lobbying: The Shadow Government." This report directed Findings and Recommendations to the Orange County Board of Supervisors. Enclosed as Exhibit 2 is the response to these Findings and Recommendations.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

EXHIBIT(S):

1. Grand Jury Report
2. Response to the Grand Jury Report
3. Transmittal Letter