



Englewood

Office of Mayor Wildes

P.O. Box 228•Englewood, NJ 07631• (201) 871-6666

City Clerk's Office
City of Englewood
Englewood, New Jersey 07631

MAYOR'S VETO OF ORDINANCE 08-24

I am returning the attached Ordinance No. 08-24 with my Veto. Please accept this communication as to my unconditional Veto of the above-reference Ordinance pursuant to my authority under our City Charter.

Ordinance 08-24 was adopted by the governing body without first being referred to the Planning Board as required by the Municipal Land Use Law, including N.J.S.A. 40:55D-26 and other relevant provisions. The Planning Board thus did not have an opportunity to exercise its legal responsibility under State Law and the Council therefore, did not have the benefit of Planning Board analysis and comment. Thus the ordinance is legally objectionable because the Council did not follow procedures required by State Law.

There are other grounds for objection to this provision. The Planning Board acts as a quasi-judicial body when it hears an application. The proposed ordinance requires that only "applicants" make disclosures of political contributions to various persons. The disclosure requirements, if deemed necessary, must also be applied to persons who object to applications before this Planning Board. If disclosure is proper for an "applicant", disclosure is equally proper for persons who object to proposals. If the aim is to maximize disclosure then an objector, or his lawyer or other representative should reveal if he has made contributions to any City official or candidate for public office. The treatment of both sides of a case under consideration must be even handed.

One is compelled to ask if the disclosed information will aid the decision-making process. The ordinance requires the disclosure of information that is not useful to the Board in making decisions and the information itself may improperly influence Board decisions. Moreover, no measures were adopted making it convenient for residents to

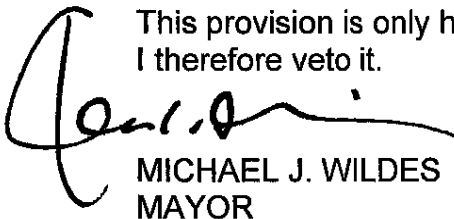
inspect and verify these representations other than an announcement or what may be available under state campaign finance disclosure laws.

Moreover, who is a "public officer holder" is not adequately defined. In addition, it is unclear whether this provision applies to past contributions to former City Officials, who still might be involved or may be Board members. Board members may have been appointed by officials who are not currently in office and the large campaign contributors of the former officials may appear before them. Why not disclose any and all contributions? Why leave room for confusion?

Finally, during the course of an Application the City Council designee may change and a person who was not a candidate may become a candidate for public office. This makes the process even more confusing. An applicant will have to disclose all contributions to all council candidates. Why not require that all contributions to all elected officials and committees be disclosed?


The political elitism articulated by Council Member Ken Rosenzweig, in behalf of the Council is transparent and hypocritical. If the City Council is indeed concerned about restoring the public trust, a highly desirable end in itself, it would have required itself to withstand the same level of scrutiny it imposes upon the appointees to the boards, which I appoint (Planning and Board of Adjustment). The ordinance is a step in the right direction but does not walk far enough. I believe it is a weak and transparent measure, and vulnerable to legal challenge. This ordinance may in fact be preempted by State Law and could therefore cost our citizens dearly if challenged in litigation. No doubt the citizens of our City deserve better leadership and effective measures for ethics reform. Let the Council heed its own call and require a more complete and thorough ordinance delineating its own potential conflicts and campaign contributions as well, so that vendors who annually appear before them—to the tune of millions of dollars—are equally vetted as well.

This provision is only half-baked and requires more objective, thoughtful consideration. I therefore veto it.



MICHAEL J. WILDES
MAYOR

Before me personally
Came Michael Wildes
on this 23rd day of
September 2008 and swore
to the facts herein.



STACEY SIMON
Notary Public, State of New York
No. 02SI6038105
Qualified in New York County
Commission Expires March 6, 2010

CITY OF ENGLEWOOD
ORDINANCE NO. 08-24

Notice is hereby given that the following ordinance was introduced at a Regular Formal Meeting of the City Council of the City of Englewood on August 19, 2008, and that said ordinance will be further considered for final passage at a meeting of the City Council to be held in the Municipal Court Room, 73 South Van Brunt Street, Englewood, Bergen County, New Jersey, on September 16, 2008, at 7:30 pm or as soon thereafter as the matter can be heard.

LENORE SCHIAVELLI,
City Clerk RMC/CMC

CITY OF ENGLEWOOD
ORDINANCE NO. 08-24

AN ORDINANCE AMENDING AND SUPPLEMENTING THE MUNICIPAL LAND USE ORDINANCE OF THE CITY OF ENGLEWOOD RESPECTING GIFTS AND CONTRIBUTIONS FROM APPLICANTS AND PROFESSIONALS APPEARING BEFORE THE BOARD OF ADJUSTMENT AND THE PLANNING BOARD.

WHEREAS, applicants and professionals including attorneys, engineers, and planners who appear before Boards in the City of Englewood including, but not limited to, the Board of Adjustment and Planning Board, at times make political contributions and/or other gifts to Board members either directly or through intermediaries including, but not limited to, municipal and county political organizations, the Bergen County political party committees, and to the election campaigns of candidates for office and local government officials who are ultimately responsible for making appointments to such boards within the City of Englewood; and

WHEREAS, the City of Englewood endeavors to ensure openness and transparent government to ensure and encourage the public trust; and

WHEREAS, nothing herein is intended to impair in any way the right of an applicant or professional service provider to exercise federal and state constitutional rights for free speech;

NOT, THEREFORE, BE IT ORDAINED by the City Council of the City of Englewood, Bergen County, New Jersey, that it is the public policy of the City that all applicants and professionals who appear before the City of Englewood Board of Adjustment and Planning Board shall disclose contributions of money or anything of value, including in-kind contributions, to any member of such Boards, candidates for office and/or elected officials who are ultimately responsible for the appointment of individuals to such Boards; and

BE IT FURTHER ORDAINED that Chapter 14 of the Revised General Ordinances of the City of Englewood entitled 'Municipal Land Use Ordinance' is hereby amended to add thereto Article 5.1 to read in full as follows:

"ARTICLE 5.1 Disclosure of Monetary Contributions or any other thing of value to members of the Boards within the City of Englewood.

Section 1. Any person or entity who submits an application to the City of Englewood Board of Adjustment and/or Planning Board shall disclose all contributions of anything of value including money or a piece of contribution, and in-kind contributions to any City candidate, elected official, holder of public office in the City, Board of Adjustment, Planning Board member, or to any Bergen County Political Committee, or to any political action committee that is organized for the primary purpose of promoting or supporting City Candidates, or City office holders, including, but not limited to appointees and members of such Boards within the City of Englewood.

Section 2. The disclosure of such contributions shall be on a form approved by the City Manger and shall be submitted and announced publicly at the first appearance before the respective board or boards.

Section 3. The foregoing disclosure requirements shall apply to any such person or entity including professionals retained by an applicant in conjunction with any such application and shall have an ongoing obligation to disclose any such contributions greater than \$300 in cash or in kind for a period of three (3) years from the date of the application.

Section 4. Person or entity means an individual including the individual spouses, and any unemancipated child living in the household

of such person, a firm, corporation, a professional corporation, a partnership, a limited partnership, a limited liability company, unincorporated association, or similar organization and encompasses all principals and partners as well as employees of the entity, as well as any subsidiaries directly controlled by such entity"

Section 5. If any sentence, clause, or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

Section 6. All ordinances or parts thereof consistent herewith are hereby repealed to the extent of such inconsistency.

Section 7. This ordinance shall take effect immediately upon passage and publication as required by law.

#7538
Press Journal
August 21, 2008
Fee: \$163.88


CITY OF ENGLEWOOD
ORDINANCE NO. 08-24

AN ORDINANCE AMENDING AND SUPPLEMENTING THE MUNICIPAL LAND USE ORDINANCE OF THE CITY OF ENGLEWOOD RESPECTING GIFTS AND CONTRIBUTIONS FROM APPLICANTS AND PROFESSIONALS APPEARING BEFORE THE BOARD OF ADJUSTMENT AND THE PLANNING BOARD

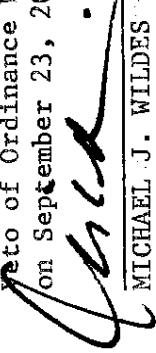
I HEREBY CERTIFY that the foregoing is a true copy of the title of an Ordinance adopted by the City Council of the City of Englewood, New Jersey, on September 16, 2008.

Lenore Schiavelli,
RMC/CMC
City Clerk

#7570
Press Journal
September 16, 2008
Fee: \$18.70


STACEY SIMON
Notary Public, State of New York
No. 02516038105
Qualified in New York County
Commission Expires March 6, 2010

Repeal of Ordinance No.: 8-24
on September 23, 2008


MICHAEL J. WILDES
MAYOR