



Atascadero City Council

Staff Report – City Attorney’s Office

Draft Campaign Ordinance Discussion of Council Options

DISCUSSION:

As requested by the City Council at its meeting on August 12, 2008, the City Attorney has drafted a campaign ordinance which includes a voluntary expenditure limit and also reduces the contribution amount which triggers late contribution reports. The draft ordinance is attached to this staff report for your review.

At the City Council meeting on July 8, 2008, the City Attorney submitted a detailed report at the request of the Council regarding campaign ordinances and related issues. The report had several attachments including an article by the League of California Cities from February 2008 on campaign regulations, a chart prepared by the Olson law firm listing the campaign ordinances of 413 California cities out of a total of 480 cities, ordinances from several cities with campaign regulations and codes of ethics, the State of California declaration regarding Code of Fair Campaign Practices and Fair Political Practices Commission(FPPC) Form 460.

As noted in the City Attorney report of July 8, 2008, according to the Olson chart, it appears that 100 California cities have campaign ordinances. In addition, the cities which have adopted campaign ordinances often do so in conjunction with a code of ethics. The City Attorney has not drafted a code of ethics as there has not been a request from the Council to prepare one.

At the City Council meeting of July 8, 2008, there were public comments following the oral report from the City Attorney. After hearing public comments, the Council continued consideration of this matter to its meeting of August 12, 2008.

At the City Council meeting on August 12, 2008, Council again heard public comments and thereafter discussed this subject. Following Council discussion, the Council directed the City Attorney to prepare a draft campaign ordinance with a \$.50 cent per resident limit and a reduction in the late contribution reporting amount from the State requirement of \$1000 on the FPPC Form 497 down to \$250. In addition, the Council directed consideration of posting mid-year Form 460 filings on the internet, and also a

requirement for ex parte disclosure at Council meetings of campaign contributions by proponents and opponents of an agenda item.

The City Attorney has drafted a campaign ordinance which is Attachment 1 to this staff report. This campaign ordinance was prepared by the City Attorney based upon a review of the ordinances of several other cities, including those cities with ordinances that were Attachments to the staff report presented at the Council meeting on July 8, 2008.

The primary components of the campaign ordinance are the amount of the voluntary expenditure limit [see Section 2-19.03(c)] and the incentives/benefits for compliance with the limit [see Section 2-19.03(f)].

Voluntary Expenditure Limit -- Amount

A review of the draft ordinance will show that the ordinance includes the .50 cent per resident provision as a voluntary expenditure limit. In the course of researching the campaign ordinances of other cities, the City Attorney found that there were a number of cities which enacted a lump sum amount rather than a per resident limit so this has been presented in the ordinance as an alternative. Both the limit based on resident and the lump sum limit alternative have a cost of living adjustment based upon the Consumer Price Index.

With regard to the amount of the voluntary expenditure limit, the City Attorney found that those cities with the per resident limit had limits which varied from .25 cents up to \$1.00 per resident and here is a sampling of some of those cities listed by limit amount and city population:

<u>Amount</u>	<u>City</u>	<u>Population</u>
\$.25 cents	Montclair	36,343
\$.35	Santa Cruz	55,322
\$.50	Albany	15,974
\$.50	Arcardia	56,218
\$.50	Danville	40,975
\$.50	Murrieta	90,555
\$.75	Lancaster	143,616
\$1.00	Azusa	46,612

\$1.00	Bell Gardens	44,848
\$1.00	Fresno	470,508
\$1.00	Highland	51,304
\$1.00	La Mesa	53,990
\$1.00	La Mirada	49,801
\$1.00	Newark	41,680
\$1.00	Palmdale	140,882
\$1.00	Rancho Palos Verdes	41,3998
\$1.00	San Jose	939,899

An alternative used by some cities is a lump sum amount and listed below are several cities which use the lump sum limit by amount, name of city and population:

<u>Amount</u>	<u>City</u>	<u>Population</u>
\$5000	Ukiah	15,030
\$10,000	Sonoma	9,863
\$14,000	Palo Alto	58,246
\$26,000	Ventura	103,219
\$50,000	Hayward	140,943
\$60,000	Beverly Hills	34,597

Incentives and Benefits for Compliance with Voluntary Expenditure Amount

The draft ordinance requires that City Council candidates sign a Declaration [see Attachment 2 for a Draft Declaration] in which the candidate declares whether he/she accepts or rejects the voluntary expenditure limit. See Section 2-19.03(b)

The draft ordinance allows a candidate who has accepted the voluntary expenditure limit to rescind their acceptance if another candidate has rejected the limit, but the

rescission must be within three working days of the notification from the City Clerk, of which candidates have rejected the limit, which comes following the close of the candidate filing period. See Section 2-19.03(e).

The draft ordinance includes four benefits for City Council candidates to comply with the voluntary expenditure limit. These incentives/benefits include the financial benefit of the City paying the cost for the Candidate's Statement of Qualifications, and dissemination to the public through various sources the fact that the candidate has agreed to the voluntary expenditure limit. See 2-19.03(f).

If a candidate accepts the voluntary expenditure limit, and then exceeds that limit, the draft ordinance provides that the candidate shall pay the cost of the Candidate Statement of Qualifications, discontinue use of "voluntary spending limit candidate" in election and campaign materials and the City Clerk is to post on the City's website and at City Hall a notice that the candidate accepted the voluntary expenditure limit, but has exceeded the limit. See Section 2-19-03(f).

Reduction Of Dollar Amount For Late Contribution Reports

As requested by the City Council, the draft ordinance includes a provision which reduces the amount required to be included in the late contribution report(FPPC Form 497) from the State requirement of \$1000 down to \$250. See Section 2-19.04.

Posting of Mid-Year 460 Forms on Internet

The City Council at its meeting on August 12, 2008 expressed an interest in requiring that mid-year 460 Forms on the internet. The Council can take such action by either a motion or resolution and an ordinance is not necessary to impose such a requirement.

Ex Parte Disclose of Campaign Contributions During Council Meetings

At the City Council meeting on August 12, 2008, the Council also indicated an interest in requiring that Council Members disclose during ex parte communications at Council meetings whether they had received any campaign contributions from proponents or opponents of a matter coming before the Council. The Council could include such a requirement in its Council Norms and an ordinance is not necessary for this purpose.

FISCAL IMPACT:

Depending upon the direction from the City Council, Staff will be in a position to provide an estimate of the expenses that would be associated with the preparation of any further documents and the extent of staff time which would be involved with implementing Council direction and the cost associated with any campaign ordinance.

ALTERNATIVES:

This Draft Ordinance includes two alternatives with regard to a voluntary expenditure limit for City Council candidates. The first alternative is an amount per resident of \$.50 cents. The second alternative is a lump sum amount. With both alternatives, there is a cost of living adjustment provision included in the ordinance.

With regarding to the late contribution amount being reduced from \$1000 down to \$250, the alternatives include leaving the amount at \$1000 or providing for another amount below \$1000.

The City Council has other alternatives including not adopting any campaign ordinance or adopting a campaign ordinance which has different provisions from those included in the draft ordinance attached to this staff report.

ATTACHMENTS:

1. Draft Campaign Ordinance
2. Draft Declaration of Candidacy Statement