



February 12, 2008

**SUBJECT: APPOINTMENT OF AD HOC COUNCIL SUB-COMMITTEE  
ON PUBLIC CAMPAIGN FINANCING****REPORT IN BRIEF**

This report is a follow-up to the 2007 study issue on campaign finance reform, and provides the opportunity for the Council to appoint up to three Council members to an Ad Hoc Sub-Committee on Public Campaign Financing.

**BACKGROUND**

On July 10, 2007, in RTC 07-233, the Council Ethics Sub-Committee presented a proposed advisory measure on public campaign financing for the November 2007 ballot. After listening to public comments, the Council voted to not place an advisory measure on the November 2007 ballot and “to assign a Council Sub-Committee to conduct further public outreach and obtain more information on public financing of campaigns in order to craft an advisory or ballot measure for a future election.” The Council voted to have the Council appoint the members of the Sub-Committee in January, 2008 after the results of the 2007 election for Council.

**EXISTING POLICY****Section 1405. Campaign Disclosure.**

All candidates for the office of City Councilmember, and all committees supporting such candidate, shall file with the City a campaign statement containing the full name, street address, occupation and employer of, and the cumulative amount of contributions made by, any person who has made contributions in a cumulative amount of \$100 or more to said candidate or committee. Any campaign statement filed pursuant to General Law, or any ordinance which contains the required information and which is required to be filed in sufficient time to allow publication in accordance with the provisions of this section, shall satisfy the filing requirements of this section. In the event the General Law does not require the filing of such a campaign statement, or does not require its filing in sufficient time to allow publication, the City Council shall adopt, by ordinance, procedures for the filing of such campaign statements. For the purpose of this section, definitions contained in the Political Reform Act of 1974 (Government Code sections 81000, *et seq.*) shall

apply. Any failure to file a campaign statement required by General Law or by an ordinance in a timely manner, which prevents the publication of required information in accordance with procedures established pursuant to this section, shall constitute a violation of this section.

The City Council shall direct the City Clerk to cause the publication of the name and occupation of, and the cumulative amount of contributions made by, any person whose cumulative contributions to any candidate or committee equal or exceed \$100, along with the name of the candidate or committee to which the contributions were made, on the Saturday immediately preceding the date of the Municipal Election. The City Council shall adopt, by ordinance, procedures for such publication. (Added effective December 23, 1982)

### **DISCUSSION**

The background and discussion of the Campaign Finance Study Issue and the July 10 proposed advisory measure are in RTC 07-076 and RTC 07-234.

When the Council reviewed the draft advisory measure on public campaign financing in July 2007, several members of the public and Council expressed concerns about the language of the advisory measure. The Council decided that the complexities of the public campaign finance issue and the need for further review and public input could not be adequately addressed before August 10, 2007, the deadline for submitting ballot measures for the November 2007 election. Therefore, the Council did not approve the advisory measure language for public campaign financing and did not place an advisory measure on either the November 2007, nor February 2008, ballot. Instead, the Council decided to appoint a Council Sub-Committee in January 2008, to look at an advisory or other ballot measure for a future election and to report back to the full Council with findings and a recommendation by January 2009.

### **FISCAL IMPACT**

There is no fiscal impact from the appointment of the Sub-Committee. However, if the Sub-Committee holds public hearings or requests additional staff research and support, there will be the costs of staff time.

The cost of putting an advisory measure on the November 2007 ballot was approximately \$37,000, but could be higher or lower depending on the number of other City ballot measures on the same ballot.

The fiscal impact of public campaign financing will vary depending on the number of candidates and the maximum amount of public campaign funds available for each candidate. If the City set an expenditure limit of \$1.00 per resident for public financing, the cost for four council seats with two candidates each would be \$1,064,688. This amount would be less if the limit is based on the number of registered voters or a set maximum amount. If based on the number of registered voters, the cost would be approximately \$100,000 per contested Council seat, assuming two candidates per seat.

## **CONCLUSION**

Campaign finance reform and public campaign financing are complex and controversial issues. Campaign finance measures usually involve significant public input and discussion. The Council decided in July 2007, that there was insufficient time and opportunity for public input to make the best decision on an advisory campaign finance ballot measure for the November 2007 election.

Council has the opportunity to appoint up to three Council members, selected by the Council, for an Ad-Hoc Sub-Committee on Public Campaign Financing.

## **PUBLIC CONTACT**

Public contact was made through posting of the Council agenda on the City's official notice bulletin board, posting of the agenda and report on the City's web page, and the availability of the report in the library and the City Clerk's Office.

## **ALTERNATIVES**

1. The Council selects and appoints up to three Council members to an Ad Hoc Sub-Committee on Public Campaign Financing.
2. The Council determines it does not want to pursue public campaign finance at this time and does not select and appoint up to three Council members to an Ad Hoc Sub-Committee on Public Campaign Financing.

## **RECOMMENDATION**

Based on the Council's action at the July 10, 2007 meeting, the staff recommendation is Alternative 1: the Council selects and appoints up to three Council members to an Ad Hoc Sub-Committee on Public Campaign Financing.

Prepared by:

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David E. Kahn, City Attorney  
City Attorney's Office

## **Attachments**

1. Approved Minutes, Sunnyvale City Council Meeting, July 10, 2007, RTC 07-234.

## ATTACHMENT 1

[Council Meetings > 2007 > 2007July > Minutes > July 10, 2007](#)

**APPROVED MINUTES  
SUNNYVALE CITY COUNCIL MEETING  
TUESDAY, JULY 10, 2007**

\* \* \*

**9.      **RTC 07-234           Advisory Measure for Campaign Financing – Report  
                                  and Recommendation from Council Ethics  
                                  Subcommittee****

City Attorney David Kahn presented the staff report and stated that on March 26, 2007, Council approved having the Council Ethics Subcommittee look at structures for public campaign financing, funding sources for public campaign financing, and for the committee to draft an advisory measure for the November 2007 ballot.

Councilmember Hamilton stated it is not clear if this would be funded through new fees, taxes, or reductions in service. Councilmember Hamilton stated although she believes public campaign financing is worthwhile, she is not sure if it should be funded at the cost of the other services that the City provides. Vice Mayor Spitaleri stated the committee reached the conclusion that since this issue deals with public financing, it should be left up to the voters to decide if they wish to tax themselves or recommend cuts to City programs.

Councilmember Moylan stated the committee was unanimous on the fact that citizens should understand that if they want this, they will have to pay for it. The committee was also unanimous that an advisory measure should represent both sides. Councilmember Moylan explained that it can be argued also that this would be a part of running the elections, and should become one of the services the City provides. Councilmember Moylan stated that Council's motion was unique in bringing this forward as an advisory measure first.

Councilmember Howe responded to Councilmember Hamilton's concerns over funding for public campaign financing by explaining that a fee would not be allowed under this circumstance; a tax would have to be approved by the voters in the future, and the other option would be for City Council to reduce City services in order to apply funding toward this issue. Councilmember Howe stated that it is important to inform voters that public financing of campaigns will have a resulting cost attributed to it through either increased taxes or a reduction in services.

Councilmember Hamilton stated she is not sure the public understands there would be a reduction in public services if public financing of campaigns were to be approved. This measure contains a split question and should require two items on the ballot; however, Councilmember Hamilton does not think putting

this on the November 2007 ballot is a good idea, considering all the Charter amendment items on the ballot.

Councilmember Chu inquired as to what the rationale was for adding an approximate cost of \$100,000 to the advisory measure. Councilmember Howe stated that the committee felt some amount needed to be added, but the measure is silent on the funding methods because there are too many options. The real question of the measure is whether or not the voter wants to look into public financing of campaigns, and if so, recognize there is a cost attached to approving such action. Councilmember Howe explained that the advisory measure would not implement public financing of campaigns, rather provides Council with important information about the voters' preferences.

Councilmember Moylan stated he wished to address Councilmember Chu's question on where the committee obtained the \$100,000 figure listed in the language for the advisory ballot measure. Councilmember Moylan explained the committee assumed there would be two candidates running for a seat, and that each candidate had obtained a subsidy (from an often used figure of a \$1.00 per registered voter per candidate). There are approximately 50,000 registered voters in Sunnysvale, and if both candidates decided to use public financing (which would be optional) the cost would be approximately \$100,000 for the seat.

Vice Mayor Spitaleri explained to Councilmember Chu that the committee looked at this strictly as an advisory measure, and if it were to pass, details would then need to be worked out prior to the measure going before the voters.

Public hearing opened 9:12 p.m.

Craig Dunkerley, South Bay Coordinator for the Clean Money Campaign, stated the measure as proposed needs further clarification. Dunkerley stated as a constituent, he is not sure he would understand what public financing of Sunnysvale City elections would actually mean. Dunkerley stated he is concerned that there is not enough explanatory language included in the measure that would help a potential voter understand what is being proposed and suggested revising the measure to include such language. Dunkerley stated that additionally, it is premature to suggest to voters this measure would cause an increase in taxes or a reduction in City services.

Vice Mayor Spitaleri stated that given the number of words that are allowed for an advisory measure, it would be difficult to add in the pros and cons to the measure. Vice Mayor Spitaleri inquired if Dunkerley was aware of any jurisdiction that has public financing but does not have a fee or tax. Dunkerley stated of virtually all the jurisdictions that currently have public financing, none of them have raised taxes or cut public services. Dunkerley stated, for instance, Arizona puts a surcharge on incremental penalties, such as speeding tickets, and Massachusetts uses a lost property fund. Dunkerley stated he would prefer a more generic reference to funding listed in the measure, such as using "public funds," which would be more neutral. Dunkerley stated his concern is influencing the outcome by what is listed as to how this will be funded. Dunkerley stated he understands that the measure has limited words; however, if the measure only talks about the costs involved and limits the funding sources

to two categories, without talking about the definition of public financing and its benefits, that is not sufficiently subjective enough for voters to make an informed decision.

Councilmember Hamilton asked for clarification of Dunkerley's statement that this could be done without raising taxes, and Dunkerley explained that it is not apparent at this point where funding will come from; therefore, using the term "public funds," instead of "raising taxes" or "cutting services" would obtain neutrality. Dunkerley stated the reference to raising taxes or cutting services is not neutral, informative, or an impartial posing of the question to voters. Councilmember Hamilton stated the only way to fund this would be to cut an existing or future service, or raise taxes. Dunkerley stated "public funds" is less inflammatory text and inquired whether language which elaborated a little more on how public financing might work was considered.

Councilmember Moylan stated he drafted the language for the measure for the committee, which was longer than it should be. Councilmember Moylan stated he sent his draft by e-mail and did not present a hard copy to the committee when they sat down to discuss the language. The committee drafted new language that was then brought to council.

Jonathan Srieman, California Clean Money board member, urged Council to place this advisory measure on the ballot at a time when Council has the opportunity to receive input from experts in the field, and is then able to produce a ballot statement that can properly explain public financing. Srieman explained that public financing is to keep elections from being bought by the wealthy.

Councilmember Swegles inquired how it is possible for the wealthy to buy a seat in an election. Srieman stated the person with more money usually will win the race; whereas, public financing of campaigns takes that away from the wealthy.

Councilmember Chu inquired what the deadline would be for the November ballot for Council to approve language for a measure. City Attorney Kahn stated it would need to be submitted to the Registrar of Voters (ROV) no later than August 10, 2007. Councilmember Chu stated it does not appear reasonable to accomplish what Srieman is suggesting based on the due date to the ROV; however, if Council waits, it will be another two years before this issue can go before the voters.

Mayor Lee stated the measure could be placed on the February 5, 2008, Presidential Primary election ballot. Councilmember Hamilton stated it would cost more at that time, and Mayor Lee asked the city attorney to elaborate. City Attorney Kahn stated the measure would not have to wait two years as it could be added to any general ballot, but the cost would vary depending on whether it is a general or special election, and/or if the City has any other measures that are on the ballot. Councilmember Chu stated, since the City has other ballot measures on the November ballot, the cost to add this item to the November ballot would be substantially less.

Councilmember Chu stated that Council would have approximately two weeks to finish the language in order to get this item agendaized and voted on by the

August 10 deadline, and questioned Srieman as to what direction he would recommend. Srieman stated there are many resources available and that it could be done within the time allotted.

Max Kaehn, stated the current wording on the ballot measure is unbalanced, as it is overly specific on the costs and does not address the benefits of public financing. Kaehn urged Council to either find balanced language, or defer this item until Council can produce a balanced measure.

Councilmember Hamilton questioned what is meant by "unbalanced," and Kaehn stated the measure does not describe any of the benefits of public financing of elections. Councilmember Hamilton explained the measure does not state anything negative either, rather it states facts. Kaehn stated that public financing is not well known, and due to this unawareness, there needs to be more context given to people as to the benefits of financing public elections. Kaehn stated the concern is that more than half the words in the proposed statement are devoted to the negative side of this type of financing. Councilmember Hamilton stated from what she has seen, there are a lot of people aware of the benefits of public financing and Kaehn replied that he disagreed as he believes there are not enough people who are aware.

Jean Lamar stated she is not in favor of the proposed wording for the advisory measure, but is in favor of public campaign financing.

Herb Engstrom, member of California Clean Money, stated concerns over the negative language of the measure and Engstrom offered revised language. Engstrom stated that although it is true that either taxes would need to be increased or services cut, that is true of every project proposed in the City. Engstrom requested Council find neutral language.

Norine Krueger stated she is in favor of public financing of campaigns, but is against the wording and believes if this measure were to go on the ballot, it would be defeated without question.

Werner Gans stated it is not obvious to him how the problem of campaign spending is solved with public financing of campaigns. Gans suggested Council take the time to have the statement clearly worded.

Tammy Salans stated she read a report that stated the Clean Money Campaign has been working with a Sunnyvale subcommittee member (Councilmember Moylan) on this measure. Salans inquired how this group worked with Councilmember Moylan. Councilmember Moylan stated he attended a conference earlier in the year where he met people involved with public campaign financing. Councilmember Moylan stated he presented to the group his task of needing to develop a draft ballot statement regarding public financing of campaigns, and based on the input he received (after weeding out the proponent language), he developed the proposed draft language. Salans stated the input from the Clean Money Campaign is not apparent in the proposed language based on the input received from the speakers this evening. Salans stated she is against the proposed language.

Councilmember Hamilton inquired how this would be funded. Salans stated her

concern is not that public funds would have to be used, it is that the ballot language does not represent the other side of the issue. Salans asked the Council to raise their hands if they are in favor of publicly financed campaigns in Sunnyvale and noted that two Councilmembers raised their hands.

Dave Joki, member of Clean Money Campaign, stated the wording is unbalanced in the proposed language, and the benefits of public financing needs to be added. Joki offered additional language for the measure.

Arthur Schwartz stated independent expenditures will still exist, even if public financing of campaigns were to be approved. Schwartz stated he has not seen a clear explanation of the differences in the types of funding. Schwartz stated uncontrolled expenditures are the problem with campaigns. Councilmember Howe stated independent expenditures and personal financing of campaigns (candidates spending their own money), are uncontrollable items. The issue being discussed is to potentially use public funds to counteract the uncontrolled expenses (to some extent) and Councilmember Howe stated that argument should be covered within the ballot arguments. Schwartz stated he agreed.

Councilmember Chu stated that ballot arguments are separate language, and what is being discussed is that the ballot statement could be more neutral. Schwartz stated a broad spectrum of information is needed in order to evaluate public financing of campaigns. Councilmember Chu stated that the broad spectrum of the issue should be part of the ballot arguments, not the statement. Schwartz stated he now understands the difference.

Shawna Nourzaie suggested reviewing how Arizona framed their ballot question, and stated that until the benefits of Clean Money are discussed, it will be hard to garner support from the public.

William Barmettles inquired if Council would be interested in obtaining assistance in writing the ballot statement in order to complete this in time for the November election deadline of August 10, 2007. The member of the public stated there are many members of Clean Money who would be able to assist Council in writing the statement.

Public hearing closed 9:58 p.m.

Councilmember Swegles inquired if the committee has investigated where the funds will come from to place this measure on the ballot.

Councilmember Howe stated he originally voted against placing this on the ballot. It is not funded and the only suggestion Councilmember Howe has would be to use the service-level set-aside funds. Councilmember Howe stated he does not propose cutting City services. Councilmember Swegles stated, due to the budget situation and considering the input received from the speakers, it might be a good idea to postpone placing this on the ballot in November.

Councilmember Hamilton inquired as to what the next steps would be if this were to be approved. City Attorney Kahn stated that since this is an advisory measure, rather than for the Council to write the arguments, it would be appropriate to allow both groups (for and against) to submit arguments.

Vice Mayor Spitaleri stated when the motion was made to look at an advisory measure for the November election, he spoke against it, as he felt it was too complicated of an issue and too many things needed to be looked into prior to placing it on the ballot. Vice Mayor Spitaleri suggested this measure not go on the November or February ballots, and Council spend the time to get input from various groups to see if Council can craft something to go out to the community at a later date.

Councilmember Hamilton inquired, if Council wishes to do further outreach, would this item have to be a study issue. City Manager Chan stated City Attorney Kahn has already provided Council a great deal of information on this issue, and a study issue does not seem necessary, but Council could hold several public hearings. Councilmember Hamilton inquired, if Council wanted to do public outreach meetings to solicit public input, could Council obtain staff and meeting space. City Manager Chan stated staff can provide the support to set up a few public meetings in order for Council to conduct the meetings.

Vice Mayor Spitaleri stated the research work could still be done by a Council-appointed subcommittee (made up of Councilmembers, but not necessarily the same members) to be brought back to the Council. Outreach meetings could be held with the assistance of staff, and then those findings could be brought back to Council along with the subcommittee's recommendation.

MOTION: Vice Mayor Spitaleri moved, and Councilmember Howe seconded, to approve Alternative 3: Council does not approve the advisory measure language for public campaign financing as proposed by the Council Ethics subcommittee in Attachment A

**and** Council does not place the proposed advisory measure on the ballot for either the November 2007 or February 2008 Elections.

**and** Council assigns a Council sub-committee to conduct further public outreach and obtain more information on public financing of campaigns in order to craft an advisory or ballot measure for a future election.

Councilmember Howe offered a friendly amendment to appoint the subcommittee from the entire Council after the elected Councilmembers from the November 2007 elections have been seated.

Friendly amendment accepted.

Councilmember Hamilton offered a friendly amendment to have the mayor appoint the subcommittee in January 2008 (after the new mayor has been selected), and the subcommittee to come back to Council with the findings and a recommendation no later than January 2009.

Friendly amendment accepted.

Councilmember Howe stated the ethics committee was selected by Council and not the Mayor. Councilmember Howe offered a friendly amendment to have Council appoint the subcommittee on the second agenda after the next mayor is selected by Council.

Councilmember Howe confirmed with City Attorney Kahn that agendaizing the second Council meeting without stating the exact date is acceptable for the amendment.

Friendly amendment accepted.

Councilmember Moylan questioned that if the hypothetical committee is appointed by Council, why would it matter who is mayor, and if the concern is to do this promptly, why would selection of the committee have to wait until the end of the year.

Councilmember Chu stated the reason the committee selection is waiting until the end of the year is because there may be different Councilmembers after the election. Councilmember Chu stated the committee needs to be formed after the swearing-in of the new Councilmembers because the conclusion of the committee is likely to occur after the end of the year, with a potential change in the committee at that time.

City Manager Chan stated, as she understood the amendment to the motion, it is to have a committee formed in January 2008, and the work of that committee will be completed by January 2009. No work will be done until the committee is formed by Council.

Councilmember Hamilton clarified that her original amendment was to have the mayor select the committee and then Councilmember Howe corrected her amendment by identifying that Council will select the committee instead.

Councilmember Howe stated he wished to confirm that the current Council Ethics Subcommittee will remain in place until the ethics brochure has been completed, and that a new subcommittee will be formed in January 2008 to address the ballot measure.

Councilmember Moylan stated he found a number of the speakers convincing, and he is against putting the output of the committee on the ballot. Councilmember Moylan stated many speakers wanted ballot arguments put into the ballot statement, which cannot be done; however, what is missing from the ballot statement, is what is achieved by approving public financing of campaigns. Councilmember Moylan offered many items that he felt should be included in the ballot statement. Councilmember Moylan questioned if this should even be an advisory measure, or should it come back as a regular ballot measure. Councilmember Moylan stated if the citizens of Sunnyvale do not want to wait a year until this is looked at, then maybe they should look at drafting a ballot measure of their own.

Councilmember Howe stated the public should decide on this issue from an educated point of view, and an education program/outreach needs to occur before this goes forward.

Councilmember Chu stated he agrees with the motion, but his only concern is the expense of attempting to put this on the ballot before the election in 2009.

Councilmember Swegles disclosed that he has been meeting with the Clean

Money campaign members, and visits Herb Engstrom of Clean Money on a regular basis.

VOTE: 7-0

Councilmember Hamilton requested Item 3 be continued to July 17, 2007.

MOTION: Councilmember Hamilton moved, and Councilmember Swegles seconded, to continue Item 3 to the July 17, 2007, Council meeting.

Mayor Lee opened the public hearing.

No speakers.

Mayor Lee closed the public hearing.

VOTE: 6-1 (Councilmember Moylan dissented)

Mayor Lee announced it was 10:31 p.m. and called for a 10-minute recess.

Mayor Lee reconvened the meeting at 10:41 p.m.