

**ELK GROVE CHARTER EXPLORATORY AND ELECTION REFORM COMMITTEE
REGULAR MEETING
CITY COUNCIL CHAMBER, 8400 LAGUNA PALMS WAY
MONDAY, OCTOBER 8, 2007**

1. CALL TO ORDER / ROLL CALL

The Regular Committee meeting of October 8, 2007 was called to order by Chair Orrock at 6:02 p.m.

Present: Committee Members – Chaires, Loveland, Orrock, and Perez

Absent: Committee Members – Allen (arrived at 6:26 p.m.)

(Assigned staff/Presenters)

Also Present: Lucy Eidam, Richard Miadich, and Susan Blackston

2. PUBLIC COMMENT (on non-agenda items)

None.

3. APPROVAL OF MINUTES

MOTION/VOTE:

Vice Chair Chaires made a motion, Perez second, to approve the September 24, 2007 minutes as presented. The motion carried by the following vote:

Ayes: Committee Members – Chaires, Loveland, Orrock, and Perez.

Noes: Committee Members – None

Absent: Committee Members – Allen

4. QUESTIONS AND ANSWERS

Follow up to September 24 presentation (Part 2 of 3) regarding Campaign Finance and Campaign Ethics (Limiting and/or Restricting Campaign Contributions / Expenditures):

There were no questions from Committee Members regarding the September 24 presentation.

5. PRESENTATION

Topic: Part 3 of 3 – Campaign Finance (Expenditure Limits, Limits on Independent expenditures, Issue Ads, and Public Financing)

Richard Miadich, Associate with Olson, Hagel & Fishburn, LLP, reviewed the following topics from the outline distributed at the September 24, 2007 meeting: 1) Expenditure Limits (mandatory and voluntary); 2) Limits on Independent Expenditures; and 3) Issue Ads. Mr. Miadich distributed and reviewed a document

entitled: “*Outline & Notes for Presentation on Campaign Finance Reforms, Part 3 of 3 (Public Financing of Political Campaigns)*” (filed).

Lucy Eidam, President of Lucy & Company, displayed the following “characteristics” and asked for feedback from Committee Members regarding their advantages or disadvantages, to which responses are indicated below.

Disclaimers

- All cities may enact disclaimer requirements for political communications run in connection with local campaigns so long as they do not prevent candidates or committees from complying with state law.

Advantages: Enhances local jurisdiction’s ability to make information more transparent; allows local government to tailor disclaimers to address local concerns.

Disadvantages: Can only make laws more restrictive – not less; raises potential First Amendment issues.

- Imposing additional disclaimer requirements on political communications can increase public access to information about the activities of persons and/entities involved in local campaigns.

Advantages: Enhances accountability and transparency; public has more information and knows more about issues and who is in support / opposition.

Disadvantages: May act to discourage minority/unpopular points of view from being supported; might provide disincentive for people to provide contributions; costs would increase to candidates for campaigns and to the City for monitoring requirements.

- Additional disclaimer requirements can cause First Amendment problems by imposing forced speech on the candidate or committee that may detract from the candidate’s or committee’s message.

Advantage: Benefit to public in knowing where candidates stand.

Disadvantage: Candidates may not be forthright.

- Additional disclaimer requirements can also result in increased costs for candidates and their campaigns.

Advantage: Could discourage candidates from running who are funded by one or limited sources.

Disadvantages: Forces candidates to raise more money to pay for the additional requirements; may keep marginally funded candidates from running.

Local Ethics Commissions

- All cities may create ethics commissions to oversee compliance with local campaign finance, lobbying and ethics laws.

Advantages: Puts enforcement into the hands of local residents; provides a clear mechanism for addressing complaints or expressing concerns; allows for an independent group to make objective decisions regarding dispute resolution of ethical issues.

Disadvantages: It is one more level of bureaucracy; would be easy to create smokescreen instead of actual compliance; there may be temptation to create illusion of enforcement (i.e. a law without teeth), as opposed to genuine enforcement.

- Ethics commissions can assist candidates and/or committees by interpreting local campaign finance laws through opinions, letters or regulations.

Advantages: Provides local assistance to clarify matters that are unclear; provides a safety net and advice to less experienced candidates; mitigates cost in complying with the law.

Disadvantages: Burdens City staff in being responsible for making decisions that would traditionally be handled by campaign legal staff; could expose the City to liability/legal challenges.

- Ethics commissions can facilitate greater enforcement of local laws than might otherwise occur by bringing enforcement actions against candidates and/or committees.

Advantages: Puts enforcement into the hands of local residents; provides a clear mechanism for addressing complaints or expressing concerns; allows for an independent group to make objective decisions regarding dispute resolution of ethical issues.

- There are costs associated with creating an ethics commission that can vary from minimal to substantial depending, among other things, on the number of attorneys and investigators on staff.

Advantages: Cost could be minimal if ethics commission's charge was narrowly tailored to fit local need.

Disadvantages: Candidates and special interests could overwhelm the commission resulting in costs that would be so substantial, it would be unaffordable for the City.

Code of Fair Campaign Practices

- All cities have the option of enacting a campaign “code of ethics” like the one provided in state law with voluntary enforcement.

Disadvantages: Must have teeth to be enforceable; it’s voluntary – so one candidate could agree to it and another not; difficult to enforce, due to its subjectivity; although candidates may pledge to abide by such ethics codes, they oftentimes depart from that pledge during the course of a campaign; codes of ethics for political campaigns are difficult, if not impossible, to enforce due to potential First Amendment issues.

Expenditure Limits/Independent Expenditures/Issues Ads

- For constitutional reasons, cities may only enact voluntary expenditure limits (VELs) for candidates. Mandatory expenditure limits are unconstitutional.

Advantages: Candidates could be more focused on issues than raising campaign funds.

Disadvantages: It’s voluntary so don’t have to comply; counterproductive to goal if it provides incentive not to abide by it; because a city cannot force candidates to accept VELs, participating candidates may suffer a competitive disadvantage compared to non-participating candidates, who are free to raise and spend as much money as they like; even if all the candidates in an election agree to VELs, large amounts of money may still be spent on the election in the form of independent expenditures and issue ads which cannot be limited.

- VELs reduce the amount of money that is spent on political campaigns by the candidates who agree to them. This may lead to less political speech by participating candidates.

Advantages: Candidates can focus on town hall/one-on-one voter contact instead of buying and communicating through fliers, radio, television, etc.

Disadvantages: Could lead to less information to voters.

Public Financing of Campaigns

- Only charter cities may implement public financing programs. General Law cities are prohibited from doing so by the Political Reform Act.

Disadvantages: Can cost the City a lot of money, especially if there were a large number of candidates; does not guarantee that the election is free of undue influence; limits options of where candidates can get money for campaigns.

- Public financing can result in less money being spent on an election and can allow candidates to spend more time talking about issues and less time fundraising.

Advantages: For some candidates, relying on public financing may result in them not relying on big special interests; could expand field of candidates.

Disadvantages: It costs less to manipulate political system by running non-viable candidates with no intention of winning (i.e. spoiler effect).

- Public financing can make candidates less dependent on campaign contributors and therefore reduce the influence that contributors have on candidates.

Disadvantage: Increases fundraising burden on candidates.

- Public financing can increase the number and diversity of qualified candidates who run.

Advantages: Could increase breadth of issues discussed during campaign; might open the field for more people to run for office.

- Since participation in public financing programs is voluntary, many of the potential benefits of publicly financed campaigns can be defeated when not all of the candidates participate.

Disadvantages: Could spend large sums of public funds and ultimately have no candidates abide by restrictions; no incentive to abide by intent of the law.

- Even when all candidates agree to participate in a public financing program, large sums of money may still be spent on the election in the form of independent expenditures and issue ads which cannot be limited.

Disadvantages: Could spend large sums of public funds and ultimately have no candidates abide by restrictions; no incentive to abide by intent of the law; cost-benefit analysis would fail, i.e. could spend a lot of money for nothing.

- Publicly financing elections can be very costly for cities. Substantial amounts of money must be set aside for use as “matching funds,” as well as to cover the costs associated with staffing and administering the program.

Disadvantages: Other programs in the City could be adversely affected because for every dollar spent in public financing it would mean money that is not being allocated for something else; other City priorities would suffer.

PUBLIC COMMENT:

Pablo Espinoza pointed out that constituents need to play a role to ensure campaigns are ethical. When there is involvement from the public, it makes it more likely that the candidates will comply. Voters need to hold candidates accountable to voluntary programs.

6. NEW BUSINESS – Discussion Regarding the Committee’s Final Report to the City Council

Note: Item 6 was not discussed.

7. ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 9:02 p.m.

ATTEST:

/s/ Susan J. Blackston
Chief Deputy City Clerk