



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: RICHARD DOYLE
City Attorney

SUBJECT: Summary of Draft Disclosure
of Fundraising Ordinance

DATE: March 9, 2005

Recommendation

Approval of an Ordinance of the City of San Jose amending Title 12 of the San Jose Municipal Code by adding a new Chapter 12.16 to require disclosure of fundraising solicitations by elected officials of the City of San Jose and the Redevelopment Agency Board of Directors.

Background

This memorandum will provide a summary of the proposed "Disclosure of Fundraising Solicitations" ordinance which was discussed by the Blue Ribbon Task Force at its February 23, 2005 meeting. The Task Force recommended that the proposed ordinance be brought forward for consideration by the City Council. The Task Force also recommended that a "Frequently Asked Questions (FAQs)" be prepared in order to provide guidance as to what types of activities may be considered to be "direct fundraising solicitation(s)." The draft "FAQs" are attached to this memorandum. The draft ordinance is also attached for your review.

Discussion

A. Current Laws – Fundraising Solicitations by Elected Officials

City laws do not currently require City elected officials to disclose or report fundraising solicitations or the results of fundraising efforts for other candidates and campaign committees or religious and charitable organizations, associations or entities. State law requires elective officials to disclose payments made at their behest for legislative, governmental or charitable purposes aggregating \$5,000 or more from the same source in a calendar year. (Calif. Gov. Code Section 82015(b)(2)(B)(iii)). Section 12.16.050 of the draft ordinance references this requirement under the state Political Reform Act of 1974, as amended, as an informational provision.

B. Proposed Disclosure Requirements

1. Disclosure of Fundraising Solicitation(s) (SJMC Section 12.16.020)

A City elected official would be required to disclose his or her direct fundraising solicitations which resulted in a contribution or donation to:

- a. Any religious, charitable, nonprofit, governmental or political organization, association, committee or entity including the City and Agency; or
- b. Another elected City officer, candidate, City ballot measure, non-City elected public official, non-City candidate or any other campaign committee.

2. Disclosure of amounts of reportable contribution(s) or donation(s)

The actual amounts of reportable contributions or donations that resulted from the City official's direct fundraising solicitations as defined in Section 12.16.030 of the proposed ordinance must also be disclosed. (SJMC Section 12.16.040 B. 5.).

“Direct fundraising solicitation(s)” includes the making of a personal behest or request either orally or in writing from any person doing business or who is involved with City or Agency business or who has been or may foreseeably be involved in City or Agency actions as defined in the proposed ordinance.

Section 12.16.030 B. provides examples of activities which would not be considered “direct fundraising solicitation(s).”

Attachment A (FAQs) to this memorandum also provides examples of the types of “Direct fundraising solicitation(s)” which would required the actual amounts of contributions and donations that resulted from the solicitations to be reported.

3. Information Requirements – Semi-annual Reports to City Clerk

The Semi-annual reports must include the following information:

- a. Name of the elected City Official
- b. Name, address, occupation and employer of the contributor or donor
- c. Date(s) of the direct fundraising solicitation(s)

Honorable Mayor and City Council

March 9, 2005

Re: **Summary of Draft Disclosure of Fundraising Ordinance**

Page 3

- d. Brief description of each solicitation, behest or request including the dollar value or fair market value of goods or services solicited or requested and
- e. Date(s) and amount(s) of the reportable contribution(s), or donation(s) that resulted from the City official's "direct fundraising solicitation(s) and activities," as defined in Section 12.16.030 A. 1.

RICHARD DOYLE
City Attorney

cc: Del Borgsdorf
Lee Price

Attachment

ATTACHMENT A

FREQUENTLY ASKED QUESTIONS ABOUT THE DISCLOSURE OF FUNDRAISING SOLICITATIONS ORDINANCE

1. *What exactly will I as a City elected official be expected to disclose under the ordinance?*

Answer:

- A. You will need to disclose any direct fundraising solicitation(s) which you engaged in which resulted in a contribution or donation made to a person or entity. These include donations or contributions to any religious or charitable nonprofit **and** donations and contributions to another City or non-City public official or any other campaign committee. Contributions to your own campaign or officeholder accounts are not required to be reported under the ordinance since these contributions are covered by the Campaign Contribution Ordinance and state law.
- B. Additionally, you will need disclose the **amounts** of contributions and donations that resulted from your “direct fundraising solicitation(s).”

2. *What does “direct fundraising solicitation(s)” mean?*

Answer:

- A. “Direct fundraising solicitation(s)” by an elected City official means making a personal behest or request, directly or through an agent, either orally or in writing that a contribution or donation be made from:
 - 1. A person or entity who is doing business with, involved with or working on any governmental, administrative or legislative action with City or Agency; or
 - 2. A person or entity who has been or may foreseeably be involved with or working on any governmental, administrative or legislative action with the City or Agency within one year before or after the date of the behest or request.

This does not include making a request for funds publicly to at least a majority of persons who attend any public gathering, or by making a request that appears or is published in a newspaper, on radio or television.

*3. What are some examples of fundraising activities that are **not** considered “direct fundraising solicitation(s)?”*

Answer:

- A. Making a request for funds publicly to at least a majority of persons who attend any public gathering, or by making a request that appears or is published in a newspaper, on radio or television; or
- B. Supplying names to be used for invitations for a fundraising event; or
- C. Recorded phone solicitations or participation in phone banks by the Elected Official; or
- D. Inclusion of the Elected Official’s name in the letterhead or in the body of a solicitation letter requesting contributions or donation but which is not signed by the Elected Official; or
- E. Inclusion of the Elected Official’s name in an invitation to a private event or meeting which is not hosted or sponsored by the Elected Official.

4. What are some examples of fundraising activities that would be covered?

Answer:

- A. Making a request for funds at a private gathering.
- B. Inclusion of the Elected Officials name in a solicitation letter and which is signed by the Elected Official.