

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney  
Lee Price  
City Clerk

**SUBJECT:** Electronic Filing of Campaign  
Disclosure Statements

**DATE:** November 20, 2009

## **RECOMMENDATION**

As directed by the City Council on November 20, 2007, approve an ordinance that amends Chapter 12.06 of the San Jose Municipal Code to require electronic filing of campaign disclosure statements.

## **BACKGROUND**

On November 20, 2007, the City Council approved a recommendation from the 2007 Mayor's Biennial Ethics Review to direct the City Attorney and City Clerk "to research the feasibility and cost of an ordinance amendment to require all candidates for elected office and independent expenditure committees to electronically file their campaign statements with the City Clerk."

In addition, in the final report entitled "Analysis of 2006 Election Cycle Activity" dated August 8, 2008, MGT of America, Inc. noted:

For future consideration, the Elections Commission may wish to consider modifying current requirements related to campaign disclosure filings. Currently, all candidates must submit signed, paper documents of their campaign disclosure statements directly to the City Clerk's office. Most also submit electronic statements via the city's NetFile system. The team did note some issues with the electronic database, as discussed in the Scope and Methodology section. However, once the City Clerk and Elections Commission are satisfied that the electronic system is accurate and complete, the move to allow candidates to opt to choose to file solely through the electronic portal could reduce the amount of paper that the City Clerk's office must process and store, will be a more efficient method for candidates and ICs to submit their statements, and will increase the public's ability to access campaign disclosure reports and data.

## **NETFILE READINESS AND ABILITY TO IMPLEMENT**

The City entered into a contract with NetFile in 2005 for a hosted solution for filing and viewing campaign disclosure statements. The "system" was rolled out for candidates during the City's 2006 Election Cycle, beginning with the June 2006 Primary. It has been completely voluntary since that time and most candidates have chosen to use the system. The NetFile solution offers a method of tracking and reporting campaign contributions, loans and expenditures free of charge to candidates. Candidates who already owned or acquired third-party software (which is compatible with the "free" program) found the system easy to use; however, there were some issues initially reported by candidates/treasurers who used the system as their primary record-keeping tool. Data entry and filing errors as well as time delays were a common experience for many filers. For this reason, the City Clerk postponed implementation of mandated on-line filing to allow NetFile the time it needed to "work out the bugs".

Over the past three years, NetFile has conducted a number of user group surveys, added new technical staff and made a number of significant improvements to the public site, the filer application and the administrator tools. As part of recent negotiations for a contract extension, NetFile representatives have agreed to come to San José to offer training to candidates/treasurers and offer telephone on-on-one tutorials and troubleshooting. The City Clerk is confident that the improvements made will allow easier filing.

In addition, the system is now ready to accept campaign statements from independent committees, many of which are already filing on-line either at the State or County level. This is especially good timing in that the City Council recently adopted changes to the campaign regulations that add a requirement that independent committees that participate in San José elections file copies of all campaign disclosure statements with the City Clerk.

## **ANALYSIS**

In 1997, the California Legislature approved the Online Disclosure Act which cleared the way for electronic and online submissions of campaign disclosure reports for viewing on the Secretary of State's web site. Since then, a number of municipalities and agencies across the State of California began requiring that campaign statements be filed electronically; San Francisco, Los Angeles, Long Beach and the County of Santa Clara all require electronic filing of campaign disclosure statements.

The proposed ordinance requires candidates and committees – including independent expenditure committees – to file an electronic copy of the campaign disclosure statement at the same time a paper version of the statement is required to be filed with the City Clerk. An electronic copy is required only when the City Clerk has prescribed the required format at least 60 days before the statement is due. This provision allows

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filers to have sufficient notice of the electronic filing requirements. These requirements are generally consistent with those in other municipalities and agencies.

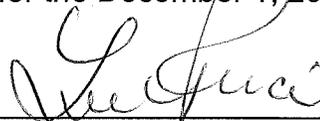
The format prescribed by the City Clerk for campaign disclosure statements will be the same forms currently prescribed by the Fair Political Practices Commission (FPPC). A complete list of those forms is available in the Office of the City Clerk and on the FPPC website.

**PUBLIC OUTREACH/INTEREST**

The City Clerk has provided copies of this memorandum and draft ordinance to all campaign committees who periodically or routinely file campaign disclosure statements in the Office of the City Clerk. In addition, this memorandum has been forwarded to other interested parties, including current and former members of the Elections Commission, and is posted on the City's website for the December 1, 2009 Agenda.



RICHARD DOYLE  
City Attorney



LEE PRICE, MMC  
City Clerk

cc: Debra Figone

For questions please contact Lisa Herrick, Sr. Deputy City Attorney, at 535-1900.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING  
CHAPTER 12.06 OF TITLE 12 OF THE SAN JOSE  
MUNICIPAL CODE TO ADD SECTION 12.06.915 TO  
REQUIRE ELECTRONIC FILING OF CAMPAIGN  
DISCLOSURE STATEMENTS**

**WHEREAS**, state law and the San José Municipal Code require candidates and certain other types of committees to file campaign disclosure statements with the City Clerk detailing sources of contributions and manner of expenditure of contributions; and

**WHEREAS**, the purpose of these laws is to assist voters in making informed electoral decisions and to assist in ensuring compliance with campaign contribution laws; and

**WHEREAS**, frequently, these disclosure statements are very lengthy and since a large number of such statements are filed with the City Clerk each reporting period it is very difficult for members of the public, the media and election officials to efficiently review and compare these statements; and

**WHEREAS**, requiring candidates and committees to file copies of their campaign statements electronically in addition to the original, paper copies filed with the City Clerk will further the purposes of campaign finance disclosure laws;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Part 9 of Chapter 12.06 of Title 12 of the San Jose Municipal Code is hereby amended by adding a new section 12.06.915 to be numbered, entitled and to read as follows:

**12.06.915 Electronic Campaign Disclosure**

- A. Each candidate, candidate controlled committee and independent committee that is required to file campaign disclosure statements by Chapter 12.06 or the Political Reform Act must file at the same time a copy of the statement in an electronic format with the City Clerk, provided the City Clerk has prescribed the format at least sixty (60) days before the statement is due to be filed.
  
- B. Once a candidate or committee is subject to the electronic filing requirements imposed by this Section, the candidate or committee will remain subject to the electronic filing requirements until the candidate or committee files a termination statement pursuant to Chapter 12.06 and the Political Reform Act.
  
- C. The requirements of this Section do not abrogate any requirements in Chapter 12.06 or the Political Reform Act that paper copies be filed.

RD:LH  
11/13/2009

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk