

Memorandum

TO: San Jose Elections Commission

FROM: Lee Price, MMC
City Clerk
Lisa Herrick, Senior
Deputy City Attorney

SUBJECT: Update on City Council
Referrals to the Elections
Commission

DATE: December 7, 2007

The Elections Commission has been referred the following:

1. Public financing of municipal campaigns, referred by Council on or about March, 2006; **REFERRAL COMPLETE – COMMISSION HAS DECIDED TO MAKE NO RECOMMENDATION ABOUT PUBLIC FINANCING**

2. Limits on contributions to independent expenditure committees, referred by Council on October 10, 2006; **REFERRED TO SUBCOMMITTEE(MERTENS/SMITH/CAO) - DEFERRED DUE TO PENDING DECISION BY THE APPELLATE COURT**

3. Reed Reform # 19 - referred by Council on January 9, 2007 (as recommended by Mayor Reed in his memo dated December 22, 2006): Plug loopholes in the campaign financing ordinance that make it possible to contribute unlimited amounts of money in the form of paid campaign workers; **REFERRED TO SUBCOMMITTEE (VENTURA/CAO) – SEE MEMO FROM CAO DATED AUGUST 12, 2005 AND MEMO FROM COMM’R VENTURA DATED 9/5/07 - For Discussion 12/12/07**

4. Reed Transition Committee/Government Reform and Ethics Subcommittee: Campaign Finance Reform Recommendations (a - i) dated January 8, 2007 - referred by Rules and Open Government Committee on January 24, 2007 (as recommended by Mayor Reed in his memo dated January 17, 2007, asking the Elections Commission for review and comment in order to help define the scale and scope of the election audit they will be conducting:

a. If money is spent in San Jose the committee making the expenditure must file their report in San Jose with the City Clerk’s office within 24 hours of making the expenditure. **REFERRED TO SUBCOMMITTEE(MERTENS/SMITH/CAO) - CAO PROVIDED GUIDANCE – SEE MEMO DATED 8/30/07**

b. Re-initiate the contribution limits on independent expenditures (the City Attorney's office is currently appealing the court case that threw out the contribution limits). [Note: this is somewhat duplicative of the referral from Council to the Elections Commission on October 10, 2006.] **DEFERRED DUE TO PENDING DECISION BY THE APPELLATE COURT**

c. Increase penalties for violations dramatically, possibly as much as the expenditure. **REFERRAL COMPLETE – Draft Ordinance approved by the Commission on 11/14/07 to be considered by the Council on 12/18/07 increases penalties to up to 3 times the amount of the unlawful contribution or expenditure.**

d. Increase the budget and staff of the Elections Committee and allow the Elections Committee to use the District Attorney's office to investigate election complaints. **REFERRED TO SUBCOMMITTEE (DEFUNIAK/BADHESHA)**

e. Penalize the consultant as well as the committee for failure to follow Independent Expenditure Laws. **REFERRAL COMPLETE - SAME AS 4.C ABOVE**

f. Disallow the coordination of candidate committees and party organizations in non-partisan races. **REFERRED TO CAO FOR LEGAL OPINION RE CONSTITUTIONALITY.**

g. Require Independent Expenditure committees to disclose on written material a disclaimer that says "this piece was paid for by an independent committee with funds that were raised in amounts greater than the limits imposed on campaign committees." The same disclaimer would have to be read on all radio and television commercials. **REFERRAL COMPLETE – Draft Ordinance approved by the Commission on 11/14/07 to be considered by the Council on 12/18/07 requires disclosure of the source of funds and the total amount spent on written and broadcast communications rather than disclosure of only those communications paid with funds that exceed the limits.**

h. Prohibit consultants from working for a candidate committee and an Independent Expenditure Committee supporting the same candidate. **REFERRED TO CAO FOR LEGAL OPINION RE CONSTITUTIONALITY.**

i. The Transition Committee also recommends the city staff looks into the Instant Run Off System to see if this method could save money. **CLERK HAS INITIATED RESEARCH – Additional research requested – seek information from cities of Portland and Austin.**