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>> our special city council meeting for october 10th.

I want to thank my colleagues for being here.

I know we are in a different room and these chairs can be uncomfortable.

We will move to -- let me ask one quick question.

>> thank you.

I know that there was a request to adjourn this meeting in honor of the constituent and a friend of david's and i want to give him a chance to address.

Ms. Wilcox passed away and she represented a whole bunch of things in this city over time.

But she was the founder of tapestry and arts.

Those who knew her it was an incredible, incredible thing that she did because i wanted to ask her how many people it took to put that event on.

She said, 3.

I was in her office when i asked and she introduced me to the other 2 people and that was it.

They put the entire event on with 3 people it was the year round full time opportunity.

She was the first women present after the rules changed, the first women prosecute of the san jose [inaudible] club and that's where i met her.

She was well known in the community i was approached by your staff, vice mayor chavez who also knew her very well.

It would mean a lot to her family and people in the community to have the council adjourn in her memory.

>> thank you very much.

Would anyone like to make comments.

We will adjourn the meeting in her honest or.

This is propositions 83-90 approving city positions on the state wide ballot.

What i would like to do is take each item singularly so everyone can vote.

Item one, i should ask, betsey did you want to make comments?

>> we will move to item 1 a.

>> a motion and second.

Comments or questions on that item?

>> i have just one.

I wanted to say it's great to see our team here and these folks, please, stand up.

These folks day in and day out monitoring our high risk sex offenders in the community.

You had an opportunity to give input in this bill.

Thank you for your good word.

>> in favor?

Opposed

>> 1 a.

>> on that one, just for the public record, 1 a is proposition 83.

It's not state bond measure.

>> thank you, i appreciate that.

Proposition 83.

Thank you very much.

All in favor.

Any opposed.

That passes.

We will support that initiative.

That proposition.

Item 1 b is prop 84 this is the water quality safety and supply, flood control natural resources and protection and park improvements.

Any comments or questions on this item?

>> move for approval.

Motion and second.

Any discussion on the motion?

All in favor?

Opposed?

>> that passes unanimously.

We will move to item 1 c proposition 85 before termination of a minor's pregnancy.

>> move to recommendations.
>> motion for opposition to this.
>> motion and a second, comments on the motion?
>> none.
Questions.
In favor?
Opposed?
>> one opposed.
Thank you, councilmember reed.
>> proposition 1 d this is proposition 86 a tax on cigarettes we have a recommendation from staff to support.
>> moved and motion and a second.
Any questions on the motion?
Comments on the motion?
All in favor.
>> judy.
>> i wanted to make a comment on this one.
This is one that i think san jose should be very proud of.
There is a lot to the proposition.
One of the things that it funds is access to health insurance for children.
San jose along with santa clara count i created the children's health initiative, other counts are looking to replicate.
I know there is a lot of negative publicity out there i am surprised how much of the funding is coming from the tobacco company.
This was started in santa clara county.
I was glad to see there was a position of support from san jose.
Thank you, judy.
All in favor.
>> any opposed.
That passes unanimously.
Proposition -- 1 e proposition 87.
Alternative energy re/research production incentives tax on california oil producers.
The staff's recommendation is no position.
>> we have a motion?
Second?
>> second.
>> a motion and a second to take no position.
Councilmember chirco.
I wanted to relay a conversation i had with councilmember lezotte.
She wanted to support this i know it's in line with other propositions we supported the assembly bill for the emissions.
I wanted to make that statement so as councilmember lezotte had asked me if i could do that for her.
>> thank you.
>> councilmember pyle.
>> i don't know why we wouldn't take a position to support.
This is what we are about, the future.
This is our way in which we operate.
>> joining me is marry tucker from environmental service department who participated in the analysis and conclusions we came to.
>> one of the key issues we looked at in analyzing the bill and the impacts.
We learned through the california league of cities it would have a lot of impacts on local governments.
And related taxes and revenues they would receive as a result of the taxes of the oil producers.
We received some more reviews that reduction in local tax revenues would be reduced to the districts that have oil producers within their area.
There is the potential in reduction in gasoline, diesel tax revenues that would accrue to local governments.

There is not much analysis as to the actual impact that's developed under the state.

We are really not sure what the loss could be.

We do know there would be a loss to local governments on that.

>> you know there would be a loss but you don't know what the loss is.

>> it's challenging, not knowing what the other side of the equation will be as far as the reduction of property taxes and the producing of fuel.

Again, this mirrors or reflects the league of california city's analysis and interpretation of seeing it impacting certain county and cities and governments and states and not impacting others.

It's a tough call.

We wish this type of proposal was actually -- through the legislative process as ab 32 was so these issues could be dealt with.

>> could this come back in the form of a bill that would make exceptions.

I don't know if this is the tale wagging the dog or the dog wagging the tale.

If there are 10 percent effective and 90 percent have a positive gain.

I would want to know that.

Frankly, i don't care how getting help for energy sources passes if this is not way for a primetime proposition i understand.

I hope we don't give up the fight.

>> thank you.

Councilmember yeager.

I will vote against, the no position, i'm ready to support it.

I will see what the vote becomes if this motion doesn't pass, i would make a motion that we support.

>> any other questions or comments?

>> i just have one question.

It may be that i'm not understanding the exact analysis.

Is the idea if there is more taxes people buy less gas and it impacts us?

>> it's easier to convey with energy.

We get a tax on the amount of energy you use in the city.

We encourage people to reduce their energy use which reduces our taxes.

It's like the same thing, we encourage people to reduce the gasoline use if there is a revenue the city uses that revenue is reduced.

>> vice mayor, i would like to with draw my motion and mr. Yeager make his motion.

>> can you -- does the seconder have to with draw.

>> it's up to the seconder.

>> i will with draw.

>> okay.

>> and yield to yeager.

I mean --

>> yielded to --

>> did he speak to you today?

>> no.

>> let me tell you who did?

[laughter].

I'm going to be nice.

I'm not going to go there.

>> thank you, i make the motion that we support proposition 87.

>> second.

>> we have a motion and second.

Discussion on the motion.

Councilmember williams.

>> it sounds good.

87 really sounds good.

But i -- it doesn't reach what i think it intends to reach.

I think this is a guise to just find the revenue source to help the environment or help environmentally to reduce the pollution, reduce energy consumption and that type of thing.

And i don't know that we have done enough analysis to understand what the impact of this will be.

We will find ourselves in a situation where, you know, we are going to be struggling some other area to fill in the gap that we are giving away.

In terms of resources that we get.

There are a lot of needs that we have for the revenue that come in from energy.

And to tax it again through reduce the amount our resources that we have, for me is productive in that sense.

I think we should address the problems and try to find a source that does not -- does not.

If we take an action that doesn't impact us.

This is like i'm going to take a part of your hand and -- i'd rather find a way to fix the problem rather than take the resource that i will have to struggle somewhere else to get the resource back.

I will not be supporting that motion.

>> okay.

>> thank you.

Councilmember reid.

>> thank you, we need to reduce our oil usage and develop alternative energy sources and this does both i will support the motion.

>> councilmember pyle.

>> i'm not sure of the reasoning that was used either, according to the information we were supplied the oil producers pay a flat tax on oil and this allows to send 4 billion over the first years of operation in bond revenues and in tax and bond revenues.

It wouldn't all be coming from one source as i see it.

It would help us -- the goal being reducing the use of petroleum by 25 percent in 10 years.

We need to do that and there will be fall out.

I'm sorry that will happen.

The goal is to use the consumption and i see this as a way to get there.

I urge support.

>> thank you.

>> we have a motion and second to support proposition 87.

All in favor.

Opposed?

>> councilmember williams, thank you.

>> i want to apologize we missed 2 public speakers and i would like to invite them up.

I don't want them to wait i saw one with a little person with them.

I want to invite first on item 1 a.

You can speak, you have 2 minutes.

>> welcome.

>> thank you.

>> ladies and gentlemen, for my lack of knowledge of my political education, i find something [inaudible].

My terrible accident.

Will you please excuse me.

I going to ask you people about proposition 83.

Sex offenders.

My question is simple.

When i receive this pamphlet in my home i read with my kids.

I told them i will keep coming to your meetings to find out if you are doing the right things for us as a community.

I want to know for how long we will continue to play with the human needs.

A few politicians controlling the progress of the entire city of san jose.

And at the end, always ending with the [inaudible] on the first page of the newspapers like this.

Proposition 83 of sex offenders [inaudible] find 5 criminals living in the mission hotel in the heart of san jose city.

Those people are living comfortable with the taxes that they mentioned.

And my concern is that they are eating mcdonalds, pizza hut.

Kentucky chicken and the star bucks cafe and they are living comfortable with the money of the taxes we pay.

It's possible you people, government [inaudible] to avoid the criminal live with our taxes.

It's some way you have some formula to stop that corruption?

That's my comment.

>> thank you.

>> would anybody like to consider proposition 83?

No.

We will move to ms. Gonzales, she was here to speak on proposition 86.

>> good evening i'm here to speak about proposition 86 in support of it.

I'm here as a representative of pact.

We commend you as an organization for supporting children health insurances judi chirco talked previously.

We are excited that you are supporting ab 6.

The pole is not great we are slide in the poles because of tobacco interests.

On cnn they have tobacco adds which are false, false information against 86.

Be ark aware of that.

Push 86 as much as you can.

With working partnerships we commends you for supporting children's health insurance.

If we pass 86 the city will not have to worry about it.

It will be a great idea.

I'm hoping all the propositions will be put in the mercury news so people will follow your lead and support those propositions.

Thank you very much.

>> would anybody like to reconsider that item?

>> no.

>> yes.

>> i didn't have that i have it for g.

Why don't you come forward, now.

I ark apologize /ross.

I see on c you opposed it i don't think you should oppose that because there is a question of rape and incest and if there is a question of incest it's hard for a child to go to their parents and ask for a termination of the pregnancy.

That's been debated there were several debates on public television in regards to this.

There are thousands of pregnancies that are committed through incest and the kids are afraid to do anything.

They can't go to the authority and say my parent or someone did this to me.

They are helpless.

I think you should approve that to help kids out to be able to help themselves otherwise they are in a helpless position.

I urge you to not oppose that but approve it, support it.

Thank you.

>> thank you.

Right.

Does anybody want to reconsider proposition 85.

Judy.

>> i was distracted when that vote was taken because i was getting my chair changed.

I would like to vote against the opposed.

I think there has been a lot of conversation about the safety of our teenagers.

It's 's a challenging time.

When there is a pregnancy with a teenager.

I think the ones most at risk are the ones that don't have a family member to turn to and that may be the cause of the pregnancy.

And they can't access the courts and get the second mechanism -- the proposition proposes.

So, i would like to take a position different.

>> the action that the council took was to oppose proposition 85.

>> i was distracted with getting my chair changed.

>> i'm okay.

>> would anybody like to reconsider the vote?

>> we will let that vote stand.

We will move to item 1 -- we will move to 1 f, this is proposition 88.

And this is education funding real estate property parcel tax the recommendation from staff is to take no position.

We have a motion and second.

Comments or questions on this item.

All in favor.

Opposed?

That passes.

We will move to item 1 g.

This is proposition 89, political campaigns public financing and campaign contributions and expenditure limits the staff's recommendation is to support.

>> a motion and second.

Comments, councilmember williams.

>> thank you, madam vice mayor.

All the elements of the proposition are good for me except where we are going to tax corporations for the dollars we need to fund the political support.

I think we should all bear the burden.

It should not be specific.

It should be all of us should be if we are going to be involved in the political activity, that it should be all of the members of the community should be involved not specifically why did we go to the corporate tax as a basis for supporting this?

That's the only part.

I'm putting on my time in strong economy in terms of we want businesses to be here.

We want them to grow and thrive.

And yet, we are really taxing them.

We continue to tax and tax.

Where i don't think it's their problem specifically i think it's all of our issue and the dollar should come out of the state's general fund to support anyone who would run for political office.

That's where i am with that.

Other than that, i support it pretty much just that the base for the resources.

>> thank you, councilmember williams.

Other comments on the motion?

Seeing none i would like to invite up nancy.

>> okay.

I won't forget.

Ross, could you come forward, thank you very much.

>> you have 2 minutes.

Welcome.

>> thank you madam chair.

You have support on this.

I think you should oppose ab 9.

It's a question of tax, tax, tax, tax.

>> if you remember not too long ago when we put a fee on it we didn't call it a tax we put a fee on the 911 system and many people from city hall pleaded with you saying it would be a burden on corporations. They asked you to put a limit on i think it was 25,000 for each front line coming in.

A corporations are what keeps us going.

We shouldn't do things to drive corporations out or make it hard for them to make a profit.

We shouldn't make it hard for corporations that want to move to this area.

When they turn around they see tax, tax, tax, tax.

I think you should not support it i think you should oppose it.

Councilmember williams said, the burden should be on all of us.

Not just pick and choose who will do this.

Not long ago you wanted to put a traveller's tax for people going in and out of our airport.

I was not effect the by that on the ballot i voted against it because again, tax, tax, tax.

>> we have to use the word, we have to be careful how we do that.

I think you have to be diligent and put the breaks on and ask, are we doing the right thing for ourselves and all of california?

Thank you.

>> thank you, ross.

>> okay.

We have -- we had a motion.

Any comments on the motion?

All in favor?

Opposed?

That passes with one opposition, mr. Williams.

We will move to item 1 h.

This is proposition 90 government and acquisition of government private property.

The staff's recommendation is to oppose.

We have a motion and section.

Comments on the motion?

>> personally i'm in support of the proposition.

>> thank you.

>> all in favor?

Any opposed.

One opposition.

>> that's okay.

>> all right.

We will -- i want to thank staff for all that.

Sorry it took us another week.

We will move to item 2.

Could we consider these together.

>> we can.

We will move to 2 and 3.

These are considerations of actions related to the city's campaign ordinance and the consideration of the ordinance on campaign contributions to independent committees.

I wanted to ask our city attorney to review this document because we just receive today today.

It's an urgency item.

I wanted to make sure rick had an opportunity to review.

>> members of the council, i will ask my staff to move up to the table so they are prepared to answer questions.

The first item is the item from councilmember reed, i think we can talk about those separately.

I will touch upon the memo in the packet.

This is the follow up from our discussion last tuesday and the council ask it come back.

Particularly in light of questions that were raised both by attorneys for that represent labor and the chamber of commerce.

This is an area this is in response to the federal court's decision that throughout our ordinance that regulated contribution, we realize it's difficult to do from constitutional standpoint much the approach we took is a more current approach we find other jurisdictions taking.

Starting with the federal government.

I will admit that no one has tried to move towards the regulation of campaign contributions to independent committees as we are proposing.

We have consulted with 3 individuals primarily prefer ortease who is a professor at the university of virginia he's a constitutional law professor and given us quite a lot of information and made comments to the proposed ordinance we brought last week.

We incorporated those into the changed ordinance.

What we have done, really are simple relatively simple changes that we believe make the ordinance more defensible.

It will limit contributions to independent committees that fund communications to an amount of 500 dollars during an election cycle that's a 30-day window before an election.

The prior ordinance distinguished with primary and general elections we had 60 days for primary and 30 for general.

We changed it to 30.

It's a narrow window.

It defines election's communications, looking at the ordinance, communications by means of paid newspaper, advertisement, paid internet, mass mailing or telephone.

The case in the supreme court upheld requirements that were under federal law that limited different medium.

It was broadcast medium, tv and out door advertising.

Primarily it was that way because federal elections generally campaigning takes place not by way of mass mailing but more by way of television and broadcast media.

In the case of san jose it's broadcast media that is what's used.

We need to be careful what type of media we will limit the activity.

Not to say that people don't campaign on tv from time to time.

Not to say other vehicles may not be used.

We would not regulate those.

We have carefully drawn this to address what our concerns are.

We believe that money has an influence.

The next area that we -- i mentioned we changed to 30 days.

We also targeted the electorate.

That's the communication's targeted to 500 or more individuals.

This applies where there is an election and you have mailings that go out to 500 or more would be covered same with cited with. Wide.

The other area we have with our discussions with the professor looked out and beefed up are the recitals.

We are looking at the rationale behind the ordinance it gets to the heart of why we are recommending this.

It's that we recite the fact that the california political format and the state legislator has gone through a number of studies and determined there is a need to regulate this type of money in politics.

I think i mentioned last week the courts are more forgiving where we talk about contribution as opposed to expenditure limit.

This is a contribution this is getting to the heart we see where the problem is you have campaign expenditure limits in the campaign races.

They do.

Those limits in the case of the mayor goes 750,000 in an election.

You don't have the regulations on independent committees, nor can you.

And i think we are seeing and the courts are seeing this is why the courts are becoming more -- at least based on the mcconnell case, understanding that the soft money is out of control it has an inordinate influence and people don't have to be creative.

There are a dozen magic words and you are unregulated.

We understand we can't regulate the may amount of money people spend.

The contribution limits of 500 are defensible.

I need to caution.

I fully expect this will be challenged.

We are understanding we have consulted with very good experts.

Everybody acknowledges this is an area of the law that's evolving.

It's something that those on the other side that want total unregulated access or no regulations want to do nothing more than have disclosure, are really going to put up a fight.

It's something the appellate courts have to deal with.

My staff is better versed on this than i am.

If you have questions they are here to answer.

>> thank you.

Councilmember pyle.

>> yes, do we have to consider this urgency legislation in that we can't enforce it not guilty the lawsuit with the chamber is solved.

>> this will take effect immediately.

It would be effective for an 11 day period between now, 10 days, counting tomorrow to the 21st of the month.

>> okay.

I must have misunderstood the wording on this piece that was given out.

I agree with you that number one, you can't legislate morality anymore than independent expenditures. That seems to be the biggest problem we have.

Basically i was worried today because i didn't receive this until later today.

This is a lot of information to go over.

So, i'm not really -- can have the confidence i know what i am doing.

This is a lot to absorb in a short period of time.

If the major thrust of this could be boiled down to.

I know lawyers love words.

[laughter].

If we could think this into contribution limits.

Changed the amount of that.

And what else are we really going to accomplish?

Unless i'm missing something.

I'm trying to look at the big picture.

>> i understand.

I'm sensitive to the fact that it's short notice.

It's time sensitive if you want something in place for this election cycle.

We did have a memo in an ordinance last week this tweaks it and explains what the changes are.

I understand, under normal circumstances we would not bring you this on short notice.

Your alternatives are to pas it tonight and have something in place or wait and see what the election cycle brings and take it back to the election's commission or bring it back to us after that.

Then we would have found out how much soft money is being spent in the election and come back with the information that would give you more reason or not to go forward.

>> thank you.

That's part of my thinking.

The limit it is will not change for this campaign.

>> there would be contribution limits for the next 10 days.

If money is raised after that point the sky's the limit and we can't do anything about that.

I don't know, i'm not privy to that information at this point.

>> okay.

>> i've expressed my concern.

>> councilmember compose.

I think when this first came to us as an emergency ordinance, the point of it was to be able to you are using the term, soft money.

To be able to, i guess, put a cap on the soft money that because we are not privy to what people are doing, to prevent them from having the ability to raise soft money to use in this campaign.

That was the essence of this ordinance.

In the same breath you said that if people have raised money to right now.

Probably could raise it because we have not taken a vote, that they have the ability to use that money whether it was 10,000 contribution or a hundred dollars contribution this would not effect that?

>> that's correct.

>> trying to be able to understand.

>> that's correct, the reason we are on short notice is the federal court made it's ruling we are coming back as quickly as we could.

The idea is to limit contributions to this cycle to the extent we can to the extent money raised to date is unregulated and we can't control expenditures on any of it on the expenditure side.

>> my other question to you is, if this ordinance passes today this emergency ordinance, can someone challenge it and tie it up in the courts and what -- how -- how enforceable is this emergency ordinance if they decide to challenge it?

It's enforceable until a court rule it is otherwise.

>> we are talking about 11 days.

My question is if they go tomorrow in court?

What does that mean?

It mean nothing is in place it's status quo.

>> tomorrow morning when they file what we do tonight may be irrelevant.

>> that's a possibility in anything you pas.

There are 3 clear schools of thought that contributions can't be imposed and there are those who say, yes, they can.

The -- we believe that the trend is given where the courts have acknowledged that the difficulty of the issue advocacy distinction we talked about last time.

It's a complicated law.

Is not real world.

These limits can be imposed.

The mcconnell case is the first case that opens the argument and gives us clear guidance as to what types of activity can be regulated this is why we use electioneering activity.

It's different than in the past versus contributions with expenditures.

The short answer is, if somebody goes to court and gets an a restraining order we would be prohibited from enforcing it.

>> my other question to you is, in the memo you also have a policy alternative.

Can you explain to me what that means in the time frame for a policy that would be a good policy as we move forward in the city of san jose on making sure, long-term we have impact on what soft money would do to effect races in the future for the city?

>> your long-term policy alternative is to really different ways.

If you do not decide to move forward tonight with this ordinance you could refer this to the election's commission for further study and public discussion and hearings.

You could have us go back out and do more out reach and bring it back directly to council bypassing the election's commission.

Or a combination of asking staff to get more back up.

If it goes to election's commission it will get an opportunity to get an airing and you have an opportunity to have the data at the end of the day how much we believe was spent by soft money.

People recognize soft money plays a huge role here.

>> time frame, if we were to go with the policy alternative, is it something that we could be able to adopt before the end of the year?

Or in your recommendation would it be best to have a lengthier time.

You mentioned we could get other opinions and vent it out a little bit more.

I'm looking at this from the perspective of looking at making sure we are creating a policy that the not end up in court and will be able to be a part of good campaigning in the city of san jose -/

>> i can't speak for the election's committee to the time table, we could work to have something by the end of the year.

The idea is -- there is likely to be a run off in the district 6 election next year.

May be something could be in place by that point.

>> those are my questions, thank you.

Councilmember williams and then councilmember reed.

>> greg, i had a question about the expenditure, you said you are out of that range.

You are not using those in terms of the recommendation you are proposing tonight is that correct?

That's correct.

If you read the case law and the judge's opinion he treated our old ordinance as an expenditure limit.

We don't agree with the court to the extend it's an expenditure limit it's not likely to pass constitutional.

>> that's why you are proposing the electioneer communications and regulations on contributions.

>> you inserted a change from 250 to 500 as a recommendation in terms of the increased contribution limited amount.

Why did you make that change?

>> there is a case out of vermont that the supreme court struck down a 200?

Lisa why don't you go into this one.

>> sure.

>> the case had variables contribution limits it was 200 for a particular race and 400 for another.

Because the supreme court felt that the vermont the u.s. supreme court felt that the contribution limits were too low in light of the state wide nature of the race they struck down the ordinance.

>> even though that was a state wide race we have to consider the cost.

If 200 was low 250 in san jose might be lower.

We thought 500 was a good number because that's the maximum amount you can contribute to the mayor's race.

>> on the individuals you quoted here regarding their view of the communication electioneering felt that it would with stand the challenge?

How confident are you in them we would be able to with strand the challenge?

>> i'm confident, i think the -- again, the issue is contribution limits and the we narrowed the definition electioneering and communications there is a federal by partisan bill.

They upheld other regulations we believe given the language from the case and we think the acknowledgment by the courts that the soft money is difficult to regulate out of control is a defensible position.

But it's going to be a fight.

There are 2 clear camps in this area.

It will be one that's tested.

>> have you had any input from any of the other legal community around here.

We have lots of legal opinions about the earlier proposal.

I know it came quickly but did we get feedback from the community as to their view survivalability?

Or surviving a challenge?

>> we did not get feedback.

Though we did try to address the concerns in the letter .

One area, for example, mr. Olson's letter seeing it as a communication.

We deleted that that was not how we read the ordinance we made it clear it wasn't.

We used internal news letters.

It shouldn't be included as election's communications.

Those are the types of things we tried to address.

We narrowed types of media would be deemed electioneer in communications.

That was something that we could draft.

Some of the concerns we could not specifically satisfy because there is a different view of the world to whether or not you can oppose these.

The view of the [inaudible] attorneys is all you can do is require disclosure and you can't go further.

If the council, our view is that there is an area that we can go to some extent a limited basis to regulate the contributions.

>> thank you.

>> councilmember reed and then councilmember yeager.

>> thank you, vice mayor chavez.

Rick, there is one thing you said i agree with.

The soft money or the easy money is out of control.

I don't think there is anything we can do tonight that's going to bring it back under control.

You look at what happened in the primary when we had an ordinance in place before it was challenged and look the the reports filed and there are rampant violations in our ordinance of state law by the dozens of expenditure committees and the reports they filed.

We can't get them to follow the law we had i don't know how we will get them to follow this one no matter how we do it.

Assume we could.

I have questions about whether or not we can reach some of the activities that took place in the primary.

During the primary election a dozen or more labor unions sent money in large quantities to an add agency to pay for broadcasts add-on cable tv.

They spent thousands of dollar.

Would this prohibit that?

>> it would only regulate mail, internet, but not broadcast / Media.

Let's take mail.

If an organization wanted to do the same thing and organized a group of like minded /organizations to pay for a printing of a city wide mail piece and each sent a 10,000 check to the printing house and each sent a 5,000 check to the post office, would that be prohibited by this ordinance?

>> if it took place 30 days before the general election, yes.

>> that's the time period we are talking about it names a clearly identified candidate for council or mayor.

>> there is no contribution to the middle it's a direct pay or to a vendor.

You have 10 organizations paying for one piece of mail going city wide.

>> committee means anyone who receive it is contributions or makes expenditures for contributions.
It's the definition of committee.

I'm looking at the existing ordinance.

>> how were the labor unions able to do that in the primary?

>> i don't know.

I don't have all the facts that's should go -- we don't have.

Zoo

>> what is a commit eye.

There wasn't a complaint filed with the election's commission.

>> i'm looking at what appears to be a big loophole in what we are trying to do.

If someone formed a committee and collected the money in 10,000 increments if they each paid 10,000 to the printer and each of their names on on the piece as a sponsor, you would end up in the same place.

>> no, that does meet the definition of committee.

Committee is a person who receives contributions for the purposes of influencing the campaign.

The definition of person is a person, organization or association or other organization or group of people acting in concert.

It's the acting in concert, a group of individuals with a common goal doing the same things that's the definition of a committee.

>> you can declare yourself of being --

>> the defining what i would envision is investigator looking into that and making a decision as to whether or not a group of people were acting in concert.

>> it might be obvious.

In the case of the labor unions there were 10 adds with a different labor union on each piece.

If you do that on television it seems can be done with other campaigning.

Even if we had the ordinance in place how do we know if people complied with the 500 dollar limit.

The report it is in the primary there were dozens of reports in 5, 10, 30,000 increments.

Impossible to tell how they spent the money or segregated the money because it's money going in and expenditure out.

There is no way to track to determine whether or not you spent money in small increments and expended the money that came in large amounts.

You can't tell in the reports whether or not anybody thought about segregation.

How would we know if people complied with the ordinance if we put it in place?

>> we would have to see what reports were filed and go from there.

Under state law they are required to file with the state and the city clerk.

>> can we require the people filing reports to do something specific about the segregation issue so it's apparent when you pick up the report that they segregated the small contributors from the large.

Can we require so anyone who wants can pick it up and say they spent 10,000 so they complied with the ordinance.

Can we layer that on top in a reporting requirement?

The ordinance requires segregation.

If conducting an investigation we could request they demonstrate they accurately keg segregated.

>> that's upon an investigation.

We should be able to do it without an investigation.

>> we could impose that as a reporting requirement.

>> disclosure requirement.

>> how would this effect political parties?

Can political parties collect money in unlimited sums as long as they spend it communicating with their members?

>> you look at definition of committee and they would be subject to the regulations like anyone else.

We would not treat a political party differently than another association.

>> it's not the current practice looking at the reports in terms of the money flowing into the political parties.

What about card clubs we have a prohibition against card clubs making contributions to candidates can they make contributions to expenditure committees?

>> it says no card room will make contributions under the chapter whether it's an independent committee or a candidate or control committee.

>> how would we be able to tell if the card room money got spent in san jose or not?
>> that's where disclosure requirements are important.
You wouldn't know without the disclosure requirements.
>> i think that's all my questions on rick's recommendations.
>> i had a couple more.
I'm sorry, another note.
In your policy alternatives at the end of the memo.
One of the alternatives the council could ask the staff to draft an ordinance to obtain records used and con/contributions / to candidates in their controlled committees.
I thought we had that requirement already what is different?
We have a requirement that the independent expenditure committees file.
Independent expenditures are those deemed to be expressed advocacy.
The magic words are used, vote for or against.
That's what's required.
The independent committees issue committees, for example, there is not the disclosure requirement.
The proposal is to model it after election's communications, taking that and requiring that it be disclosed.
>> one last question.
On the things that are not covered in your recommended revised language.
>> anybody who wanted to could collect any amount of money they wanted and spend it on television?
Because we are specifically excluding television from this contribution limitation?
>> in this proposal, yes.
>> that's being driven by the federal cases?
>> the federal cases regulated television but not direct mail.
We are trying to, i think what the federal guidelines were an effort to go after mediums that were quite common in federal campaigns.
Congressional campaigns it didn't regulate presidential campaigns.
I think the television is probably the most used.
Or broadcast media.
>> how would this ordinance effect coordinated efforts between various expenditure committees or candidates?
>> this ordinance wouldn't address that.
There is a coordinated effort that runs afoul of our current ordinance in effect.
You remember the election's commission made findings of a violation.
>> thank you, that's all i have.
I will come back to my recommendations after we deal with this.
>> councilmember yeager.
I didn't mean to miss you.
>> [laughter].
>> if you run faster today.
>> [laughter].
>> a couple of questions and comments i wanted to start with something that councilmember reed said the issues of passing an ordinance when the current ordinance we had in place was being violated.
What was the use of all of this?
I think rick made a comment, if in fact, nobody brings a case to the election's commission say there was a violation we don't know if there was a violation?
It's driven by a complaint.
We assume at the state or federal level there are violations happened but if nobody files a complaint nobody can make a decision whether or not something was done.
>> unless we have clear knowledge of a violation.
The election's committee is there for a reason they are similar to code enforcement they are driven by complaints.
When there is a complaint a hire an investigator and there is a turn around in a short time.
>> i say it because this is sensitive to the issue of it's not our intent to pass things that people don't comply with.
If there has not been a complaint it's hard to know that's the case.
To follow up on councilmember pyle's questions wanted to understand this as correctly as i could.

2 of the changes one and three are dealing with the definitions.
You felt they needed to be tighter particularly what an election communication was and what target to the electorate was and that's why you flushed those?
>> and also narrow the time period.
>> the biggest change was number 2, making it 30 days.
>> correct.
30 days it's clear that messages are coming out that deal with a name and candidate.
It was within 30 days of an election made for the purpose of enforcing the election.
>> what councilmember reed was trying to get at, i'm worried it's too broad.
Is it 30 days when you pay for the add?
30 days when the add is produced?
30 days when the add is put in the mailbox?
What's the 30 days?
>> 30-day from the date of the election
>> the campaign activity.
Is it i can't put something in somebody's mailbox it can't arrive in somebody's hand in 30 days but i can produce it up until them?
>> independent committees cannot use contributions received for adds 30 days before the elections the independent committee cannot make a communication a mass mailing that gets to your mailbox 30 days before the election.
>> they can pay and produce it and put it in the mailbox but it can't arrive 30 days from the election.
>> it's the act of communicating.
What point you are communicating.
>> i'm communicating with you at that point.
It isn't spelled out.
I think somebody might have that question, when the 30 days begin?
When they actually receive it in the mail?
You could mail it on monday you don't know if you would get it tuesday.
Decide if you would get blamed.
>> it's deemed received once i drop it in the mail.
>> i think that needs to be clear that somebody can spend the money and produce it but it can't get into the hands of the voter until then.
I had a number of questions like chuck about the 5 00 dollars, we can deal with that with the disclosure.
I am going to put a motion forward in approving this.
I think it's important to have something on the books.
It might get challenged we are dealing with something.
My fear is we don't do anything because of the fear of being challenged.
If we approve it and it's challenged we see what a judge says.
If we don't start it there is nothing for a court to respond to?
>> the appellate courts have to deal with this.
The appellate courts are the ones who have the time.
I'm not trying to disparage the federal district courts, they do a wonderful job.
This is an area, we talked to nationwide exerts.
We are not unique to san jose other jurisdictions at the state and federal level are struggling with.
In california are we will only city putting this forward?
>> right, san francisco ordinance was struck down in 99.
They adopted a strong disclosure ordinance they regulate expenditures.
They haven't gone that far.
San diego has a strong disclosure requirement not as strong as this proposal to regulate the contributions.
The power of soft money is increasingly more potent.
I think people are trying to address it.
>> thank you very much.
>> councilmember reed.
>> 2 more questions.
You said something about you excluded news letters to members?

>> we just didn't include it.

The way the prior ordinance could be read by some it would have been included.

If you were the chamber of commerce and sent a news letter it could have been read as election's communications.

That's not what we meant we narrowed the definition.

>> what about the new letter it is to a political party?

>> it's the same issue.

The idea -- i don't think it's different.

>> the political party it is represent over 60 percent of the people in san jose when you add them up.

>> whether it qualifies mass mailings.

>> that would be the issue whether it qualifies as mass mailing.

The terms now are not intended to get to internal communication it's intended to get to communications to the public.

>> if the democratic party wants to send a communication to it / -- it's going to thousands of households.

Democrats are 30 or 40 percent of the registered voters.

I think that's a problem.

I don't understand the 30-day rule.

If you want to avoid it, a problem do you do it more than 30 days before the election or within the 30 days.

30 days before the election constitutes an electioneering communication.

>> the idea is that most communications that are intended to influence an election are made within 30 days of the election.

That's when people are looking at the issues and the mailbox, trying to determine how they will vote.

>> that's a wrong assumption.

That's why the 30-day rule.

We could try 45 or 60, the further you go the more risk you take.

>> with absentee voting that's another issue.

>> okay.

Thank you.

>> councilmember compos and councilmember cortese.

>> if the chamber has raised all their money and they /said that they want to do a hit piece or whatever we use for a lack of a better word on within 30 days, they can could have paid for it and it can go out in the 30-day time frame?

I'm trying to understand.

Trying to put it in, how it will effect this election.

That's what i'm trying to understand.

>> the election is november 7.

30 days from november 7 is october 8.

There are 31 days in october.

Mass mailing is sent out october 8 or after that would be regulated.

>> it would be regulated in what sense?

>> it would violate the ordinance.

>> what does that mean?

Contributions could not exceed 500 dollars.

Those amounts -- all regulations would kick in in terms of the contribution limits and what's included in the electioneering and communications.

Refer to a candidate and it was mailed within 30 days from october 8 and the 500 dollars would ark ply to those communications.

>> so, that means that today's the 10th?

>> today's the tent.

10th.

They would file it out this weekend?

Even though they paid for it already.

>> assume they paid for it at the mail house and it went out on monday or this weekend it would have violated it?

>> i'm trying to understand it in my reality world not legal terms.

Practical.

In the future, the answer is yes.

I think we have a difficult issue because the prior ordinance has been unenforceable.

We have a situation where contributions are presumably received and are unregulated unless an ordinance is passed tonight.

To the extent some are received wednesday, thursday, friday and the contributions go out on friday the latter half of the week would be regulated.

Any contributions that exceeded 5 00 could not pay for communications for saturday.

>> before today, before the adoption of the ordinance.

Since september 20th to today.

That time frame has been unregulated.

>> councilmember yeager i really appreciate your commenting.

You are right we need to put something to the books and move forward on something.

I'm just very concerned that the practical end of this and what we can enforce and what has already -- we are assuming on everything within our mind as we have this discussion, we really don't know, rick mentioned there are 2 clear camps in this current election.

We don't know what one or the other is doing.

When we are looking at creating policy i'm trying to look at creating policy for the future not for tomorrow.

Or what's going on in this election right now.

I'm very unclear.

You explained it very well and i appreciate that i'm /just.

I have more questions than i'm getting answers now.

I don't know if all my answers will be answered tonight because, as member reed brought up more questions formed in my head.

I was ready to let's move forward and pas this when you brought up the different things more questions came up in my head.

Some of the things he brought up i don't know what he was leading to but it lead me to believe there was underlining in what's going on with money that is being contributed to various organizations or committees.

So, those are all my questions.

Hopefully if i don't have more as my colleagues continue to ask more questions.

Thank you.

>> thank you.

I have concerns about the ordinance.

I want to commend the city attorney's office.

Those who have worked on this for evolving it in the right direction.

Clearly the public policy arguments are right on.

The influence of soft money on our mayoral and city council campaigns is a travesty.

It's having a negative impact on local politics, as i see it.

There is strong public policy argument for doing this.

The public policy argument has to be balanced with the fundamental right contained in the first amendment.

I don't think -- for me this is not a decision that rides on whether or not i think a court appellate court might back us up.

I have to look at it and say as i understand the first amendment will this ordinance trample on first amendment rights and it does or would in my opinion.

I appreciate rick's end there are different schools of thoughts on this i am a first amendment purist.

My concern is more specifically i want to say this to people who worked on it in the city attorney's office.

Hopefully i can get my point across them as they move forward with some version of this at some point.

We don't regulate packs, packs that are not within our jurisdiction.

They are a creature of state law not a creature of city ordinance.

They can support prop 98, prop 83, city council, county supervisor, state senate, whatever.

When we put time, place restrictions, we are putting them on an entity we don't have complete control over.

If we did if we said these are entities we control.

We will not tell you who to support but we will tell you when you can do it.

The manner in which you can do it and the place in which you can do it.

We are going an extra step, we are saying, we are placing time and restrictions on those messages that you deliver that has to do with city council and mayoral candidate.

That's unconstitutional, it's unconstitutional to regulate speech base said on the message it contains.

Especially political speech, you are saying you can say what you want as long as you don't say that.

That's what this ordinance does.

It says you can get our message out as long as you are not promoting a council or mayoral candidate it's getting to the content of the speech.

I have a problem with that even if a court didn't.

I think the courts will have a problem with it.

I think it's different than the federal regulations there we are dealing with jurisdictional matter that they completely control.

They were not going in asking people to segregate a candidate from another.

Sooner or later with this ordinance, if you are going to enforce it you have to say, what did you actually spend the money on?

You have to start looking at the material.

And as soon as you look at the content of the material, you got a problem.

I don't think that's because we are not good draft's man or attorneys are not good attorneys i think we have an extremely difficult, if not i never say impossible but as close to impossible challenge you can ever have in trying to regulate something without infringing on the first amendment because of the nature of the creature that was created by city law.

What we need is the state to go back and tell packs what they can do and can't do so they are not infringing on the local races.

That would be refreshing and may be the proposition passes and something changes the way this works.

We have the fundamental problem.

I can't support it.

I do think that because we have brilliant minds in our city attorney's office and people who are willing to work hard it may make sense, beyond what you have put together so far to do this and meet the test, the test i was trying to describe.

It doesn't do that.

I'm not looking at an academic or competitive exercise to see if we can beat the system or the courts, it will cost a lot of money.

We are not in the academic exercise business.

As i said, in my opinion, my public policy opinion, it's not up to us to be obsessed with changing public policy that we are willing to evolve the very basis of the constitution of the united states.

You evolve environmental laws.

You evolve a lot of different things in terms of the law even tort law evolves.

What constitutes a product liability evolves.

For me the first amendment and the fundament will test what the content of a message based regulation is what evolved it violates that rule.

Thank you.

>> i'm sorry.

>> i wanted to mention, is it fair, the issue we see and what we are trying to do with respect to municipal elections you have authority.

You, as a charter city can regulate municipal elections.

We adopted the election's code a hundred percent.

With variations.

And followed that but the idea on the first amendment, it's important, this is why we crafted this as a contribution limitation.

The courts look to whether we have drawn something close to important interests.

It's trying to control the role of money in soft money.

I think we try to avoid the content side and get on the contribution side.

There are different schools of thought.

>> i respect your opinion and i want you to know that and i wouldn't disparage my colleagues.

I have a strong opinion myself and i wanted to say that so it wouldn't appear my vote was frivolous.

>> councilmember pyle.

>> i have a problem with the 30-day situation in light of the fact we are toward the end of a campaign.

I know we don't have a second, yet.

>> 29 days.

>> 28 days and --

>> right.

So, i was wondering if about the possibility of putting forward a second with the proviso that we defer the 30-day.

I think that needs work.

In spirit of putting some limits in place and satisfying the spirit of what it is we are attempting to do i would offer the second.

I don't know if that's acceptable.

>> the concern i have it come as a package.

We are trying to address with the courts it all come together the timer limits how we define electioneer and communications.

This requires 8 votes there are 8.

The practical, not that i'm counting votes.

The practical side is that it's the best course of action at this point given the questions and concerns is to allow us to go back and go to the election's commission and take this in and look at the other disclosure sections and that gets to your other memo councilmember reed to talk about the other issues to get them to come back with a recommended package, how can we regulate that in the future.

To acknowledge this that it's important to have it in place and there is more work to be done.

>> i respect that we had the last one in place for 26 years?

>> 23.

>> 23.

Amongst friends.

I think whatever we do it has to be done thoughtfully with great consideration and very thoroughly.

You say that second wouldn't work so i will with draw it and go from there.

>> did i hear you say you are sensing we should defer this judge

>> this requires 8 votes to pass.

My point is that it's probably not going to get the 8 votes i would recommend we suggest that we send it back to my office and the election's commission to look at this and other aspects of the city's election ordinance.

I think there are disclosure issues that need to be addressed and other issues that need to be looked at and come back with a package.

>> i feel comfortable with that.

>> we have 3 speakers and another issue on the agenda and that's item 2.

The 3 speakers are here, we have 2 for item 3.

I want councilmember yeager speak and i want to make comments on this section and we can take the speakers and go to the second item.

>> i was prepared to make a motion.

I can count when you need 8 votes and when one says they are not going to support it.

You make us proud.

I am disappointed we are going to go through this election without something in place.

I certainly went into this discussion hoping we could put something in place.

I appreciate councilmember cortese's comments.

I view it as academic exercise.

Until a courtroom tells us something we can do we can't put something forward.

We could have it go later to the election cycle and i make a motion for it to go to the city attorney to do more work and come back in a time he can propose.

>> a motion and second.

Comments?

>> councilmember reed and then williams.

>> i will support the motion we have lost the battle with the special interests group with this election cycle.

You have to look at the money that has flowed into the special interest groups accounts.

They can spend all that money even if it's adopted tonight.

I don't know how we explain the 30-day rule and the 10 days.

It's not going to work.

We are not going to regain control of the campaign in the city like we used to have.

We have indian casino gambling money flowing to the city.

They are making 50,000 to the city.

It's hope less to gain control.

I think it should go to the election's commission to look at the city attorney's recommendations and anything else we can get on the enforcement side.

I will support the motion.

>> councilmember williams.

>> thank you, madam chair.

I'm interested in the disclosure portion.

You were going to bring something back or enhance that so there is a process that it's required to be a part of the total process.

We don't have to go and ask for it.

I don't know how easy that is to do.

I think that makes it whole.

I don't want to spend a lot of work and spend more work after we adopt the ordinance.

>> this is a 23 year old ordinance that has had changes and additions and subtractions.

This area of law is evolving everyday.

I'm not under taking to do a comprehensive view of the entire ordinance by like contribution limits need to be looked at.

>> councilmember compose?

>> this is a question to the maker of the motion.

I know when you made your motion you left is open ended with the time frame.

I'm wondering if we could put a time frame on it so it gives the city attorney something to shoot for.

If we can't make it for that time frame we then can give him more time.

I would hope we can look at this before the year is over.

Before you leave.

>> i'll have the city attorney ask for that.

Part of the unknown about this is whether or not it needs to go to the election's commission.

They have other big issues in front of them there could be a delay.

>> knowing we have an assess am of how long and how much work is also appropriate so we know it's more than 2 months of time that they need to spend at least we have an assessment before the ends of the year what it will entail.

>> i can report that back to you.

>> that would be great.

>> you know i wanted to make an observation and put some issues on the table.

One is that i do also want to thank our staff.

The reason this came to us so late was in part because of requests i made and others made to get outside council to seek other information.

It was interesting to read this and recognize that almost no matter what we put forward someone was going to take some bite out of that whether it's an outside attorney or us up here how we can do a better job in managing elections.

I want to concur with something councilmember reed said.

In many respects, it is horse left the barn in the primary.

Especially watching the challenge that the election's commission had in getting cooperation from compact in particular and getting compliance from compact.

What seems challenging to me is the enforcement component and having a mechanism for enforcement that is quicker.

And that has some cost to it that is real.

And concrete.

What i -- i don't know the answer.

I don't know, do you have compact's reports of what they spent in the primary?

>> i'm not sure we know that.

The election's commission is meeting tomorrow.

>> what's fascinating, do you know the answer in

>> we don't have the report.

>> the complaint was filed in what month?

>> may.

>> and in terms of big dollars as mr. Reed referred to we don't really know what they spent. We haven't been able to get any data in terms of their actions in the primary, is that correct?

>> that's correct.

My concern is the commission not having enough standing to be able to demand information, the commission and from a timing perspective, just the time it takes to investigate the allegations and what happened here to me that was so unfortunate is that the citizen's commission we really given charge to being able to take leadership on behalf of all the residents of the city didn't get the information they needed.

One of the challenges is are we using the right approach as it relates to dealing with election's violations. Does the commission need a different make up does it need to be quasi judicial.

I'm fascinated that an organization in this community this long would be so disrespectful to the city to the group of citizens.

Still after going through the many months it would have taken a court action to get information.

It's related to filing and timing of filing and the expectation related to the rules.

Whether or not it's segregating the funds or what the methodology needs to be that it's plain and clear in that we may need to look at more and quicker disclosure requirements.

So that we get an alarm bell early in the election instead of a week before.

Having been the victim of that scenarios something that concerned me a great deal that there was nothing we could do.

The election is impacted and it is what it is. I'm concerned about that.

The other thing i wanted to mention is that i think it would be important if this does go to the staff over election's commission to interview candidates who were no longer running.

The 30-day restriction, my feeling that is an easy thing for someone to walk into a courtroom and argue it doesn't make sense.

If the absentee ballots come out 30 days before you can't communicate about the ballot.

That's limiting speech that's prohibited.

I recognize the point you made about place, time and manner.

It's consistent, i know this from registering voters given i have done that all over town.

That one seems like it would be hard to make the case that it's not too restrictive.

A thought on that.

It's important to interview candidates as well.

I also wanted to be clear about this idea.

That is that in this document when we refer to mass mailings versus nonmass mailings.

Is there an accepted number in the law.

What's internal versus external communication?

>> under the regulations it's 200, that's a different regulation that's mass mailings at public's expense.

>> this is cutting edge in terms of helping to draw that line?

>> okay.

I want to acknowledge i appreciate that you pushed the envelope.

I'm concerned going to the last 11 days without rules in place.

So, i was anxious for you to come back.

I wanted to say i appreciated it very much.

We have a few speakers.

Each of you will have 2 minutes.

The microphone is here you have to go by the clerk behind you.

I want to welcome up walter wilson.

Followed by ross, followed by [inaudible].

>> good evening.

>> good evening, welcome.

>> regarding the limit of communications to members political parties versus the chamber of commerce news letter.

It makes no sense.

Political parties are by choice.

For years i was a republican that was my choice.

I was glad to get the communications i got to find out what they were doing.

The same thing applies here.

You can't apply the same to the democratic party as the which i am a member.

If people didn't want to get information from the democratic party they wouldn't join.

Rick, i talked to you about this i talked to the attorney general but whether or not an individual one person to be considered a committee if they spent money on a local election.

You said they contacted that.

I wrote me a letter and stated interest individual acting alone is not a committee.

I can send a zillion dollars, the city doesn't have laws to regulate that and they can't.

Because it goes back to what councilmember cortese says about limiting free speech.

One person is not a committee.

If i sent fliers or information to people all over the city with my name that's my committee.

Thank you.

>> ross.

>> thank you madam vice mayor, city council, we are down to 3?

Yes.

>> i'm confused by reading this i'm at a disadvantage because you have sections of the municipal code.

I will try to get through as best a can.

You are talking about limiting on campaign contributions.

I do understand when it says this is not a project.

What i want to get back to is this.

I found it to be unfair in our election system here when this add was run on cindy chavez put up by the chamber.

I'm annoyed by that it's a half truth.

I'm annoyed another add to chuck reed, another half truth.

When you have committees that have money and appeal this and say, we have the freedom of speech.

Where's the voter's freedom of speech that they have to be subjected to this and not get the full truth.

If the candidate running for office can appeal to that committee and then have these people in question who ran this and explain what they are doing.

Then, if the committee feels this half truth was unfair, it's their obligation, this is a germ of an idea, if a committee can do this, charge the committee who put the half truth out then they have to put out the other half of the truth whatever they printed.

>> thank you, ross.

>> thank you.

>> welcome.

>> good evening ms. Chavez and mr. Reed.

I know [inaudible] i tell you that i have to disagree with the position of mr. Reed when you mention that it's hard to track 200 because it's like a cheating the system.

If i do that i have to mention, let's compare money labor with our sign that we put in your campaigns come there and money in american dollars is a thousands of dollars of voluntary people that working for you people campaigns.

No report no where.

Think about this before you people going to punish us with more taxes, please, don't do it.

We are tired of those paying for the campaigns.

Leave us alone.

No more taxes.

Do the things right, do the home work and we will be okay.

We will have a nice place to live and we will be support voting for you people.

Please, no more taxes that's my main concept.

Make the numbers.

How much money is the people volunteering for all these campaigns?

It's a lot of money involved.

>> please, do your home work.

>> thank you.

No more comments.

We have a motion and section.

Second.

In favor.

That passes.

We will move to item 2 that's councilmember reed's memo.

>> i'll turn to councilmember reed.

>> in light of the earlier discussion let me put a motion on the floor my memo that is 6 recommendations be punted to the city attorney with the previous item to consider those matters and work with the election's commission as the city attorney thinks appropriate.

To make sense and bring us back something to live with with one exception modify my memo that says direct the city attorney they must comply with ordinances that remain in effect.

That's a good idea.

I ask that we direct the city attorney to do that so everyone understands we have law in san jose.

>> a motion and a section.

>> i have a question, how are you defining all?

>> everything the court didn't strike down.

All, independent expenditures.

>> all that filed with san jose that we know about.

>> yeah.

>> okay.

We have a motion and second.

David you seconded?

>> other comments or questions?

We have 2 public speakers.

I will invite you up to this podium.

>> welcome.

>> thank you.

>> so funny in my mind i was watching this on television and i thought i wanted to speak as an individual and we can't do that anymore when we take concern /.

Jobs.

As a group that advocated for public financing of campaigns and supported campaign contribution, i want to say how disappointed i am by the actions of calling out the labor union.

I want to hope they don't get to a point in my life or janitors who save 50 cents a month for their children.

I'm here on behalf of the folks that are phone banking.

I'm tired of it being okay to attack people of color and the labor movement.

I'm here to say, that's not okay.

You know what councilmember reed i'm upset about the developers and i'm glad you called out the chamber money.

I think of the people they attacked.

I appreciate you calling that out.

Tonight, as a group that's followed this and seen no actions from the groups that don't /- those of us that hired attorneys and being thoughtful of the law to know there is a group that doesn't have to report where they spent it that mocks the existence of a new law.

If we take a tax for what we do with the differences you know who gave money to us -- as an individual and organization that san jose deserves better.

>> walter.

>> thank you, and i want to agree with you on that.

For that reason i'm directing this to councilmember reed regarding the attack on people of color, particularly terry greg ory and yourself you lied when you took 40,000 in reimbursement.

Innocent until proven guilty.

Ours public servants is a high are standard and that's why mayor gonzales should resign.

Using your own standards i call for your immediate resignation and call the council to forward the issue.

You will receive a complaint tomorrow.

I hope you don't take 6 months to investigate it.

Refer to the district attorney and your possible violation of federal tax laws.

Laundering campaign money, buying political capital.

Making religious donations with tax payer money.

Deducting charitable donations that the city already reimbursed you for.

Mr. Reed you want open government but you refuse to turn your schedule a so the public can determine whether you took a [inaudible].

And after you did that it's a federal crime if you did it you know you did you should resign.

The council should turn this matter to power the people who have the power to subpoena your records normally that's the district attorney but he has a conflict in this case.

>> we have a motion and second on the floor.

All in favor.

Any opposed.

That passes unanimously.

The council will convene in closed session to discuss litigation pursuant to government code -- thank you.