



**AGENDA ITEM
CITY COUNCIL MEETING DATE – JANUARY 15, 2019
BUSINESS ITEMS**

TO : City Council

FROM : City Attorney

SUBJECT : **SECOND STEP OF COUNCIL MEMBER CAMPBELL’S 2-STEP
PROCESS REQUEST TO DISCUSS UPDATING THE CAMPAIGN
ORDINANCES**

EXECUTIVE SUMMARY:

At the December 18, 2018 City Council meeting, Council Member Campbell’s two-step process request was presented to the Council to consider updates to the city’s campaign ordinances. The Council directed staff to agendize the item for discussion. Staff has included preliminary research on this subject.

RECOMMENDATION:

Provide direction on whether the Santa Clara model and any other proposed updates should be considered and whether updates should be discussed and reviewed by an ad hoc group or by the Open Government Commission prior to consideration by the Council.

BUDGET INFORMATION:

The costs associated with drafting the updates are in staff time and outside counsel Steve Churchwell’s time.

BACKGROUND:

Benicia has three campaign related ordinances. They are located in the Benicia Municipal Code. Chapter 1.36, the Voluntary Code of Fair Campaign Practices, was adopted in 2007. Chapter 1.40, the Disclosure of Contributions and Expenditures in Candidate and Ballot Measure Elections, was adopted in 2007 and amended in 2009. Chapter 1.42, the Contribution and Voluntary Spending Limits, was adopted in 2009 and amended in 2011. There are a number of updates that could be made to the ordinances.

One of the changes that could be made to Benicia’s campaign ordinances include a disclosure requirement for “dark money”. The City of Santa Clara adopted an ordinance to require disclosure of contributions of \$100 or more by any organization that “affect or are intended to affect” an election.

Another change that could be made would be to require more disclosure related to polling. In the past election, the earlier telephone poll did not have disclosures like a campaign poll would have.

It may be possible to require disclosure after the poll is complete. The post poll disclosure would help mitigate any arguments about chilling First Amendment rights. From the recent experience, the name of the poll sponsor and the questions would be disclosure items the public would be interested in. Depending on the type of polling, polling is considered core political speech so regulations will have to be carefully drafted to avoid a problem.

Attached is a list of other changes that could be made to the ordinances.

Like many campaign regulations, it will be next to impossible to prevent all acts that cause angst for the supporters or opposers of candidates or causes. But greater disclosure can, at least, help the voters to become more informed.

NEXT STEPS:

Implement Council’s direction.

ALTERNATIVE ACTIONS:

Council may provide different direction.

General Plan	N/A
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Strategic Plan	N/A
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CEQA Analysis	The proposed action is exempt from CEQA as it is not a project as defined in CEQA Guidelines Section 15378. The proposed action to update campaign regulations will not result in direct or indirect physical changes in the environment.
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Attachments:

1. Council Member Campbell’s two-step process request
2. Santa Clara Dark Money Ordinance
3. Campaign Disclosure Forms and Filings from City of Santa Clara Webpage
4. Campaign Regulations from City of Santa Clara Web Page
5. Government Code 84222 Multipurpose Org
6. Government Code 84211 Contents of Statement
7. List of Other Possible Updates

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