DATE: January 27, 2020

SUBJECT

Waive first reading and introduce ordinance relating to mandatory campaign contribution limits and voluntary expenditure limits

RECOMMENDATION

Waive the first reading and introduce an ordinance adding City Code Chapter 2, Article X, relating to campaign contribution limits and voluntary expenditure limits as proposed by the City Council Governance Sub-Committee.

STRATEGIC INITIATIVE

Government Operations

BACKGROUND

California’s Political Reform Act (the “Act”) requires disclosure of campaign contributions and expenditures in connection with state and local elections. The Act authorizes local agencies to enact campaign regulations that do not prevent compliance with the Act itself, and a number of local jurisdictions do so. In addition, while government-imposed mandatory expenditure limits are prohibited, the use of voluntary expenditure limits has been found acceptable by the courts so long as such regulations are truly voluntary and not coercive.

A campaign contribution limit prohibits candidates for elective office from accepting campaign donations in excess of a specified amount over the course of an election campaign. Campaign donors are subject to the same restriction.
A voluntary expenditure limit provides for candidates for elective office to voluntarily subject themselves to restrictions on the amount of money that their campaign will spend. Incentives are typically provided for candidates if the voluntary expenditure limit is accepted.

The City of Redwood City does not currently regulate campaign contributions or expenditure limits for City elective office.

Over the course of 2019, the Governance Sub-committee considered campaign finance reform measures, including a campaign contribution limit and a voluntary expenditure limit. On July 17, 2019 and August 26, 2019, the Governance Sub-committee provided direction to staff on establishing a campaign contribution limit and voluntary expenditure limits. On November 18, 2019 and December 17, 2019, the Sub-committee provided further direction on the elements of both components, and is now recommending approval of the proposed ordinance.

ANALYSIS

The Governance Sub-committee and staff reviewed regulations from several other cities that have established either contribution limits or voluntary expenditure limits. A summary of those regulations is set forth in the table below.

<table>
<thead>
<tr>
<th></th>
<th>Contribution Limit</th>
<th>Voluntary Expenditure Limit</th>
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<tbody>
<tr>
<td>Belmont</td>
<td>$500</td>
<td>--</td>
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<tr>
<td>Mountain View</td>
<td>--</td>
<td>$25,539 (2018)</td>
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<tr>
<td>Oakland</td>
<td>$200/ $400 (persons/committees)</td>
<td>$1.50 - 0.50 per resident $95,000 - $472,000 (2019) (depending on office)</td>
</tr>
<tr>
<td>Santa Cruz (City)</td>
<td>$350</td>
<td>$0.60 per resident $39,872.40 (2018)</td>
</tr>
<tr>
<td>San Mateo (City)</td>
<td>$500 (individuals) $1000 (organizations)</td>
<td>--</td>
</tr>
<tr>
<td>Santa Clara (City)</td>
<td>$290</td>
<td>$40,500</td>
</tr>
</tbody>
</table>

The Sub-Committee discussed the approaches taken in other communities and how they would apply in Redwood City, particularly in light of district-based elections. After comprehensive discussion, the Sub-Committee recommended the proposed ordinance, which would accomplish two main objectives: the imposition of mandatory contribution limits and the creation of voluntary expenditure limits, both for elective City offices.
Contribution Limits

The contribution limit would be set at $1,000 for individuals and organizations for any particular election, and would exempt contributions that are returned within 72 hours of receipt as well as personal funds. Penalties for violation of the contribution limit would be a misdemeanor, the prosecution of which would need to commence within four years from the date of the violation. A fine of $1,000 for each violation could also be imposed, preceded by notice of the apparent violation from the City Clerk to the candidate and a request to correct the violation within three business days. A failure to correct the violation would require the candidate to cease all campaign contributions, expenditures and communications, and pay the fine to the City’s General Fund.

Voluntary Expenditure Limit (VEL)

VEL Procedure:

- Candidates for elective City office would advise the City Clerk prior to filing nomination papers whether they will opt to limit their campaign expenditures.
- Within three business days after the deadline to file nomination papers, a candidate will have one opportunity to reverse their decision and notify the City Clerk that they are declining to accept the VEL.
- A candidate wishing to accept the expenditure limit must also form a campaign committee in accordance with State law (the Political Reform Act), and either spend $1,000 in support of their candidacy or obtain 250 signatures of City electors.

VEL Benefits:

- The candidate would be prominently identified on the City’s website with a 400-word written statement.
  - A disclaimer from the City Clerk would be posted on the website stating that the candidate statement was posted exactly as submitted with no editing or proofreading, and for informational purposes only.
  - The disclaimer would also provide that posting the statement does not exempt the candidate from civil or criminal liability for false, slanderous or libelous statements.
- The statement would be posted within five business days of receipt, and could be printed in English and/or another language of the candidate’s choice (as provided by the candidate and not translated by City staff).
- Candidates accepting the VEL could indicate as such on their campaign materials if they chose to do so.
- Other candidates not agreeing to the VEL could also submit a statement to the City Clerk for inclusion on the City’s website (in exchange for a fee established by Council resolution) but below statements from candidates that agree to the VEL.
VEL Amount:

- The amount of the VEL would be initially set based on a formula, namely $2.25 per resident in the electoral district for each election, with the residency of each district determined by the latest U.S. Census figures.
- The City Clerk would publish the VEL amounts no later than 60 business days following ordinance adoption.
- Beginning on January 1, 2021, the City Clerk would in odd-numbered years increase the VEL amount based on increases in the Consumer Price Index, rounded to the nearest thousand, and published no later than February 1 of each odd-numbered year.
- The ordinance would exempt certain costs from the VEL, namely:
  - Candidate filing fees
  - Returned contributions
  - Legal costs
  - Non-monetary contributions defined by the Fair Political Practices Commission (see FPPC Reg. § 18215(b)(2)), and
  - Expenses for a post office box or a post-election party.

VEL Penalty:

The penalty for violation of the VEL would amount to public notification. Specifically, within 72 hours of the City’s knowledge of a VEL violation, the City would:

- Send notice of the violation to a newspaper of general circulation for publication,
- Post the notice on the City’s website and at City Hall, and
- Remove the candidate’s 400-word written statement from the City’s website.

If the candidate pays a required fee, the statement would instead be relocated on the website rather than removed altogether.

FISCAL IMPACT

Implementation of the ordinance may be accommodated within existing staff resources. At this time, staff does not expect to have to prosecute violations of the contribution limit; if a significant number of prosecutions were required, it would detract from completion of other assigned work.
ENVIRONMENTAL REVIEW

The proposed ordinance is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

PUBLIC NOTICE

Public Notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

ALTERNATIVES

The City Council may decline to introduce the ordinance, or may direct staff to make changes to the ordinance after conducting research as needed.

ATTACHMENTS

Attachment A - Draft Ordinance

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