



AGENDA REPORT

Meeting Date: February 3, 2011
Item Number: F-4
To: Honorable Mayor & City Council
From: Laurence S. Wiener, City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO DELETE THE LIMIT ON CONTRIBUTIONS TO INDEPENDENT EXPENDITURE COMMITTEES SUPPORTING OR OPPOSING CANDIDATES FOR LOCAL OFFICE
Attachments: 1. Ordinance

RECOMMENDATION

In order to comply with recent judicial interpretations of the First Amendment's protection of political speech, it is recommended that the City Council adopt this ordinance to remove the limit on contributions to independent expenditure committees supporting or opposing candidates for local office.

INTRODUCTION

Like many cities, Beverly Hills has placed limits on contributions to candidates for City Council and contributions to candidate controlled committees. The purpose of these limits is to prevent corruption and the appearance of corruption that may arise from excessively large contributions to candidates for City office. These types of contribution limits have been consistently upheld by the courts for more than thirty years.

In addition, as part of its legislative scheme regulating campaign contributions, the City has also placed limits on contributions to independent expenditure committees that support or oppose candidates. Independent expenditure committees are those committees that may support or oppose a candidate, but are not affiliated with a candidate. Despite the long standing presence of such limitations in many state and local codes, recent case law has invalidated the application of contribution limits to such independent expenditure committees.

DISCUSSION

As the City Council is aware, the First Amendment protects the freedom to engage in political speech and political association. Courts recognize that campaign contributions are protected by the First Amendment as a form of political speech and as an exercise of the right to associate with the candidate of one's choice.

Nevertheless, courts have upheld reasonable limits on campaign contributions to candidates, candidate controlled committees, and political parties because these limits serve an important governmental interest in avoiding corruption and the appearance of corruption that can arise from large campaign contributions.

Within the last twelve months, a chain of federal court decisions first called into question and then struck down the application of campaign contribution limits to independent expenditure committees that support or oppose candidates. Unlike candidate controlled committees, independent expenditure committees are not affiliated with or controlled by a candidate. The courts have concluded that limits on contributions to independent expenditure committees are not necessary to advance the governmental interests in avoiding corruption and the appearance of corruption.

For many years, Section 1-8-3(A)(3) of the Beverly Hills Municipal Code has imposed a limit on contributions to independent expenditure committees that support or oppose candidates. In light of the recent court decisions discussed above, Section 1-8-3(A)(3) is no longer enforceable and should be repealed and removed from the Municipal Code. The proposed ordinance would do so. In the interim, and prior to the effective date of the ordinance, the City will not enforce the limit on contributions to independent expenditure committees.

As this ordinance relates to an election, it will take effect immediately upon its adoption. The ordinance is scheduled for adoption at the City Council's next regular meeting of February 15, 2011.

FISCAL IMPACT

The ordinance will not have any fiscal impact on the City.

Laurence S. Wiener 
Approved By

Attachment 1

ORDINANCE NO. 11-O-_____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO
DELETE THE LIMIT ON CONTRIBUTIONS TO
INDEPENDENT EXPENDITURE COMMITTEES
SUPPORTING OR OPPOSING CANDIDATES FOR LOCAL
OFFICE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY
ORDAINS AS FOLLOWS:

Section 1. Subsection (A)(3) of Section 1-8-3 of Chapter 8 of Title 1 of the Beverly Hills Municipal Code is hereby deleted in its entirety to remove the limit previously imposed on contributions to, and the solicitation of contributions by, an independent expenditure committee.

Section 2. Subsections (A)(4) and (A)(5) of Section 1-8-3 of Chapter 8 of Title 1 of the Beverly Hills Municipal Code are hereby renumbered as Subsections (A)(3) and (A)(4), respectively.

Section 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 4. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation, published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his

certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 5. Effective Date. The City Council hereby declares that this Ordinance relates to an election and shall take effect immediately upon its adoption.

Adopted:

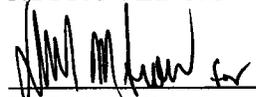
Effective:

JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager