



AGENDA REPORT

Meeting Date: November 5, 2008
Item Number: F-5
To: Honorable Mayor & City Council
From: City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS INCREASING THE VOLUNTARY EXPENDITURE CEILING FOR CITY ELECTIONS, INCREASING CONTRIBUTION LIMITS, ELIMINATING THE APPLICATION OF CONTRIBUTION AND EXPENDITURE LIMITS IN RECALL ELECTIONS, MODIFYING RULES REGARDING AGGREGATION OF CONTRIBUTIONS AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends that the City Council introduce the ordinance.

INTRODUCTION

This ordinance will increase voluntary expenditure and contribution limits for City Council and Treasurer elections, will make it easier for spouses to make separate contributions with one check, and will eliminate contribution and expenditure limits in recall elections to comply with a recent court decision.

DISCUSSION

Per the Council's request, this ordinance (1) increases the voluntary expenditure ceiling for City Council and City Treasurer candidates to \$75,000; (2) increases the contribution limits for City Council and City Treasurer elections to \$125 for candidates who do not accept voluntary spending limits, to \$300 for candidates who do accept voluntary spending limits, and to \$300 for committees which support or oppose candidates; (3) allows spouses to make a combined donation on one check if either (a) the check is from a joint checking account with the names of both spouses printed on the check, or (b) the check is accompanied by a letter from either spouse indicating that the check is from both spouses.

In addition, in response to a recent decision by the Ninth Circuit Court of Appeals, this ordinance modifies the rules for campaign contributions and expenditure limits in recall elections. In its decision, the Ninth Circuit barred San Diego from applying its contribution limits to groups organized to recall city councilmembers during the signature-gathering phase of a recall election. The Ninth Circuit found that San Diego's interest in preventing corruption in the political process was not served by limits on contributions to recall advocates because these advocates were not holding or seeking

Meeting Date: January 10, 2005

to hold public office. Responding to this decision, this ordinance lifts the contribution limits on groups advocating for or against a recall.

In the interest of fairness, this ordinance also lifts the limits on contributions for candidates running to replace the office holders that are targeted by the recall. Since the replacement election occurs at the same time as the vote on the recall, simply following the limited holding of the Ninth Circuit would lead to a result where a sitting council member targeted for recall would not be subject to contribution limits, but a candidate running to replace the Council member at the same election would be subject to contribution limits. Thus, with this revision, officeholders and candidates in recall elections will be able to raise and spend funds in amounts exceeding the regular contribution and expenditure limits.

FISCAL IMPACT

The ordinance will have no material financial impact on the City.



Laurence S. Wiener, City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
INCREASING THE VOLUNTARY EXPENDITURE
CEILING FOR CITY ELECTIONS, INCREASING
CONTRIBUTION LIMITS, ELIMINATING THE
APPLICATION OF CONTRIBUTION AND
EXPENDITURE LIMITS IN RECALL ELECTIONS,
MODIFYING RULES REGARDING AGGREGATION
OF CONTRIBUTIONS AND AMENDING THE
BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES
ORDAIN AS FOLLOWS:

Section 1. Section 1-8-2 of Chapter 8, Title 1 of the Beverly Hills Municipal Code is hereby amended to revise the definition of "candidate" and to include new definitions of "recall election," "replacement candidate," and "target officer" for the purpose of exempting recall elections from the contribution and expenditure limits of the Municipal Code. These definitions shall read as follows:

"CANDIDATE: An individual who is listed on the ballot or who has qualified to have write in votes on his or her behalf counted by election officials for nomination or election to the city council or the office of city treasurer, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to the city council or to the office of city treasurer, whether or not the specific city office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. Notwithstanding the above, "candidate" does not include a replacement candidate or a target officer. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to section 84214 of the California Government Code. "Candidate" does not include any person within the meaning of section 301(b) of the federal election campaign act of 1971.

RECALL ELECTION: is an election conducted pursuant to Division 11 of the Elections Code. For purposes of this Chapter, a recall election begins when a member of the city council or the city treasurer is served with a notice of intention to circulate a recall petition pursuant to section 11021 of the Elections Code and a recall election ends when any of the following occurs: (1) the city clerk finds that the notice of intention to circulate a recall petition for the target officer fails to meet the requirements of sections 11020-24 of the Elections Code; (2) the proponents of the recall of the target officer fail to file a valid recall petition within the deadlines required by section 11042 of the Elections Code; (3) the city clerk refuses to accept for filing the recall petition for the target officer pursuant to section 11222 of the Elections Code; (4) the city clerk certifies the recall

petition for the target officer to be insufficient pursuant to sections 11224 or 11225 of the Elections Code; or (5) the recall election is held.

REPLACEMENT CANDIDATE: means a candidate in a recall election.

TARGET OFFICER: means an elected officer who is the subject of a recall election.”

Section 2. Subsection A of Section 1-8-3 of Chapter 8, Title 1 of the Beverly Hills Municipal Code is hereby amended to increase the contribution limits for City Council and City Treasurer elections to one hundred and twenty-five dollars (\$125) for candidates who do not accept voluntary spending limits, to three hundred dollars (\$300) for candidates who do accept voluntary spending limits, and to three hundred dollars (\$300) for committees which support or oppose candidates, and to read as follows:

“A. Limits On Contributions By Persons And Committees:

1. Except as provided in this section and section 1-8-4 of this chapter, no person or committee shall make to any candidate, including the controlled committee of such candidate, a contribution in excess of one hundred and twenty-five dollars (\$125.00) for any single election at which the candidate is attempting to be, or is, on the ballot. Additionally, no candidate or candidate's controlled committee shall solicit or accept any contribution that will cause the amount contributed by the contributor to the candidate or the candidate's controlled committee to exceed one hundred and twenty-five dollars (\$125.00) for any single election at which the candidate is attempting to be, or is, on the ballot.
2. Notwithstanding subsection A1 of this section, if a candidate accepts the voluntary expenditure ceiling established by section 1-8-4 of this chapter, no person or committee shall make to any such candidate, including the controlled committee of such candidate, a contribution in excess of three hundred dollars (\$300.00) for any single election at which the candidate is attempting to be, or is, on the ballot. Additionally, no candidate or candidate's controlled committee shall solicit or accept any contribution that will cause the amount contributed by the contributor to the candidate or the candidate's controlled committee to exceed three hundred dollars (\$300.00) for any single election at which the candidate is attempting to be, or is, on the ballot.
3. No person shall make to any committee which supports or opposes any candidate or candidates, other than a candidate's controlled committee subject to subsections A1 or A2 of this section, and no such committee shall solicit or accept from any such person a contribution or contributions totaling more than three hundred dollars (\$300.00) for any single election.
4. The city council may, by resolution, adjust the contribution limit established in this subsection A in October of every even numbered year to reflect any increase or decrease in the California consumer price index since the last such adjustment of the contribution limit. Such adjustments shall be rounded to the nearest ten-dollar (\$10.00) amount.
5. The limitations of this subsection A shall not apply to contributions of a candidate's personal funds to his or her controlled campaign committee on behalf of his or her own candidacy, and shall apply to contributions from the candidate's spouse.”

Section 3. Subsection D of Section 1-8-3 of Chapter 8, Title 1 of the Beverly Hills Municipal Code is hereby amended to allow spouses to make their separate contributions on one check if accompanied by a letter indicating the contribution is from both spouses and to read as follows:

“D. Family Contributions: Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated. Nothing in this chapter shall prevent a husband and wife from making such separate contributions through the use of one check if (1) the check is from a joint checking account with the names of both spouses printed on the check, or (2) the check is accompanied by a letter from either spouse indicating that the check is from both spouses. Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed one-half (1/2) to each parent or the total amount to a single custodial parent.”

Section 4. Subsection A of Section 1-8-4 of Chapter 8, Title 1 of the Beverly Hills Municipal Code is hereby amended to increase the voluntary expenditure ceiling for City Council and City Treasurer elections to seventy-five thousand dollars (\$75,000.00) and to exempt recall elections from the voluntary spending limit and to read as follows:

“A. A voluntary expenditure ceiling is hereby established for each election for City elective office in the amount of seventy-five thousand dollars (\$75,000.00). As used in this Section, the term “City elective office” shall mean the offices of Member of the City Council and City Treasurer. This Section shall not apply to recall elections.”

Section 5. 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 her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 6. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

BARRY BRUCKER
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:

RODERICK J. WOOD, CCM
City Manager