



Agenda Report

18-604

Agenda Date: 5/15/2018

REPORT TO COUNCIL

SUBJECT

Adopt Ordinance No. 1979 Amending Chapter 2.130 of the Santa Clara City Code to enact regulations regarding contributions influencing local City elections (Dark Money)

BACKGROUND

Proposed Ordinance No. 1979 was passed for the purpose of publication on April 24, 2018. Pursuant to City Charter Sections 808 and 812, a summary of the proposed Ordinance No. 1979 was published on May 9, 2018 and copies were posted in at least three public places.

On October 2, 2017, the Ethics Committee considered a report by the City Attorney regarding an ordinance to regulate and require the disclosure of the source of funds that ultimately are used in local City of Santa Clara elections (Dark Money). With discussion already having occurred at the committee level, and changes being considered to the Council Committee structure, staff is presenting to the full Council an ordinance in accordance with the goals discussed by the Ethics Committee. The opportunity to consider items impacting the November 2018 General Election provides full transparency to potential candidates and the public about potential changes in local elections and, specifically, to the disclosure requirements relative to financial campaign contributions.

DISCUSSION

The ordinance (Attachment 1) would add a new Article to Chapter 2.130 of the Santa Clara City Code to regulate the disclosure obligations of entities that make contributions of \$100 or more that affect or are intended to affect a local Santa Clara election to City office or for or against a local Santa Clara City ballot measure. The ordinance is intended to be interpreted harmoniously with existing state regulations that are enforced by the California Fair Political Practices Commission.

Government Code Section 81013 provides that a local agency may impose additional requirements on any person if the requirements of state law do not prevent the person from complying with the Fair Political Practices Act. The proposed ordinance would go beyond the state regulations in that it would require that all contributions of \$100 or more expended in a local City of Santa Clara election, including contributions to Multipurpose Organizations that may not be required to be disclosed under state regulations, must be reported regardless of amount.

The new Santa Clara regulations would be enforceable under the existing enforcement provisions of Article VI of Chapter 2.130 (see Attachment 2 for the full text of Article VI). Those enforcement provisions include: prosecution as an infraction or a misdemeanor; civil action for injunctive relief or for damages by any City resident that can include recovery of treble damages; cost of litigation including attorneys' fees; disqualification of an elected official who benefited from the contribution from voting on a matter in which the contributor has a financial interest.

The new regulations would also be incorporated into all City contracts as provisions of law that must be adhered to. The proposed ordinance would make violation of the new regulations a material breach of contract and grounds for termination of the contract. The contributions covered would be those made by the contractor or any intermediary of the contractor.

The City will file a copy of the Ordinance with the FPPC in accordance with Government Code Section 81009.5.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is no additional cost to the City other than staff time. Staff will prepare an implementation plan that provides for additional resources if needed to implement and enforce this ordinance. As with other initiatives, staff’s intent is to absorb the workload as much as practical.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Adopt Ordinance No. 1979 amending Chapter 2.130 of the Santa Clara City Code to enact regulations regarding contributions influencing local City elections (Dark Money).

Reviewed by: Brian Doyle, City Attorney

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Ordinance No. 1979