

**City Of Milpitas**  
**APPROVED MINUTES**  
**Campaign Finance Reform Task Force**  
**Milpitas City Hall Committee Meeting Room**  
**Wednesday, April 27, 2011**

- 1. Call to Order/  
Roll Call** Councilmember Polanski called the meeting to order at 5:30 PM
- Present: Councilmember Althea Polanski  
Councilmember Armando Gomez
- City Staff: Assistant City Attorney Bryan Otake  
City Clerk Mary Lavelle
- 2. Approval of  
Agenda** Motion: to approve the agenda, as submitted  
Motion/Second: Councilmember Polanski/Councilmember Gomez  
Motion carried by a vote of: Ayes: 2  
Noes: 0
- 3. Approval of  
Minutes** Motion: to approve the minutes, as submitted  
Motion/Second: Councilmember Polanski/Councilmember Gomez  
Motion carried by a vote of: Ayes: 2  
Noes: 0
- 4. Public  
Forum** None
- 5. Old  
Business:  
Initial Staff  
Response on  
Campaign  
Finance Issues** Assistant City Attorney Bryan Otake provided the City Attorney's Office's responses to several of the questions that had been posed at the March 23, 2011 meeting by the Task Force members. Mr. Otake reviewed the City Attorney's Office's memorandum dated April 26, 2011, listing the responses to the Task Force's questions on campaign finance reform issues. The issues and Mr. Otake's responses are summarized below:
- Limits on Campaign Contributions: The law allows a city to place limits on the amount a person or entity can contribute to a candidate's campaign, so long as the limitations are reasonable and "closely drawn" to important government interests. Nearby cities with such limits are: Fremont, at \$540.00 per person/entity, Santa Clara and Gilroy both at \$250.00 per person/entity.
  - Limits on Campaign Expenditures: The law does not allow a city to create mandatory limits on the amount a candidate wishes to spend on his or her campaign.
  - Voluntary Expenditure Limits: The law does allow candidates to voluntarily limit their campaign expenditures. There are some city programs where if a voluntary expenditure limit is set, the contribution limit then increases. Participation in Santa Clara's voluntary expenditure limit program, for example, increases the contribution limit for candidate participants to \$500.00. Generally, cities with voluntary expenditure limit programs allocate the limits based on population, i.e., Gilroy and Danville allocate a limit of \$.50 per resident, Santa Cruz is \$.40 per resident, and San Jose is \$1.00 per resident. Mountain View does not use the per resident formula in allocating its limit amount, which was \$20,000 in 2010, and adjusts the amount each year for

inflation. Councilmember Gomez inquired as to whether there may be different spending limits depending on whether it is a city council race or a mayor's race. Mr. Otake responded that if there was a reason for such differences, that could be done. Councilmember Gomez asked what the incentive is for voluntary expenditure limits. Mr. Otake responded that it is basically a policy decision as to whether such limits are good for the democratic process.

- **Bans on Transfers Between Candidate Funds:** A 2002 Attorney General Opinion opines that it is legal for a candidate to transfer funds from one of his/her campaign funds to another of his/her campaign funds. A recent U.S. federal case is consistent with that opinion. Councilmember Gomez asked if a candidate changes the seat which he is campaigning for before the end of a race, can he then transfer what he had raised for the original campaign to the new campaign fund and then receive contributions from the same individuals/entities he had received them from in the first campaign. Mr. Otake indicated this would not be permissible during the same election.
- **Origin of Current Contribution Limit:** Milpitas' current contribution limit of \$350 was adopted in 1996 by City Council. There is no clear indication in the City's record of the basis for that amount as the limit.
- **Index Adjustment of Current Contribution Limit:** Many cities adjust their contribution limits for inflation. The City of Milpitas does not presently do this. The City's contribution limit of \$350 adjusted per the Consumer Price Index (CPI) from 1996 to the present would be \$498.49.
- **Limitations on Campaign Contributions to Commissioners:** There is a state law restriction that applies only to city officials who deal with licenses, planning approval, zoning approval, entitlements and land-use related decisions. For Milpitas, this essentially only applies to Planning Commissioners. Under this restriction, those commissioners who are running for City Council are barred from participating in any such land use decisions if they received more than \$250 in campaign contributions from any person or entity which sought such approval from the city during the 12 months preceding or the three months following the decision. This state law does not apply to city council members, but the Council could impose such a restriction if they so choose.
- **Candidate Duties Regarding Aggregation:** The City may impose restrictions on aggregation of campaign contributions. If the City chooses to do so, it should be determined what duties the candidates will have when looking at whether a contribution aggregation problem exists. One such duty would be asking who owns or is on the board of directors of business entities that make contributions which appear to require aggregation.

Following Mr. Otake's presentation, Councilmember Gomez suggested commenting on the items that the City may wish to move forward on. He stated the City may want to move forward on updating the amount of its contribution limit and creating an aggregation policy, possibly bringing both of these items at the same time.

Councilmember Polanski stated that she believes it is important to look at bringing forward the aggregation item. She indicated that she is still interested

in the issue of Planning Commissioners and City Council having a difference in the restriction of participating in land use decisions on requests by contributors and that she believes that both policy bodies should have the same restriction, regardless of the fact that the state law restriction does not apply to City Council. She requested information on how the City can impose this restriction on elected officials, and whether other cities have done this. Councilmember Gomez stated that he first would like to know the origin of the state law and how they came up with it. Mr. Otake responded that cities may create restrictions that go beyond state law and that staff can look into these questions and report back.

Councilmember Polanski also stated that she always thought that maybe the contribution limit was too high. In looking at the CPI, she would like to consider presenting to Council the voluntary expenditure limit, possibly on a per resident basis. She requested staff provide at the next meeting the census number of residents/voters in Milpitas. Mr. Otake responded that staff would provide the information.

It was discussed that at the next meeting the City Attorney's Office would provide responses to other questions asked by Task Force members on March 23, 2011, in addition to responses to the current requests for information.

**6. Next Meeting Date** June 9, 2011, 6:00 p.m.

**7. Adjournment** Councilmember Polanski adjourned the meeting at 6:00 p.m.

Respectfully submitted,

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Susan Barrett, Recording Secretary