ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 07/29/2015
ITEM FROM FINANCE COMMITTEE MEETING OF 07/13/2015

ISSUE:

18. Request for Approval of an Ordinance Amending The Campaign Code, Section 9.2 SFCC 1987 to Modify the Definitions of "Contribution" and "Expenditure" and Create a Definition for "Coordinated Expenditure"; to Modify Provisions Related to Independently Sponsored Campaign Communications and Reporting; to Modify Provisions Related to the Contents of Campaign Finance Statements; and to Make Such Other Changes as are Necessary to Clarify the Provisions of the Campaign Code. (Councilor Ives) (Zachary Shandler)

Committee Review:

City Council (request to publish) (approved)	06/24/15
Finance Committee (postponed)	06/29/15
City Council (public hearing)	07/29/15

Fiscal Impact – No

FINANCE COMMITTEE ACTION:

Move forward with no recommendation.

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

With amendments.

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	Acting Chair X		
COUNCILOR LINDELL	Excused		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ	Excused		

06/29/2015

Nancy R. Long
Mark E. Komer

Little V. West
Justin W. Miller

Long, Komer & Associates

Attorneys and
Counselors at Law

May 22, 2015

Via hand delivery

Dear Mayor Gonzales and City Councilors:

I write to you on behalf of the Ethics and Campaign Review Board to inform you that the Board has completed its review of City of Santa Fe campaign ordinances and has developed a number of recommendations for consideration by the governing body.

The Board has worked diligently on the recommendations since the city's most recent municipal elections. The Board has held numerous meetings, drafted and debated various proposals, heard from experts in the field, received testimony from candidates about first hand experiences with the campaign finance laws, and listened to public comment and input from a variety of dedicated citizens.

Broadly speaking, the recommendations address four major areas of concern to the Board and the public: (1) coordination between candidates and independent groups; (2) transparency of campaign financing; (3) revising the process by which a candidate qualifies for public financing; and (4) providing for a matching fund allocation to improve the ability of publicly financed candidates to be competitive with privately financed candidates. The recommendations represent the Board's best effort to suggest ways to improve the City's campaign and public campaign financing system, given the existing legal constraints and practical realities with which we are all confronted.

We hope you will find the recommendations useful. Each Board member stands willing to discuss and explain the work of the Board, in whatever manner that may be helpful to the governing body.

If a councilor would like to sponsor some, or all, of the recommendations as an ordinance change, please contact City Clerk Vigil so your legislation can be introduced at the June 10, 2015 council meeting in order to get it on a timely tract for adoption prior to the commencement of the 2016 campaign season.

Sincerely,

Justin Miller
Chair, ECRB

2200 Brothers Rd | PO Box 5098 | Santa Fe NM 87502 | 505-982-8405 | email@longpoundkomer.com

ECRB Submittal to Finance Committee: June 29, 2015

To: Mayor Gonzales, Councillor Ives, and members of the Finance Committee

From: Ruth Kovnat, Member of ECRB

Re: Items 20 and 21, Consent Calendar, Finance Committee Meeting, June 29, 2015

This is to reiterate the desire and willingness of the members of the Ethics and Campaign Review Board to be available to answer any questions that you may have about the Board's proposed revisions to the Campaign Code and to the Public Finance Code that were adopted by the ECRB at its meeting of May 20 2015.

You have already received a letter from the Board Chair, Justin Miller that describes the work of the Board in developing these proposals. The two bills in your packet represent that work although there are some inconsistencies between what the Board adopted and the materials in the packet you have before you. I will highlight the most important one and of course, we can go over its significance at a more appropriate time. For now, I simply want to alert you to the fact that the ECRB proposal to amend the Public Finance Code deletes the definition of "qualifying period" as shown on page 7, lines 1-7 of submittal identified as item 20 on your consent calendar and it is important to the proper functioning of the system contained in the proposed Public Finance Code that the definition be deleted.

These two bills represent a great deal of work and thought by the ECRB with the able assistance and invaluable help of Zach Shandler and the City Attorney's Office and Yolanda Vigil, the City Clerk. As you know, the Board 's duties include review of the Campaign Codes after municipal elections for the purpose of proposing improvements to the Governing Body for its consideration. As you also well know, the municipal elections of 2014 revealed some weaknesses in the current system particularly in the Public Finance Code. Because the City Charter mandates that the City have a publicly financed campaign option, we are obliged to and should correct the weaknesses in the current system.

These bills address those issues. Under the current ordinance, candidates who accept public financing from the city are not permitted to accept private contributions beyond limited amounts needed to provide seed money to enable them to qualify for public financing. Because of U.S. Supreme Court decisions, apart from requiring disclosure of contributions of expenditures to independent spenders, there can be no regulation of the amount of contributions to or expenditures made by independent spenders . This cripples the ability of publicly financed candidates to combat well-financed opposition

by either independent spenders or privately-financed opponents . Only expenditures coordinated with candidates or their agents are subject to regulation. A serious deficiency in our current codes is the lack of clarity in the definition of "coordinated expenditure." These proposed bills address these problems by clarifying when expenditures made by independent political organizations are made under circumstances that cause them to be "coordinated" with those of candidates as well as describing situations that do not constitute "coordination." With respect to the requirement of disclosure by independent spenders, the ECRB proposals do two things: They strengthen the current code by expanding the definition of campaign activities engaged in by independent spenders to cover more campaign activities than are currently covered ; they also require more detailed disclosure by independent organizations of the sources of their funds.

The proposed revisions to the Public Finance Code address the disadvantage in the current Code that publicly financed candidates have when they are opposed by candidates who are supported by independent spenders whose uncoordinated spending cannot be regulated or by privately-financed opponents. The revisions are designed to give the publicly financed candidate the resources necessary to combat such opposition so far the Governing Body is able to do so within the limits of the U.S. Constitution. So the proposal to amend the Public Finance Code eliminates the seed money category and allows publicly financed candidates to raise small contributions not exceeding $100.00 from private donors. Limiting the amount of contributions to $100.00 from individual private donors is intended to be to be faithful to the purpose articulated in the current code: "to eliminate the danger of undue influence on elected officials caused by the private financing of campaigns." The amendment to the Public Finance Code proposes to provide a 4-1 match for such private contributions to meet the purposes stated in the current code of providing candidates with sufficient resources to communicate with voters and reducing officeholders from the need to raise campaign money, "thus allowing them more time to carry out their official duties. The Board is satisfied that the fiscal integrity of the public finance fund is protected by the caps imposed on the amount that a candidate may receive from the fund and in the provisions for pro rata reductions in amounts that are available from the fund if there are large numbers of candidates in any particular electoral race.

We hope that this is helpful to you during your deliberations on the ECRB proposals. Members of the Ethics and Campaign Review Board are present and again will be pleased to respond to any questions that you may have.

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY
Bill No. 2015-26
Campaign Code

SPONSOR(S): Councilor Ives

SUMMARY: The proposed ordinance to the Campaign Code (Chapter 9-2) does the following:

- modifies the definitions of "contribution" and "expenditure" in Section 9-2.3
- creates a definition for "coordinated expenditure" in Section 9-2.3
- modifies provisions related to independently sponsored campaign communications and reporting in Section 9-2.6
- modifies provisions related to the contents of campaign finance statements in Section 9-2.12

PREPARED BY: Zachary Shandler, Assistant City Attorney

FISCAL IMPACT: No

DATE: June 18, 2015

ATTACHMENTS: Letter from Justin Miller, Chair Ethics and Campaign Review Board
Bill
FIR
Bill with proposed changes incorporated

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-26

INTRODUCED BY:

Councilor Peter N. Ives

AN ORDINANCE

AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987 TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE"; TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Subsection 9-2.3 SFCC 1987 (being Ord. #1998-41, §3 as amended) is amended to read:

9-2.3 Definitions.

As used in the Campaign Code:

A. *Anonymous contribution* means a contribution for which any of the information required to be recorded or reported by the Campaign Code is unknown to the persons who are

required to record or report it.

B. *Ballot proposition* means any measure, amendment or other question submitted to, or proposed for submission to, a popular vote at a Santa Fe election.

C. *Campaign depository* means a bank, mutual savings bank, savings and loan association or credit union doing business in this state under which a campaign account or accounts are maintained.

D. *Campaign finance statement* means a report of all contributions received and expenditures made according to a form prescribed by the city clerk which, when completed and filed, provides the information required in the sections to follow.

E. *Campaign materials* means any published communication, electronic or otherwise, disseminated to more than one hundred (100) persons that either supports the election or defeat of any identifiable candidate or candidates or supports the approval or defeat of a ballot proposal, other than communications to, or editorials, reports, or commentary by news media.

F. *Campaign treasurer and deputy campaign treasurer* means the individual who is responsible for keeping the financial records of the political committee or candidate (the candidate may be their own campaign treasurer or deputy campaign treasurer).

G. *Candidate* means any individual who seeks election to a Santa Fe municipal office. An individual shall be a candidate when they:

(1) Announce publicly;

(2) File for office;

(3) When contributions are accepted or expenditures made; or

(4) Any activity is held to promote an election campaign of an individual if that activity is endorsed or supported by that person or if the benefits of such activity are later accepted by such person.

H. *Charity* means an organization that is exempted from federal taxation by Title 26

United States Code, section 501(c)(3).

I. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not these items are legally enforceable, made directly or indirectly, to a candidate or political committee, or to a person obligated to file a report under section 9-2.6 SFCC 1987, for the purpose of [~~influencing the outcome of a municipal election~~] supporting the election or defeat of any identifiable candidate or the approval or defeat of a ballot proposition.

(1) The term "contribution" includes:

(a) The transfer of funds or anything of value between political committees;

(b) The transfer of anything of value for less than full consideration;

(c) Interest, dividends or other income derived from the investment of campaign funds;

(d) The payment for the services of an individual serving on behalf of a candidate or political committee, which payments are made by a third party; and

(e) The purchase of tickets for fundraising events such as dinners, rallies, raffles, etc. and the proceeds of collections at fundraising events.

(f) [~~An expenditure by a person other than a candidate or the candidate's political committee that is made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate or the candidate's political committee.~~] A coordinated expenditure.

(2) The term "contribution" does not include:

(a) A volunteer's personal services provided without compensation or the travel or personal expenses of such a campaign worker; and

(b) The cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than two hundred dollars ($200.).

J. *Contributor* means:

(1) *Individual contributor* means an individual who makes a contribution from their personal assets which are not those of a business, corporation, partnership, labor organization, unincorporated association or political committee.

(2) *Business or organizational contributor* means an individual who uses the assets of a business, corporation, partnership, labor organization, unincorporated association or political committee as a contribution, or any business, corporation, partnership, labor organization, unincorporated association or political committee which makes a contribution.

K. *Coordinated Expenditure* means an expenditure made:

(1) by an individual or entity other than a candidate or the candidate's political committee; and

(2) in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his/her representatives or agents or the candidate's political committee, including but not limited to, the following examples in 9-2.3(K)(2)(a)-(d):

(a) there has been substantial discussion between the individual or entity making the expenditure and the candidate, candidate's political committee, or his/her representatives or agents. Substantial discussion includes, but is not limited to, an exchange of campaign strategies, polling information, voter lists or any other similar information that would facilitate the election or defeat of a candidate.

(b) an entity making the expenditure is directly or indirectly formed

or established by or at the request or suggestion of, or with the encouragement of the candidate, candidate's political committee, or his/her representatives or agents;

(c) the candidate, candidate's political committee or his/her representatives or agents has solicited funds or engaged in other fundraising activities on behalf of the person or entity making the expenditure during the twelve-month (12) period preceding the date of the expenditure. Fundraising activities include, but are not limited to, exchanging names of potential donors or other lists to be used in engaging in fundraising activity, regardless of whether or not the individual or entity pays fair market value for the names or lists provided; or being a featured guest or speaker at a fundraising event for the benefit of the entity making the expenditure.

(d) if the individual or entity making the expenditure has employed, has in a leadership position, or has accepted a donation of the campaign related professional services of any person, who, during the twelve-month (12) period preceding the date of the expenditure, has been an employee of, has advised, or provided or is providing services to the candidate or candidate's political committee. These services include, but are not limited to, any services in support of the candidate's or candidate's political committee's campaign activities, such as advertising, message, strategy or policy services, polling, allocation of resources, fundraising or campaign operations.

(e) an expenditure is not a coordinated expenditure solely because:

(i) the individual or entity and a candidate or candidate's political committee use the same vendor to provide polling services, printing or distribution services or physical space, provided that the

vendor has in place prior to the expenditure a firewall to ensure that there is no exchange of information between the individual or entity and the candidate or campaign committee. Evidence of an adequate firewall is a vendor's formal written policy or a contractual agreement with the vendor prohibiting the exchange of information between the individual or entity and the candidate or candidate's political committee, which policy or contract is distributed to all relevant employees, consultants, and clients affected by the policy or contract. The firewall shall be designed and implemented to prohibit the flow of information between employees and consultants providing services to the individual and entity and to those currently or previously providing services to the candidate or candidate's political committee. Coordination will be presumed in the absence of such a firewall; or

(ii) the individual or entity making the expenditure interviews a candidate; has endorsed a candidate; has obtained from the candidate a biography of the candidate or a position paper, press release, or similar material about the candidate; has invited the candidate to make an appearance before the person's members, employees or shareholders; or has shared space with a candidate or candidate's political committee for one or more single events of limited duration.

[~~K~~]L. *Election* means any regular or special Santa Fe municipal election.

[~~L~~]M. *Expenditure* means a payment or transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of [~~assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign for a~~] supporting or opposing the election or defeat of any identifiable candidate or the

approval or defeat of a ballot proposition. This includes contributions, subscriptions, distributions, loans, advances, deposits, or gifts of money or anything of value, and includes a contract, a promise or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also means the transfer of funds or anything of value between political committees. [~~In determining the dollar value of an expenditure, only that proportion of a payment or transfer of anything of value that is directly related to the campaign shall be considered an expenditure.~~]

[~~M~~]N. *Political committee* means any entity formed for the principal purpose of:

(1) Raising or collecting, and expending or contributing money or anything of value for supporting the election or defeat of any identifiable candidate or candidates or for supporting the approval or defeat of ballot propositions; or

(2) Coordinating or cooperating in efforts to support the election or defeat of any identifiable candidate[s] or of supporting the approval or defeat of any ballot proposition.

Section 2. Subsection 9-2.5 of SFCC 1987 (being Ord. #1998-41, §4, as amended) is amended to read:

9-2.5 Identification of Campaign Material.

A. Campaign materials disseminated or communicated by a candidate shall conspicuously identify the name of the candidate and campaign treasurer or deputy campaign treasurer.

B. Campaign materials disseminated or communicated by a political committee shall conspicuously identify the name of an officer or other responsible person of the political committee sponsoring such materials.

C. Any candidate, or person acting on behalf of a candidate, shall not willfully steal, destroy, or damage another candidate's campaign materials.

[~~C~~]D. Written, printed or posted materials shall also show a telephone contact number.

Section 3. Subsection 9-2.6 SFCC 1987 (being Ord. #2005-14, §29, as amended) is amended to read:

9-2.6 Independently Sponsored Campaign [~~Materials~~]Communications And Reporting.

A. Any person or entity that [~~contracts for or initiates the dissemination of campaign materials supporting the election or defeat of any identifiable candidate or of a ballot proposition, and that spends in the aggregate~~] makes expenditures of two hundred fifty dollars ($250[~~.~~]) or more in the aggregate during a single election to pay for any form of public communication including print, broadcast, cable or electronic advertising, billboards, signs, pamphlets, mass mailers, mass electronic mail, recorded phone messages, organized phone-banking or organized precinct-walking, that is disseminated to one-hundred (100) or more eligible voters, and that either expressly advocates the election or defeat of a candidate, or the approval or defeat of a ballot proposition; or refers to a clearly identifiable candidate or ballot proposition within sixty (60) days before an election at which the candidate or proposition is on the ballot, [~~for such purpose~~] shall thereafter, on each of the days prescribed for the filing of campaign finance statements [~~of political committees~~], file with the city clerk a report of all such expenditures made and all contributions received for [~~such~~] the purpose of paying for such expenditures on or before the date of the report and which have not been previously reported. Each report shall be submitted on a form prescribed by the city clerk. Contributions shall be specified by date, amount of contribution, name, address and occupation of the person or entity from whom the contribution was made. No contribution shall be reported in the name of a person who is not the actual contributor or who has been or will be reimbursed or compensated for the contribution by another person. The president, chief executive officer or equivalent position shall certify on the filing that its expenditures were or were not made in cooperation, consultation or concert with, or at the

request or suggestion of, a candidate, his/her representatives or agents or the candidate's political committee. Expenditures shall be specified by date, the amount of the expenditure, the name and address of the person or entity where an expenditure was made and the purpose of the expenditure. No report is required under this subsection for expenditures made exclusively for communications to the news media, editorials, reports or commentary by the news media, impartial candidate forums or debates or the announcements thereof, or for impartial voter guides allowed by the Internal Revenue Code for Section 501(c)(3) organizations or a communication by a membership organization or corporation to its current members, stockholders or executive or administrative personnel unless the membership organization or corporation is a campaign committee or a political committee.

B. Any person or entity that has to file under this subsection and receives contributions from another entity that does not have to disclose its contributors to the city clerk, shall place the following visible disclosure on its campaign materials: "This campaign material is supported in part by donations from an organization that is not required to disclose its contributors to the Santa Fe city clerk.

C. Contributions shall be specified by date, amount of contribution, name, address and occupation of the person or entity from whom the contribution was made. The name of the president, chief executive officer or equivalent position and the address of the entity shall be stated in the report.

D. Expenditures shall be specified by date, the amount of the expenditure, the name and address of the person or entity where an expenditure was made and the purpose of the expenditure. The name of the president, chief executive officer or equivalent position and the address of the entity shall be stated in the report.

Section 4. Subsection 9-2.9 SFCC 1987 (being Ord. #1998-41, §7, as amended) is amended to read:

9-2.9 Campaign Treasurer; Deputy Campaign Treasurer; Duties.

A. The campaign treasurer or deputy campaign treasurer shall keep a true and full record of contributions and expenditures. The record of contributions and expenditures required to be kept under the terms of the Campaign Code and the Public Campaign Finance Code shall reflect the requirements in subsection 9-2.11 SFCC 1987 and Section 9-3 SFCC 1987, respectively.

B. The campaign treasurer or deputy campaign treasurer shall maintain:

(1) Receipts reflecting the purpose of each expenditure and the day and method of payment; and

(2) All campaign bank records, including deposit slips and canceled checks.

C. The campaign treasurer or deputy campaign treasurer shall not accept anonymous contributions. Any such contribution received by the campaign treasurer or deputy campaign treasurer shall, within seven (7) days of receipt, be donated to a charity or to the city's general fund. The campaign treasurer or deputy campaign treasurer shall keep a record of the amount and date of receipt of any such contributions and of the disposition that was made of the contribution, including the date when it was donated to the city or to a charity and the identity of the recipient of the donation.

D. Records required to be kept by the campaign treasurer or deputy campaign treasurer under the terms of paragraph A of this subsection, shall be filed with the city clerk as part of the public record, shall be provided to the ethics and campaign review board set forth in Section 6-16, SFCC 1987 upon request and may be inspected by the public during usual business hours, Monday through Friday, excluding legal holidays.

E. Records kept by the campaign treasurer or deputy campaign treasurer shall be made current not more than seven (7) days after the date of a contribution or of an expenditure. During the eight (8) days immediately preceding the date of any election for which the political

committee has received any contributions or made any expenditures, the books of the account shall be kept current within one (1) business day.

F. The campaign treasurer or deputy campaign treasurer shall preserve books of accounts, bills, receipts and all other financial records of the campaign or political committee for two (2) calendar years following the year in which the transaction occurred.

G. The campaign treasurer or deputy campaign treasurer shall deposit within five (5) business days after receipt all monetary contributions received by a candidate, political committee, campaign treasurer or deputy campaign treasurer in the campaign depository designated for that purpose.

H. Campaign funds shall be used and distributed as follows:

(1) All contributions received shall be under the custody of the campaign treasurer or deputy campaign treasurer and shall be segregated from, and not be commingled with, the personal funds of an individual, group or political committee. Contributions shall be used exclusively to pay expenses incurred in furtherance of the candidate's campaign, and shall not be used for any other purpose, including:

(a) The candidate's personal living expenses or compensation to the candidate;

(b) A contribution to the campaign of another candidate or to a political party or political committee or to a campaign supporting or opposing a ballot proposition;

(c) An expenditure supporting the election <u>or defeat</u> of [a]<u>any identifiable</u> candidate or the [~~approval~~]<u>passage</u> or defeat of a ballot proposition; or

(d) Any gift or transfer for which compensating value is not received, other than a donation or distribution permitted by this subsection at the conclusion of an election.

(2) Any campaign contributions remaining unspent and any tangible assets with an estimated resale value greater than two hundred dollars ($200.00) that were purchased with such contributions and remain in the possession of the campaign at the conclusion of an election shall be distributed for the following purposes:

(a) Expenditures of the campaign;

(b) Donations to the city's general fund or, in the case of tangible assets, to the city for its use or disposition in accordance with the city's procurement code. Proceeds from such disposition shall be deposited in the city's general fund;

(c) Donations to charities; or

(d) Disbursements to return unused funds to the contributors.

(3) All unspent campaign contributions shall be distributed within six (6) months following a municipal election, for any of the purposes listed in this subsection 9-2.9H. All candidates and political committees shall file reports listing the date, amount and recipient of each post-election expenditure, donation or disbursement made from campaign funds pursuant to this subsection 9-2.9H. Such report shall be part of the final campaign finance statement that is required by subsection 9-2.10B SFCC 1987.

I. A campaign treasurer, deputy campaign treasurer or political committee may invest funds deposited in the campaign account in an account of indebtedness of a financial institution up to the amount of federal deposit insurance; United States bonds or certificates of indebtedness or those of a federal agency; and/or bonds or warrants of the state or any municipal corporation of the state. All interest, dividends, and/or other income derived from the investment and the principal when repaid shall be deposited in the campaign account.

Section 5. Subsection 9-2.11 SFCC 1987 (being Ord. #1998-41, §10, as amended) is amended to read:

9-2.11 Campaign Finauce Statement; Contents.

A. Each campaign finance statement shall be filed in accordance with subsection 9-2.10 SFCC 1987. The initial statement shall begin with the date of the first contribution or expenditure. Subsequent statements shall begin on the day after the end date of the previous reporting period. Statements shall contain the following information:

(1) The funds on hand at the beginning of the period. This shall include the cumulative total amount of all contributions and expenditures. This includes, but is not limited to, contributions and expenditures in aid of, or in opposition to, candidates or ballot propositions before they qualify for the ballot and contributions and expenditures following the election;

(2) The full name, home address, occupation, name of employer, date of receipt and amount of each contribution received from each individual contributor from whom a contribution in money, goods, materials, services, facilities or anything of value has been received and whether the contribution was received in cash, by check, by credit card, by electronic transfer or otherwise[,]. No contribution shall be reported in the name of a person who is not the actual contributor, or who has been or will be reimbursed or compensated for the contribution by another person.

(3) The full name, type of business, physical address, date of receipt and amount of each contribution for each business or organizational contributor, from whom a contribution in money, goods, materials, services, facilities or anything of value has been received, and whether the contribution was received in cash, by check, by credit card, by electronic transfer or otherwise[,]. No contribution shall be reported in the name of a person who is not the actual contributor, or who has been or will be reimbursed or compensated for the contribution by another person.

(4) The date of receipt and amount of any anonymous contribution received by the campaign treasurer or deputy campaign treasurer and the disposition that was made of each such contribution pursuant to subsection 9-2.9B SFCC 1987, including the date when it was

donated to the city or to a charity and the identity of the recipient of the donation.

(5) The full name and complete mailing address of each individual or business to whom an expenditure has been made, the purpose of each campaign expenditure and the date each expenditure was made. This report shall be itemized with the total amount paid to each individual or business for the goods, services or facilities provided;

(6) The full name of the candidate or political committee and the full name and complete address of the campaign treasurer or deputy campaign treasurer;

(7) For each contributor, the cumulative total of all contributions made; and

(8) Where goods, materials, services, facilities or anything of value other than money is contributed or expended, the monetary value thereof shall be reported at the fair market value.

B. Loans of money, property or other things made to a candidate or political committee during the period covered by the campaign finance statement shall be reported separately in the statement, with the following information:

(1) The total value of all loans received during the period covered by the campaign finance statement;

(2) The full name and address of each lender, the date of the loan, the interest rate and the amount of the loan remaining unpaid;

(3) The cumulative total value of all loans received; and

(4) The total amount of loans remaining unpaid.

C. If a loan has been forgiven or paid by a third person, it shall be reported pursuant to this section.

D. Investments made with campaign funds under subsection 9-2.9 SFCC 1987 and interest, dividends and/or other income received shall be reported separately in the statement.

Section 6. Subsection 9-2.12 SFCC 1987 (being Ord. #1998-41, §11, as

amended) is amended to read:

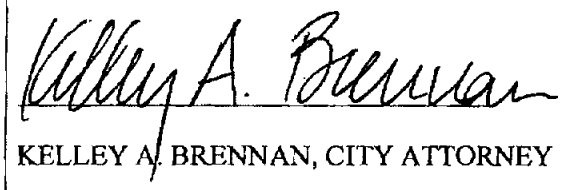
9-2.12 Campaign Finance Statement; Signing.

Each campaign finance statement shall be signed under oath and acknowledged by both the campaign treasurer or deputy campaign treasurer and the candidate and shall contain a statement that:

A. the campaign finance statement has been prepared with all reasonable diligence and that it is true and complete; however, the campaign finance statement of a candidate for municipal judge is not required to be signed or acknowledged by the candidate.

B. a candidate or political committee that receives contributions from another entity that does not have to disclose its contributors to the city clerk, shall indicate as such on the campaign finance statement submitted to the city clerk pursuant to existing reporting requirements.

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY

Legislation/Bills 2015/Campaign Code 9-2 Bill

FIR No. 2680

City of Santa Fe
Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. **General Information**

(Check) Bill: X Resolution: _____
(A single FIR may be used for related bills and/or resolutions)
Short Title(s): **AN ORDINANCE AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987 TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE"; TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE.**

Sponsor(s): Councilor Peter Ives
Reviewing Department(s): City Attorney's Office
Persons Completing FIR: Zack Shandler Date: 6/18/15 Phone: 955-6303

Reviewed by City Attorney: Kelley A. Brennan (Signature) Date: 6/19/15

Reviewed by Finance Director: (Signature) Date: 6-19-2015

Section B. **Summary**
Briefly explain the purpose and major provisions of the bill/resolution:
The purpose of the proposed ordinance is to

- **modify the definitions of "contribution" and "expenditure" in Section 9-2.3**
- **create a definition for "coordinated expenditure" in Section 9-2.3**
- **modify provisions related to independently sponsored campaign communications and reporting in Section 9-2.6**
- **modify provisions related to the contents of campaign finance statements in Section 9-2.12**

Section C. **Fiscal Impact**
Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:
a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required

Finance Director:

c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

___X___ Check here if no fiscal impact

Column #: 1	2	3	4	5	6	7	8
Expenditure Classification	FY ____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY ____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
Personnel*	$____	____	____	$____	____	____	____
Fringe**	$____	____	____	$____	____	____	____
Capital Outlay	$____	____	____	$____	____	____	____
Land/ Building	$____	____	____	$____	____	____	____
Professional Services	$____	____	____	$____	____	____	____
All Other Operating Costs	$____	____	____	$____	____	____	____
Total:	$____			$____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:
a. To indicate new revenues and/or
b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #: 1	2	3	4	5	6
Type of Revenue	FY ____	"R" Costs Recurring or "NR" Non-recurring	FY ____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
____	$____	____	$____	____	____
____	$____	____	$____	____	____
____	$____	____	$____	____	____
Total:	$____		$____		

4) **CONSIDERATION OF BILL NO. 2015-30; ADOPTION OF ORDINANCE NO. 2015-21; CASE NO. 2015-11. 600 GALISTEO STREET REZONE. EVA PARKER, TRUSTEE FOR THE LUCY C. ORTIZ ESTATE, REQUESTS REZONING OF A 5,581 SQUARE FOOT LOT (RESIDENTIAL, 21 DWELLING UNITS PER ACRE) TO BCD (BUSINESS-CAPITOL DISTRICT). THE PROPERTY IS LOCATED AT 600 GALISTEO STREET. (ZACHARY THOMAS)**

MOTION: Councilor Ives moved, seconded by Councilor Lindell, to approve the rezoning of the property located at 600 Galisteo Street to C-1.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

5) **CONSIDERATION OF BILL NO. 2015-26. ADOPTION OF ORDINANCE NO. 2015-23 (COUNCILOR IVES). AN ORDINANCE AMENDING THE CAMPAIGN CODE, SECTION 9.2 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE;" TO MODIFY PROVISIONS RELATED TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; TO MODIFY PROVISIONS RELATED TO THE CONTENTS OF CAMPAIGN FINANCE STATEMENTS; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE CAMPAIGN CODE. (ZACHARY SHANDLER)**

Items H(5) and H(6) were combined for purposes of presentation, public hearing and discussion but were voted upon separately

A copy of the relevant portion of the Finance Committee minutes of July 13, 2015, regarding Items H(5) and H(6), is incorporated herewith to these minutes as Exhibit "9"

A copy of the relevant portion of the Finance Committee minutes of July 29, 2015, regarding Items H(5) and H(6), is incorporated herewith to these minutes as Exhibit "10."

A copy of a proposed Amendment sheet to Item H(6), is incorporated herewith to these minutes as Exhibit "11."

A copy of an article from the Opinion Pages of *The New York Times*, by Lawrence Lessig, dated July 21, 2015, titled, *The Only Realistic Way to Fix Campaign Finance*, entered for the record by Ruth Kovnat, is incorporated herewith to these minutes as Exhibit "12."

The staff report was presented by Zachary Shandler, Assistant City Attorney. Mr. Shandler reviewed the proposed changes to Items H(5) and H(6).

Mr. Shandler said, "We will be discussing two Ordinance changes by Councilor Ives tonight. We'll be discussing Chapter 9-2 of the Campaign Code and Chapter 9-3, the Public Finance Code. There are 4 major change proposed. I will spend 3 minutes on the first 3, and 3 minutes on the 4th."

Mr. Shandler continued, "Let me start with the bottom line. First, there is no better group equipped to debate these two Ordinance changes. You've run campaigns, you've recruited treasurers, you've signed campaign reports and you've sat here as Councils and made tough decisions over the power of the purse strings. Those two experiences may intersect tonight."

Mr. Shandler continued, "Second, during the 2014 Mayoral election there were some citizens that alleged local unions acted in coordination with other candidates, giving the candidates an unfair advantage. These citizens asked what does coordination really mean. During the 2014 Mayoral election there were also some citizens that alleged Washington, D.C. unions expended money into the Mayor's race to give one candidate an unfair advantage, and the publicly funded candidates did not have enough money to respond. Based on these allegations, those of the last election, the City Ethics and Campaign Review Board had meetings and came up with a four-part Resolution."

Mr. Shandler continued, "Part one. The citizens are confused what coordination means, let's give them a better definition and give them fact pattern examples. These changes appear in Chapter 9.2 and Chapter 9.3. Part two. The U.S. Supreme Court has said cities cannot limit Washington, D.C. unions from expending money, but let's try to monitor them better, require expanded disclosure of who they are, require them to follow ports of their contributors. That way, the court can make it's own judgments. So let's have an expanded revelation of these third party groups. This appears in Chapter 9.3. Part three. The advocacy group Common Cause said, we think the way for Councilor Bushee and Councilor Dimas to have a chance to fight back against the Washington, D.C. union money is to give them a chance to raise private money. Let's use a hybrid model. They can be publicly funded candidates and get money from the Campaign Finance funds, but they can also raise an unlimited amount of private money throughout the entire election cycle, at no more than $100 per person. Common Cause wants these candidates to have two different bank accounts, one for the *[inaudible]* money and tracking how it's used, and another for the private money and how it's raised and used. These proposed changes will appear in Chapter 9.3."

Mr. Shandler continued, "In part four, one could now argue now that these public funded candidates will be spending all of their time raising money in this hybrid system. Is there a way to get a bigger bang for the bucks. How about a match. The courts have said a match cannot be triggered on what your opponents do. What about an earned match. A match based on your own behavior. How about if you raise $1 in private funds, you get $4 from the government fund. That's the four-times match. But then you probably ask, do I get a match for all the private money I raised under this hybrid system. No. In this proposal, you can raise an unlimited amount of private funds, but you can only request a government match up to 200% of the initial grant. So, if I get $60,000 in my initial grant, the most I can get in the match is $120,000, that's 200% of the initial grant."

Mr. Shandler continued, "Let's try this out with say, I'm running for Mayor because I'm particularly motivated tonight. I get from the 600 contributions from Santa Fe electors, I get qualified and I get my initial $60,000 in government funds. Then, as part of the election, I raise $30,000 in private funds. I then go to the City Clerk and $30,000 times four, I get another check from the fund of $120,000. I can continue to raise money, but that's what I get from the fund."

Mr. Shandler continued, "So how does your campaign experience intersect with your experience as Councilors as the holder of purse strings. If you go to page 89 of the packet, I've prepared a checkbook balance sheet. It's on page 89. It starts with the current balance of the fund. Currently, under the City Code, even if you don't do anything tonight, there are 2 requirements. You always have to put $150,000 from the General Fund into the Campaign Fund each fiscal year. And you always have to have $300,000 in the fund for Council judges and $600,000 in the fund for Mayor Council years. You can never have a zero balance. If so, the City has to reduce by proportionate amount the amount paid out to the publicly funded candidates. And as you will see in the chart on page 89, if you take an average of 7 Council candidates and 3 Mayor candidates that are publicly funded like last time, and if every one of the qualifies to get the initial grant, and everyone does private funding and does the four-to-one match, you will see the fund balance quickly changes."

Mr. Shandler continued, "On page 91 there are a series of amendments. Councilor Ives' amendment number one, if you like parts 1 and 2 of the bill, you should approve Councilor Ives' amendment number 1, because there were typos that needed to be carried forward. Ives' amendment number 2, if you like part 3, those are also corrections that need to be made. Lindell number 1, if you don't like part 3 and 4 at this time, then you may want to consider Lindell amendment number 1. Lindell amendment number 2 has nothing to do with this package. It just will require receipts for the publicly funded candidates, it's kind of a stand alone. In Maestas number 1, if you like parts 3 and 4, but you want some modifications you should consider that."

Mr. Shandler continued, "So I expect you will have questions based on your experience, but I request that you defer staff questions at this time because of the late hour, and especially until you hear from the City's Ethics and Campaign Review Board [ECRB] members, and I see we have several here tonight, because as part of their presentation they may answer some of your questions."

Mayor Gonzales asked if we can ask the Board to address the Council before we ask questions.

Mr. Shandler said he would like for them to have a chance to speak to you.

Councilor Maestas said he sponsored another amendment not mentioned by Mr. Shandler, which was in the packet of materials. It basically limits the Public Fund balance for a Council election, Council/Judge, and the Mayoral election.

Mr. Shandler said we'll call that Maestas number 2 if it was on a separate sheet.

Mayor Gonzales invited the members of the ECRB to come forward. He thanked them, on behalf of the entire City Council, for taking on this role, commenting it was time consuming and had a lot of research by the ECRB to find a solution to help us enhance the public finance system in Santa Fe.

Justin Miller, Chair, ECRB, thanked him for the appreciation commenting, "We are happy to do it." He introduced Ruth Kovnat and Paul Biderman. He said one of the duties of the ECRB is to evaluate, and review and provide recommendations on ideas to improve Campaign Finance laws in the City to the Governing Body. He said what is before you in the form of Councilor Ives' bills is the work of the Board in which they have been engaged over the past 7-8 months, since December 2014. He said the Board met a number of times and benefitted from the thoughts and ideas of a whole range of people, including national experts in the field from the Brennan Center for Justice, the Campaign Law Center, from local organizations including Common Cause, League of Women Voters, the Thornburg Foundation, the Neighborhood Law Center and others. They heard from a number of dedicate and thoughtful citizens who attended every one of the meetings and providing their thoughts and ideas on everything along the way. They also benefitted from hearing from a number of candidates in the last election, which was the first municipal involving public financing for the Mayor and Council race. We were happy to hear the thoughts of the candidates and their first hand experiences in public financing which was very important to their considerations.

Mr. Miller continued, saying the bills before the Council this evening do several things as mentioned by Mr. Shandler. Predominantly, the bills address concerns that the public and others had regarding transparency issues and coordination between candidates and outside groups, and a way for the public to have a better sense of what kind of money is coming into campaigns, and to improve public confidence in elections. And the other very significant thing the bills do is change the process by which candidates qualify for public financing, and the matching funds.

Mr. Miller thanked the Governing Body for its consideration of the bills, and said Mr. Biderman and Ms. Kovnat were the driving force on the working group that did much of the drafting along with Mr. Shandler and other staff. He said all three are available to answer questions.

Public Hearing

Mayor Gonzales gave everyone 2 minutes to speak to the issue

Brian Sweeney, 1209 Lujan Street, said in a representative republic there is going to be government by the people. He said the increasing cost of political campaign are a barrier to political engagement, equivalent in some ways to a poll tax on the candidates. He said when only the wealthy can afford to fund a fledgling campaign, our political system skews the affluent and older. He said the only barrier to elected public service in Santa Fe should be a person's competence. He said public funding campaigns allow those elected to govern with the interest of all constituents and not just high dollar donors. Additionally, elected officials can concentrate on governing instead of fundraising. He said modest investment in public campaign financing improve governance, the integrity of the office, increase access and political engagement at a time when the country needs leadership on these issues and each category needs improvement nationwide. He urged approval so Santa Fe can continue to lead the nation in creating an election system that can reflect the voices of everyone.

Vicki Harrison, 844 Pecos Loop in Rio Ranch, Executive Director, Common Cause New Mexico. She said they support these proposals. She disagreed with Mr. Shandler, saying they don't want public financing candidates to be fundraising. She said this is a volunteer program along with the matching funds. She said it is designed if you find yourself against a private candidate or PAC that is spending a lot more money than you. It is not designed for candidates to start raising money immediately they need it or not. However, they can do it, but it won't play out in the media. She said publicly financed candidates in Santa Fe are different. She said they wanted this proposal several years ago, and were told Santa Fe is different and matching funds aren't needed, because everyone would take public financing, there would be no PACS, which they found to be untrue. She said Common Cause would like it if PACs couldn't spend money when there is a public financed race. However, the Supreme Court said we can't do, but we can require disclosure from PACs and groups that aren't PACs and spend money on elections whatever those might do. She said Common Cause urges you to pass the bills as drafted by the ECRB, but they are fine with tweaks – knock down the match if you are concerned about financing.

Jazz Reisz, 1528 La Cienegitas, said she hopes you will approve this bill, commenting she loves local politics, and this will be a model for other municipalities.

Mary Wilczynski, 602 Sunset Street, said the 2010 elections that followed the United decision were the most expensive in our nation's history totaling $306 billion, and it is expected to continue to rise directly. There is an increased concern that heightened campaign spending can purchase favorable policy outcomes. She said the public funding is the best tool to combat the corrupting influences of outside campaign spending. She said publicly funded elections promote numerous benefits in addition to fighting corruption, and reduce the opportunity for corruption and strengthen our perception of government, as well as promoting contested and competitive elections, fostering diversity in the electoral process and encourage voter centered campaigns. She is a small business owner that cares deeply about the City and urges the Governing Body to support these bills and enhance the legitimacy of government by engaging in the democratic process.

Former Councilor Karen Heldmeyer said she is speaking for herself only. She said these bills were written by attorneys and sound like they are written by attorneys. She said you need to look at the people who have been, and will be in the future, candidates, which is a different perspective. She said on the ECRB the person who ran campaigns, often had a different perspective than the attorneys. She said this will do nothing to stop PACs. As pointed out in several meetings, they can't because of the Supreme Court, but it's the best they can do, but it isn't going to stop PACs. The public needs to be aware of that, or they're going to be very upset by some of the outcomes of this. There is a broader definition of coordination which is okay. It's basically going to be unenforceable unless you have a mole, a disgruntled employee or somebody presses the wrong send button on their email. However, at least it's a definition.

Former Councilor Heldmeyer continued, saying the issue of more money is interesting, especially in view of the financial problems the City is having now. She suggested thinking about the cap. How much can the City afford to do, as well as for the candidates. She said there is a provision in the law that says if

you start collecting money and there isn't enough to do matching, they will get a prorated grant from the fund. She said nobody can run a campaign knowing 3-5 months down the line, you won't know how much money you are going to get. This has to be dealt with. She said there is a lot of talk that this is to counter last minute attacks, but it doesn't because of the timing. She said two weeks before is not the last minute. The Saturday before is last minute.

Reverend Holly Beaumont, 27 Old Galisteo Way, Organizing Director, Interfaith Worker Justice New Mexico, said she has lived for here about 30 years and has testified on many issues over the years. She can speak from experience of the bolder decisions made by this Council during those 30 years. She said this is a step in the right direction, having worked on many campaigns on the local level. She said you also will be providing leadership statewide and nationally. She said they believe it's their calling to sound the alarm on significant systemic threats to the foundations of our society. The unchecked power of special interest dominating our politics right here in our City and state, threatens the common good and the very foundation of our democracy. She said the lack of appropriate limits on money in politics is hurting our democracy and undermining our citizens' faith in the democratic process. It is important that we have a system that allows working families to fully participate in the democratic process and for shared public policy that benefits them and their families.

Meredith Machan, 613 Webber Street, League of Women Voters, said she is speaking as State President of the League of Women Voters of New Mexico. She said they strongly support election policies that ensure election integrity. She they strongly support publicly financed elections. She said they appreciate all of the hard work by the ECRB and the individuals and groups to clarify the definitions, and to define what is coordination. She encouraged the Governing Body to make the requirements for disclosure as strong as you, and said they want to see some sanctions for violations. She encouraged the City to continue to work on the Ordinance. She hopes the City will approve as much as you can to bring back the integrity of elections. She said, "Finally, you are a role model for the State and for many communities."

Mark Hoyt, 912 Baca Street, said he is on the Chamber of Commerce Board. He said he wants to highlight the issue of money, because he is sure everyone is concerned about how to finance this. He said if you look at what's happening nationally, there is a matter of urgency to find the money to publicly finance our campaigns and to insulate our community in the greatest possible way against people coming from outside and actually subverting our community and our democracy locally. He can't do much nationally, but we can do what we can to protect what we have here. It seems to him that finding the money to finance this program would be of the utmost importance because not to do so basically undermines the community. He has lived in Santa Fe for 30 years, and urged the Governing Body to find the money to do this right. He said it isn't a perfect solution, but it's a step in the right direction and supports the greater good of the community in Santa Fe, and urged the Governing Body to support Common Cause and adopt this legislation.

Stefanie Beninato, concerned citizen, said she was only able to attend 2 meetings of the ECRB concerning these changes and she appreciates the time and dedication in making these proposals. She

thinks having examples of illegal activities is a good idea, and it is of utmost importance to have as much disclosure as possible. She likes the idea of sanctions, but doesn't know how that would work. She is concerned about the amount of money for matching. She understands people need public support and that we voted for that. With regard to matching funds, she asked where the money will come from. She is concerned about the number, and at some point it is obscene and not appropriate for an election in the City of our size. She asked how we can get back to ideas, rather than the citizens funding these campaigns, and how do we get back to qualifications, not where you are born. How do we get back to the issues that really should be of concern to everybody in the City. The again thanked the ECRB for its work.

Simon Brackley, President, Santa Fe Chamber of Commerce, 1644 St. Michaels Drive, said he hopes they had the opportunity to read his expanded comments in a opinion piece in last Sunday's *Santa Fe New Mexican*. He expressed the gratitude of the Chamber for the volunteer members of the ECRB who have given months of their time to take on these extremely difficult issues which are difficult at the local and national level. He said the recognize there are no easy solutions. He said the Chamber supports their recommendations, and primarily "we support steps forward in terms of efficiency and transparency. We believe those issues are of most concern to business people and citizens of Santa Fe, and urge you to support their recommendations.'

Ruth Kovnat, 407 Camino del Monte Sol, a member of the ECRB. She said she emailed an Op-Ed from *The New York Times* to the Governing Body, and wanted to enter it for the record [Exhibit "12"]. Ms. Kovnat read short excerpts from the article. Please see Exhibit "12," for the complete news article

Warren Martinez, 3083 Monte Sereno, said, "I am here to remind you of what you do and thank you for your dedication. I want remind you of what each one of you come to our Santa Fe Hispanic Chamber with, and that's dedication with the word accountability. So as you consider what is being discussed today, and there's been some real experts there, think about what you started out, and that's accountability. The PACs, the disclosures, that will make a difference, and people can vote knowing where the money is coming home. That makes a huge difference with our voters. Thank you all, I appreciate your time."

<u>The Public Hearing was closed</u>

Mayor Gonzales said, "I understand there are individuals who want to propose amendments, can we, for the betterment of time, make sure that when you propose your amendments that you are able to offer your comments, propose your amendments and then allow for other Councilors to make amendments, so we don't have so much back and forth going on.

Councilor Bushee said she had the opportunity for a dialogue with Ruth Kovnat and Vickie Harrison on this issue with the League of Women Voters. She said one of the problems that we saw and don't know how to address is the fact that often PACs or independents will have contributions from PACs where they do not have to list the contributors to the PACs. She asked if the City has a mechanism by

which we can insist if someone is going accept money from a third party or a PAC, and it is.... she doesn't know what name to use. She asked, "If there is a PAC and it's just listed PAC for Progress Santa Fe, for example, and won't list its contributors, is there some way we can demand that we get the contributors to be listed."

Paul Biderman said, "We looked at that and suddenly realized that we would like to require disclosure as the Supreme Court invites in the Citizens United States. It says we can go ahead and do this because you can require disclosure. As Common Cause referred to it, it's called a Russian doll *[inaudible]*. You can fit one inside another, inside another, inside another, and you never reach the end. I like to liken it to two facing lawyers, and somebody could always go one step beyond, and not be disclosed unless you keep going all that way and that would be an impossible technical burden. So we inserted some language which says simply, if any donations, as you say, on behalf of an independent group are not require to be disclosed to the City Clerk, that has to be disclosed on the campaign material."

Councilor Bushee said she would like to tackle this issue and she doesn't know how.

Ms. Kovnat said you have before the proposal to expand the disclosure requirement to any entity or person that spends as much as $250 in a whole variety of campaign political activities. So there is disclosure at the first level. As you point out, the question is what is disclosed is that the contribution is made by some nicely named entity, can we get the names of the contributors to that nicely named entity. We discussed this at great length in the ECRB, and we concluded that with the limited staff at the City that we could not come up with a way of really tracking that all the way back. At the meeting, there was a suggestion for an electronic way of doing it, and she asked her to write it up so the ECRB could consider it. However, they couldn't "get there" this go-around, so they simply adopted the very good suggestion of Paul Biderman that at least, if there were no way of disclosing the ultimate contributors, that the campaign materials and the campaign activities of those independent spenders would have to have a disclosure that there is no disclosure of the actual contributors.

Councilor Bushee asked Mr. Shandler to comment.

Mr. Shandler said, "So let's say I'm running for Council and I'm a publicly funded candidate and a group called Happy Americans spends more than $250 with a mailer saying that I'm a great guy. So if they spend more than $250, they do have to report to the City Clerk their expenditures and who their contributors are, so the *New Mexican* can figure out who is behind these happy people. And let's say the happy get money from me, super super happy people. So what the point was, we don't require the super happy happy people to also list their contributors. What we've done is created a kind of disincentive device that the happy people, if they get money from the super happy people, the happy people mailer has to put a disclaimer on their mailer saying this money came from a party that does not have to disclose their contributions to the City Clerk. So maybe that's a disincentive for the happy people to getting money from the super happy people."

Councilor Bushee said, "It just makes me sad sad."

Councilor Maestas said his amendments are the product of many many conversations with a lot of the advocates here today and with involved staff. He briefly reviewed his proposed amendments which are in the Council packet beginning on packet page 16. Please see the amendments for specifics of this presents. Councilor Maestas noted he has no amendments to Bill No. 2015-26, and supports it as it is presented.

Councilor Maestas continued, thanking the ECRB for putting this bill forward, but as written, he feels the pendulum is swinging in the opposite direction, and we're almost privatizing public financing by making matching funds so wide open. He said he can obtain contributions anywhere in the City outside his District and get matching funds. He said that would discourage a candidate from engaging with their constituents in the campaign, and focuses on him being a good public finance candidate and encourages him to do grass roots campaigning instead of fundraising. He said the two opportunities for match turns it into a campaign long effort of raising funds which gets away from the spirit of public financing.

Councilor Lindell thanked the ECRB for its work, noting she was able to meet with Ms. Kovnat on a Saturday morning which she appreciates. She said she too is completely happy with Bill No. 2015-26. However, she thinks Bill No. 2015-27, does need more time. She doesn't think they are in real agreement about that. She also agrees with what Councilor Heldmeyer said. She said it is unfortunate that none of this keeps dark money or PAC money out of our elections. She thinks it is important for everyone to be aware of that. And we can spend from the City's monies and we can't stop that from happening.

Councilor Lindell continuing saying some people say it doesn't add money to how much elections would cost, which doesn't make sense to her. In the last election if we would have used the numbers proposed, the number she comes up is $990,000, and that's an awful lot of money for the City to spend on an election when we face the deficits we face currently. We have to make hard decisions on how to spend our precious resources.

[STENOGRAPHER'S NOTE: At this point, Councilor Lindell moved to approve Item #6, Bill 2015-27. Following the approval, the Mayor returned to Item H(6), Bill #2015-26]

MOTION: Councilor Lindell moved, seconded by Councilor Ives, to adopt Ordinance No. 2015-23 (Bill 2015-26).

DISCUSSION: Councilor Ives asked if this includes the amendments he proposed.

CLARIFICATION BY COUNCILOR BUSHEE: Councilor Bushee said to be clear on the last vote, we did not accept his second amendment.

Ms. Vigil said this is correct, and Councilor Ives agreed.

Mr. Shandler said, "I think Councilor Ives amendments were approved by the Council on No. 27. The only thing I would add to Councilor Lindell's motion the friendly amendment for Councilor Bushee to have the have the *[inaudible]* party exception language."

Mayor Gonzales asked Councilor Ives if he has an amendment. He said, "As Zach said we got it all done on 27. Do you have one for 26."

Councilor Ives said he thought he did, but they could be on 27, and Ms. Vigil said all of the amendments are on 27.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Explaining her vote: Councilor Bushee said, "Yes, and I would be happy to serve on any working group to offer my experience."

Explaining his vote: Councilor Ives said, "Yes, and I'll have a brief statement after the vote."

Councilor Ives said, "It's interesting, because one of the delights of his first campaign which was publicly finance, was being able to have coffees in peoples' houses and that fell under that $200 exclusion and promoted an opportunity to get out into District 2 to meet with neighbors in an informal setting, respond to questions. I'm sad to see that deleted here tonight."

6) **CONSIDERATION OF BILL NO. 2015-27; ADOPTION OF 2015-22 (COUNCILOR IVES). AN ORDINANCE AMENDING THE CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE;" DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE" AND QUALIFIED SMALL CONTRIBUTION;" TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO "SEED MONEY CONTRIBUTIONS," AND "QUALIFYING CONTRIBUTIONS;" TO ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND;" AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE. (ZACHARY SHANDLER)**

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to approve Ordinance No. 2015-22, Bill No. 2015-27, with the two amendments she has proposed, in addition to Councilor Ives Amendments No. 1 and No. 2, and in Councilor Maestas's proposed amendments to include Item No. 1 and Item No. 3.

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 07/29/2015
ITEM FROM FINANCE COMMITTEE MEETING OF 07/13/2015

ISSUE:

19. Request for Approval of an Ordinance Amending the Public Campaign Finance Code, Section 9-3 SFCC 1987 to Modify the Definitions of "Contribution" and "Expenditure", Delete the Definition of "Qualifying Contribution" and Create a Definition for "Coordinated Expenditure" and "Qualified Small Contribution"; to Modify the Requirements to Qualify as a Participating Candidate; to Delete Provisions Related to "Seed Money Contributions" and "Qualifying Contributions"; to Establish Provisions for Qualified Small Contributions; to Modify Provisions Related to "Reports Of Expenditure" to Expand Reporting Requirements; to Add Provisions for "Additional Reporting of Qualified Small Contributions and Additional Matching Payments From Fund"; and to Make Such Other Changes as are Necessary to Clarify the Provisions of the Public Campaign Finance Code. (Councilor Ives) (Zachary Shandler)

Committee Review:

City Council (request to publish) (approved)	06/24/15
Finance Committee (postponed)	06/29/15
City Council (public hearing)	07/29/15

Fiscal Impact – Possibly - (If the bill is adopted in its entirety, the City Clerk may have to review the additional workload and determine whether temporary workers need to be hired)

FINANCE COMMITTEE ACTION:

Move Forward with no recommendation.

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

With amendments.

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	Acting Chair X		
COUNCILOR LINDELL	Excused		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ	Excused		

06/29/2015

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY
Bill No. 2015-27
Public Campaign Finance Code

SPONSOR(S): Councilor Ives

SUMMARY: The proposed ordinance to the Public Campaign Finance Code (Chapter 9-3) does the following:

- modifies the definitions of "contribution" and "expenditure" in Section 9-3.3
- creates a definition for "coordinated expenditure" in Section 9-3.3
- deletes the definition of "qualifying contribution" in Section 9-3.3
- creates a definition for "qualified small contribution" in Section 9-3.3
- deletes provisions related to seed money contributions in Sections 9-3.4 to 9-3.11
- establishes provisions for qualified small contributions in Sections 9-3.4 to 9-3.11
- deletes provisions related to qualifying contributions in Sections 9-3.4 to 9-3.11
- modifies provisions related to reports of expenditure in Sections 9-3.4 to 9-3.11
- modifies the requirements to qualify as a participating candidate in Section 9-3.8
- additional matching payments from fund in Section 9-3.12
- adds provisions for additional reporting of qualified small contributions in Section 9-3.14

PREPARED BY: Zachary Shandler, Assistant City Attorney

FISCAL IMPACT: Yes

DATE: June 18, 2015

ATTACHMENTS: Letter from Justin Miller, Chair Ethics and Campaign Review Board
Bill
FIR
Bill with proposed changes incorporated

City Public Campaign Finance Fund CHECKBOOK if Everyone Maxed Out

Year	Event	Credit	Debit	$ in Fund
Current				$493,000
	2015-2016 Annual Distribution	+$150,000		
	Total			= $643,000
2016 Election	7 council candidates (7 candidates x $15,000 initial grant= $105,000 grant money)		-$105,000	
				=$538,000
	7 council candidates x $30,000 per match = $210,000 in matching funds)		-$210,000	
				=$328,000
	2016-2017 Annual Distribution	+$150,000		
				=$478,000
	2017-2018 Annual Distribution	+$150,000		
				=$628,000
2018 Election	3 mayor candidates (3 candidates x $60,000 initial grant = $180,000)		-$180,000	
				=$448,000
	7 council candidates (7 candidates x $15,000 = $105,000 grant money)		-$105,000	
				=$343,000
	3 mayor candidates x $120,000 per match = $360,000 in matching funds)		-$360,000	= Negative Balance—Does Clerk have to proportion out match funds
	7 candidates x $30,000 per match = $210,000 in matching funds)		-$105,000	= Negative Balance—Does Clerk have to proportion out match funds

Table created by Zack Shandler 7/15/15

If 2014 **Mayor** Race Run Under Proposed New Code Section--
4:1 Match

Candidate	Private $	City Match	City Initial Grant	Cash on Hand
Bushee	$30,000 *	$120,000	$60,000	$210,000
Dimas	$30,000 *	$120,000	$60,000	$210,000
Gonzales	$30,000 *	$120,000	$60,000	$210,000
City Fund Totals		$360,000	$180,000	

If 2014 **Mayor** Race Run Under Proposed New Code Section--
2:1 Match

Candidate	Private $	City Match	City Initial Grant	Cash on Hand
Bushee	$60,000 *	$120,000	$60,000	$240,000
Dimas	$60,000 *	$120,000	$60,000	$240,000
Gonzales	$60,000 *	$120,000	$60,000	$240,000
City Fund Totals		$360,000	$180,000	

*This is the amount eligible for the match. A candidate can raise more private money.

Table created by Zack Shandler 7/15/15

Ives #1

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2015-27
Public Campaign Finance Code

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2015-27:

1. On page 4, line 9 after "entity" ***insert*** "making an expenditure"
2. On page 4, line 19 after "event" ***insert*** "for the benefit of the entity making the expenditures;"
3. On page 4, line 20 after "entity" ***insert*** "making the expenditure"

Respectfully submitted,

_____

Peter N. Ives, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

Ives #2

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2015-27
Public Campaign Finance Code

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2015-27:

1. On page 7, line 4 ***delete*** paragraph N in its entirety
2. On page 11, line 2 after "contributions" ***insert*** "to be used as part of the application as a participating candidate"

Respectfully submitted,

_____

Peter N. Ives, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

Lindell #1

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2015-27
Public Campaign Finance Code

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2015-27:

1. On page 6, line 22, through page 19, line19, remove all strikethroughs and underlined material to restore the original language.

Respectfully submitted,

_____

Signe I. Lindell, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

Lindell #2

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2015-27
Public Campaign Finance Code

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2015-27:

1. On page 18, line 21 ***insert*** the following new sentence: "A copy of each receipt printed on 8½" by 11" paper shall be filed with the municipal clerk with the reports provided for in this subsection."

Respectfully submitted,

_____

Signe I. Lindell, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

Maestas

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2015-27
Public Campaign Finance Code

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2015-27:

1. On page 16, line 14 after "any" ***insert*** "electronic, telecommunication or computer".
2. On page 17, line 6 after "Fund" ***insert***:
   "shall submit forms signed by separate qualified electors registered to vote in the district in which the candidate is running, or the city as a whole for mayoral and municipal judge candidates, accompanied by a campaign finance statement."
3. On page 17, line 7 ***delete*** "may file campaign finance statements" and ***insert*** in lieu thereof "the participating candidate shall file a campaign finance statement".
4. On page 17, lines 8-9 ***delete*** "sixty-second (62nd) day preceding the election and the fifteenth (15th) day preceding the election" and ***insert*** in lieu thereof "fiftieth-seventh (57th) day preceding the election which shall accompany the forms provided for in this subsection".
5. On page 17, line 9 ***insert*** the following new sentence:
   "On or before the forty-second (42nd) day preceding the election, the municipal clerk shall make a determination whether the candidate's application for matching funds complies with the provisions of this section."
6. On page 17, ***delete*** lines 10-12 and ***insert*** in lieu thereof "Within three (3) business days of certifying the validity of qualified small contributions for matching funds,"
7. On page 17, line 14 ***delete*** "four" and ***insert*** in lieu thereof "two (2)".
8. On page 17, line 14 after the second "the" ***insert*** in lieu thereof "certified".
9. On page 17, line 14 ***delete*** the rest of the paragraph beginning with "reported".

Respectfully submitted,

_____

Joseph M. Maestas, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2015-27

INTRODUCED BY:

Councilor Peter Ives

AN ORDINANCE

AMENDING THE PUBLIC CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987 TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE", DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE" AND "QUALIFIED SMALL CONTRIBUTION"; TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO "SEED MONEY CONTRIBUTIONS" AND "QUALIFYING CONTRIBUTIONS"; TO ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR "ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND"; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE.

Section 1. Subsection 9-3.3 SFCC 1987 (being Ord. #2009-44, §4, as amended) is amended to read:

9-3.3 Definitions.

As used in this section, the following terms have the following meanings:

A. *Campaign depository* means a bank, mutual savings bank, savings and loan association or credit union doing business in this state under which a campaign account or accounts are maintained.

B. *Campaign materials* means any published communication, electronic or otherwise, disseminated to more than one hundred (100) persons that either supports the election or defeat of any identifiable candidate or candidates or supports the approval or defeat of a ballot proposal, other than communications to, or editorials, reports, or commentary by news media.

C. *Candidate* means any individual who seeks election to a Santa Fe municipal office. An individual shall be a candidate when they:

(1) Announce publicly;

(2) File for office;

(3) When contributions are accepted or expenditures made; or when

(4) Any activity is held to promote an election campaign of an individual if that activity is endorsed or supported by that person or if the benefits of such activity are later accepted by such person.

D. *Contested race* means a race in which there are at least two (2) candidates for the office sought.

E. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly, to a candidate or political committee, or to a person obligated to file a report under section 9-2.6 SFCC 1987, for the purpose of [~~influencing the~~

~~outcome of a municipal election~~] supporting or opposing the election of a candidate or the approval or defeat of a ballot proposition.

(1) The term "contribution" includes:

(a) The transfer of funds or anything of value between political committees;

(b) The transfer of anything of value for less than full consideration;

(c) Interest, dividends or other income derived from the investment of campaign funds;

(d) The payment for the services of an individual serving on behalf of a candidate or political committee, which payments are made by a third party; and

(e) The purchase of tickets for fundraising events such as dinners, rallies, raffles, etc. and the proceeds of collections at fundraising events.

(f) [~~An expenditure by a person other than a candidate or the candidate's political committee that is made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate or the candidate's political committee.~~] Coordinated expenditure.

(2) The term "contribution" does not include:

(a) A volunteer's personal services provided without compensation or the travel or personal expenses of such a campaign worker; and

(b) The cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than two hundred dollars ($200.).

F. *Coordinated Expenditure* means an expenditure that is made:

(1) by an individual or entity other than a candidate or the candidate's political committee; and

(2) in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his/her representatives or agents or the candidate's political committee, including but not limited to, the following examples in 9-3.3(F)(2)(a)-(d):

(a) there has been substantial discussion between the individual or entity and the candidate, candidate's political committee or his/her representatives or agents. Substantial discussion includes, but is not limited to, an exchange of campaign strategies, polling information, voter lists or any other similar information that would facilitate the election or defeat of a candidate;

(b) an entity is directly or indirectly formed or established by or at the request or suggestion of, or with the encouragement of the candidate, candidate's political committee or his/her representatives or agents;

(c) the candidate, candidate's political committee or his/her representatives or agents has solicited funds or engaged in other fundraising activities on behalf of the person or entity making the expenditure during the twelve-month (12) period preceding the date of the expenditure. Fundraising activities, include but are not limited to, exchanging names of potential donors or other lists to be used in engaging in fundraising activity, regardless of whether or not the individual or entity pays fair market value for the names or lists provided; or being a featured guest or speaker at a fundraising event;

(d) if the individual or entity has employed, has in a leadership position, or has accepted a donation of the campaign related professional services of any person, who, during the twelve-month (12) period preceding the date of the expenditure, has been an employee of, has advised, or provided or is providing services to the candidate or candidate's political committee. These services include, but are not limited to, any services in support of the candidate's

or candidate's political committee's campaign activities, such as advertising, message, strategy or policy services, polling, allocation of resources, fundraising or campaign operations.

(e) an expenditure is not a coordinated expenditure solely because:

(i) the individual or entity and a candidate or candidate's political committee use the same vendor to provide polling services, printing or distribution services or physical space, provided that the vendor has in place prior to the expenditure a firewall to ensure that there is no exchange of information between the individual or entity and the candidate or campaign committee. Evidence of an adequate firewall is a vendor's formal written policy or a contractual agreement with the vendor prohibiting the exchange of information between the individual or entity and the candidate or candidate's political committee, which policy or contract is distributed to all relevant employees, consultants and clients affected by the policy or contract. The firewall shall be designed and implemented to prohibit the flow of information between employees and consultants providing services to the individual and entity and to those currently or previously providing services to the candidate or candidate's political committee. Coordination will be presumed in the absence of such a firewall.

(ii) the individual or entity making the expenditure interviews a candidate; has endorsed a candidate; has obtained from the candidate a biography of the candidate or a position paper, press release, or similar material about the candidate; has invited the candidate to make an appearance before the person's members, employees or shareholders;

or has shared space with a candidate or candidate's political committee for one or more single events of limited duration.

[~~F~~]G. *Election* means any regular or special Santa Fe municipal election.

[~~G~~]H. *Expenditure* means a payment or transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of [~~assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign for~~] supporting or opposing the election of a candidate or the approval or defeat of a ballot proposition. This includes contributions, subscriptions, distributions, loans, advances, deposits, or gifts of money or anything of value, and includes a contract, a promise or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also means the transfer of funds or anything of value between political committees. [~~In determining the dollar value of an expenditure, only that proportion of a payment or transfer of anything of value that is directly related to the campaign shall be considered an expenditure.~~]

[~~H~~]I. *Fund* means the public campaign finance fund created by subsection 9-3.4 SFCC 1987.

[~~I~~]J. *Non-participating candidate* means a candidate who is not a participating candidate.

[~~J~~]K. *Participating candidate* means a candidate who has qualified and has been certified pursuant to subsection 9-3.9 SFCC 1987 as eligible to receive payments from the fund.

[~~K~~]L. *Qualified elector* means a person who is registered to vote in the City of Santa Fe.

[~~L~~]M. [~~*Qualifying contribution* means a contribution of no more or no less than five dollars ($5.00) that is received from a qualified elector during the qualifying period by a candidate seeking to become a participating candidate. A candidate for councilor shall only receive qualifying contributions from qualified electors registered to vote in the council district in~~

~~which the candidate is running.~~] *Qualified small contribution* means a contribution of no more than one hundred dollars ($100) made and accepted in compliance with the provisions of subsection 9-3.6 SFCC 1987.

[~~M~~]N. *Qualifying period* means the period during which a candidate seeking to become a participating candidate is permitted to collect [~~qualifying~~] qualified small contributions and to apply for certification as a participating candidate. It begins one hundred eighty-three (183) days before the election and ends one hundred six (106) days before the election.

[~~N~~]O. *Race* means the electoral process in which one (1) or more candidates run and one (1) candidate is elected to the office of mayor, municipal judge or city councilor for a particular district.

[~~O. *Seed money contribution* means a contribution of no more than one hundred dollars ($100.) made and accepted in compliance with the provisions of subsection 9-3.6 SFCC 1987 and used exclusively for the purposes specified in that section.~~] P. *Uncontested race* means a race in which there is only one (1) candidate for the office sought.

Section 2. Subsection 9-3.4 SFCC 1987 (being Ord. #2009-44, §5, as amended) is amended to read:

9-3.4 Public Campaign Finance Fund.

A. A dedicated public campaign finance fund ("the fund") is established to be administered by the [~~municipal~~] city clerk for the purpose of providing public financing for the election campaigns of participating candidates. Monies in the fund and disbursed from the fund to participating candidates are public monies entrusted to the candidates to be used solely for the public purposes specified in this Section 9-3 SFCC 1987.

B. Beginning with the city budget for fiscal year 2009-2010 and in each fiscal year thereafter, the sum of one hundred fifty thousand dollars ($150,000.) shall be budgeted for and deposited in the fund.

C. Beginning with the election of 2014, the governing body shall appropriate and deposit in the fund such additional sums, if any, as may be necessary to ensure:

(1) That the balance in the fund one hundred nineteen (119) days preceding each election for mayor and four (4) council seats is at least six hundred thousand dollars ($600,000.); and

(2) That the balance in the fund one hundred nineteen (119) days preceding each election for municipal judge and four (4) council seats is at least three hundred thousand dollars ($300,000.).

D. In addition to the deposits required by paragraphs B. and C. of this subsection, the following shall also be deposited in the fund:

[~~(1) All seed money contributions received by candidates seeking to become certified as participating candidates which remain unspent;~~

~~(2) All qualifying contributions received by candidates seeking to become certified as participating candidates;~~]

([~~3~~]1) All amounts paid from the fund to participating candidates which have not been spent or obligated as of the date of the election;

([4]2) All fines levied by the ethics and campaign review board or as decreed by a court of competent jurisdiction as a condition of probation;

([~~5~~]3) Voluntary donations made to the fund;

([~~6~~]4) All interest and other income earned from investment of the fund; and

([~~7~~]5) Such other appropriations to the fund as may be made by the governing body as necessary to fulfill the requirements of this Section 9-3 SFCC 1987.

Section 3. Subsection 9-3.5 SFCC 1987 (being Ord. #2009-44, §6, as amended) is amended to read:

9-3.5 Eligibility as a Participating Candidate.

[~~Beginning with the election of 2012, a~~] Any candidate for municipal office may qualify as a participating candidate eligible to receive payments from the fund pursuant to subsections 9-3.10 and 9-3.12 SFCC 1987 if the candidate:

A. Meets the requisites to be listed on the ballot as a certified candidate for municipal office pursuant to the provisions of Section 3-8-27 (B) through (E) NMSA 1978 and Article IV Section 4.03 of the Santa Fe Municipal Charter;

B. Has collected [~~the requisite number of qualifying contributions, as follows~~]:

(1) For a candidate running for the office of mayor, six hundred (600) [~~qualifying~~] qualified small contributions of no less than five dollars ($5.00) from separate qualified electors;

(2) For a candidate running for the office of city councilor, one hundred fifty (150) [~~qualifying~~] qualified small contributions of no less than five dollars ($5.00) from separate qualified electors registered to vote in the council district in which the candidate is running;

(3) For a candidate running for the office of municipal judge, one hundred fifty (150) [~~qualifying~~] qualified small contributions of no less than five dollars ($5.00) from separate qualified electors.

C. Submits an application for certification pursuant to subsection 9-3.8 SFCC 1987 setting forth the agreement and the averments and accompanied by the forms[~~,~~] and reports [~~and payments~~] that are required by that section.

Section 4. Subsection 9-3.6 SFCC 1987 (being Ord. #2009-44, §7, as amended) is amended to read:

9-3.6 [~~Seed Money~~] Qualified Small Contributions.

A. A participating candidate or a candidate seeking to become a participating candidate may solicit and accept [~~seed money contributions to defray expenses incurred in~~

~~obtaining qualifying contributions and in seeking certification as a participating candidate~~]
qualified small contributions.

B. The aggregate amount of [~~seed money~~] qualified small contributions from any one contributor to any one candidate shall not exceed one hundred dollars ($100)[~~, and the aggregate amount of seed money contributions accepted by a candidate shall not exceed ten percent (10%) of the amount payable under subsection 9-3.10 SFCC 1987 to a candidate in a contested election for the office sought~~].

C. Each [~~seed money~~] qualified small contribution shall be accompanied by a form signed by the contributor, which shall include the contributor's name, home address, telephone number, occupation and name of employer. The ethics and campaign review board may, by regulation, permit the use of an electronic signature on such forms.

D. [~~All seed money contributions received by a candidate shall be deposited in a non-interest-bearing account in a campaign depository to be established by the candidate before soliciting or accepting any such contributions. All expenditures of seed money shall be made from the campaign depository.~~] No person shall knowingly make and no candidate shall knowingly receive a qualified small contribution which is not from the person named on the form or for which the person named on the form has been or will be reimbursed or compensated by another person.

E. Before soliciting or accepting qualified small contributions, a candidate shall appoint a treasurer and establish a campaign depository in the manner required by subsection 9-2.8 SFCC 1987. All qualified small contributions received by a candidate shall be recorded by the candidate's campaign treasurer, deposited in a separate non-interest-bearing account in the campaign depository and used in the candidate's campaign or disposed of following the election in the manner required by subsection 9-2.9 SFCC 1987. All such contributions shall be timely reported in a campaign finance statement prepared in the manner and filed on the dates required

by subsections 9-2.10 through 9-2.12 SFCC 1987. Campaign finance statements reporting the receipt of qualified small contributions shall be accompanied by copies of the forms signed by each contributor pursuant to paragraph C of this subsection.

[~~E. Seed money contributions shall be used only for the purposes specified in paragraph A. of this subsection, and all seed money contributions that have not been spent or used for such purposes by the time the candidate applies for certification as a participating candidate or by the end of the qualifying period, whichever is sooner, shall then be paid over to the municipal clerk for deposit in the fund; provided, however, that if payment of all of the candidate's unspent seed money to the municipal clerk would cause the bank account in the campaign depository to be closed, an amount of seed money necessary to keep the account open may be temporarily retained in the account and paid over to the municipal clerk at a later time in compliance with paragraph C of subsection 9-3.10 SFCC 1987.~~]

Section 5. Subsection 9-3.7 SFCC 1987 (being Ord. #2009-44, §8, as amended) is repealed.

[REPEAL] -- [~~9-3.7 Qualifying Contributions.~~]

[~~A. Each qualifying contribution shall be accompanied by a form signed by the contributor, which shall include the contributor's name, registered address and telephone number.~~

~~B. No candidate or person acting on a candidate's behalf shall pay to any other person any form of compensation for soliciting or obtaining a qualifying contribution.~~

~~C. No person shall knowingly make and no candidate shall knowingly receive a qualifying contribution which is not from the person named on the form or for which the person named on the form has been or will be reimbursed or compensated by another person.~~

~~D. All qualifying contributions received by a candidate shall be deposited in a non-interest bearing account in a campaign depository to be established by the candidate before soliciting or accepting any such contributions, and shall be paid over to the municipal clerk for~~

~~deposit in the fund when the candidate applies for certification as a participating candidate or when the qualifying period ends, whichever is sooner.~~]

9-3.7 Reserved.

Section 6. Subsection 9-3.8 SFCC 1987 (being Ord. #2009-44, §9, as amended) is amended to read:

9-3.8 Application for Certification as a Participating Candidate.

A. A candidate who wishes to be certified as a participating candidate shall, [~~before the end of the qualifying period~~] on or before the one hundred and sixth (106th) day preceding the election, file an application for such certification with the municipal clerk on a form prescribed by the [~~municipal~~] city clerk.

B. The application shall identify the candidate and the office that the candidate is seeking, and shall set forth:

(1) The candidate's averment under oath that the candidate satisfies the requisites for qualification and certification as a participating candidate prescribed by subsection 9-3.5 SFCC 1987;

(2) The candidate's averment under oath that the candidate has accepted no contributions to the candidate's current campaign other than [~~qualifying contributions and seed money~~]qualified small contributions solicited and accepted pursuant to subsections 9-3.6 SFCC 1987 [~~and 9-3.7 SFCC 1987~~];

(3) The candidate's averment under oath that the candidate has made no expenditures for his or her current campaign from any source other than [~~seed money~~] qualified small contributions; and

(4) The candidate's agreement that his or her current campaign will not solicit, direct, or accept any further contributions other than qualified small contributions or make any further expenditures from any sources other than qualified small

contributions and payments received from the fund pursuant to subsections 9-3.10 and 9-3.12 SFCC 1987.

C. The application shall be accompanied by:

(1) Reports listing all [~~seed money contributions and qualifying contributions~~] qualified small contributions received by the candidate [~~and all expenditures of seed money contributions made by the candidate,~~] and showing the aggregate amounts of all such contributions [~~and expenditures and the aggregate amounts of all contributions received from each contributor~~]; and

(2) Copies of forms signed by contributors for all [~~seed money contributions and qualifying~~] qualified small contributions received by the candidate.[~~; and~~

~~(3) A check or checks issued to the City of Santa Fe from the candidate's campaign depository for the amount of all qualifying contributions received by the candidate and all seed money contributions received by the candidate except:~~

~~(a) Amounts previously spent for the purposes specified in paragraph A of subsection 9-3.6 SFCC 1987; and~~

~~(b) The amount, if any, that has been temporarily retained by the candidate for the purpose of keeping open the bank account in the campaign depository pursuant to paragraph E of subsection 9-3.6 SFCC 1987.~~]

Section 7. Subsection 9-3.9 SFCC 1987 (being Ord. #2009-44, §10, as amended) is amended to read:

9-3.9 Certification as a Participating Candidate.

A. On or before the eighty-ninth (89th) day before the election the municipal clerk shall make a determination whether the candidate's application complies with the requirements of subsection 9-3.8 SFCC 1987 and whether the candidate satisfies the requisites for certification as a participating candidate prescribed by subsection 9-3.5 SFCC 1987, and shall thereupon issue a

decision, in accordance with the determination so made, granting or refusing such certification to the candidate.

B. The [~~municipal~~] city clerk may revoke a candidate's certification as a participating candidate for any violation by the candidate of the requirements of this section, and may require that any candidate whose certification has been revoked to pay over to the municipal clerk for deposit in the fund any amounts previously paid to the candidate pursuant to subsection 9-3.10 SFCC 1987.

C. Qualified small contributions in the campaign depository of a candidate who fails to obtain certification as a participating candidate, whose certification is revoked or who withdraws as a participating candidate may be retained by the candidate to be used in the candidate's campaign and disposed of after the election in the manner required by subsection 9-2.9 SFCC 1987.

Section 8. Subsection 9-3.10 SFCC 1987 (being Ord. #2009-44, §11, as amended) is amended to read:

9-3.10 Payments to Participating Candidates.

A. Within three (3) business days of certifying a candidate as a participating candidate, the municipal clerk shall disburse to the candidate from the fund:

(1) Sixty thousand dollars ($60,000.) for a candidate in a contested race for the office of mayor;

(2) Fifteen thousand dollars ($15,000.) for a candidate in a contested race for the office of city councilor;

(3) Fifteen thousand dollars ($15,000.) for a candidate in a contested race for the office of municipal judge; or

(4) For a candidate in an uncontested race, ten percent (10%) of the amount that would be due to a candidate in a contested race for the same office.

B. If the amounts required to be paid to candidates under paragraph A of this subsection exceed the total amount available in the fund, each payment shall be reduced in proportion to the amount of such excess. Any such proportionate reduction in the payment due to any candidate under paragraph A of this subsection shall give the candidate the option to reject the payment and to withdraw as a participating candidate. A candidate who withdraws as a participating candidate pursuant to this paragraph shall file an affidavit with the [~~municipal~~] city clerk so stating and shall thenceforth be treated for all purposes as a non-participating candidate relieved of all obligations and restrictions and excluded from all benefits and exemptions imposed or conferred on a participating candidate by this Section 9-3 SFCC 1987.

[~~C. Within five (5) business days of the candidate's receipt of the amount disbursed under paragraph A of this subsection or the municipal clerk's refusal to certify the candidate as a participating candidate pursuant to paragraph A of subsection 9-3.9 SFCC 1987, whichever is sooner, the candidate shall pay over to the municipal clerk for deposit in the fund any amount of seed money that has been temporarily retained by the candidate for the purpose of keeping open the bank account in the campaign depository pursuant to paragraph E of subsection 9-3.6 SFCC 1987.~~]

Section 9. Subsection 9-3.11 SFCC 1987 (being Ord. #2009-44, §12, as amended) is amended to read:

9-3.11 Use of Payments from the Fund[~~; the Fund as Exclusive Source~~].

A. All payments received by a participating candidate from the fund shall be deposited in a non-interest-bearing account in the candidate's campaign depository and shall be used exclusively to pay expenses reasonably incurred in furtherance of the candidate's current campaign.

B. Payments received from the fund shall not be used for any other purpose, including:

(1) The candidate's personal living expenses or compensation to the candidate or the candidate's family;

(2) A contribution to another campaign of the candidate or a payment to retire debt from another such campaign;

(3) A contribution to the campaign of another candidate or to a political party or political committee or to a campaign supporting or opposing a ballot proposition;

(4) An expenditure supporting the election of another candidate or the approval or defeat of a ballot proposition or the defeat of any candidate other than an opponent of the participating candidate;

(5) Payment of legal expenses or any fine levied by a court or the ethics and campaign review board.

(6) Any gift or transfer for which compensating value is not received.

C. All payments from the fund received by a participating candidate which have not been spent or obligated for the purposes specified in paragraph A of this subsection and any tangible assets purchased with such payments remaining in the possession of the campaign as of the date of the election shall be returned by the candidate and shall be conveyed to the municipal clerk within forty-five (45) days after that date. Returned payments shall be deposited in the fund. Tangible assets shall be conveyed to the city for its use or disposition in accordance with the city's procurement code. Proceeds from such disposition shall be deposited in the fund.

D. In accordance with the agreement entered into pursuant to subparagraph B(4) of subsection 9-3.8 SFCC 1987, a candidate who has been certified as a participating candidate shall not thereafter accept any contribution to the candidate's campaign other than payments received from the fund pursuant to subsections 9-3.10 and 9-3.12 SFCC 1987 and qualified small contributions received pursuant to subsection 9-3.6 SFCC 1987, and shall not make any expenditure in support of the candidate's campaign from any source other than payments and

contributions so received and previously deposited in the candidate's campaign depository.

Section 10. A new Subsection 9-3.12 SFCC 1987 is ordained to read:

9-3.12 [~~Reserved.~~] [NEW MATERIAL] Additional Reports of Qualified Small Contributions; Additional Matching Payments from the Fund.

A. Those participating candidates who wish to submit for matching payments from the Fund, in addition to the dates specified for the filing of campaign finance statements by subsection 9-2.10 SFCC 1987, may file campaign finance statements reporting the receipt of qualified small contributions on the sixty-second (62nd) day preceding the election and the fifteenth (15th) day preceding the election.

B. Within two business days after the filing of a campaign finance statement by a participating candidate reporting the receipt of qualified small contributions and accompanied by copies of the forms signed by the contributors as required by paragraph C of subsection 9-3.6 SFCC 1987, the municipal clerk shall disburse to the candidate an additional payment from the fund equal to four times the total amount of the qualified small contributions reported in the campaign finance statement; provided, that no such additional matching payments shall be made for contributions reported in a campaign finance statement filed after the Tuesday preceding the election; and provided further that additional matching payments for contributions listed in a report filed with the candidate's application for certification under subsection 9-3.8 SFCC 1987 shall not be made until two business days after such contributions have been listed anew in a campaign finance statement filed under paragraph E of subsection 9-3.6 SFCC 1987 or paragraph A of this subsection.

C. Additional payments made to a participating candidate pursuant to paragraph B of this subsection shall be deposited in the separate account in the candidate's campaign depository that was established by the candidate for the deposit of payments received from the fund pursuant to paragraph A of subsection 9-3.11.

D. The aggregate amount of additional payments made to a participating candidate pursuant to paragraph B of this subsection shall not exceed two hundred percent (200%) of the amount initially paid to the candidate pursuant to subsection 9-3.10 SFCC 1987.

E. If the amounts required to be paid to candidates under paragraph B of this subsection exceed the total amount available in the fund, each payment shall be reduced in proportion to the amount of such excess.

[~~(Former subsection 9-3.12, Reports of Expenditures by Non-Participating Candidates and Other Persons, previously codified herein and containing portions of Ordinance No. 2009-44, was repealed in its entirety by Ordinance No. 2011-28, §17.)~~]

Section 11. Subsection 9-3.14 SFCC 1987 (being Ord. #2009-44, §15, as amended) is amended to read:

9-3.14 Reports of Expenditures[~~; Exemption from Certain Reporting Requirements~~].

A. A participating candidate shall file with the municipal clerk reports under oath of expenditures made from the payments received from the fund, indicating that the expenditures were made from that source and showing the date and amount of each such expenditure, the name and address of the person or organization to whom it was made, the purpose of the such expenditure, the aggregate amount of such expenditures made to each person or organization and the aggregate amount of all expenditures made by the candidate or by his or her campaign. Receipts for all such expenditures shall be preserved for a period of two (2) years from the date of the expenditure.

B. The reports required by paragraph A of this subsection shall be filed on each of the days prescribed for the filing of campaign finance statements by subsection 9-2.10 SFCC 1987.

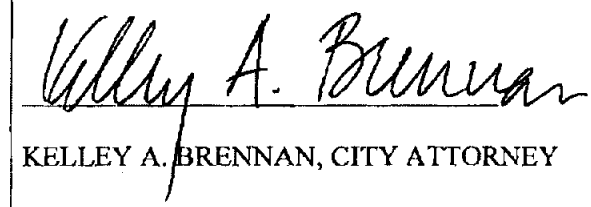
C. A signed campaign finance statement filed by a participating candidate to report

qualified small contributions pursuant to paragraph E of subsection 9-3.6 SFCC 1987 or paragraph A of subsection 9-3.12 SFCC 1987 shall also include a report of all expenditures made during the period covered by the statement from the separate account established by the candidate for the deposit of such contributions pursuant to paragraph D of subsection 9-3. SFCC 1987. The statement shall show that the expenditures were made from that source and shall contain all the information concerning the expenditures, account balances and funds on hand that is required for campaign finance statements filed pursuant to subsection 9-2.11 SFCC 1987. Receipts for all such expenditures shall be preserved for a period of two (2) years from the date of expenditure.

[~~C~~]D.. Except as provided in paragraph A [~~and B~~] through C of this subsection [~~and~~], paragraph E of subsection 9-3.6 SFCC 1987, paragraph C of subsection 9-3.8 SFCC 1987[~~,~~]and paragraph A of subsection 9-3.12 SFCC 1987, participating candidates are exempt from the requirement to file campaign finance statements imposed by subsections 9-2.10 SFCC 1987 through 9-2.12 SFCC 1987 and from the requirements to file campaign records with the municipal clerk imposed by paragraph C of subsection 9-2.9 SFCC 1987; provided, however, that campaign records shall be maintained in the manner required by the applicable provisions of the Campaign Code (Section 9-2 SFCC 1987) and shall be made available upon request to the municipal clerk and the ethics and campaign review board.

[~~D~~]E. [~~A seed money and qualifying contribution report and an~~] Campaign finance statements and contribution and expenditure reports of a candidate for municipal judge are not required to be signed or acknowledged by the candidate.

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY

Legislation/Bills 2015/Campaign Code 9-3 Bill

FIR No. 2681

City of Santa Fe
Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. **General Information**

(Check) Bill: X Resolution: _____
(A single FIR may be used for related bills and/or resolutions)
Short Title(s): **AN ORDINANCE AMENDING THE PUBLIC CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987 TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE", DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE" AND "QUALIFIED SMALL CONTRIBUTION"; TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO SEED MONEY CONTRIBUTIONS AND ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO DELETE PROVISIONS RELATED TO "QUALIFYING CONTRIBUTIONS"; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR "ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND"; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE.**

Sponsor(s): Councilor Peter Ives

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Zack Shandler Date: 6/18/15 Phone: 955-6303

Reviewed by City Attorney: Kathy A. Brennan (Signature) Date: 6/19/15

Reviewed by Finance Director: _____ (Signature) Date: 6-19-2015

Section B. **Summary**
Briefly explain the purpose and major provisions of the bill/resolution:
The purpose of the bill is to:

- **modify the definitions of "contribution" and "expenditure" in Section 9-3.3**
- **create a definition for "coordinated expenditure" in Section 9-3.3**
- **delete the definition of "qualifying contribution" in Section 9-3.3**
- **create a definition for "qualified small contribution" in Section 9-3.3**
- **delete provisions related to seed money contributions in Sections 9-3.4 to 9-3.11**
- **establish provisions for qualified small contributions in Sections 9-3.4 to 9-3.11**
- **delete provisions related to qualifying contributions in Sections 9-3.4 to 9-3.11**
- **modify provisions related to reports of expenditure in Sections 9-3.4 to 9-3.11**
- **modify the requirements to qualify as a participating candidate in Section 9-3.8**
- **additional matching payments from fund in Section 9-3.12**
- **add provisions for additional reporting of qualified small contributions in Section 9-3.14**

Finance Director: _____

Section C. **Fiscal Impact**

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)

b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)

c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)

b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required

c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs

d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns

e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

_____ Check here if no fiscal impact

Column #: 1	2	3	4	5	6	7	8
Expenditure Classification	FY ___2016___	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY ___2018___	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
Personnel*	$ TBA (If the bill is adopted in its entirety, the City Clerk may have to review the additional workload and determine whether temporary workers need to be hired)	N	NR	$ TBA	N	NR	General Fund
Fringe**	$			$			
Capital Outlay	$			$			
Land/ Building	$			$			

Professional Services	$_____	_____	_____	$_____	_____	_____	_____
All Other Operating Costs	$ TBA (See Narrative below)	N	NR	$ TBA (see narrative below)	N	NR	Public Campaign Finance Fund
Total:	$_____			$_____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:
a. To indicate new revenues and/or
b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #: 1	2	3	4	5	6
Type of Revenue	FY 2016	"R" Costs Recurring or "NR" Non-recurring	FY 2018	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
_____	$0	_____	$ 0	_____	_____
_____	$_____	_____	$_____	_____	_____
_____	$_____	_____	$_____	_____	_____
Total:	$_____		$_____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

***Under a system where a mayoral candidate could raise money and could get a 4 X1 match (capped at 200% of the initial grant)?**

Mayor Candidate A would get $60,000 in the initial city grant and if they raised $30,000 in small contributions and they would get a city match of $120,000.
(The candidate could raise more than $30,000, but only the first $30,000 would be eligible for the match).

In 2014, there were three mayor candidates under the public financing system:
2014 cost to the Public Campaign Finance Fund: $180,000
Under the bill, the cost to the Fund (if they all raised $30,000 in small contributions): $540,000 ($180,000 and $360,000 in matching funds)

Under a system where council or judge candidates could raise money and could get a 4 X1 match (capped at 200% of the initial grant)?
Candidate A would get $15,000 in the initial grant, and if they raised $7,500 in small contributions and get a match of $30,000.

(The candidate could raise more than $7,500, but only the first $7,500 would be eligible for the match).

In 2014, there were 7 council candidates under the public financing system:

2014 cost with 7 candidates to the Fund: $105,000
Under the bill, the cost to the Fund (if they all seven raised $7,500 in small contributions): $315,000 ($105,000 in grant funds and $210,000 in matching funds)

Notes:

***The proposed 200% cap on the initial city grant of fund creates a known cap on the city match. For example, Mayoral Candidate A could never get more than $120,000 in matching funds. A council candidate can never get more than $30,000 in matching funds.**

***There is an annual distribution from the General Fund to the Public Campaign Finance Fund. The current code in Section 9-3.4B provides that "each fiscal year...the sum of one hundred fifty thousand shall be budgeted for and deposited in the fund."**

***There is a current floor of the minimum amount of $ that needs to be in the fund. The current code in Section 9-3.4C provides that "beginning with the election of 2014, the governing body shall appropriate and deposit in the fund such additional sums, if any, as many be necessary to ensure that the balance ... [during a mayoral election year] is at least six hundred thousand dollars...[and] that the balance in the fund ... [during a council and judge year] is at least three hundred thousand dollars...."**

***The current balance in the Public Campaign Finance Fund at the end of FY 2015 is $493,000. The annual distribution from the general fund of $150,000 is distributed to the fund on a proportional quarterly basis ($37,500 per quarter). This means the balance of the fund should be $568,000 at the end of Calendar Year 2015.**

***There is a process where unopposed publicly funded candidates get less public money. The current code in Section 9-3.10A4 provides that "a candidate in an uncontested race, ten percent of the amount that would be due to a candidate in a contested race for the same office" shall be disbursed.**

***There is a current process that reduces the allotment of funds to candidates to avoid a "run on the bank" scenario. The current code in Section 9-3.10B provides that "if the amount to be paid to candidates ...exceed the total amount available in the fund, each payment shall be reduced in proportion to the amount of such excess. Any such proportionate reduction in the payment due to any candidate ... shall give the candidate the option to reject the payment and to withdraw as a participating candidate."**

***In 2014, approximately $30,000 was replenished back into the Fund by the return of seed money and qualifying contributions. The bill deletes this process.**

Section D. General Narrative

1. **Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

No

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

Status quo

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

If the City Council wishes to adopt all portions of the bill, then staff may have amendments—i.e. to reconcile dates with the election calendar and dates when election packets are handed out to candidates.
If the City Council adopts only portions of the bill, then staff may have amendments to clarify outstanding issues from the last election (i.e. if the change to qualifying small contributions is not adopted, then Council may need to adopt langnage instructing the clerk to create a form for candidates to fill ont to state when they are going to be pnblicly fnnded candidates)

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Since last year's election, the ECRB has been engaged in an effort to develop recommendations to improve the ordinances. The Board has met monthly, and sometimes twice a month, for the last seven months. The Board has drafted and debated various proposals; invited experts in the field to advise the Board; received testimony from candidates about first hand experiences with the campaign finance laws; and discussed ideas with a variety of dedicated citizens.

The Board voted in favor of a final set of recommendations on May 20, 2015. The proposed changes address four major areas of concern to the Board and to the pnblic: (1) coordination between candidates and independent groups; (2) transparency of campaign financing and independent expenditures; (3) revising the process by which a candidate qualifies for public financing; and (4) providing for a matching fund process regarding the ability of publicly financed candidates to run campaigns.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

Mayor Gonzales asked Councilor Ives if he has an amendment. He said, "As Zach said we got it all done on 27. Do you have one for 26."

Councilor Ives said he thought he did, but they could be on 27, and Ms. Vigil said all of the amendments are on 27.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Gonzales, Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Explaining her vote: Councilor Bushee said, "Yes, and I would be happy to serve on any working group to offer my experience."

Explaining his vote: Councilor Ives said, "Yes, and I'll have a brief statement after the vote."

Councilor Ives said, "It's interesting, because one of the delights of his first campaign which was publicly finance, was being able to have coffees in peoples' houses and that fell under that $200 exclusion and promoted an opportunity to get out into District 2 to meet with neighbors in an informal setting, respond to questions. I'm sad to see that deleted here tonight."

6) **CONSIDERATION OF BILL NO. 2015-27; ADOPTION OF 2015-22 (COUNCILOR IVES). AN ORDINANCE AMENDING THE CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987, TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE;" DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR " COORDINATED EXPENDITURE" AND QUALIFIED SMALL CONTRIBUTION;" TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO "SEED MONEY CONTRIBUTIONS," AND "QUALIFYING CONTRIBUTIONS;" TO ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND;" AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE. (ZACHARY SHANDLER)**

MOTION: Councilor Lindell moved, seconded by Councilor Rivera, to approve Ordinance No. 2015-22, Bill No. 2015-27, with the two amendments she has proposed, in addition to Councilor Ives Amendments No. 1 and No. 2, and in Councilor Maestas's proposed amendments to include Item No. 1 and Item No. 3.

DISCUSSION: Mayor Gonzales said then the motion is for Bill No. 2015-27, Item H(6), and includes Councilor Ives amendments.

Councilor Lindell said this is correct.

Mayor Gonzales said the motion also includes Councilor Lindell's amendments and asked which amendment from Councilor Maestas are included.

Councilor Lindell said it includes from Councilor Maestas' amendment, Item #1 and Item #3.

Councilor Dimas said he spoke with Councilor Lindell about where he is coming from on this, as well as to Common Cause and several other people as well. He said, "I want to make a brief statement this evening. In the last Mayoral election in 2014, all 3 candidates in an effort to level the playing field, used public campaign financing. But when top union officials, their attorneys and top political party officials formed PAC to support one candidate, that's when the concept of a level playing field went to hell. Even with fixes, unscrupulous people will still form PACs and circumvent the rules to get their candidate elected by raising large amounts of money to buy the election. Public campaign financing will be nothing more than supplementing money the PACs and a waste of hard-earned taxpayer money. I'm not sure this is what the voters wanted. I'm not naive enough to believe that these fixes will help much. I know Public Campaign Financing reform in some form will probably pass the Council tonight, because it's the politically correct thing to do. However, I don't always do what's politically correct."

Councilor Maestas said he can't support this, and thinks the amendment put forth by Councilor Lindell "pretty much "guts" all the changes, it's a wholesale removal of some of the amendments that were recommending. He is doing his best to salvage a lot of those principles which he finds worthy. He thinks we should try this match, and likes the concept of an earned match.

MOTION TO AMEND: Councilor Maestas moved, seconded by Councilor Ives, to amend the motion to "add all of my Amendment No. 1, and Amendment No. 2.

FRIENDLY AMENDMENT: Councilor Ives would like his amendments in the amendment sheets that are attached.

DISCUSSION ON THE FRIENDLY AMENDMENT: Mayor Gonzales said he thought Councilor Lindell included Councilor Ives' items in her motion.

Councilor Ives said he understood this to be a separate motion.

Mayor Gonzales said Councilor Lindell included Councilor Ives' amendments in the original motion.

Councilor Ives said understood Councilor Maestas to be making a brand new motion that included his amendments and would look to the City Attorney to provide clarity here if she can.

Mayor Gonzales asked Councilor Maestas to provide clarity, because "what I understood is that you wanted to add to the original motion for consideration all of your amendments. They wouldn't address Councilor Ives amendments, because they're already in the original motion."

Councilor Maestas said Councilor Ives amendments are already in the original motion.

Councilor Bushee asked who seconded the Motion and the Mayor said it was seconded by Councilor Ives.

Councilor Ives said, "A point of order just to get clarity on Councilor Maestas's action, Councilor Lindell's motion was to adopt her amendment which removes 20-15-27 from page 6, line 22 through page 19 line 19, and I understood Councilor Maestas to say he didn't agree with that, because that functionally gutted that particular provision. So I had understood him to be making a new motion, as opposed to an amendment to the motion that Councilor Lindell is making."

Ms. Brennan said, "Councilor Lindell's Motion was on the floor, and if it was a friendly amendment, I think it is not in order.... well her motion is on the floor. You're the Parliamentarian."

Councilor Ives said he knows, but there is not a clear understanding of what each of the motions contains, and he would look to Councilor Maestas to clarify.

Councilor Maestas said, "I think my motion indirectly preserves all the basic concepts in the 2015-27 Ordinance, the match, it modifies the match, clarifies how a candidate would be eligible for matching funds, specifies the process. So it basically upholds the match provision in the legislation as it was proposed, but it is contrary to Councilor Lindell's motion."

Councilor Ives said that was his understanding, so he just wanted to clarify that there was an inconsistency here.

Councilor Lindell said, "I just wanted to clarify with Councilor Maestas. I thought that your amendment said not a four-time match, but a two time match."

Mayor Gonzales said and your motion would have gone back to the four-time match.

Councilor Lindell said, "No no no. There would have been no match at all and it would have kept it the way things are right now."

Councilor Maestas said, "Number 7 on mine, changes from four times to two times the matching funds. The percentage is the same. The cap of the 200% is still intact."

Councilor Lindell said, "But you had just said that the legislation remains as presented, and it doesn't, it goes to a two-time instead of four-time."

Mayor Gonzales said I think we ought to go to Councilor Lindell's motion so we can see if there is support on that, and if not, then we can go to you.

FRIENDLY AMENDMENT: Councilor Bushee said on page 4 of the Ordinance, Section 2, Item A, line 21, she would like to remove *the cost of an event held in honor of or on behalf of a candidate when the total cost of the event amounts to no more than $200.* She said that was completely confusing, now that we're opening all of the collection of funds, I think that's still confusing. **THE AMENDMENT WAS FRIENDLY TO THE MAKER, BUT THERE WAS NO RESPONSE FROM THE SECOND.**

Mr. Shandler said that language is in both 9.2 and in 9.3.

Councilor Bushee said, "Okay we'll get there."

Councilor Rivera said a the second to the main motion, he wants to make clear. It says, *The term contribution does not include those contributions that are less than $200*, and Councilor Bushee wants to include that.

Mayor Gonzales said, "So the issue of being able to create matching funds in an effort to accelerate or develop more of a level playing field, is something you would remove from this bill. Is that correct."

Councilor Lindell said, "At this point in time, it needs more work... I think that we need more time to work on this."

Mayor Gonzales said, "If this was a bill that we were moving into the 2016 City Council elections, what would be the standard course."

Councilor Lindell said, "The same it has been in the last elections, aside from the new definitions."

Mayor Gonzales said, "PAC money or other money that comes in on behalf of a candidate, other candidates won't be allowed to accelerate their public participation to try and find that level playing field. Is that correct."

Councilor Lindell said, "For this next go around, it would be as it is now."

Councilor Rivera said, "I am supporting the motion because we are in a position now where we're coming up to the 2016 election, and Yolanda needs some definitive answers before we can move on. So, to me, this is last minute. I appreciate and I like all the changes. I think what the Committee did is really good, but there's some fine tuning that needs to go on. And that fine tuning should come from all of you, the professionals that do it. It shouldn't be fine tuning from us up here. Us making legislation on the fly is not a good idea. So, I'm okay with it being left alone for a little bit and then really taking really good strong hold once you get up to the next Mayoral election. I don't want to put all these proposals, all these ideas that come on the fly from each one of us out, and have something really go awry in this next election. And again, I'm planning on running again, and these changes would definitely benefit me, but I think there's more important things than something really being beneficial to myself, so that why I am supporting Councilor Lindell's motion and really hope we can fine tune it and not leave it to us to redo it, and leave it to you the professionals. So thank you."

Councilor Maestas said, "This motion before us just returns everything back to the status quo. And I kind of disagree. I think the ideal time to assess lessons learned is when it's fresh in your memory and you have a vivid recollection of the issues. You have the focus of the Ethics Board and they devoted a lot of time to this, it was very well thought out. And so we're not talking about a lot of changes. The legislation, as introduced, incorporates all their changes they are recommending. We're not talking about a lot of last minute changes. We have the final legislation here. I'm proposing amendments to what was introduced, and so, it's just unfortunate. But I think the time to really assess this... this is highly evolutionary and best time to revisit it is when it's fresh in your mind. I think you strike when the iron's hot with this issue. And I'm sorry to see these very progressive concepts done away with. Consolidating the seed money with a qualifying contribution, and calling them small contributions. Introducing the concept of an earned match are very innovative and progress – it's what Santa Fe is." He said he can't support the motion.

Councilor Ives said, "Just so everybody is clear, in part because Councilor Lindell's amendment is very broad. Could you state simply, and I think Councilor Maestas has made good progress on what the effect of Councilor Lindell's amendment is on bill 2015-27, understanding that 2015-27 was the recommendation after 7 months of hard work by the Committee in trying to address problems identified in the last election cycle.

Mr. Shandler said, "Talking about Bill 27, there's 3 main parts to that. A definitional change and that definitional change is identical to the one in Bill 26. So if you like the one in 26, you might like it in 27. It does two other things. It allows private fundraising and the matching funds. Lindell Amendment #1 says delete the last two parts and just keep the definitional change, everything after a certain page is deleted and kept status quo. Lindell Amendment #2 adds a separate stand along provision requiring receipts. Ives Amendment #1 corrects some of the definitional typos in part 1, so Ives #1, Lindell #1, Lindell #2 are all consistent, and all that's doing is making the definitional change in 27."

Mr. Shandler continued, "Ives #2, part of Councilor Lindell's motion, and I'm going to try to persuade her to correct that. Ives #2 goes to the hybrid system, so it contradicts Lindell #1, so I think Ives #2 may not be part of your intent of your motion."

Councilor Lindell said, " Thank you."

Mr. Shandler said, "And then you added parts of Maestas #1, which includes you don't have to give back clipboards, you have to give back computers instead. That is the sum of the motion."

Mr. Shandler continued, "Now, I'm going to walk very gingerly so we don't go back to where were 3 hours ago. But the ECRB is willing to accept the remand. They're willing to set up a working group to focus on the concerns of part 3 and part 4. Whether that needs to be formally part of your motion Councilor Lindell or Councilor Ives, I don't know, but they're willing to do some more work on that, in effect it's their representation on your position."

Mayor Gonzales recognized Mr. Biderman for very brief remarks.

Mr. Biderman said, "We understand your concerns, we hear you. And would very much want to see 2015-26 pass tonight. We think it's ready to go, we think you're behind it. If you want to make a few tweaks that basically we need. One point I haven't heard raised on 27 is that if we don't adopt that in time for the next election cycle, we will lose the opportunity for Councilors to take advantage of the financing system. What we heard at the committees was, we don't care that much about that because this is mainly a mayor's issue. If that if the consensus of the Councilors, we are willing to back to the drawing board with you. We would like to have open meetings with the ECRB and members of this Council as a working group to try to figure out just how we can work these out without trying to do it on the fly, as you've correctly pointed out. So we would want Councilor Lindell's motion adopted to keep the definition changes so those are consistent. And otherwise, we'll go back to the drawing board for the rest of it. And please give us only a few months to do this, because I don't want to spend a whole year on it."

Ms. Kovnat said one way of doing this would be to adopt the definitions for coordinated expenditures and the disclosure provisions and postpone the consideration of the rest of it to a time certain. She is concerned that the ECRB needs to have a deadline, and is afraid members of Council might also need a deadline. They would like to work with you on this, so procedurally this is what she suggests.

Councilor Dominguez said what he heard when he met with various folks, there was this willingness to go back to the drawing board. He agrees with Councilor Maestas this is a very progressive way of doing business. However, that doesn't mean that it's the best and he believes there could be unintended consequences. He said that's what we experienced during the last election cycle. He said we need to focus on moving forward and becoming more progressive. He thinks there is too much to lose if we don't get it right. He would agree that this something more akin to a mayoral election which tend to be a little more sophisticated, complicated, more creative. He said if there were shenanigans happening at a City Council level with regard to public financing, it would way more obvious. He said, "I will say, finally, yes it is fresh in people's minds, but many times it's more of an emotional reaction which he doesn't want. He wants a real reaction with a lot of thought and substance to it. He thanked the ECRB for the work done, but he thinks there needs to be a little bit more work.

Councilor Bushee said she has run twice in publicly financed campaigns for Council. It capped the funds at $15,000, it was a grassroots effort, and they educated the voters on what it was about and there no outside funds. What sees now in looking at the example in the packet on page 90, the 2014 Mayor's race ran under the proposed new code section of the 4-1 match, the cash on hand at the end she would have had would be $210,000. This brought the election back to walking and knocking on doors rather than lots of glossy handouts. She said understand the concern arose because of the PAC situation. She knows we can put your minds together again and come up with a few more things. She said asked for some way to take a hard look at who is contributing even from the PACs. She thinks we'll get there, but we may not get there in time for the upcoming election.

FRIENDLY AMENDMENT: Councilor Bushee would like to amend the motion to remand this back to the ECRB with a date certain, or postpone this section. **THE AMENDMENT WAS FRIENDLY TO THE MAKER BUT THERE WAS NO RESPONSE FROM THE SECOND.**

Councilor Ives said what launched review of these matters were the multitude of complaints relating to the presence in PAC money in our most recent mayoral election. He said we are proposing to deal with the more minor issues by changing definitions, taking up reporting which is laudable and needs to be done and is good, and hopes there are no issues when we consider 2015-26. He said, "Functionally, what the Council is doing is rejecting the thinking of some highly qualified people who have had input from nationally respected sources on this PAC money issue, and I suppose I find it puzzling to some degree that that issue which began this discussion now seems to want to yet go by the wayside. I think we had an opportunity to look at this measure and I think there are some amendments which tighten up some of the language in constructive ways, but again, this matter comes forward from the ECRB and we do have the opportunity tonight to act affirmatively and very positively to try and address the complaints that were raised with regards to the presence of PAC related funding in our election campaign. So I guess I would urge folks to reconsider their thoughts in this regard, take positive action.":

Councilor Ives continued, "With regard to remand, I think the Committee is free to take up these issues under its charge under its organic statute at any point in time, regardless of whether we remand or take any other action on these matters. That really is what you're charged with doing. And it's more a question of your tolerance for it I think than anything else. So again, I would urge the reconsideration of the rejection of the amendments in 2015-27, because it is in large part, the heart and soul of trying to address the issues that were raised in the last election."

Mayor Gonzales said, "I agree with Councilor Ives on this issue, for a couple of reasons. One, having participated in the last Mayor election and being the individual who, where other outside entities were formed to support. I understand the importance, and what this full set would have provided for the other individuals in that election. Certainly from the capacity to provide more funds, whether it's to respond to issues or to advocate, this would have helped. And I think that the work that the ECRB has done on this issue to date positions us well to send a very strong message to future candidates, that if outside money plays, because it's allowed to legally plan, there are mechanisms within the Campaign Code to assure, to the degree possible, and I know we can cap the funds, that more money can be made available for candidates to get their message out."

Mayor Gonzales continued, "If we don't support what they presented to us now, in delaying that for another discussion to hopefully see how there can be even more light that's been shed, more transparency or ways to remove the veils of some of the *[inaudible]* that might be created. I think they would have presented it to us tonight. I think we would have seen every bit of language. And I think they presented it, that would provide some transparency. The fact that they want to work with us to try and find an answer out there that might be acceptable to the entire Governing Body shows they're willing to sit at the table with us, which is great. But honestly, I don't know there's much more you guys can do in terms of legal research that will provide us a legitimate campaign ordinance that can do, as best it can, to create a level playing field when outside groups play."

Mayor Gonzales continued, "My preference is to adopt the recommendations tonight the ECRB has presented, send the message out that the City is going to take seriously being able to provide as much of a level playing field as possible, and go forward. If we're worried about what it's going to cost the City in terms of dollars, we can cap what currently has been made available. And make sure if campaigns submit

the ability to get more funds within a time period and all those monies are gone, well that's something that we can address at the time. I really really hope that all of your reconsider, if you're considering not supporting the ECRB's recommendations tonight. I'll tell you, being a participant in that election and the individual where people were casting lots of stones, I think it would have been good for that campaign if there were other funds that were available to be used. So I hope you guys reconsider this on that."

Councilor Dimas thanked the ECRB and Common Cause, noting he appeared before the ECRB and brought his issues with the last campaign. He thanked them for listening and taking the things that both he and Councilor Bushee had to say. He appreciate the hard work, commenting it's tough to be a volunteer and not be paid anything. He said he had a nice meeting with Common Cause, and they tried to get him to go in a different direction, but "I'm pretty stubborn when it comes to that type of thing, and I have my beliefs and that's how I believe, and everything ended well." He thanked them for listening to his concerns at the time.

CALL FOR THE QUESTION: Councilor Dimas called for the question. **THE CALL FOR THE QUESTION FAILED FOR LACK OF A SECOND.**

Councilor Maestas said it's time to start summarizing. He said democracy is an experiment, and the ECRB did present some very new principles – the match, and to streamline the existing process. He thinks we should have preserved all the aspects and elements they brought forth through their long deliberations and many hours spent developing proposing legislation. He said his amendments recommending scaling it back, and converting the new proposals into a pilot. We could have and should have adopted some form of their proposed legislation that would be in effect prior to the next election. He said if we delay this further it can't be implemented for the next election, so he can't support the motion.

Councilor Dominguez said this is no way meant to disregard the work done by the ECRB and staff and others. He said, "But I don't think this is so time sensitive we have to do it today, and that we have to do it for this next election. I think we can learn from the previous election, the previous Mayoral election, to make sure we can do whatever we can do to get it right for the next Mayoral election. These sorts of things are those that will continue to evolve, because there is always going to be someone who is creative who does whatever they do. So this isn't going to be the last time we ever see amendments to the concept of public financed campaigns. We're going to have to continue to work at it and make sure we get it right this time so we can learn from whatever happens this time, and make changes for the next time.

FRIENDLY AMENDMENT: Councilor Dominguez would like this to come back to the Governing Body in January to see what other work has been done and to potentially make other amendments to the bill at the time, so that is his friendly. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Bushee said everybody missed the discussions at the Committee levels and the ECRB heard it loud and clear. She said if it were to apply to the upcoming election it would be serving incumbents and nobody has been clear about which matching system would work. And when they "came at it," everybody admitted their hands were tied in dealing with the dark money situation we faced in the last mayoral election. And really, all these changes in the matching system is dealing with the situation where we have

a highly privately funded candidate which we haven't had in Council elections since we've had public campaign finance reform. That's what she tried to say at the beginning, is when she ran as a Council candidate it worked perfectly, but not with the independents and the PACs. She thinks we're on the right track, and we can tweak it and get a little better. She asked Mr. Shandler for a number for the campaign, noting it doubles or triples what we normally would experience in a Council race.

Councilor Bushee continued, saying the original intent of campaign finance reform and public funding of campaigns was to get big money out. Now if we could find a way to get dark money out, we all would be very happy.

Ms. Vigil said she would recommend what Mr. Shandler said, which is to take out Councilor Ives' Amendment 2 because that will restore the qualifying period. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

VOTE: The motion, as amended, as approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Lindell, Councilor Rivera and Councilor Trujillo.

Against: Mayor Gonzales, Councilor Maestas and Councilor Ives.

Explaining his vote: Mayor Gonzales said, "No. And I believe we're missing a great opportunity to take an early step forward. Hopefully, we can come back in January and get this resolved."

7) CONSIDERATION OF BILL NO. 2015-19: ADOPTION OF ORDINANCE NO. 2015-24 (FINANCE COMMITTEE). AN ORDINANCE AMENDING SUBSECTION 11-9.1 SFCC 2987 AND SECTION 18-9 SFCC 1987, TO REQUIRE THAT PRIOR TO AUTHORIZING A REALLOCATION OF PROCEEDS FROM A VOTER-APPROVED GENERAL OBLIGATION BOND OR TAX THAT DEVIATES MATERIALLY FROM THE INFORMATION PROVIDED TO THE ELECTORATE THAT THE GOVERNING BODY AUTHORIZE SUCH REALLOCATION THROUGH THE ADOPTION OF AN ORDINANCE. (OSCAR RODRIGUEZ) (Postponed at July 8, 2015 City Council Meeting)

Public Hearing

Former Councilor Karen Heidmeyer said she knows sometimes emergencies exist where you have to move money. However, she has had tell her today that they thought this was just a license to steal, and the City was planning on moving money all over the place for all kinds of things, and this was the means by which that going happen. She said she thinks a lot more people will show up for this kind of Ordinance, because they haven't been very happy with the moving around of money that has occurred in the last tow months. She said, "Think very carefully, you might want to put in some caveats, some stop loss things, but this is... how the public is viewing this is not particularly flattering to the Governing Body."