

**INDEX OF
CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD**

April 4, 2017

ITEM	ACTION TAKEN	PAGE(S)
1. PROCEDURES		
a. Roll Call	Quorum	1
b. Approval of Agenda	Approved	1
c. Approval of Minutes: September 8, 2016	Approved	1-2
2. DISCUSSION AND POSSIBLE ACTION		
a. Case #2017-1A/1B	Hearing scheduled	2-6
b. Case #2017-2	Dismissed	6-10
c. Case #2017-3	Dismissed	6-10
3. VOTING DATES AND LOCATIONS - May 2, 2017	Discussed	10-11
4. CAMPAIGN FINANCE LEGISLATION UPDATE	Discussed	11-12
5. BOARD MATTERS	Discussed	12
6. PUBLIC COMMENT	Discussed	4,12
7. SCHEDULE NEXT MEETING	April 19 at 3:00 p.m.	13
8. ADJOURNMENT	Adjourned at 4:50 p.m.	

**MINUTES OF THE
CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD**

Tuesday, April 4, 2017

1. PROCEDURES

A. ROLL CALL

A regular meeting of the City of Santa Fe Ethics and Campaign Review Board was called to order on the above date by Justin Miller, Chair, on this date at approximately 3:05 p.m. in the City Council Chambers, 1st floor, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll call indicated the presence of a quorum as follows:

Members Present:

Justin Miller, Chair
Paul Biderman
Ruth Kovnat
Kristina Martínez
Seth McMillan

Members Absent:

Judith Amer [excused]
Tara Lujan [excused]

Staff Present:

Zachary Shandler, Assistant City Attorney

Others Present:

Jim Harrington, Common Cause
Karen Heldmeyer, Former City Councilor
Ron Trujillo Councilor
Carl Boaz, Stenographer

The most recent membership roster was shared with the Board. A copy is attached to these minutes as Exhibit 1.

B. APPROVAL OF THE AGENDA

Member Kovnat moved to approve the agenda as published. Member Martínez seconded the motion, which passed by unanimous voice vote.

C. APPROVAL OF MINUTES of September 8, 2016

Member Biderman moved to approve the minutes of September 8, 2016 as presented. Member

Kovnat seconded the motion, which passed by unanimous voice vote.

2. DISCUSSION AND POSSIBLE ACTION

- A. Case #2017-1A/1B. Complaint filed by Karen Heldmeyer Alleging Violation of SFCC 1987, Section 9-2.5(C); (D); "Disseminating Campaign Material without Identifying Source" against Pre-K for Santa Fe.

Chair Miller said the first complaint involves disseminating campaign material without an identified source. The second and third complaints allege failure to identify donors who otherwise have to disclose their donors.

The first step is to determine the legal sufficiency of the complaint according to City Ordinance 6-16.4 and the Board's Rules of Procedure. The Board has to determine if the complaint on its face alleges facts, which if true show probable cause that there was a violation; if the complaint was filed one year within the alleged violation, or was discovered, or should have been; if the complaint is frivolous or intended solely to harass or intimidate, and if the Board lacks jurisdiction to adjudicate the complaint.

The analogy from a legal perspective is whether the claim states a claim for which relief can be granted. The determination does not address the merits of the complaint. If the Board determines the complaint is legally sufficient, a hearing would be scheduled to address the merits of the complaint.

Member Biderman disclosed a close family tie with someone involved in the complaint against Pre-K for Santa Fe. Although he did not feel he would have a personal conflict, he would leave when the Board deliberates.

Member McMillan disclosed for the record that a subject of a couple of the complaints is the sister of his law partner. He does not have a close tie to the subject and did not believe he had a conflict.

Chair Miller confirmed that Mr. McMillan would not find it difficult to evaluate the complaint objectively.

Member Kovnat also disclosed knowing one of the parties, but believed it would not interfere with her ability to be objective.

Member Biderman left the room at this time.

Chair Miller said Case # 2017-1A and 1B filed by Karen Heldmeyer is in regard to disseminating campaign material without identifying the source and the subject is Pre-K for Santa Fe.

Ms. Heldmeyer was invited to speak and was sworn.

Ms. Heldmeyer said she addressed all three responses in Santa Fe Pre-K's response to her complaint. She explained she found an editorial from the New Mexican wadded up in her gate and at the bottom it said *labor donated*. She learned from her neighbors that people had been around who were in favor of the [soda] tax and they had copies of the editorial.

Ms. Heldmeyer said she felt strongly about election law in general and anonymous expenditures. She and other City Councilors in 2004 were targeted by anonymous mailers and advertisements and brought about the first campaign code for Santa Fe and the establishment of the Ethics and Campaign Review Board. She said in a small town like Santa Fe it is important to know where information comes from.

She said the brief basically cited Judge Hartz's comments on Sampson v. Buescher. That case was fact specific and the Judge did not see government or public interest in the entity that put out the campaign literature. His comments focused on the fact that the literature was put out by a small group that spent very little money and that is not the case here. The brief relied heavily on the idea that people cannot be forced to follow excessive laws. However, looking at what has been done by every other court, it is a test of balance and how much of a burden there is and how important is it for the public to know who is giving the information.

She said the Santa Fe Campaign Finance Code since 2006 has stated it is very important for people to know. A small point in the brief was that the flyer was covered by an editorial and was an exception to the code. She thought that had been misinterpreted. The code was written so newspapers and magazines, etc. would not be treated as if they were disseminating campaign information. They do not have to register as a political committee or disclose their costs to publish the paper, etc.

Ms. Heldmeyer said it is illogical to say that groups that pay to distribute literature are exempt because the literature is quoted from a media source. A person could plant information in a media source and then put out flyers with that information and say they do not have to pay. The city is not far from a Mayoral/Councilor election and things should be clarified before the season officially starts.

Member Martínez said Pre-K Santa Fe claimed their material was distributed with additional material that clearly identified them. She asked the manner in which Ms. Heldmeyer received the literature; if stapled or in an envelope, etc.

Ms. Heldmeyer replied it was a one page flyer door-to-door of only the editorial.

Mr. Elyung Li was sworn.

Mr. Li said he represented Pre-K Santa Fe and there were a couple of things he wanted to point out. Pre-K is a big believer in disclosure as mandated by the city election code. He helped draft the Public Financing measure in Albuquerque and led the campaign and co-led efforts to bring paper ballots to the state and expand early voting. Pre-K believes in greater transparency and disclosure in the process.

He said leaving out the disclosure on the Santa Fe New Mexican editorial was his mistake. When informed he immediately destroyed the copies and Pre-K reprinted with the disclosure. The editorial had been printed in full, as a reader would have read it in the newspaper or online.

Mr. Li said while they do want to voluntarily disclose and have done that, they believe the editorial is specifically exempted in the city code.

Member Martinez said as she read the brief, Pre-K's position was that they are not required by law to include who distributed the literature. She asked why they would then include the disclosure.

Mr. Li said it was standard practice for Pre-K to have full disclosure in every document they print. They were not aware that editorials were exempted until their attorney pointed that out. Pre-K included the disclaimer on printed material in that incident and will in the future because it is what they always do.

Member McMillan asked the number of copies distributed without the disclaimer. He was told there were about 200 or so, with many more copies thrown away.

Chair Miller asked if there was anyone from the public who wanted to comment.

Mr. Jim Harrington was sworn.

Mr. Harrington, Chair of Common Cause New Mexico said his organization takes the position that the picture of the law presented in the response and brief is distorted and misleading. He said powerful interests support disclosure in appellate measure elections. The Supreme Court has reaffirmed that repeatedly. The first complaint involves the editorial and the press exemption applies to communications to and by the press. A person could send a letter to the editor and make their points and then spend thousands of dollars mailing the editorial to voters.

Mr. Harrington said he should have introduced his remarks by saying that Common Cause does not take sides on complaints of violations, but they do on arguments like this that undermine important disclosure provisions in the code. The press exemption argument should be interpreted as applying only to the initial press publication and not to copies re-circulated at cost to a participant in an election campaign.

Member Kovnat said the Board is to determine whether sufficient facts were alleged to state a claim. There was no dispute from both the record and what had been said that there is an admission and to their credit, an apology. She said there is an important issue of law at stake, which is the scope of the press and that will be up to the Board to make that determination.

Chair Miller explained the four criteria that the complaint must meet to be legally sufficient: if the complaint on its face alleges facts, which if true show probable cause of a violation. The second is if the complaint had been filed within one year after the alleged violation was discovered, or should have been discovered. Third is if the complaint is frivolous or intended solely to harass or intimidate and last, if the Board lacks jurisdiction to adjudicate the complaint.

Member McMillan asked if the members agreed that the legal question concerning the press exemption is not a jurisdictional question.

Chair Miller said as phrased by Ms. Kovnat, if the Board answered the question that a reprint and dissemination of an editorial previously printed in a newspaper fits within that exception in the code that might mean that the complaint would not satisfy the first criterion that it is a violation.

Chair Miller said the Board has the positions of the complainant and respondent. He agreed that factually there did not seem to be a dispute. He suggested the Board address the question of whether that particular communication is exempted or not.

Chair Miller read the definition of Section 9-2.3 (E) in the campaign materials: *'Campaign materials means any published communication electronic or otherwise, disseminated to more than 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 commentaries by news media'*.

Chair Miller asked if the exemption for editorials would include this communication.

Member Martínez said no, she believed it was not ambiguous and meant either something a person said to a newspaper or was printed in the newspaper. She thought it did not extend to reprints handed out by groups that support one position or the other.

Member Kovnat asked if the Board would make a determination now or go to committee to review both sides of the legal argument. She suggested checking the minutes of Board discussions when the code was inserted, because her recollection was as a press exemption that did not apply to reprinted materials.

Chair Miller said by the language he saw, it was if an editorial(s) are printed in the newspaper and not a redistribution of that. He said they could continue to discuss that.

Member McMillan wanted to make a decision to see authority one way or the other. He questioned if this had been argued elsewhere and there was something they could look at than just the language. In just looking at the language he tended to agree with Ms. Martínez.

Chair Miller said if the board gets to a hearing on the merits as opposed to the factual allegations and complaint that could be a question they want to address.

Member Martínez asked if the Board could determine if the complaint is legally sufficient and could be briefed so they could consider the complaint at the hearing.

Chair Miller said that was fine and the parties could present any further authority for their position.

Mr. Li asked to add a point for the Board to consider. The language in the code states that the communication must advocate for or against a question on the ballot. The editorial in question was printed on March 4 and the subject of the editorial was the March 8, City Council hearing, which was before the existence of a question on the ballot. He asked that they also consider whether this was in fact advocating for or against the ballot question, which Pre-K believed was not.

Member Martínez asked why the literature would have been distributed.

Mr. Li said because it talked about the benefits of Pre-K. The wording of the code is that it advocates for or against a question on the ballot and the editorial does not do that.

Member Martínez said she would be fine with including the question.

Chair Miller asked if the Board had enough information to determine the legal sufficiency of the complaint.

Member McMillan said he understood the Board needs to find facts that essentially state a claim going forward and has identified two issues today and would consider whether the complaint is legally sufficient. He said if they have determined legal sufficiency he was concerned they had jumped past a couple of very important questions and made them merit questions.

Member Martínez asked if the standard was *if taken as true*, meaning if taken as true that the leaflet does not fall into the press exception it would then be a violation. She said at this stage they would be assuming that the facts alleged are the correct, factual determination.

Chair Miller said they do not need to fully resolve the ultimate legal question to define legal sufficiency. Going back to the language they are looking for a meaning of a probable cause standard of a violation.

Member McMillan asked Chair Miller to read the first factor again.

Chair Miller read the language of 6-16.4 as written: *The board shall determine the following: 1) if the face of the complaint sets forth legally sufficient facts, which if true, show probable cause to believe that there is a violation*".

Member Martínez moved that the Board finds the facts alleged in the first complaint discussed by the Board are sufficient and the remaining three requirements had been met and therefore, the complaint is legally sufficient and should go forward. Member Kovnat seconded the motion. The motion passed by a majority voice vote with Ms. Martinez and Ms. Kovnat voting in favor. Member McMillan did not vote.

Chair Miller said complaint 2017-1B has been determined to be legally sufficient and a hearing will be scheduled once the other two complaints are heard.

- B. Case #2017-2, Complaint filed by Karen Heldmeyer Alleging Violation of SFCC 1987, Sections 9-2.12(B); "Failure to Identify Donors Who Do Not Have to Disclose their Donors; Failure to Label Campaign Materials from Such Donors" against Pre-K for Santa Fe.
- C. Case #2017-3, Complaint filed by Karen Heldmeyer Alleging Violation of SFCC 1987, Sections 9-2.6(B); 9-2.12(B); "Failure to Identify Donors Who Do Not Have to Disclose their Donors; Failure to Label Campaign Materials from Such Donors" against Better Way for Santa Fe & Pre-K.

Chair Miller confirmed no one had objections to hearing the two cases together.

Ms. Heldmeyer stated there had been amendments to this part of the code (2.2.12(B)). The law stated if a candidate/political committee receive contributions from another entity that has to disclose its contributors to the City Clerk and should be indicated on the Campaign Finance Statements submitted to the City Clerk pursuant to the existing reporting requirements.

She said in reviewing the first set of campaign reports, the boxes for the 501(c)(3), (c)(4), (c)(5) and (c)(6) were not checked from the two political committees. Those were the people the box was aimed at. If a box was checked and a group said they were taking money from groups that do not have to disclose, the advertisings, mailings etc. should have had a disclaimer that states *this may be paid in part by people who do not have to disclose who their donors are.*

She said this was a compromise decided on as a way to let the public know who is behind the campaigns. This is an issues campaign and not a candidate campaign and there could be people who see a difference between the two. Judge Hartz saw this as a major issue, but other appellate courts said the public's right to know is what is important.

Ms. Heldmeyer said she tried to get a response from the city and when she did not get one she called Mr. Harrington because of his work on the issues. He agreed the political committees or candidates that take money from groups that do not have to disclose their donors should check the box and should include the disclaimer on their advertising.

She said Citizens United came out and they believe that advertising should show who paid for it and the cure for that was to have more information for voters. That was why the ECRB looked at what should be done about donors that do not disclose who gave them money.

Chair Miller asked Pre-K for Santa Fe to come forward to speak.

Mr. Li said for Pre-K it is not about Citizen's United or dark money. They met with City Clerk Vigil and City Attorney Shandler to clarify what they needed in order to comply when they filed. They discussed the check box for several minutes and were instructed not to fill it out because it did not apply to a non-candidate race. They are happy to comply should the Board feel differently, but the city in a sense waived the requirement for them.

Member Martinez asked about the exhibit attached to Mr. Li's response. Mr. Shandler explained it was page 7 behind Tab B.

Mr. David Huynh was sworn.

Mr. Huynh said he is a representative from Better Way for Santa Fe and Pre-K, as well as about 130 local businesses and small organizations. They carefully reviewed the Campaign Finance Code to ensure they met the legal requirements and worked hand-in-hand with the City Attorney and the City Clerk prior to submitting their Campaign Finance Report. They were instructed that the provisions did not apply to their organization.

Mr. Huynh said regarding the "dark money" mentioned, the organizations that have provided funding to Better Way and Pre-K and those who pay membership dues for organizations such as the Santa Fe Chamber of Commerce, the American Beverage Association, etc. - members who actually fund these organizations - are listed on their website. These organizations did not solicit additional funds for this campaign.

Mr. Huhyn said they are confident based on the codes cited and the language and advice received from the city that this does not apply to their coalition.

There were no further questions.

Chair Miller asked Mr. Shandler to address the fact that the city had provided advice to the respondent.

Mr. Shandler said first of all he would state that the city made judgments and the ECRB is a type of appellate court and is free to overturn those decisions. He directed members to Tab 2-C and said they would not find the tag line *"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."* They are trying to determine whether they should have had that tagline.

He said on page 7 behind Tab 2-C the American beverage Association is shown as a business contributor on the city's standard business contributor form. His thinking was that the Association is a business contributor, not an independent expenditure group and the changes made by the ECRB in July, 2015 were for independent expenditure groups.

Mr. Shandler said to further bolster his thinking the election code 9-2.6(A) is on requirements and (B) states: *"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 material: 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."*

He said it is true both parties were told when they came in that he did not think independent expenditure groups were to participate in this election. The form's fourth column is "Contributor disclosure not required." The form is a double negative. His expectation was that the box would be checked if not required, but now listening and talking to the groups, only if something is required would a person check the box.

Mr. Shandler felt that the two parties understood his instructions and took that to mean they did not have to do anything. He could see why there was confusion reading the instructions with a double negative. This is the first time the city has dealt with the revised independent expenditure code provisions in a ballot proposition election. He thought the code was designed more for when there is a candidate and an independent group, especially in independent group with an ambiguous name.

Mr. Shandler referred to page 9-2 (C) with the in-kind for Better Way and Pre-K. There was no fourth column for a checkbox because it was not anticipated that in-kind could also raise the issue of independent groups.

He said in summary, he analyzed that the two groups were political committees and receiving business contributions. This was not the same type of relationship as previous elections where there was a candidate's political committee and an independent group. He read the literal language of the independent expenditure code as the independent groups would have to file and if receiving money from another group, the tagline would apply.

Chair Miller opened the floor to public comment.

Mr. Harrington came forward. He said he pointed out to Ms. Heldmeyer there are holes in the code, but this was not one of them. He said these two outfits are political committees and are organized and exist primarily for the purpose of supporting Santa Fe ballot measures or opposing them. The groups can see that they meet the definition that receives contributions from another entity that does not have to disclose its contributors to the City Clerk and indicate as such on their Campaign Finance Statements.

Regarding the waiver argument, the main problem, besides that they should have known better is something is amiss. This is a right of the public and voters to know who spends money in the election, not a right of the city government or the city to waive. The Board is charged with enforcing this code primarily on the basis of complaints from private parties, and if deemed that the code has been violated should find in violation, regardless of what the city attorney may have told someone. If there is a reliance interest it could be relevant to the kind of sanction imposed, but not to whether there was a violation.

Mr. Shandler responded. He said for the record he opened his discussion with the fact that this is a legal discussion and "something amiss" is inappropriate. There could be other legal interpretations.

Member Kovnat said regarding the complaints and in light of the reliance of the two groups on the City Attorney, she would dismiss the complaints. However as a Board, together with the City Attorney and the City Clerk, they should be crystal clear about the meaning of the language. They should either redraft the language to make it clearer or issue an advisory opinion to explain the language and who would be captured by the language.

Members Martínez and McMillan agreed.

Chair Miller said from Ms. Heldmeyer's submissions to the Board he thought she was looking for a clear expression of what the provisions mean.

Ms. Heldmeyer agreed. She heard that the two groups had been advised by the city not to check the box and Member Kovnat is correct. There is a Council/Mayoral race coming up and this should be clear before people think about collecting money and make decisions about whether to run or not. She said it needs to be done quickly. She offered to pull what she saw as problems with clarity out of her response.

Chair Miller said the fact of the dispute raises important points about the clarity of the language and that guidance should be provided by the Board. The question before the Board is whether the complaints are legally sufficient and a hearing should be set or the complaints should be dismissed.

Member Kovnat moved to approve Complaints 2017-2 and 2017-3 be dismissed and the Board proceed in clarifying the language that gave rise to the complaints. Member Martínez seconded the motion, which passed by unanimous voice vote.

Mr. Shandler said the Board could issue an advisory opinion on the related issues now or under Board Matters.

In accordance with Section 6-16.4 SFCC 1987 "Determination of Legal Sufficiency; Setting a Hearing." Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True, Show Probable Cause to Believe There Was a Violation.

(The Board May Go Into Executive Session Under NMSA 1978, Section 10-15-1(H)(3) to Deliberate in Connection With an Administrative Adjudicatory Proceeding.)

- 1) Action Regarding Whether the Complaint Sets Forth Legally Sufficient Fact Which, if True, Show Probable Cause to Believe There Was a Violation.
- 2) Action on Any Steps as Permitted Under Section 6-16.4(D) – Section 6-17/7 SFCC 1987.

Chair Miller said on Complaint 2017-1A/B the Board will schedule a hearing as soon as possible. He asked for volunteers for a subcommittee to work on an advisory opinion regarding the subject matter of Case #2017-2 and Case #2017-3 that would be presented to the Board at the next meeting.

Member Martínez and Member Kovnat volunteered.

The hearing for Case #2017-1A/B was scheduled for Wednesday, April 19, 2017 at 3:00 p.m. in City Council Chambers. Chair Miller noted that both parties had made submissions, but could submit further material in writing before April 19, 2017.

Member McMillan said he is particularly interested in authority that interprets a press exception in the course of reprinted media material.

Mr. Biderman returned to the room.

3. Staff Presentation: Voting Dates and Locations for May 2, 2017 Special Municipal Election

Mr. Shandler said the city is in the process of an election month. He provided information on voting dates and locations:

-Absentee voting has started and can be done from March 28 - April 11 in the City Clerk's office and also can be done by mail until April 28, 2017.

-Early voting is available April 12 in the City Clerk's office with the exception of Good Friday afternoon. A second early voting site is the Genoveva Chavez Community Center with similar dates as the Clerk's office and closed on Good Friday. The last date to register to vote is today April 4, 2017.

-Election Day the polls are open from May 2-7. The city uses VCCs (Voting Convenience Centers) in 8 sites: Montezuma Lodge, St. John the Baptist Catholic Church, St. Johns United Methodist Church, Christian Life Church, Sweeney Elementary School, Kearney Elementary School, South Side Library and Genoveva Chavez Center. Anyone can vote at those sites regardless of whether they live in that district:

-The City has received information about Smart Progress New Mexico in the last 18 hours that may be running radio ads, spending more than \$250 and contacting more than 100 registered voters. The City Clerk's office has not been contacted by the group as to whether they plan to file as a political committee, or an independent expenditure group and the software to do the required reports is only available in the Clerk's office.

The next filing is on the April 7 and staff is open to instruction from the Board if they want to give guidance. The Board might want to incorporate that into their advisory opinion or just consider it.

Member Kovnat said the group fits within the definition of an independent supplier of campaign materials.

Mr. Shandler said staff would advise Smart Progress New Mexico of the city code requirements for an independent expenditure group prior to the April 7 filing date. He will follow-up with the Board at the next meeting.

4. Update on Status of Campaign Finance Legislation at City and State Level.

Chair Miller asked Mr. Shandler to provide an update on the city legislation and Mr. Biderman to describe the state level legislation.

Mr. Shandler said Councilor Peter Ives is the intended sponsor for the 9-32.3 rewrites and a copy of the agenda was sent to him. He has not heard from the Councilor so he has no update.

Member Biderman said in September the Board had provided a memo justifying and explaining the bill and Mr. Shandler provided a detailed chronology of the status. The bill has not been before any committees and possibly even City Council. He asked that City Council be reminded that the matter is pending.

Jim Harrington said staff of Common Cause had the same experience and has been urging Councilor Ives to introduce the Bill the last six months. The Councilor promised in December that it would be done in January, but he has not responded to emails or messages. Staff is now discussing the bill with Councilor Renee Villarreal.

Chair Miller said the Board meets on April 19th and they should continue to try to reach Councilor Ives for an update, as well as Councilor Villarreal.

Member Biderman provided a report on action at the state legislature, which is summarized as follows:

- He served as an aide to the Majority Leader at the session and they worked on SB 96 and SB 97. Both Bills passed both Houses and went to the governor. He did not know if they had been signed.
- SB 96-the equivalent of the bill to fix the campaign code by requiring disclosure- the legislature adopted a \$1000 floor; the report must include the name of the person making the expenditure, the amount, the description of the purchase and the source of the funds.
- SB 97 passed with a solid majority and is awaiting signature. The bill fixes the public financing campaign and defines contributions, coordinated expenditures, eliminates the seed money definition, reduces the disqualifying contribution from \$500-\$100. The bill only applies to the five elections for the Supreme Court, Court of Appeals and Public Regulation Commission.
- HB 174 the Local Election Act was passed with bipartisan support and is on the Governor's desk. This would consolidate local elections to be conducted on the same day (Election Day) but alternate years. There is also an opportunity to consolidate up to 20 precincts in a single location for local elections, making elections less costly and providing greater opportunities for ballot questions.
- There is a local election fund that the city can opt out of that is 25 thousandths of a percent of the city's budget with a minimum of \$150 contribution by the city. He suggested the Board discuss the implications if the bill is signed.

5. Board Matters

Chair Miller announced that Ms. Judith Amer is the new board member and she was out of town.

6. Public Comment

Mr. Harrington said he had two subjects-the first was the code with respect to the requirement for disclosure of contributions from an organization that does not disclose donors. The code provisions are clear, but incomplete. There were two different kinds of organizations when the Board considered the requirement; the political committees and the other independent groups. There were also two different kinds of materials, those filed with the City Clerk and campaign materials distributed to voters.

He thought 9-2.12(B) clearly requires the political committees to include disclosure in the filings to the clerk, but 9-25 on campaign materials distributed to the public was not amended and the Board might want to add that.

The holes in the code he referenced with Ms. Heldmeyer was the amendment 9-26(B) that required disclosure in campaign materials, but 9-26(A) - the filing to the City Clerk - was not amended to impose the same requirement.

Mr. Harrington said the second topic is a serious loophole that largely nullifies 9-26 code. He provided history of the independent groups typically reporting under 9-26. He said clever campaign types have figured out how to evade the code. Political committees report national groups like the American Beverage Association who does not file under 9-26, as in-kind contributors. That avoids the disclosure requirements to disclose donations they receive for the ads and disclosure on their campaign materials.

He suggested the Board study a way to prevent that practice and might require the group who pays for, designs, conceives and conducts advertising itself to report that as expenditures, not just as an in-kind contribution. He asked the Board to consider those issues.

Chair Miller summarized that the first complaint was found legally sufficient and a hearing would be held April 19, 2017. The other two complaints were dismissed and an advisory subcommittee was appointed to address the issue and confusion on the code.

Member Biderman volunteered to help with the subcommittee.

7. Schedule Next Meeting (if needed) - April 19 at 3 p.m.

8. Adjournment

Having no further business to discuss the meeting adjourned at 4:50 a.m.

Approved by:

Justin Miller, Chair

Submitted by:


Charmaine Clair, Stenographer