

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Election Reporting and Contribution Limits
DEPARTMENT: City Attorney/City Clerk
PRESENTED BY: Ian Sievers, City Attorney

PROBLEM/ISSUE STATEMENT: It is sometimes difficult for local voters to access financial information about City Council candidates. Candidates are currently required to file financial forms with the Public Disclosure Commission in Olympia and with King County. They are not required to file locally. Information on campaign financing is essential to informed decision-making, and the City should do more to make this information accessible to voters.

ALTERNATIVES ANALYZED:

- enact local financial disclosure filing requirements
- provide internet access to information filed with the Public Disclosure Commission via the City's web site (**recommended**)
- enact legislation limiting campaign contributions
- enact legislation suggesting limits on campaign expenditures

FINANCIAL IMPACT: Enacting local regulations would generate a small amount of additional work for the City Clerk's Office. However, since the bulk of the workload would occur during a short time at the campaign season, which occurs every other year, there would be no staff impacts that could not be accommodated and no other financial impacts.

Only if Council opted for limitations on campaign contributions and the approach of appointing an Elections Commission to oversee the regulations would there be financial impacts. These would be similar to the staff time and other expenses generated by the creation of any citizen advisory board.

RECOMMENDATION

Staff should be directed to create links during the campaign season from the City's web site to the Public Disclosure Commission's information on local candidates and to keep paper copies printed off the Internet of all information filed with the PDC in the City Clerk's Office for public review.

Approved By: City Manager  City Attorney 

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INTRODUCTION

At the February 4, 2002 workshop, there was Council concurrence to direct staff to investigate methods of making information filed with the Public Disclosure Commission related to Shoreline City Council campaigns more accessible to the voting public and to review options regarding local regulations related to campaign financing.

BACKGROUND

Washington State law (RCW 42.17) governs the reporting of candidates on their personal finances and campaign financing. It establishes a Public Disclosure Commission to develop forms and be the agency with which the forms are filed. It also sets forth civil remedies and sanctions for those found violating any provision of this chapter. However, cities are not prohibited from establishing their own reporting requirements. If candidates are required to file with the city, the requirement to file with the county is waived.

In 1999, the Public Disclosure Commission was required by State law to implement a web site by February 1, 2000 wherein all documents filed with the Commission would be available. According to the Commission, at this time, documents are available on the web site the same day if received in the morning mail and the next day if received in the afternoon mail.

ALTERNATIVES ANALYZED

- **enact local financial disclosure filing requirements such as those in the Edmonds City Code**

A few Washington cities and one Washington county (Snohomish) require candidates to file the Public Disclosure forms with their clerks. These requirements were all established before the Public Disclosure Commission's web site provided very easy access to this information.

The question was asked of 255 Washington municipal clerks whether their municipality had regulations regarding filing of public disclosure forms and/or campaign financing. Fifty-two cities responded. Of those, only eight had any such regulations.¹ The cities listed below have taken action regarding public disclosure forms. The extent of the regulations is summarized in the table on the following page:

¹ Port Townsend considered and rejected doing this. The small city of Sumas (population 980) has some requirement, but the code was not online to enable research of exactly what is required.

	Edmonds	Gig Harbor	Mercer Island	Richland	Redmond	Tacoma
Requires filing of PDC forms with city clerk	yes	done by custom— Ord. adopts RCW regulations	yes	yes	yes	yes
Imposes legal penalty	yes	no	yes	no	yes	no
Type or amount of penalty	\$250 or imprisonment not to exceed 90 days	n/a	\$500 or imprisonment not to exceed 90 days	see below	as set forth in RCW 42.17.390	n/a
Contribution limitation	no	no	no	sets a recommended limit	no	no
Expenditure limitation	no	no	no but the ord. outlines various regulations on running campaigns	no	no	no

If Council wishes to pursue this option, staff could be directed to draft a simple ordinance requiring filing of PDC documents with the City Clerk. The Edmonds City Code (1.14.030) states: "Every public official of the City of Edmonds shall file with the City Clerk within 10 days from the date of filing with the Public Disclosure Commission each and every public disclosure form required filed on behalf of said official. Any person elected or appointed as a public official shall file all such documents as are required to be filed with the Public Disclosure Commission, relating to the election or appointment process either 10 days prior to the date that the individual takes office or 10 days from the date such document is filed with the Public Disclosure Commission, whichever comes first. These documents shall be maintained by the City Clerk for inspection by the public during normal business hours of the City at the Office of the City Clerk. Candidates for office are requested to file duplicates of their PDC filings with the City Clerk in order to better provide the voters of the City of Edmonds with accurate and up-to-date campaign information at a convenient location within the City."

- **provide internet access to information filed with the Public Disclosure Commission via the City's web site (recommended)**

It is very simple to go to the Public Disclosure Commission web site and do a search on a candidate's name. This pulls up a list of all the documents that individual has filed with the commission. It would be very easy for the City Clerk's Office to print these pages and keep a file in the office for public review. With this information, the City could take whatever actions directed by Council to publicize either filings or the failure to file.

The City's web site could also be programmed to have a link to the particular pages on the Public Disclosure Commission's web site for each candidate. These links could be

maintained during the election season. The Councilmember section on the web site could contain permanent links from each Councilmember's biography to the Public Disclosure Commission page containing the list of their disclosure documents.

- **limiting campaign contributions**

Limits for local elections may be adopted but this is not common, as is shown by the survey. The City of Seattle has an elaborate system for reporting locally, as well as campaign contribution limitations. Public disclosure forms are filed with the city clerk. There is an Ethics and Election Commission to audit, investigate, enforce and train candidates in the rules for campaign financing. The Commission is made up of three citizens appointed by the Mayor, three by the City Council and one by the other six. All must agree to stay out of politics during their three-year term.

Campaign contribution limits are \$600/four-year election cycle. This requirement responds to a 9th Circuit Court ruling that contribution limitations on an annual basis discriminate against challengers, who probably cannot get monetary support more than a year out, while incumbents can build a "war chest" over time. A city can define the election cycle as it wishes. Seattle chose four years.

The Executive Director of the Ethics and Election Commission can penalize candidates who do not file on a timely basis: \$10/day, and up to \$50/day seven days before the election. The Executive Director also has the option of bringing the matter before the commission, which can fine up to \$5,000. If the violation involves concealing a source of contributions, the matter is automatically taken to the commission, which holds a public hearing. The fine can be up to \$5,000/violation and twice the amount of the violating contribution. Sometimes these cases are resolved through a settlement agreement.

The City of Spokane recently considered legislation to limit the amount of campaign contributions. The proposed limit on individual contributions was \$500 during an "election cycle," and candidates were limited to accepting or receiving contributions only during an election cycle. Political committees were to be allowed to donate up to \$1,500 in any election cycle. There was to be no limit to the amount of money raised in a campaign, and no limitations were imposed on the candidate's own contributions or on in-kind labor. The ordinance set out an elaborate system of bringing complaints to a designated Election Committee, and another proposed ordinance created the Election Committee. After discussion by the City Council, these two ordinances were postponed indefinitely.

- **limiting campaign expenditures**

The federal and State courts have determined that limits on campaign expenditures conflict with the First Amendment by restricting free speech.² However, the City of Richland (RMC 1.01.060) sets out reasonable maximum expenditures for City Council:

² *Buckley v. Valeo*, 424 U.S. 1 (1976); *Bare v. Gorton and the Public Disclosure Commission*, 84 Wash.2d 380, 526 P. 2d 379 (1974).

- General Election only—a maximum of 35% of the annual salary for the council position at the time of filing for that position;
- Primary and General Election—maximum of 50% of the then current annual salary for the Council position at the time of filing.

The city clerk rounds up to the nearest ten dollars. All council candidates are required to file copies of their financial reports with the city clerk. The city clerk keeps a running tally of each candidate's campaign expenditures based on the reports. When the limit is exceeded, the Clerk prepares an announcement of that fact, including the name of the candidate and the amount spent, to be published in the newspaper weekly until the campaign has ended. When asked about this procedure, Ken Bays, the Richland City Clerk, said that "normally expenditures are not that great. The limit has been exceeded once in the ten years I have been here. It takes five minutes to keep a running total."

Regarding penalties for violations of campaign disclosure or financing regulations, the provisions in State law for enforcement of disclosure requirements are broad to assure maximum compliance(RCW 42.17.400). The State allows city attorneys to bring civil actions in the name of the State for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390. These include: civil fines of up to \$10,000; \$10 a day for late filing; penalties equal to the amount of the contribution or expenditure that is not reported; injunctive relief; treble damages for intentional violations; reasonable attorney's fees; and voiding of an election within one year with a subsequent special election if a violation is found to probably affect the outcome of any election. In addition, the statute allows citizen suits to enforce these provisions if the State Attorney General or county prosecuting attorney are given notice. Therefore, the City would not have to enact its own penalties, and contrary penalties would likely be subject to preemption by this Statewide regulatory scheme. The only need for local penalties would be to enforce contribution limits for city elections if Council decides to adopt this election reform measure.

Staff recommends that Council take no action with regard to limiting campaign contributions and/or expenditures. It is also staff's opinion that no special disclosure legislation is required to make PDC filings more accessible to the public in Shoreline. Instead, the City Clerk can be directed to create paper copies of all relevant filings off the Public Disclosure Commission web site and the Communication Specialist can be directed to create links between the City's web site and the PDC web site to allow for quick access to information on candidates and political action groups during campaigns.

RECOMMENDATION

Staff should be directed to create links during the campaign season from the City's web page to the Public Disclosure Commission's information on local candidates and to keep paper copies printed off the Internet of all information filed with the PDC in the City Clerk's Office for public review.

ATTACHMENTS

Attachment A
Attachment B

Excerpt of City Council Minutes of February 4, 2002
Page from Public Disclosure Commission web site

February 4, 2002

can create a lot of liability for their cities when they "get too much into representing their constituents." He stated that the first fiduciary responsibility for any representative is to represent and protect the government. He acknowledged that the government is the people.

Mayor Jepsen asserted the value of recognizing Shoreline's political values. He said Councilmembers need to be aware of the technical aspects of issues and recognize that staff has a large amount of technical information and staff needs to be aware of the political aspects of issues. He commented that this tension is constant and productive.

Mr. Burkett mentioned upcoming staff training on political values in the process of government.

→ On another topic, Mayor Jepsen suggested that Council direct staff to investigate local reporting requirements for candidates for public office. He noted that candidates must report information to the Public Disclosure Commission (PDC) and provide copies of the information to the King County Records and Elections Division. He asserted the difficulty of local residents to access these records and the difficulty of enforcing reporting requirements at the local level.

Deputy Mayor Grossman supported the suggestion. He asserted the value of candidate reporting to the informed decision making necessary in an election process. He stated that candidate information at the PDC and the County is not sufficiently accessible to local voters. He acknowledged that additional reporting requirements may represent a burden to candidates. He said this burden is less important than the accessibility of information to voters.

Councilmember Montgomery agreed. She supported Mayor Jepsen's suggestion.

Councilmember Gustafson concurred. He said a City reporting requirement would not be substantially more difficult for candidates. He questioned the consequences for candidates who fail to report or who fail to report on time.

Mayor Jepsen commented that the PDC imposes penalties. He suggested that staff investigate penalties in other jurisdictions.

Councilmember Hansen said other jurisdictions enforce reporting requirements through monetary penalties. He mentioned that the PDC is authorized to fine candidates.

Councilmember Chang questioned the purpose of Mayor Jepsen's suggestion. He asserted the sufficiency of the PDC to administer and enforce reporting requirements.

Mayor Jepsen explained the intent of his suggestion to facilitate access to information. He noted the support of four Councilmembers to direct staff to investigate reporting requirements in other local jurisdictions.

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Councilmember Ransom expressed ambivalence about Mayor Jepsen's suggestion. He said he has run in nine elections, and no one has asked him for financial information. He said a few people have mentioned that they reviewed the information he submitted to the PDC. He commented that providing copies of campaign contribution information to the City Clerk's Office would not represent a substantial burden on candidates. However, he advocated the PDC as the only entity authorized to enforce reporting requirements with monetary penalties.

Councilmember Hansen supported directing staff to gather information. He said Council can decide, based on the information, whether to take any action.

On another topic, Councilmember Gustafson encouraged Shoreline residents to vote in the February 5 election.

Councilmember Ransom raised the issue of Council retreats. He said Council held retreats approximately every quarter in 1995 and 1996 and now holds only annual budget retreats. He advocated Council discussion of holding additional retreats.

Councilmember Hansen reiterated his interest in improving the appearance of the southwest corner of Aurora Avenue N and N 185th Street. He went on to mention that staff provided excellent responses to questions he raised about recent invoices.

Councilmember Chang suggested that when the City undertakes a CIP project the Council appoint a community "captain" or representative from a nearby neighborhood. He said the representative can communicate City information to the neighborhood and public input about the project to the City.

Mayor Jepsen supported the idea of ongoing communication. He mentioned neighborhood representatives and the Council of Neighborhoods as resources on which the City might capitalize more.

7. CONTINUED PUBLIC COMMENT: None
8. ADJOURNMENT

At 9:10 p.m., Mayor Jepsen declared the meeting adjourned.

Sharon Mattioli, CMC
City Clerk



**SUMMARY, FULL REPORT
RECEIPTS AND
EXPENDITURES**

C4 <small>(3/97)</small>	PDC OFFICE USE
	DATE FILED PDI JAN 04 2002

Candidate or Committee Name (Do not abbreviate. Include full name)
Committee to Re-Elect Scott Jensen

Mailing Address
20201 21st Pl, NW City Shoreline

Zip + 4 98177 Office Sought (Candidates)
City Council # 5

Report Period Covered From (last C-4) 10.31.01 To (end of period) 1.3.02 Final Report? Yes No

*For PACs, Parties & Caucus Committees: During this report period, did the committee make an independent expenditure (i.e., an expense not considered a contribution) supporting or opposing a state or local candidate?

RECEIPTS

*See next page Yes No

- 1. Previous total cash and in kind contributions (From line 8, last C-4) (if beginning a new campaign or calendar year, see instruction booklet)..... \$ 4524.23
- 2. Cash received (From line 2, Schedule A)..... \$ 525.00
- 3. In kind contributions received (From line 1, Schedule B).....
- 4. Total cash and in kind contributions received this period (Line 2 plus 3)..... 525.00
- 5. Loan principal repayments made (From line 2, Schedule L)..... (771.36)
- 6. Corrections (From line 1 or 3, Schedule C)..... Show + or (-).....
- 7. Net adjustments this period (Combine line 5 & 6)..... Show + or (-)..... -771.36
- 8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7)..... 4277.87
- 9. Total pledge payments due (From line 2, Schedule B).....

EXPENDITURES

- 10. Previous total cash and in kind expenditures (From line 17, last C-4) (if beginning a new campaign or calendar year, see instruction booklet)..... 4042.68
- 11. Total cash expenditures (From line 4, Schedule A)..... 1006.55
- 12. In kind expenditures (goods & services) (From line 1, Schedule B).....
- 13. Total cash and in kind expenditures made this period (Line 11 plus line 12)..... 1006.55
- 14. Loan principal repayments made (From line 2, Schedule L)..... (771.36)
- 15. Corrections (From line 2 or 3, Schedule C)..... Show + or (-).....
- 16. Net adjustments this period (Combine lines 14 & 15)..... Show + or (-)..... -771.36
- 17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16)..... 4277.87

CANDIDATES ONLY

Name

Primary election

General election

Treasurer's Daytime Telephone No.:
206 506.5637

CASH SUMMARY

18. Cash on hand (Line 8 minus line 17)..... 0
[Line 18 should equal your bank account balance(s) plus your petty cash balance.]

19. Liabilities: (Sum of loans and debts owed)..... 0

20. Balance (Surplus or deficit) (Line 18 minus line 19)..... 0

CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true and correct to the best of my knowledge.

Candidate's Signature Scott Jensen Date 1.3.02 Treasurer's Signature Same Date

SEE INSTRUCTIONS ON NEXT PAGE