



CITY COUNCIL AGENDA REPORT

City of Anaheim OFFICE OF CITY ATTORNEY

DATE: JULY 12, 2022

FROM: OFFICES OF CITY ATTORNEY AND CITY CLERK

SUBJECT: AN ORDINANCE OF THE CITY OF ANAHEIM ADDING A NEW SECTION TO CHAPTER 1.09 OF TITLE 1 OF THE ANAHEIM MUNICIPAL CODE RELATNG TO CAMPAIGN AND ETHICS REFORM

ATTACHMENT (Y/N): YES ITEM # 16

ACTION:

That the City Council introduce an ordinance adding a new section to Chapter 1.09 of Title 1 of the Anaheim Municipal Code relating to Campaign Reform, the key provision of which would establish recusal rules for elected members of the City Council when they receive campaign contributions from parties who have matters before the Council.

DISCUSSION:

At the May 24, 2022 Council meeting, Council Member Moreno requested an ordinance amending the City's campaign reform provisions in order to strengthen the City's current policies. At the June 7, 2022 Council meeting, the Council discussed the matter, Council Member Valencia requested that a provision be added requiring the disclosure of contribution(s) totaling \$250 or more during the fundraising period, and the item was continued to the June 21, 2022 meeting, at which time the Council voted on the item, which failed to receive enough votes for passage.

During the Agenda Setting portion of that meeting, Council Member Faessel asked that the matter be re-agendized for the meeting on July 12, 2022. Council Member Faessel's agenda request received the support of two other Council Members, as is required under the Council's new agenda setting rules (Council Policy 1.6) for items sought to be brought back to the Council within six (6) months after the item was considered or acted upon by the Council.

The ordinance as proposed by Council Member Faessel would essentially codify the state's "Levine Act" set forth in California Government Code Section 84308 into the City's Municipal Code. The following is a summary of the changes contained in the proposed ordinance:

New Section 1.09.051 – Recusal for Actions Involving Campaign Contributors: This new section would require Council Members (including the Mayor) to recuse themselves from any action taken by the City that would impact a third party who contributed more than \$250 to that Member's election campaign within the preceding 12 months. A recused Council Member would also be prohibited from making, participating in, or in

any way attempting to use his or her official position to influence the decision impacting or involving a campaign contributor. Furthermore, for the three (3) months following a final decision by the City (decreased from the 12 month period previously considered by the Council), a Council Member may not accept, solicit, or direct a contribution from the party or any participant who was impacted by that decision.

Unlike the proposal previously considered by Council, this new section would *not* apply to independent expenditures.

The section further provides that the Council Member must disclose if he or she has received any contributions of more than \$250 from the party or participant within the preceding 12 months.

If a Council Member receives a contribution which would otherwise require a recusal, he or she may return the contribution, or that portion over \$250, within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving or impacting the third party.

Unlike the previous proposal considered by the Council, this section would not create a private right of action for members of the public to enforce its provisions.

Consistent with the Levine Act, Council Members need not recuse themselves from actions involving low bid, labor, or personal employment contracts regardless of whether they received campaign contributions from parties involved in those actions. And unlike the previous versions of the proposed ordinance, there would be no requirement that participating Council Members disclose any such contributions.

Furthermore, the proposed ordinance requires the party to a proceeding involving a license, permit, or other entitlement for use to disclose on the record any contribution of more than \$250 made within the preceding 12 months to any Council Member.

Finally, there is nothing in the current proposed ordinance that changes the City's contribution limits, establishes a limited fundraising period, or impacts the Council Members' current debt retirement and reporting, all of which were part of earlier versions of the ordinance considered by Council.

IMPACT ON BUDGET:

There is no impact on the City's budget.

Respectfully submitted,

Robert Fabela
City Attorney

Respectfully submitted,

Theresa Bass
City Clerk

Attachments:

1. Ordinance
2. AMC Chapter 1.09 – New 1.09.051