

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	_x_
CM	_x_
CA	_x_

DATE: OCTOBER 12, 2005

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOHN RAMIREZ, ASSISTANT CITY ATTORNEY

SUBJECT: PROPOSED CAMPAIGN FINANCE REFORM ORDINANCES

RECOMMENDED ACTION:

Deliberate and consider adopting the attached five (5) draft Ordinances adopting regulations pertaining to campaign finance reform and local ethics reform.

ISSUE:

Whether to adopt the attached proposed Ordinances pertaining to campaign finance and local ethics reform.

BACKGROUND:

Throughout the past several months, members of the City's Policy Review Task Force, Council Members Anderson and Lacy, met with representatives of the City Attorneys' and City Clerks' Office to discuss a variety of methods by which to enact campaign finance and local ethics reforms. The proposed draft ordinances are the product of those meetings and are now being presented to the Council for deliberation and action.

DISCUSSION:

The Council has been presented with five (5) proposed, draft Ordinances.

Attachment No. 1 contains an ordinance proposing to effectively limit the amount of contributions that may be made to independent expenditure committees per donor per election year.

Attachment No. 2 contains a proposed ordinance placing a one-year ban on formal appearances by former members of the City Council and City Planning Commission and creating a lifetime ban on former officials and appointees working on matters on which they worked during their time as City officials and appointees.

Attachment No. 3 contains a proposed ordinance imposing increased fines for the filing of late campaign reports.

Attachment No. 4 contains an ordinance modifying the City’s sign regulations to provide greater protections against political signs not being collected following a campaign and addressing various other issues.

Attachment No. 5 contains a proposed ordinance limiting self loans by candidates in City elections to \$25,000 per election.

NOTIFICATION AND FOLLOW-UP:

N/A

STRATEGIC PLAN INITIATIVE:

N/A

FISCAL IMPACT:

N/A

ALTERNATIVE ACTIONS:

N/A

ACTION DOCUMENTS: PAGE NO.

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Attachment 1**Proposed Ordinance Limiting Contributions to Independent-Expenditure Committees****Ordinance No. 05-xx****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN AMENDMENT TO DANA POINT MUNICIPAL CODE SECTION 2.05.056 LIMITING THE AMOUNT OF CONTRIBUTIONS MADE TO INDEPENDENT EXPENDITURE COMMITTEES.**

The City Council for the City of Dana Point does hereby ordain as follows:

WHEREAS, one of the purposes of the City of Dana Point in enacting its campaign-finance reform laws is to ensure a representative government by deterring actual corruption, and the appearance of corruption;

WHEREAS, the City recognizes and hereby finds that one significant source of the appearance of corruption stems from large, single-source contributions that are made to entities that make so-called "independent expenditures" and that this has been a prevalent problem in past City elections;

WHEREAS, the City desires to adopt the following ordinance in an effort to prevent corruption, and the effect and appearance of corruption, that can occur by virtue of large single-source contributions being made to entities that make independent expenditures.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

Section 1: Section 2.05.056 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

"(a) Contributions to Candidates. No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution which would cause the total amount contributed by that person to that candidate, including contributions or loans to all political committees or broad-based political committees controlled by the candidate, to exceed four hundred fifty dollars (\$450.00) for any election. The limit set forth in this Subsection shall be adjusted every two (2) years by resolution of the City Council pursuant to Section 2.05.058, Adjusting for Cost of Living Changes, herein.

(b) *Limitation on Use of Contributions.* It is unlawful for any person, including any committee, to use a contribution for the purpose of supporting or opposing any City

candidate, unless the contribution is attributable to an individual in an amount that does not exceed five hundred forty dollars (\$540.00) per candidate per election. For purposes of this section, where independent expenditure committees share the majority of the same donors, there shall be a rebuttable presumption that the two committees are directed and controlled by the same entity or persons and shall be subject to single, shared limits as set forth in this subsection. The limit set forth in this Subsection may be adjusted every two (2) years by resolution of the City Council pursuant to Section 2.05.058, Adjusting for Cost of Living Changes, herein.

Example: Committee A receives five separate contributions of \$10,000 from separate donors. Committee A desires to make independent expenditures in support of two council candidates appearing on the November ballot. Committee A may spend up to \$2,250 in independent expenditures in support of each of the two candidates (\$450.00 times five donors = \$2,250) it wishes to support in connection with the November election, assuming that Committee A has not already reached the permissible limits prior to the time it makes the above expenditure.

(c) Loans. No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any loan which would cause the candidate, including loans to all political committees or broad-based political committees controlled by the candidate, to exceed four hundred fifty dollars (\$450.00) for any election. The limit set forth in this Subsection may be adjusted every two (2) years by resolution of the City Council pursuant to Section 2.05.058, Adjusting for Cost of Living Changes, herein.

(d) Anonymous Contributions. No person shall make an anonymous contribution or contributions to a candidate, political committee or broad-based political committee or any other person totaling one hundred dollars (\$100.00) or more for any election period. An anonymous contribution of one hundred dollars (\$100.00) or more received by a candidate or such a committee shall not be kept by the intended recipient, but instead shall be paid promptly to the California Secretary of State for deposit in the General Fund of the state. This limit on single source anonymous contributions shall not be adjusted except for relevant changes in state law.

(e) Extension of Credit. No person shall extend credit, and no candidate for elective office, or campaign treasurer, or political committee or broad-based political committee controlled by the candidate shall solicit or accept any extension of credit which will extend beyond ninety (90) days from the date upon which the debt is incurred by the candidate, or political committee controlled by the candidate.”

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

ELIZABETH EHRING
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, ELIZABETH EHRING, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 04-xx was duly introduced at a regular meeting of the City Council on the ___ day of _____, 2005, and was duly adopted and passed at a regular meeting of the City Council on the ___ day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

ELIZABETH EHRING, CITY CLERK

Attachment 2

Proposed Ordinance Placing One-Year Ban on Formal Appearances by Former Members of the City Council and City Planning Commission and Creating a Lifetime Ban on Former Officials and Appointees Working on Matters on Which They Worked During Their Time as City Officials and Appointees

Ordinance No. 05-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN AMENDMENT TO DANA POINT MUNICIPAL CODE CHAPTER 2.05 PREVENTING FORMER MEMBERS OF THE CITY COUNCIL AND THE CITY PLANNING COMMISSION FROM APPEARING BEFORE THE CITY FOR ONE YEAR AFTER LEAVING CITY SERVICE AND CREATING A LIFETIME BAN ON FORMER OFFICIALS AND APPOINTEES WORKING ON MATTERS ON WHICH THEY WORKED DURING THEIR TIME AS CITY OFFICIALS AND APPOINTEES.

The City Council for the City of Dana Point does hereby ordain as follows:

WHEREAS, the City of Dana Point desires to avoid the corruption and appearance of corruption that can occur by virtue of allowing prior members of the City's decision-making bodies to formally lobby those bodies after they leave City service;

WHEREAS, the City of Dana Point desires to preclude former City elected and appointed City officials from having disproportionate influence over important public policy issues on which they worked during their tenure; and

WHEREAS, the City desires to adopt the following ordinance for the purpose of avoiding the aforementioned corruption and appearance of corruption.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

Section 1: The following Section 2.05.085 is hereby be added to Chapter 2.05 of the Dana Point Municipal Code, as follows:

Section 2.05.085. Restrictions on Activities of Former City Officers.

“(a) No former member of the City Council and/or the City Planning Commission, for a period of one year after the termination of his or her term of office with the City, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal appearance, or by making any oral or written communication, before either the City Council or the City Planning Commission, any present member thereof, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing any action or proceeding, whether legislative, administrative, or otherwise, by either the City Council or the City Planning Commission, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(b) No former member of the City Council and/or the City Planning Commission, following his or her term of office, shall for compensation act as an agent for, or otherwise represent, any person before any court, state or local agency, or any City agency board or commission, by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, if the following apply: (i) the City is a party or has a substantial interest in the proceeding; (ii) the proceeding is one which concerns a subject matter over which the former City Council member or Planning Commissioner made a legislative or quasi-adjudicatory decision during the official’s term of office.

(c) No former member of the City Council and/or the City Planning Commission, following his or her term of office, shall for compensation aid, advise, counsel, consult or assist in representing any other person in any proceeding in which the official would be prohibited from appearing under subsections (a) and (b). Any company or firm that aids and abets any official in violating this Ordinance by hiring or contracting with such official, shall also be deemed to be in violation of this Ordinance.

(d) The prohibitions contained in subsection (a) shall not apply to any individual subject to this section who is or becomes any of the following:

(1) An officer or employee of a federal or state agency, board, or commission, if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of said agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.”

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

ELIZABETH EHRING
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, ELIZABETH EHRING, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 04-xx was duly introduced at a regular meeting of the City Council on the ___ day of _____, 2005, and was duly adopted and passed at a regular meeting of the City Council on the ___ day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

ELIZABETH EHRING, CITY CLERK

Attachment 3**Proposed Ordinance Imposing Fines for Late-Filing of Campaign Reports****Ordinance No. 05-xx****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN AMENDMENT TO DANA POINT MUNICIPAL CODE CHAPTER 2.05 IMPOSING FINES FOR THE LATE-FILING OF CAMPAIGN REPORTS IN RELATION TO CITY ELECTIONS.**

The City Council for the City of Dana Point does hereby ordain as follows:

WHEREAS, the City of Dana Point recognizes that late-filing of the campaign-finance reports that candidates are required to file under the California Political Reform Act ("Act") is a severe problem in City-wide elections, in that it adversely impacts the public's ability to ascertain who or what entities are supporting various candidates;

WHEREAS, the City believes that the \$10-per-day fine that is currently imposed by the Act for such late-filing is insufficient to deter the aforementioned late campaign report filings from occurring; and

WHEREAS, the City desires to adopt the following ordinance in order to impose additional fines for the late-filing of campaign-finance reports by City candidates, to better deter said late-filing from occurring.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

Section 1: The following Section 2.05.086 is hereby be added to Chapter 2.05 of the Dana Point Municipal Code, as follows:

"Section 2.05.086. Fines for Late-Filing of Campaign Reports.

(a) If any person, including any committee, files an original or copy of statement or report that is required to be filed pursuant to the California Political Reform Act, Government Code Section 81000 et seq., after the deadline imposed by that Act for the filing of said campaign statements or reports, that person or committee shall, in addition to any other penalties or remedies established by law, be liable to the City Clerk in the amount of three hundred dollars (\$300) per day after the deadline until the statement or report is filed. Liability need not be enforced by the City Clerk if on an impartial basis he or she determines that the late filing was not

willful and that enforcement of the liability will not further the purposes of this section, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201 of the California Political Reform Act, five days for a campaign statement required to be filed 12 days before an election, and 10 days for all other statements or reports, after the City Clerk has sent specific written notice of the filing requirement.

(b) The City Clerk shall deposit any funds received under this section into the City's general fund."

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

ELIZABETH EHRING
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, ELIZABETH EHRING, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 04-xx was duly introduced at a regular meeting of the City Council on the ____ day of _____, 2005, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

ELIZABETH EHRING, CITY CLERK

Attachment 4Proposed Political and Yard Sign Ordinance**Ordinance No. 05-xx****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN AMENDMENT TO DANA POINT ZONING CODE CHAPTER 9.37 REGULATING THE USE OF VARIOUS “YARD SIGNS” IN THE CITY.**

The City Council for the City of Dana Point does hereby ordain as follows:

WHEREAS, the proliferation of yard signs in the City is likely to create litter and loose debris, posing traffic-safety hazards and creating visual blight. These conditions are in conflict with the City’s general plan and present a danger to the public health, safety, and welfare. Thus, the City Council finds the City needs to update its sign ordinance in order to enforce content-neutral yard-sign regulations;

WHEREAS, the City desires to adopt the following ordinance in order to prevent the proliferation of signs in the City and avoid the associated traffic-safety hazards and visual blight.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

Section 1: The definitions of “Campaign Sign” and “Political Sign” contained in Dana Point Zoning Code section 9.37.020 are hereby deleted.

Section 2: The definition of “Yard Sign” is hereby added, alphabetically, to Section 9.37.020 of the Dana Point Zoning Code, to read as follows:

“Yard sign – A non-commercial sign that is visible from any public right of way. Yard signs may be temporary in nature, and may express a political, religious, ideological view or opinion.”

Section 3: Section 9.37.120 of the Dana Point Zoning Code is hereby repealed. New Section 9.37.120, as set forth below, is hereby adopted to read as follows:

Section 9.37.120. Yard Signs.

(a) Purpose: Yard signs tend to be impermanent, flimsy, and vulnerable to the elements. Because of the tendency of yard signs to proliferate, creating litter,

visual blight, and traffic safety hazards, the City Council hereby adopts the regulations set forth in this section. It is the purpose and intent of the City Council to provide minimal regulations regarding the posting, display, maintenance, and removal of yard signs in order to protect the first amendment rights of persons posting yard signs on their property while protecting the health, safety, and general welfare of the general public and maintaining the aesthetic qualities of the City.

(b) Restrictions Applicable. The following restrictions shall apply to yard signs:

- (1) No person shall maintain more than five (5) yard signs, measuring a maximum of one hundred fifty (150) square inches in area, on any one lot or site area, whichever is larger, in any single-family or multi-family residential zone. Two (2) signs placed back to back shall count as one sign.
- (2) No person shall maintain more than three (3) yard signs, each measuring a maximum of five (5) square feet in area, on any one lot or site area, whichever is larger, in any nonresidential zone. Two (2) signs placed back to back shall count as one sign.
- (3) Freestanding signs shall not exceed four feet (4') in height from the ground.
- (4) No yard sign shall be permitted on or to extend over any public property, public easement, or in the public right-of-way;
- (5) Yard signs shall not be posted in a manner that obstructs traffic or street signs or devices. In addition, all yard signs shall be posted in a manner which preserves the lines of sight as set forth in Section 9.05.090;
- (6) The candidate, committee, or any other authorized person posting political signs shall insure that all signs include the name, address and the required committee identification number of the campaign or political organization that paid for the sign ("Identification Requirements"). The Identification Requirements shall be permanently affixed to the sign in a manner that allows the Director to ensure that he Identification Requirements will remain affixed to the sign during the duration of the campaign.

(c) Sign Approval And Distribution Permit.

- (1) Voluntary Sign Approval. Any person who wishes to post yard signs in the City may, at his or her option, bring a sign or signs to the Community Development Director of the City to review the signs for conformance with the provisions of this chapter.
- (2) Any person wishing to distribute more than ten (10) yard signs to property owners in the City must first apply for and receive a permit from the building official. The permit application shall contain an actual-sized prototype of the sign and the name, address, and telephone number where the person may be reached by the Community Development Director. The permit application

shall be approved unless the sign does not meet the size requirements set forth in this section. The decision to grant or deny a permit shall be made within four (4) hours after submission of the application. One permit shall govern all signs of each type distributed to property owners in the city.

(d) Maintenance And Removal.

(1) Yard signs must be maintained, on a continuing basis, in good repair, and must be securely attached or grounded so that the yard sign will not be dislodged by the elements. Yard signs need not comply with the structural requirements pertaining to more permanent signs. Yard signs pertaining to a political campaign must, at all times, comply with the Identification Requirements set forth in this Ordinance.

(2) Yard signs specifically advertising or pertaining to an event, such as an election, must be removed within ten (10) days immediately following the event.

(e) Violations: The violation of any of the provisions of this chapter regulating yard signs which may result in the conditions described in either section 3479 or 3480 of the California Civil Code is hereby deemed a public nuisance which may be abated by the City in the manner prescribed by law. If the Community Development Director, or his or her representatives, after inspection, find that a yard sign has been posted in violation of any provisions of this section or that a yard sign has become unsafe, insecure, or is a menace to the public safety, such official shall take action as follows:

(1) If the yard sign has been posted on private property or on property owned by another public agency, such official of the city shall give forty eight (48) hours' written or oral notice to the property owner or tenant on whose property the sign has been posted, to remove, relocate, repair, or alter such sign.

(2) If the sign has not been removed, relocated, repaired, or altered within such period of time, or such other further time as agreed to by such official of the city, the official may remove such sign, and the property owner or tenant responsible for the sign shall be liable to the City for the City's actual costs of removal. Such costs of removal shall be deemed a civil debt due and owing the City which may be collected by appropriate legal means.

(3) Notwithstanding the provisions of this section, a City official may summarily and without notice remove any yard sign posted on property owned or controlled by the City, or any sign that obstructs traffic or street signs or devices, or otherwise creates a traffic hazard. In addition, a City official may summarily remove any yard sign which poses an immediate danger to persons or property. In addition, any yard sign, regardless of where posted, left posted after the tenth day following the event to which such sign specifically relates shall be deemed abandoned by its owner and may be summarily removed without notice. The costs of this removal shall be borne

by the entity that distributed or posted the signs and failed to remove them following the tenth day following the event. Such removal costs shall be due and payable to the City, and the City may collect such costs in any manner legally authorized or appropriate.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

ELIZABETH EHRING
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, ELIZABETH EHRING, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 04-xx was duly introduced at a regular meeting of the City Council on the ____ day of _____, 2005, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

ELIZABETH EHRING, CITY CLERK

Attachment 5**Proposed Ordinance Limiting Self-Loans By Candidates in City Elections****Ordinance No. 05-xx****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING AN AMENDMENT TO DANA POINT MUNICIPAL CODE CHAPTER 2.05 LIMITING THE AMOUNT OF SELF-LOANS THAT CAN BE MADE BY CANDIDATES IN CITY ELECTIONS.**

The City Council for the City of Dana Point does hereby ordain as follows:

WHEREAS, the City of Dana Point recognizes the corruption or appearance of corruption that can occur by virtue of allowing large loans to be made by candidates in City elections to their own campaigns, and the adverse effect that such loans can have on the elective and representative processes in the City;

WHEREAS, the City desires to adopt the following ordinance in order to limit the above-mentioned corruption and/or appearance corruption, as well as any adverse effects on the elective and representative processes of the City caused by so-called "self-loans."

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dana Point as follows:

Section 1: The following Section 2.05.087 is hereby added to Chapter 2.05 of the Dana Point Municipal Code, as follows:

Section 2.05.087. Self-Loans.

(a) Notwithstanding subdivision (b), a candidate for elective office in the City may not personally loan to his or her campaign, including the proceeds of a loan obtained by the candidate from a commercial lending institution, an amount, the outstanding balance of which exceeds twenty-five thousand dollars (\$25,000) per election. A candidate may not charge interest on any loan he or she made to his or her campaign.

(b) The provisions of this section regarding loans apply to extensions of credit, but do not apply to loans made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2005.

WAYNE RAYFIELD, MAYOR

ATTEST:

ELIZABETH EHRING
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, ELIZABETH EHRING, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 04-xx was duly introduced at a regular meeting of the City Council on the ____ day of _____, 2005, and was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

ELIZABETH EHRING, CITY CLERK