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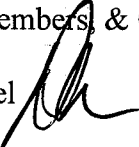
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March 16, 2007

RECEIVED

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TO: Chairman Pendergrass, Board Members, & General Manager
FROM: David C. Laredo, District Counsel 
RE: Campaign Finance Reporting & Recusal Rules

MPWMD

This memo addresses the Monterey Peninsula Water Management District's ("District") consideration of a campaign finance reporting policy. The Board requested this review in order to consider whether the District may wish to consider adoption of a policy to address this topic.

Campaign finance reporting provisions set by law pursuant to the California Government Code and Political Reform Act of 1974 ("PRA"), Government Code section 82000 et seq.

Pacific Grove Campaign Finance Reform Ordinance

In August 2006, the City of Pacific Grove ("City") adopted a Campaign Finance Reform Ordinance ("Ordinance") to set more stringent reporting and disclosure requirements than is required under state law. The key provisions of the City Ordinance are summarized below.

1. Contribution Limits

Contributions from non-individuals, i.e., non-natural persons such as businesses or organizations, are prohibited. Contributions from non-natural persons, regardless of form, are attributed to an individual if a filed disclosure form clearly attributes that contribution to a single named natural person. There is no corresponding prohibition under state law, and the business community initially voiced concern over such a prohibition.

A candidate may not accept a contribution exceeding \$500¹ from an individual in a single election campaign. There are no other restrictions on the amount of funds available to run a campaign.

2. Disclosure before Deposit

Contribution information, including name, address, occupation and employer, must be fully disclosed before a contribution of \$100 or more can be deposited and used by the candidate. Under state law, funds may be deposited immediately but the information must be disclosed within sixty days of receipt or the contribution must be returned.

¹ The Ordinance contains provisions to account for inflationary changes in all contribution limits.

The City requires a current campaign finance statement to be filed with the City Clerk the Friday before the date of the election.

3. Recusal

An official must recuse him or herself from making or influencing any decision which provides a Material Financial Effect ("MFE") to a contributor accumulating to \$250 or more. The contributions relate to the official's current term of office. The official may still exercise his or her First Amendment Right of free speech.

The City's recusal period is longer than the "previous twelve months" required under state law. State law also requires intent, and the official must know of the financial interest of the party and the party's contribution. Additionally, a contributor with an action pending before the official must disclose his or her contribution.

4. Exchange of Financial Advantages

No person shall contribute and no person shall deposit a contribution to an elected official's campaign which accumulates to \$250 or more following his or her participation in the making a governmental decision providing a MFE to the contributor. The MFE must not be similarly provided to the general public or a large class of persons.

The City's recusal period lasts for the entire term of office. Under state law, by contrast, contributions are prohibited only while a proceeding is pending and for the three months following the decision.

5. Private Enforcement

Any member of the public can make a complaint and file it with the City Clerk for referral to the City Attorney for investigation and enforcement. Additionally, an individual may bring a civil action to enforce the reporting or disclosure provisions.

Conclusion

Pacific Grove's adopted Ordinance holds officials to a higher standard of conduct than mandated by state law.

The District Board, by ordinance, may choose adopt some, all or other additional campaign disclosure or recusal restrictions. In the alternative, the Board may choose not to adopt these or other measures, and thereby rely entirely upon the campaign finance reporting and recusal provisions set by California law.

ORDINANCE NO. 06-016

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
GOVERNING CAMPAIGN FINANCE REFORM AND CONFLICT OF
INTEREST BY ADDING CHAPTER 2.30, ENTITLED "CAMPAIGN
FINANCE REGULATIONS," TO THE PACIFIC GROVE
MUNICIPAL CODE**

WHEREAS, the City Council of the City of Pacific Grove desires that elected officials be held to a standard of conduct to which citizens can expect that the receipt of funds, campaign contributions and other monetary and non-monetary gifts do not influence the process of public decision-making or the disposition of public assets; and

WHEREAS, the City Council declares that there is a compelling interest to prevent potential and perceived corruptive influences of any campaign contributions on the decisions of public officials in the management of public assets and franchises, in the disposition of public funds, and in decisions that provide a material financial benefit to any individual or entity; and

WHEREAS, this Ordinance provides practical means and options to further promote campaign finance reform, provide for conflicts of interest, and enable compensation to the City of Pacific Grove for its costs of enforcement;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 2, entitled "Administration and City Government," shall be expanded to include a new Chapter 2.30, entitled "Campaign Finance Regulations."

2.30 Campaign Finance Regulations

SECTION 2. The text set forth in this section shall be added as a new section 2.30.010 of the Pacific Grove Municipal Code, entitled "Purpose," as follows:

Section 2.30.010 – Purpose

The Political Reform Act of 1974 (set forth at Government Code 81000 et seq, as amended), establishes the principle that public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. By Article 5 of the City Charter, the provisions contained in the Political Reform Act of 1974 fully apply to elected officials in the City of Pacific Grove. The purpose of this Chapter is to expand some provisions of the Political Reform Act of 1974 as they apply to the City of Pacific Grove, as well as add provisions that are not presently required. In no case is there any direct

or implied intent that the provisions of this Chapter do anything to limit the applicability of the provisions of the Political Reform Act of 1974.

SECTION 3. The text set forth in this section shall be added as a new Section 2.30.020 of the Pacific Grove Municipal Code, entitled "Definitions," as follows:

2.30.020 Definitions

(a) Unless otherwise defined in this Chapter, the definitions of the California Elections Code §§ 300 – 363, as amended, and of the Political Reform Act of 1974, set forth at Government Code §§ 81000 et seq., as amended, shall govern the interpretation of this Chapter.

(b) "Candidate Committee" means a candidate and/or his or her controlled committees.

(c) "Non-individual" shall mean a non-natural person.

(d) "Recuse" means to not participate in making or otherwise influencing a governmental decision. A recused official may still exercise his or her First Amendment right of free speech as an individual.

SECTION 4. The text set forth in this section shall be added as new Section 2.30.030 of the Pacific Grove Municipal Code, entitled "Campaign Contribution Limits," as follows:

2.30.030 Campaign Contribution Limits

(a) Prohibition on Contributions from Non-Individuals:

A Candidate Committee shall not accept any contributions from non-individuals. For the purposes of campaign contributions, a deposit from a business or organization, regardless of form, shall be attributed to an individual if a filed disclosure form clearly and unambiguously attributes that contribution to a single named natural person.

(b) Individual Contributions Limit per Election:

A Candidate Committee shall not accept any contribution exceeding \$500 from an individual in any single election campaign.

(c) Contribution Limit Adjustment for Inflation:

The contribution limit set by this section shall be increased in proportion to the cumulative change in the Consumer Price Index (CPI), for all urban consumers for the San Francisco-Oakland-San Jose area, published by the United States Department of Labor using the CPI most recently available prior to April 1st of each year, provided however that an adjustment shall be based

upon the cumulative change in the CPI since enactment of this measure, but each adjustment shall be rounded down to the nearest increment of \$50.

SECTION 5. The text set forth in this section shall be added as new Section 2.30.040 of the Pacific Grove Municipal Code, entitled "Disclosure," as follows:

2.30.040 Disclosure

(a) Disclosure prior to deposit. Until the name, address, occupation, and employer of the contributor is on file in the records of the Candidate Committee, the Candidate Committee shall not deposit a contribution of \$100 or more.

(b) Additional filing requirement. In addition to the campaign statement filing requirements in state law each Candidate Committee shall file a current campaign finance statement with the City Clerk on the Friday before the date of the election to which this campaign applies.

SECTION 6. The text set forth in this section shall be added as new Section 2.30.050 of the Pacific Grove Municipal Code, entitled "Limitation Upon Exchange of Financial Advantages," as follows:

2.30.050 Limitation Upon Exchange of Financial Advantages

(a) Contribution Before a Governmental Decision:

Each elected official shall recuse him or herself from a governmental decision which provides a Material Financial Effect to a contributor whose campaign contributions to the official's Candidate Committee relating to the official's current term of office accumulate to \$250 or more however; recusal shall not be required if the Material Financial Effect is similarly provided to the general public or a large class of persons.

(b) Contributions After a Governmental Decision:

No person shall contribute and no person shall deposit a contribution to the official's Candidate Committee which accumulates to \$250 or more following his or her participation in making or otherwise influencing a governmental decision which provides a Material Financial Effect to the contributor not similarly provided to the general public or a large class of persons.

(c) Contribution Adjustment for Inflation:

The limits set by this section shall be increased in proportion to the cumulative change in the Consumer Price Index (CPI), for all urban consumers for the San Francisco-Oakland-San Jose area, published by the United States

Department of Labor using the CPI most recently available prior to April 1st of each year, provided however that an adjustment shall be based upon the cumulative change in the CPI since enactment of this measure, but each adjustment shall be rounded down to the nearest increment of \$50.

SECTION 7. The text set forth in this section shall be added as a new Section 2.30.080 of the Pacific Grove Municipal Code, entitled "Complaints," as follows:

2.30.080 Complaints

Any member of the public may make a complaint under this section and file it with the City Clerk of Pacific Grove. The City Attorney shall request of the involved parties a statement of facts and seek to ascertain whether the complaint is addressed by this Chapter. Such determination shall be made within ten (10) days of filing said complaint. If, in the opinion of the City Attorney, the complaint can be addressed by this Chapter, the City Attorney will take the steps necessary to enforce this Chapter.

SECTION 8. The text set forth in this section shall be added as a new Section 2.30.090 of the Pacific Grove Municipal Code, entitled "Violations – Enforcement," as follows:

2.30.090 Violations – Enforcement

The City Attorney is authorized to enforce any provisions of this Chapter as set forth in Title I, Chapter 1.16, "Violations," of the Pacific Grove Municipal Code.

SECTION 9. The text set forth in this section shall be added as a new Section 2.30.100 of the Pacific Grove Municipal Code, entitled "Violations – Private Enforcement," as follows:

2.30.100 Violations – Private Enforcement

In addition to other enforcement provisions set forth in this Chapter, an individual shall have the right to bring a civil action to enforce these provisions. The power of private enforcement shall be effective only after Notice of Intent to enforce has been provided to the City Attorney but no City enforcement has commenced within thirty (30) days.

SECTION 10. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted

each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 11. This ordinance shall become effective on the thirtieth day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 6th day of September, 2006, by the following vote:

AYES: Bennett, Cort, Davis, Miller, Nilmeier

NOES: Goldbeck, Schenk

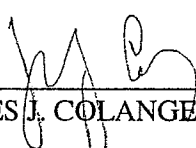
ABSENT: NONE

APPROVED:



DANIEL E. CORT, Mayor

ATTEST:



JAMES J. COLANGELO, City Clerk

APPROVED AS TO FORM:



DAVID C. LAREDO, City Attorney