

October 5, 2017

**ELECTION CODE COMMITTEE MEETING**

**12:00 PM**

COUNCILMEMBERS PRESENT: Overbeck, Stephens, Cunniff, Horak  
Staff Present: Coldiron, Knoll, Daggett, Malarky, Gonzales, Bodig  
Others Present: Marge Norskog, Karen Wagner, Robbie Moreland, Jody Deschenes, Elizabeth Hudetz, Jan Rossi, Kevin Jones

**1. CALL MEETING TO ORDER**

Councilmember Stephens called the meeting to order.

**2. CITIZEN COMMENT**

Marge Norskog stated she filed a notice of election complaint regarding financial reports for the April election. She stated active committees did not file financial reports. Registered committees should be required to report and penalties should be imposed if they do not. Ms. Norskog suggested an independent group, such as a citizen oversight group, should be formed that would be responsible for verifying the accuracy of election-related reports and have the authority to initiate appropriate action when false reporting or violations are observed.

Karen Wagner provided an article from the *Denver Post* regarding proposed City of Denver ordinances related to campaign finance and greater transparency.

Robbie Moreland, Jody Deschenes, Elizabeth Hudetz, and Jan Rossi identified themselves as being in support of Ms. Norskog and Ms. Wagner's comments.

Councilmember Cunniff asked if the suggested committee would be Council-appointed. Ms. Norskog replied the committee should be citizen-based and appointed in some way.

Ms. Norskog asked if there is an audit function for municipal elections to ensure candidates are following election procedures and reports are being submitted appropriately. Chief Deputy City Clerk Knoll replied reports are not reviewed and issues are identified on a complaint basis.

Councilmembers Cunniff and Overbeck thanked the citizens for their work on this issue.

**3. APPROVAL OF JULY 20, 2017 COMMITTEE MEETING MINUTES**

Councilmember Overbeck made a motion, seconded by Councilmember Cunniff, to adopt the July 20, 2017 Committee meeting minutes. The motion was adopted unanimously.

**4. ELECTION-RELATED CHANGES FOR DISCUSSION**

**a. Designate the City Clerk to serve as the Designated Election Official**

Rita Knoll, Chief Deputy City Clerk, stated there is a State Statute that calls for the governing body to designate the City's designated election official. This has typically been done through an intergovernmental agreement with the County, but this designation in the City Code seems a better option. The Committee agreed to move forward with the suggested language.

**b. Remove the "two signature requirement" on checks from couples for campaign contributions**

Knoll stated in past elections, complaints were received when a contribution from a couple was in an amount greater than the limit for individual contributors; therefore, a requirement was added to

City Code that both parties sign a joint check to ensure clarity that they both intended to make the contribution.

Knoll stated Councilmember Summers has brought forth the issue as being an onerous requirement.

Councilmember Stephens asked if two signatures are required at the state level or in other jurisdictions. Knoll replied it is not required at the state level.

Ryan Malarky, Assistant City Attorney, replied the Secretary of State has a rule that it is up to the candidate or committee on how to apportion the contribution if the contributor is not specifically identified in a joint account check.

Knoll noted state rules do not apply to home-rule municipalities; therefore, Fort Collins will need to address the issue if a change is desired.

Councilmember Stephens stated she does not feel this is an onerous requirement.

Councilmember Cunniff stated the current practice is not that inconsistent with the state rules and suggested Councilmember Summers could bring the issue up under Other Business at a Regular Council meeting, if he would like it considered further.

Knoll noted no complaints or questions have been received regarding the practice.

The Committee recommends no change based on the Secretary of State regulations.

**c. Can a felony received as a minor be used to disqualify a Council candidate?**

Malarky discussed the two tracks a juvenile charged with a felony may take. A juvenile may be adjudicated, which is different from a felony conviction.

Carrie Daggett, City Attorney, stated the question relates to whether there is a desire to add some clarifying language to eliminate questions from potential candidates related to adjudication.

Councilmember Stephens asked if an adjudication would need to be disclosed on a job application. Daggett replied it would depend on how the question was phrased. Malarky replied it may also depend on whether records were sealed.

Councilmember Overbeck asked if other municipalities have been contacted. Daggett replied in the negative given this is an interpretation issue for the City Code.

Councilmember Overbeck asked if a restorative justice process would have any bearing on this. Daggett replied in the negative.

Daggett stated this change would not require much rewording; however, it is a Charter change and would therefore require a vote of the people. Councilmember Cunniff stated he would not call an election just for this item.

Councilmember Cunniff stated the Charter language appears to apply if an individual was convicted as a minor in criminal court.

Mayor Pro Tem Horak asked if other details are verified, such as address and age. Knoll replied voter registration and addresses are verified.

Councilmember Cunniff stated he would like to see more information regarding other municipalities and issues with federal security clearance.

Knoll stated if this item comes back before the Committee, staff will bring additional information.

**d. Value of campaign ads on websites**

Daggett stated City Attorney staff is working on this issue and will be providing more information.

Knoll stated this item will be moved to the next agenda.

**e. Terminating inactive Issue and Political Committees**

Knoll stated staff has provided some suggested language to address the issue. Once the language is determined, forms will be amended accordingly.

Daggett stated political committees sometimes form in anticipation of an issue coming forward. If that does not occur, it is not surprising that a committee dissolves. This combination of changes is intended to keep the election committee's life tied to the particular election around which the committee is formed.

Knoll noted the language does not currently include political committees because they sometimes register with much broader purposes than for an issue on a ballot. However, that is an issue for this Committee to address.

Councilmember Overbeck asked if a committee could reregister. Knoll replied it is possible to require reregistration of committees.

Daggett stated the logic of staff's proposal is that, by compressing the time frame, it makes it less likely that someone will move or become unreachable.

Councilmember Cunniff supported adding political committees to this proposal and stated termination reports should be required of all committees.

Knoll stated the compressed cycle will necessitate additional up-front education related to the filing requirements.

Councilmember Overbeck supported the change as offering clarity and transparency.

Knoll stated this will be added to the list of items to bring forward.

**f. Candidate political signs**

Knoll stated staff has included a suggested amendment that might provide clarity based on discussion at the last meeting.

Councilmember Cunniff supported the proposed language.

Councilmember Overbeck supported the addition of social media.

Knoll stated this item will be added to the list of items to bring forward.

**g. Preliminary discussion of redistricting issues**

Knoll summarized the information presented to the Committee and noted Larimer County re-precincting, which is a trigger recently added to the City Code to require Fort Collins to look at the deviation of population between districts. It was found that the City is well outside the 10% deviation threshold, primarily because of growth in District 1.

Marcus Bodig, GIS Manager, stated the bigger issue is the explosive growth of the entire city.

Councilmember Cunniff asked if the City precincts must, by Charter, align with County precincts.

Daggett replied they need to align for practical reasons.

Councilmember Cunniff asked if multiple City precincts could map into one County precinct. Knoll replied the difficulty lies in getting data from the County. She noted the County is required to take the City's district boundaries into consideration, so to the extent they can avoid making a change that would alter a district boundary, they avoid it.

Councilmember Stephens asked if there is a fix that would ensure redistricting does not have to occur every couple of years.

Knoll stated the more common practice is to redistrict after census data is received every ten years.

Jan Rossi, Fort Collins citizen, asked if it would be possible to have a dialogue with the Futures Committee and the possibility of adding additional districts. Mayor Pro Tem Horak replied that would be a much larger discussion related to Charter changes.

Councilmember Stephens stated her inclination is to redistrict based on the census as it seems impractical to redistrict every two years. Knoll noted a Code amendment would be required, but that change is possible.

Bodig stated he could look into doing some modeling related to using the census as the trigger to redistrict.

Councilmember Stephens stated some of that modeling could be helpful.

Councilmember Cunniff supported narrowing the options to two: basing redistricting on the census or going through the process every two years.

The Committee supported doing modeling to gain more information.

Daggett stated the formalization of a more consistent process ensuring no question of manipulation is also a goal.

Knoll suggested the possibility of bringing a precinct alignment item to Council now to address the County reprecincting. The Committee agreed that is a good step.

## **5. NEXT MEETING**

### **a. Determine Next Meeting Date/Time**

Daggett stated staff could use several weeks for more research on some of the items discussed. The group decided to look at December or January for a possible next meeting date.

### **b. Holdover Items**

The group agreed the value of ads on websites is a holdover item.

## **6. OTHER BUSINESS**

Councilmember Cunniff requested a reiteration of information regarding "paid for by" statements. He asked about requiring committees to file sufficient descriptions of expenditures.

Knoll stated independent expenditure reporting has been beefed up to make it very clear that documentation must be attached. However, she stated there may not be enough staff capacity to review documentation to determine adequacy.

Councilmember Cunniff asked if the new Code section regarding penalties applies to violations of independent expenditure reporting.

Daggett replied in the affirmative and noted there is a one-year statute of limitations under the Code; therefore, a 24-month time period to file a complaint as requested by Ms. Norskog could be problematic. She clarified the current 60-day limit is not a limit on enforcement of the provision, it is just a limit on triggering a review via a formal complaint.

Councilmember Stephens supported the idea of an independent election group.

Councilmember Cunniff suggested the group should be Council-authorized and appointed with one duty being the oversight of committee and candidate reporting conduct.

Daggett asked Ms. Norskog if she knows of other jurisdictions that have an independent election review committee. Ms. Norskog replied she did not conduct that type of research.

Councilmember Cunniff requested that research in anticipation of possibly forming the independent committee.

## **7. ADJOURNMENT**

The meeting adjourned at 1:30 PM.

### **Attachments:**

Marge Norskog comments  
Denver Post article, September 4, 2017

**MINUTES APPROVED March 1, 2018**

TO: Election Code Committee

FROM: Marge Norskog

DATE: October 5, 2017

SUBJECT: April 2017 Election Campaign Reports filed with the City Clerk

Out of general curiosity, I took a close look at the financial reports filed for the April election. I had a great number of questions and brought those to the City Clerk. Some of my questions were answered, for the rest I was directed to file a Notice of Election Complaint.

On April 25, I met with Rita Knoll to gather them together so they could be filed as a group for easier review by the City Attorney.

On August 29 I received letters from the City Attorney with the identical decision on all complaints, "The City will not be pursuing further investigation or prosecution of this matter." Based on these letters I had every reason to believe the observations in my complaints would be simply set aside and ignored.

I decided my observations were too fundamental to be ignored so I asked the City Clerk for an opportunity to share my observations with the Election Code Committee.

I have summarized my complaints into four observations for this committee's consideration.

**ISSUE:** Committees listed as active for the April election did not file financial reports as required by Chapter 7, Article V Section 7-136. Disclosure; filing of reports,  
**(h) Any candidate committee, political committee or issue committee** which has not accepted any contributions or contributions in kind, made any expenditures, or entered into any obligations during a reporting period, **shall file a report with the City Clerk on the days specified in Subparagraph (c) above certifying that the committee has not accepted any contributions or contributions in kind, made any expenditures or entered into any obligations during the relevant reporting period.**

**OBSERVATION:**

No financial reports were filed by these active Committees —  
**Political Committees**  
**Coalition for Public Policy** 21-day 14-day Friday  
**Democracy with Vision** 21-day 14-day Friday  
**Issue Committee**  
**Protecting Our Housing Future** 21-day  
TERMINATED-3/17, after the 21-day filing deadline

NOTE: These committees were listed in the Coloradoan, April 4, 2017 “Your guide: 2017 Fort Collins Election”)

**ACTION REQUESTED:**

1. Create a process for retiring Registered Committees.
2. Defend the integrity and authority of the City Election Code and require a Registered Committee to report and impose a penalty if they don't.  
Both Political Committees are listed as Registered Committees on the City web site and would be expected to file during the upcoming November 2017 election.

**ISSUE:** Our City Election Code permits campaigns and/or committees to conduct anonymous, smear campaigns of opponents or stands on issues.

The two very negative mailings sent out during this election were hurtful to both candidates — including the one they attempted to support.

**OBSERVATION:**

I collected every mailing sent out to residents of District 1.

- The total number of mailings reported in the Independent Expenditure reports for District 1 matched the number of mailings residents received in District 1.
- All District 1 Independent Expenditure reports were marked “Expenditures are intended to SUPPORT a candidate.”
- Citizens for a Sustainable Economy reported 2 more mailings in District 1 than I could match to mailings marked with their name. HOWEVER — the two negative mailings were VERY SIMILAR in size, color, and design to others made by CSE in the District 1 council race. Therefore, despite the lack of markings and the reported expenditure, it is likely CSE created and distributed these two mailings.

**ACTION REQUESTED:**

1. Add a requirement to the City Election Code for a ‘paid for by’ statement on all communications as is part of Colorado State code (applicable to Larimer County run elections) and recently adopted by the city of Denver.

**ISSUE:** Our City Election Code only calls for timely submission of reporting and public posting. Transparency allowed me to see a problem, however, because there is no one in the city reviewing reports for completeness and accuracy this transparency does not protect our elections from simple errors or fraud.

**OBSERVATION:**

A group called the National Association of Realtors Fund filed an Independent Expenditure report on 3/15/2017 reporting total expenditures of \$79,568.17.

It is my understanding that groups, such as the National Association of Realtors Fund, that make Independent Expenditures in political campaigns, but aren't structured as an Issue Committee or Political Committee should be setup as a 501c4. 501c4s must file a form 990 annually with the IRS.

I called the Chicago number to get a copy of their 990 and they didn't know what the National Association of Realtors Fund was and suggested I call their office in DC. The DC number didn't know either and could not help me further.

Inspired by an article in the Coloradoan, I sent an email to Clint Skutchan with questions about this filing. He wrote, "So essentially as a local chapter of the National Association of REALTORS we have access to resources from NAR."

I attempted to find the 990 on line and there was no such filing.

**ACTION REQUESTED:**

1. Create/Identify an independent group (such as a citizen oversight board) to be responsible for verifying the veracity of election related reports and have the authority to initiate appropriate action when there is false reporting or violations observed.

**ISSUE:** Our City Election Code requires Election Campaign Complaints to be filed within 60 days after a violation occurs. However, it is impossible to assess a 501c4 organization within 60 days because you need their 990 filing with the IRS to fully assess their compliance.

**OBSERVATION:**

I was curious about this issue so I looked at 501c4 groups that were active in the 2015 election because by 2017 all the data was available.

Citizens for a Sustainable Economy — 2015 Independent Expenditure reporting

CSE 2015 Independent Expenditures	\$77,595.35
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CSE 2015 990 Total Revenue	\$109,000.00
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% of Revenue spent in the 2015 election	72%
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Which means they really should have been registered as a Political Committee and complied with the reporting under those laws.

This makes me wonder how they should have been structured during the 2017 election — but their 990 will not be available until sometime in 2018.

**ACTION REQUESTED:**

1. Change the deadline for filing a Election Campaign Complaint against a 501c4 organization to 24 months to accommodate IRS filing deadlines.

1. Require Registered Committees to report or expect penalties.

2. Require a 'paid for by' statement on all local election communications as is required under CO election law.

3. Assign responsibility to an independent group to ensure the veracity of election reporting.

4. Allow 24 months to file an Election Campaign Complaint against a 501c4.

## Coalition for Public Policy

### Political Committees (updated March 27, 2017)

The following Political Committees are currently registered with the City Clerk's Office.

Committee	Purpose or Intent	Contact
Coalition for Public Policy (formerly Voters United) Registered 12/08/15	To advocate for transparent and accountable public policy by supporting or opposing candidate/issue committees in the April 2017 election. (This is an amended purpose statement submitted 12/11/15.)	1308 Fort Collins 970.240.1111
Democracy With Vision Registered 02/08/16	To help encourage citizens to engage in local issues in order to better their community on a variety of topics.	2401 Fort Collins 970.240.1111
Sierra Club Political Committee Registered 03/23/17	Organized to engage in electoral activity.	2101 Oaklawn 202.690.1111

## Democracy With Vision

## Independent Expenditures

April 4, 2017 Election

Notices of Independent Expenditure filed with the City Clerk, if any.

### National Association Of Realtors Fund

- [Notice of Independent Expenditure 03/15/17 \(PDF\)](#)

### Citizens For A Sustainable Economy

- [Notice of Independent Expenditure 03/21/17 \(PDF\)](#)
- [Notice of Independent Expenditure 03/21/17 \(PDF\)](#)
- [Notice of Independent Expenditure 03/24/17 \(PDF\)](#)
- [Notice of Independent Expenditure 03/24/17 \(PDF\)](#)
- [Notice of Independent Expenditure 03/28/17 \(PDF\)](#)
- [Notice of Independent Expenditure 03/30/17 \(PDF\)](#)
- [Notice of Independent Expenditure 04/03/17 \(PDF\)](#)

### Cristine Romarino

- [Notice of Independent Expenditure 03/27/17 \(PDF\)](#)

### Sierra Club Political Committee

- [Notice of Independent Expenditure 03/28/17 \(PDF\)](#)  
Amended 03/29/17

### Joshua Lapin

- [Notice of Independent Expenditure 04/04/17 \(PDF\)](#)

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**National Association Of Realtors Fund**

-  [Notice of Independent Expenditure 03/15/17 \(PDF\)](#)

**RECEIVED**  
City Clerk's Office  
**3-15-17** *SA*

**NOTICE OF INDEPENDENT  
EXPENDITURES IN EXCESS OF \$100**

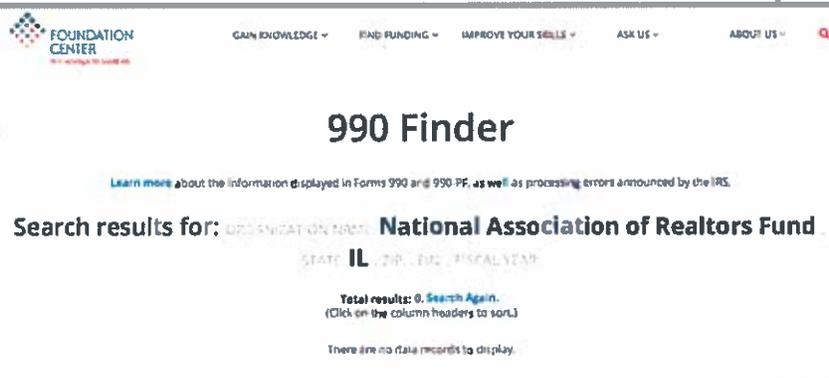
Must be filed with the City Clerk no later than three (3) business days after obligating funds for expenditure. (City Code §7-139)

Name of Person Making Independent Expenditure(s): NATIONAL ASSOCIATION OF REALTORS FUND

Address: 430 N. MICHIGAN AVE Phone: 312-329-8200

Email Address: kpaschal@realtors.org Web Site Address: \_\_\_\_\_

Name of Candidate that Expenditures are Intend



**FOUNDATION CENTER**  
GAIN KNOWLEDGE • FIND FUNDING • IMPROVE YOUR SELLS • ASK US • ABOUT US

**990 Finder**

Learn more about the information displayed in Forms 990 and 990-PF, as well as processing errors announced by the IRS.

Search results for: ORGANIZATION NAME: **National Association of Realtors Fund**  
STATE: **IL** ZIP: \_\_\_\_\_ FISCAL YEAR: \_\_\_\_\_

Total results: **0**. [Search Again](#).  
(Click on the column headers to sort.)

There are no data records to display.



POLITICS DENVER POLITICS

## Denver proposal aims to force disclosure of independent spending in elections as “dark money” trickles down

Council measure takes narrower approach than failed initiative that would have created public financing

By JON MURRAY | [jmurray@denverpost.com](mailto:jmurray@denverpost.com) | The Denver Post

PUBLISHED: September 4, 2017 at 8:00 am | UPDATED: September 5, 2017 at 9:06 am



Craig F. Walker, The Denver Post

Denver Mayor Michael Hancock and his wife Mary Louise Lee enjoy an event kicking off Hancock's re-election campaign at Battery 621 on Feb. 3, 2015.

Companies, groups and other big spenders who work to support or defeat candidates and ballot measures in Denver's local elections increasingly are operating in the shadows, city officials and good-government advocates say.

Less than two years before the next municipal election, a Denver City Council proposal seeks to close transparency gaps that allow such spending to go unreported as long as the people behind it don't coordinate directly with a candidate's campaign.

Such activity by super PAC-style groups has mushroomed in federal and state elections since the U.S. Supreme Court's Citizens United decision in 2010 took the handcuffs off independent spending by corporations and labor unions, making restrictions on them unconstitutional.

Denver's last elections for mayor, council and other city offices, in 2015, when [the candidates' own committees raised \\$4.6 million](#), brought the first hint that such activity is trickling down to the local level. Councilwoman Robin Kniech says the city is not alone across Colorado, as most local governments are behind the state in tightening campaign-finance reporting laws to require more disclosures of independent spending.

The potential result of that sort of uncoordinated spending? Advocates from Colorado Common Cause and other groups fear a proliferation of anonymous attack ads and mailers that try to puff up one candidate or cut down another without disclosing who's behind them.

"The city really is far behind on the dark money issue," said Jon Biggerstaff, a former Democratic state Senate candidate who was the lead organizer behind [a separate campaign finance reform proposal](#) — in the form of a ballot initiative — this summer.

That initiative also would have required more transparency for independent spending in campaigns, but it also aimed to create a public financing system for Denver's elections, reduce contribution limits to candidates and ban corporate and union contributions.

His "[Democracy for the People](#)" initiative, though, failed to make the Nov. 7 ballot. The Denver Elections Division last week notified Biggerstaff and the Clean Slate Now Action group that its petitioning fell 423 signatures short of the threshold of 4,726 verified registered voters.

Biggerstaff says he plans to mount another effort next year for his wider goal of reducing the influence of big money in local elections, but any vote in 2018 would be too late for the changes to apply to the May 2019 municipal election.

But the council could take action soon on the narrower question of regulating independent spending disclosures, along with other minor changes. A final vote is set for Sept. 11 and would come just in time to govern the 2019 cycle, before candidates start filing to run.

The proposal originated out of Clerk and Recorder Debra Johnson's office after discussions by a working group that included elections director Amber McReynolds, Kniech, Colorado Common Cause, Colorado Ethics Watch and other participants.

The measure would adopt the state definitions of "independent expenditure," which is a broad catchall for any activity supporting or hurting a candidate, and "electioneering communication," which specifically relates to advertising.

The individual, company or other organization behind the independent spending would have to file public reports within two days after an individual, company or group spends more than \$1,000, including disclosing anyone who gives more than \$25 to the effort. They also would have to make clear on any mailers, broadcast ads or other advertising who paid for them and the independence from the candidate's or issue's official campaign.

The proposal also would modify the city's campaign finance ordinance in other ways.

In addition to creating a \$50-per-day fine for candidates and committees that miss filing deadlines for finance reports — fixing a glaring lack of teeth in the current ordinance — the proposal would differentiate issue committees from political committees.

It also would require more frequent reporting of candidates' donations and spending in the final weeks of an election. And starting next year, candidates would have to file quarterly reports in the calendar year before an election, instead of a single year-end report that leaves the public in the dark about fundraising until the year is over.

McReynolds said most of the issues in the proposal came from a list of needed cleanups that her office had compiled in recent years. The goal, she said, is to make campaign rules more straight-forward for both campaigns and voters — "and then making sure that we hold folks accountable if they don't follow the rules, and making sure we have a fair process for campaign finance reporting."

Peg Perl, a public policy consultant who is the former senior counsel for Ethics Watch, said the proposal still leaves some changes she has sought unaddressed, including offering public financing to candidates in a way similar to what Biggerstaff's group proposed. Perl has declared her intention to run for clerk and recorder in 2019, when Johnson plans to step down.

But she participated in the working group early on and praised the resulting council proposal as a good step forward.

"The main goal of all that is to make sure voters have information they need to make informed choices in the election," Perl said. "To the extent that any individual or organization or entity runs any sort of ad or mailer or a billboard that mentions any candidate, then (disclosure) now is going to be required so that the voters know."