



City of Las Cruces®

PEOPLE HELPING PEOPLE

COUNCIL WORK SESSION SUMMARY ROUTING SLIP

Meeting Date July 13, 2015

TITLE: ELECTION PROCESSES, ACCOUNTABILITY AND FINANCING.

- Are there attachments to the Council Work Session Summary? Yes No
- Will there be a Video Presentation for this item? Yes No
- Will there be a PowerPoint Presentation for this item? Yes No
- If "yes", will a copy of the PowerPoint Presentation be included on the Council Work Session Agenda? Yes No

DEPARTMENT / ORGANIZATION	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		541-2128	07.07.15
Department Director		541-2128	07.07.15
Other			
Assistant City Manager/CAO (if applicable)			7/8/15
Assistant City Manager/COO (if applicable)			
City Manager		541-2076	7/8/15



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Council Work Session Summary

Meeting Date July 13, 2015

TITLE: ELECTION PROCESSES, ACCOUNTABILITY AND FINANCING.

PURPOSE(S) OF DISCUSSION:

- Inform/Update
- Direction/Guidance
- Legislative Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

As a result of the decision in a case called Roewe and Courtney v. City of Las Cruces and the recent recall petitions, questions and concerns have come up within the City Clerk's Office about the petition process in general, the standards for recall and the voter, the deadlines for the City Clerk's Office to certify signatures on petitions, and the general concept of campaign public finance in the municipal setting.

Common Cause New Mexico proposes to initiate public campaign financing for Las Cruces municipal elections. Public campaign financing uses public funds to pay a portion of a candidate's campaign expenses in return for the candidate agreeing to restrictions on expenditures and fund raising. Common Cause New Mexico introduces best practices that allow candidates to qualify through a specified number of individual contributions and provide limitations to fund raising that encourage small donor contributions matched by public monies from a Fair Election Fund. Common Cause New Mexico will highlight important decision points in the best practices where City Council can tailor the model for Las Cruces.

Public campaign finance provides for a more democratic election process where candidates are able to compete without large dollar donations and voters participate in a more meaningful way. It diminishes public perception of undue influence and strengthens public confidence in government and the election process.

The Roewe and Courtney judgment in 2014 against the City of Las Cruces (City) demonstrated a need for a change in the Las Cruces City Charter to provide voters with time to challenge the City Clerk's determination to purge their signatures. In the Roewe and Courtney case, the City Clerk purged voter signatures from a nominating petition because the names did not match the voter registration rolls. (Changes in last names due to marriage or divorce and the use of nicknames can cause a disparity between petition signatures and the voter registration rolls). Without recourse or appeal in the Las Cruces City Charter, aggrieved voters successfully sued the City in regard to the City Clerk's determination to purge their signatures. The Third Judicial District Court's (Court) ruling against the City indicates that Section 7.02 (b) of the Las Cruces

Continue on additional sheets as required)

City Charter needs a curing provision that allows voters time to challenge the City Clerk's determination to purge signatures. It is recommended five additional days be added to the election timeline.

The recent recall attempts and legal challenge raised questions regarding the standards for a successful recall petition including the percentage of voter signatures of the total registered voters in a district, the grounds for initiating a recall, limiting the number of times a City Councilor can be subject to recall during a given period, increasing the requirements for petition circulators and possibly eliminating the ability to file an amended petition with additional names.

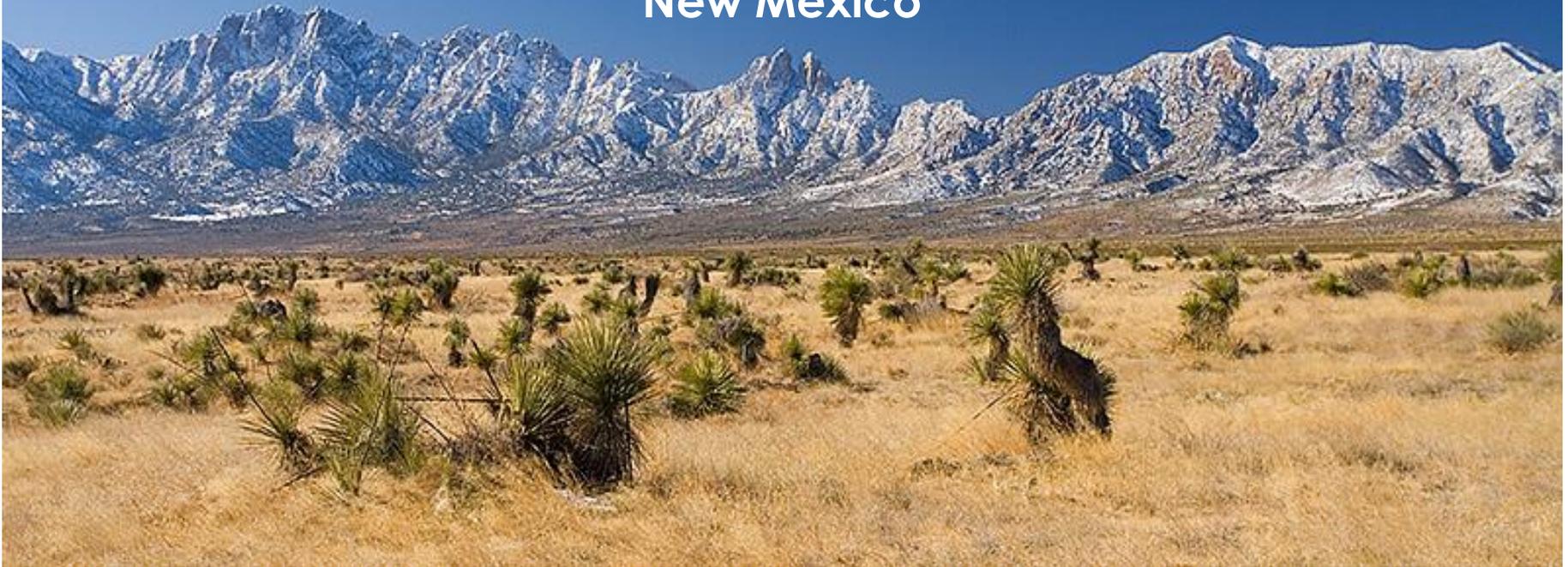
The legal challenge regarding the recent recall attempts was over the City Clerk allowing voters to withdraw their name from a petition. The Court sided with the City while citing case law, which suggests that voters have a right to withdraw their signatures from a petition. Instead of relying on interpretation of case law, a provision describing a voter right to withdraw a signature would eliminate ambiguity and potential litigation.

SUPPORT INFORMATION:

N/A

ELECTION PROCESSES, ACCOUNTABILITY AND FINANCING

Public Campaign Financing in New Mexico



What is Public Campaign Finance?

- **Public money used to pay all or part of a candidate's campaign expenses in return for the candidate agreeing to limit expenditures and fund raising**



Why Support Public Financing?



- **Increases voter participation in election process**
 - Voter turnout in Las Cruces is low and trending downward
- **Allows elected officials to focus on what matters**
- **Increases public confidence in elected officials**
- **Increases perception of fairness and decreases likelihood of undue influence by big campaign donors**

The Changing Election Environment



- **Increased influence of money in politics** both nationally and across New Mexico
- **Low voter turnout**
 - Young voters not engaged
 - Other voters alienated
- **Recent Court Cases:**
 - *Arizona Free Enterprise Club PAC (2011)*
 - Court decided that publicly financed candidates cannot receive additional funds when they are outspent by privately funded opponents.
 - This resulted in the recommended and constitutionally-sound matching donation system.
 - *Citizens United (2010)*
 - Effectively removed contribution limits for corporations and unions for independent spending.
 - Reinforced the need for disclosure in campaign financing.



Types of Public Finance

■ **Block Grant**

- Albuquerque, Santa Fe
- New Mexico Public Regulation Commission
- New Mexico judgeships

■ **Small Donor Matching**

- Tucson, Arizona (1987)
- Montgomery County, Maryland

■ **Hybrid Block Grant/Small Donor Matching**

- San Francisco, California

Recommended Best Practices



- **Voluntary system:** candidates decide whether or not to participate in public financing.
- **Qualifying contributions:** candidates qualify through a specified number of small contributions.
- **Candidate expenditure cap.**
- **Cap on individual campaign contributions.**
- **Matching funds:** individual contributions are matched by a Fair Elections Fund.
- **Disclosure and monitoring:** administration of the system includes a clear and effective disclosure/monitoring system.



Qualifying Contributions

■ **Threshold for qualifying:**

- Mayor: 100 contributions of \$5 to \$100 from registered voters within the City totaling at least \$5,000
- Council: 25 contributions of \$5 to \$100 from registered voters within the district totaling at least \$1,000.

■ **Candidates agree to limitations:**

- Limit amount that can be raised from each donor.
- No use of personal funds.
- Limit campaign expenditures to direct campaign expenses only (can't be used to buy personal computers, etc.).
- No coordination with outside PACs/groups.



Candidate Expenditure Cap

- **The cap is informed through a review of past expenditures for winning campaigns.**
- **Cap set at high enough level to make public financing an attractive option and to allow participating candidates to conduct a viable campaign.**
- **Recommended candidate expenditure cap per position:**
 - Mayor: \$80,000
 - Councilor: \$15,000
 - Municipal Judge: \$15,000

Cap on Individual Campaign Contributions



- **Intent is to reduce influence, empower small donors, and engage more citizen participation in election process.**
- **Suggested donation caps:**
 - Mayor: \$200
 - Council: \$100
 - Judge: (Use qualifying contributions only then award specified block grant. Las Cruces does not have a climate of judges soliciting contributions.)

Matching of Individual Campaign Contributions



- Contributions from individuals received by participating candidates will be matched by Fair Election Fund.
- Suggested match ratios:
 - Mayor:
 - 4:1 inside City
 - Outside of City contributions allowed but not matched.
 - Council:
 - 4:1 in district
 - Outside district contributions allowed but not matched
- How match of contributions works at 4:1 ratio:

Individual Contribution	Matched Amount (4:1)	Total Received by Candidate
\$10	\$40	\$50
\$25	\$100	\$125
\$50	\$200	\$250
\$100	\$400	\$500



Fair Election Fund

- ***Annual appropriation amount to be put in the Fair Election Fund (Dollar amount per Las Cruces resident per year).***
- **Fair Election Fund appropriation:**
 - \$2 per resident/year = \$200,000/year = \$0.8M for four year cycle
 - A \$200,000 annual assessment for public financing is .23% of 2015-16 projected general fund expenditures.
(\$200,000/\$85.5M = 0.23%)
- ***Overall cap set on the Fair Election Fund***
 - Suggested cap of \$1M.
 - Unused candidate public finance money is returned to the Fair Election Fund.
 - Surplus money in the Fair Election Fund goes back to General Fund.

Administration of Public Finance with Effective Disclosure/Monitoring System



- **Disclosure/monitoring mostly in place with current code.**
- **Enforcement**
 - Hearing process for complaints
 - Fines for misuse of money
- **Cap set on administrative and enforcement expenditures for a four year election cycle**
 - ½ FTE @ \$50,000 for full FTE ~ \$100,000 for 4 year cycle

Candidate Scenario: Mayor



- **Mayoral Candidate fund raising scenarios with 4:1 City match:**

Individual Contributors @ \$200	Individual Contributors @ \$100	Individual Contributors @ \$50	Individual Contributors @ \$25	Total in Individual Contributions	Matched Amount (4:1)	Total Received by Candidate
80	0	0	0	\$16,000	\$64,000	\$80,000
40	40	80	0	\$16,000	\$64,000	\$80,000
20	40	100	120	\$16,000	\$64,000	\$80,000

Candidate Scenario: City Council



- Council Candidate fund raising scenarios with 4:1 City match:

Individual Contributors @ \$100	Individual Contributors @ \$50	Individual Contributors @ \$25	Individual Contributors @ \$10	Total in Individual Contributions	Matched Amount (4:1)	Total Received by Candidate
30	0	0	0	\$3,000	\$12,000	\$15,000
10	15	50	0	\$3,000	\$12,000	\$15,000
10	15	30	50	\$3,000	\$12,000	\$15,000

Program Participation Scenarios



- **Expenditures from the Fund @ 4:1 match**

- **Full participation in Public Financing for four year election cycle:**
 - City council races = \$216,000
(6 districts, 18 total candidates, \$15k match cap)
 - Mayor = \$192,000
(3 mayoral candidates, \$80,000 match cap)
 - Judge races = \$48,000
(4 judge candidates, \$15,000 match cap)
 - Administration = ~ \$100,000
 - Increased # of candidates @ 20% = \$111,000
 - Estimated City expense for 4 year cycle = \$667,000
 - **Never more than \$800,000 in a 4 year cycle as established by the amount placed in the Fund.**

Council Decision Points for Public Financing



- *What are the most appropriate candidate expenditure caps for each position? (Mayor/Councilor/Judge)*
- *What is the maximum that participating candidates may solicit from individual contributors that will be matched by Fair Election Funds?*
- *What is the most appropriate ratio for matching public funds to contributions from individuals?*
- *What amount should be appropriated annually to the Fair Election Fund?*
- *What overall cap should be set on the Fair Election Fund? (Tool for limiting City's financial exposure)*
- *What administrative and enforcement costs should be expected (and capped) over for a four year election cycle?*



Community Partners

■ League of Women Voters

■ LWVNM Position:

- “The League of Women Voters of New Mexico supports a fair, equitable and reasonable combination of public/private funding of campaigns for New Mexico state elective offices. Participation in the public/private financing should be voluntary. Participants should agree to voluntary spending limits. The legislation should provide for a source of revenue to fund the program.”

Q&A



City Clerk Administration in Other Cities



■ Tucson Assistant City Clerk

- One FTE split between three positions: secretary/management/assistant City Clerk.
- At beginning Clerk contracted out verification of donors. Transitioned to Clerk's office because it was easier and cheaper.

■ Santa Fe City Clerk

- Tasks for publicly financed candidate reporting much the same as for non-publicly financed candidate reporting.
- Additional time for verification of qualifying donations is the primary additional task for publicly financed candidates.
- No additional FTEs or funding went to the Clerk's office at the time of public finance enactment.

■ Albuquerque Interim City Clerk

- Hire temps to handle most busy time prior to elections. No increase in permanent staffing levels.
- In mayoral election years hire five to six election clerks as temps from Feb/March through November.
- In Council-only election years hire temps from May through November.



Expenditures from Funds

- **Santa Fe 2014: \$285,000**
 - Three mayoral candidates.
 - Seven city council candidates.
- **Tucson**
 - 2007 - \$66,883
 - 2009 - \$271,531
 - 2011 - \$316,475
 - 2013 - \$170,420