

CITY COUNCIL COMMUNICATION



Second Reading: January 26, 2010 Item Number: 8B

MEETING DATE: January 5, 2009 **ITEM NUMBER:** 9A

TYPE OF ITEM: Consent 0-2010-03

PRESENTED BY: Eugene Mei, City Attorney, 303 651-8619

SUBJECT/AGENDA TITLE: Ordinance Amending Section 2.04.206 of the Longmont Municipal Code on the Longmont Fair Campaign Practices Act

EXECUTIVE SUMMARY: During the December 1, 2009, Special Meeting, Council directed the City Attorney to pursue settlement options for the Longmont Fair Campaign Practices Act (LFCPA) lawsuit currently pending in federal district court. Pursuant to that direction, the City Attorney reported at the December 22, 2009, Regular Session that the City has reached an agreement-in-principle with the plaintiffs to settle the lawsuit. There are three main components of the agreement-in-principle:

1. Plaintiffs agree to dismiss the lawsuit with prejudice, which means they will be barred from raising in the future any claims that were or could have been brought in the lawsuit.
2. The City agrees to a settlement payment of \$68,500.
3. The City Attorney will seek from Council direction to amend the LFCPA to remove the notice provisions regarding independent expenditures identified in the preliminary injunction order.

As you may recall, the judge's preliminary injunction order enjoined the City from requiring certain of the plaintiffs to include in a communication that was also an independent expenditure the total dollar amount of the expenditure and the name of the registered agent; and those plaintiffs did not need to provide notice of the expenditure to the affected candidates. The City Attorney's Office drafted an ordinance amending the LFCPA to remove those provisions identified in the preliminary injunction order. At its December 22, 2009, meeting, Council reviewed the ordinance, and directed the City Attorney to bring back such ordinance for formal action. Prior to Council's review, Plaintiffs' counsel reviewed the attached ordinance and found it to be acceptable.

As previously discussed, the attached ordinance is very limited in scope, and the core elements of the LFCPA still remain intact: contribution limits, independent expenditure reporting, and committee reporting requirements.

COUNCIL OPTIONS:

1. Approve the ordinance amending the LFCPA.
2. Do not approve the ordinance amending the LFCPA.

RECOMMENDED OPTION: Staff recommends that Council approve the ordinance.



FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION: NA

BACKGROUND AND ISSUE ANALYSIS: NA

ATTACHMENTS:

Ordinance

1 C. Expenditures by any person on behalf of a candidate for public office that are
2 coordinated with or controlled by the candidate or the candidate's agent shall be
3 considered a contribution to the candidate and subject the candidate and the
4 contributor to any applicable penalties contained in this Act.

5 Section 2

6 To the extent only that they conflict with this ordinance, the Council repeals any
7 conflicting ordinances or parts of ordinances. The provisions of this ordinance are severable, and
8 invalidity of any part shall not affect the validity or effectiveness of the rest of this ordinance.
9

10
11 Introduced this _____ day of _____, 2010.

12
13 Passed and adopted this _____ day of _____, 2010.

14
15
16 _____
17 MAYOR

18
19 ATTEST:
20
21 _____
22
23 CITY CLERK

24
25 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT
26 7:00 P.M. ON THE _____ DAY OF _____, 2010, IN THE
27 LONGMONT COUNCIL CHAMBERS.

28
29 APPROVED AS TO FORM:
30
31
32 _____
33 ASSISTANT CITY ATTORNEY DATE

34
35
36 _____
37 PROOF READ DATE

1 APPROVED AS TO FORM AND SUBSTANCE:

2
3
4
5
6
7

ORIGINATING DEPARTMENT

DATE

CA File: 8070.1