
MEMORANDUM

DATE: July 1, 2005
TO: City Council Members
FROM: Russell Weeks
RE: Potential Override of Mayoral Veto of Amendments to *City Code* Chapter 2.46
CC: Cindy Gust-Jenson, Rocky Fluhart, Ed Rutan, Ken Cowley, Gary Mumford, Boyd Ferguson, Sonya Kintaro

This memorandum pertains to two items. The first item is a potential City Council override of Mayor Ross C. Anderson's veto June 27 of Ordinance No. 24 amending City Code Chapter 2.46 relating to Campaign Financing Disclosure. The second item is a proposed ordinance that would amend definitions (Section 2.46.010) of Chapter 2.46.

OPTIONS

The City Council appears to have three options:

- Allow the veto to stand.
- Override the veto.
- Override the veto and adopt the proposed ordinance amending Section 2.46.010.

It should be noted that if the City Council decides to override the veto, five Council Members would have to vote to override it. It also should be noted that the Attorney's Office has suggested that the City Council override the veto first before adopting any amendments. That may be because the Mayor objected to the definitions of "'coordinated expenditure' in Section I B.6 and 'expenditure' in Section I G." The proposed amendments to definitions in Section 2.46.010 do not appear to amend the language of Section I G to which the Mayor objected. However, the amendments change the listing of the section from "G" to "H."

POTENTIAL MOTIONS

TO OVERRIDE

- I move that the City Council adopt a motion to override the veto of Ordinance No. 24 of 2005 relating to amendments to certain sections of Chapter 2.46 regulating campaign finance disclosure.

TO AMEND CHAPTER 2.46

- I move that the City Council adopt the ordinance amending certain sections of Chapter 2.46 of the Salt Lake City Code relating to campaign financing disclosure.

KEY POINTS

- The proposed ordinance appears to address the Mayor's statement of objections regarding definitions of "bumper sticker," the distinction between taxicabs and billboards and other kinds of vehicles.
- City Council staff has included as attachments: 1.) A copy of Ordinance No. 24 of 2005 as adopted in June. 2.) A copy of Mayor Ross C. Anderson's statement of objections dated June 24 2005. 3.) A City Council staff memorandum dated June 10 that pertained to the adoption of Ordinance No. 24 of 2005. 4.) Various news articles that may be pertinent to the issue.

BACKGROUND/DISCUSSION

- As noted previously, the Mayor's statement of objections to Ordinance No. 24 of 2005 centered largely on two definitions in Section 2.46.010 – "coordinated expenditure" in Section I B. 6 and "expenditure" in Section I G.
- Also as noted previously, a proposed ordinance to amend Section 2.46.010 does not appear to change the definition of "expenditure in Section I G except to change its listing from "G" to "H" and may be one reason the City Council may have to consider overriding the Mayor's veto.
- The proposed amendment to Section 2.46.010 titled *Definitions* would perhaps do three things:
 1. It would define the term "bumper sticker" to mean "a sign not exceeding four inches in height or thirteen inches in length affixed to any part (including the interior) of a motor vehicle."
 2. It would clarify that a "coordinated expenditures" media would include more than "advertising on billboards and on taxicabs" as was listed in Ordinance No. 24 of 2005. Proposed language says in part, "Coordinated expenditures include but are not limited to coordinated advertising on billboards and on taxi cabs or other ground transportation vehicles as defined in Section 5.71.010 of this Code." (It should be noted that the underlined words are some of the proposed amendments. It also should be noted that Section 5.71.010 defines ground transportation vehicles – such as shuttles, buses, and limousines – that are regulated by Salt Lake City.)

3. It would clarify how the City would determine the value of an in-kind contribution advertising on some vehicles. The language reads in part, "... if a sign is located in a space that is not usually ... used for advertising, the sign shall be treated as if it were rooftop advertising on a taxicab or other ground transportation vehicle as defined in Section 5.71.010 ... and its value shall be determined in the same manner that the value of such rooftop advertising is determined."

As Adopted

SALT LAKE CITY ORDINANCE
No. _____ of 2005
(Campaign Financing Disclosure)

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 2.46 OF
THE SALT LAKE CITY CODE, RELATING TO CAMPAIGN FINANCING
DISCLOSURE.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Section 2.46.010 of the Salt Lake City Code, relating to the
Campaign Financing Disclosure, be, and the same hereby is, amended as follows:

2.46.010 Definitions:

For the purpose of this chapter the following words shall have the meanings as defined in
this chapter:

A. "Candidate" means any person who:

1. Files a declaration of candidacy for an elected office of the city;
2. Receives contributions, makes expenditures, or consents to another person
receiving contributions or making expenditures with a view to bringing about such
person's nomination or election to such office; or
3. Causes, on his or her behalf, any written material or advertisement to be
printed, published, broadcast, distributed or disseminated which indicates his or her
intention to seek such office.

B. "Contribution" means:

1. A gift, subscription, donation, loan, advance, or deposit of money or anything
of value, including nonmonetary contributions such as in-kind contributions and
contributions of tangible things, except a loan of money by a financial institution made in

D. "Election" means a general, special or primary election conducted by the city, including elections limited to referendums or bond issues.

E. "Election cycle" means: 1) with respect to a general city election or a city primary election for an elective position, the four (4) year period that ends on the February 15 immediately following the next general city election for such elective position; and 2) with respect to an election to fill an unexpired term of office, the period that begins on the earlier of: a) the day the vacancy occurs, or b) the day the impending vacancy is publicly announced, and ends on the February 15 immediately following the next general city election for such elective position.

F. "Election year" means a calendar year during which a primary or general election is held or is scheduled to be held.

G. "Expenditure" means:

1. A purchase, payment, donation, distribution, loan, advance, deposit, or gift of money or anything of value made for political purposes;

2. A contract, promise or agreement, express or implied, whether or not legally enforceable, to make an expenditure described in subsection F1 of this definition; or

3. A transfer of funds by a political committee to another political committee or to a candidate's personal campaign committee.

H. "Independent expenditure" means an expenditure on behalf of, or opposing the election of, any candidate, when such expenditure is made independently of the candidate or the candidate's personal campaign committee, or their agents, and when such expenditure is made without the prior consent or the collusion or cooperation of, and

N. "Political purpose" means an act done with intent or in such a way as to influence or tend to influence, directly or indirectly, the nomination or election of a candidate or the passage or defeat of any issue on the ballot at a municipal election.

O. "Primary election" means any primary election held pursuant to title 20A, Utah Code Annotated, or its successor.

P. "Reporting date" means:

1. Ten (10) days before the election, for a campaign finance statement required to be filed not later than seven (7) days before a primary or general election conducted by the city;

2. The day of filing, for a campaign finance statement required to be filed not later than thirty (30) days after a primary or general election conducted by the city; and

3. Three (3) days before the filing date, for any other campaign finance statement required to be filed pursuant to this chapter.

SECTION 2. That Section 2.46.050 the Salt Lake City Code, relating to the Campaign Financing Disclosure, be, and the same hereby is, amended as follows:

2.46.050 Contributions To Candidates-Limitations:

A. No person shall make contributions in coin or currency during any election cycle as set forth in this chapter, to any candidate or such candidate's personal campaign committee, or to any political committee with respect to any election for city office, that exceed, in the aggregate, fifty dollars (\$50.00).

B. No person shall make contributions during any election cycle as set forth in this chapter, to any candidate or his or her personal campaign committee, or to any

4. For transfers to a national, state, or local committee of a political party;
5. For donations to federal, state, or local candidates; or
6. For any other lawful purpose unless prohibited by subsection G of this section.

G. A contribution shall not be converted by any person to personal use. For purposes of this subsection G, a contribution or donation shall be considered to be converted to personal use if the contribution or donation is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or the individual's duties as an elected official of the City. For purposes of this subsection G, it shall not be considered a conversion to personal use for a candidate or elected official of the City to use a contribution or donation to pay for the attendance of one guest at a social, entertainment, or other event related to political purposes or to the duties of the person as an elected official of the City.

SECTION 3. That Section 2.46.090 the Salt Lake City Code, relating to the Campaign Financing Disclosure, be, and the same hereby is, amended as follows:

2.46.090 Financial Reporting:

A. Personal Campaign Committees.

1. Each personal campaign committee shall file with the city recorder a campaign finance statement containing the information required in this section, on the following dates:

- (a) June 1 of any election year;
- (b) September 1 of any election year;
- (c) Except as provided in subsection B of this section, seven (7) days prior to any general or primary election conducted by the city;

(1) report all of the committee's or candidate's itemized and total:

(A) contributions during the election cycle as of the reporting date; and

(B) expenditures during the election cycle as of the reporting date; and

(2) identify:

(A) for each contribution in excess of fifty dollars (\$50), the amount of the contribution, the name and address of the donor, and the date the contribution was made;

(B) the aggregate total of all contributions that individually do not exceed fifty dollars (\$50); and

(C) for each expenditure, the amount of the expenditure, the name of the recipient of the expenditure, the date the expenditure was made, and the purpose of the expenditure;

or

(c) Report the total amount of all contributions and expenditures if the committee or candidate receives five hundred dollars (\$500) or less in contributions and spends five hundred dollars (\$500) or less on the candidate's campaign.

5. Each campaign finance statement shall contain a statement by the secretary or by the chairperson of the committee to the effect that:

(a) All contributions and expenditures not theretofore reported have been reported;

need only contain the information required by this section to the extent such information is known by the personal campaign committee that files such campaign finance statement.

B. Political Committees.

1. Each political committee that has received contributions or made expenditures that total at least seven hundred fifty dollars (\$750) during a calendar year shall file a verified financial statement with the city recorder on:

- (a) June 1;
- (b) September 1;
- (c) seven (7) days before any primary or general election conducted by the city; and
- (d) January 31, reporting contributions and expenditures as of December 31 of the previous year.

2. The political committee shall report:

- (a) a detailed listing of all contributions received and expenditures made since the filing of the last financial statement; and
- (b) for financial statements filed on September 1 and before the general election, all contributions and expenditures as of three days before the required filing date of the financial statement.

3. If the political committee had no contributions or expenditures since the filing of the last financial statement, the financial statement shall state that no contributions were received and no expenditures were made since the filing of the last financial statement.

(4) The information contained in the financial statement is, to the best knowledge of the committee, true, accurate and complete; and
(g) a summary page in the form required by the city recorder that identifies:

- (1) beginning balance;
- (2) total contributions during the period since the last financial statement;
- (3) total contributions to date;
- (4) total expenditures during the period since the last financial statement;
- and
- (5) total expenditures to date.

5. Contributions received by a political committee that have a value of fifty dollars (\$50) or less need not be reported individually, but shall be listed in the financial as an aggregate total.

6. Two or more contributions from the same source that have an aggregate total of more than fifty dollars (\$50) may not be reported in the aggregate, but shall be reported separately.

7. Within thirty (30) days after distribution of any surplus campaign funds and/or the payment or compromise of all debts, a political committee shall file a verified financial statement with the city recorder. The financial statement shall state the amount of such surplus and the name and address of any recipient of such surplus, and shall identify any debt that was paid or compromised and the name and address of any person to whom any debt was paid or compromised.

B. 1. At the time a candidate files a declaration of candidacy and again fourteen (14) days before each election, the city recorder shall inform the candidate in writing or, if requested by the reporting entity, by electronic mail:

(a) of the provision of this chapter governing the disclosure of campaign contributions and expenditures; and

(b) the dates when the candidate's campaign finance statements are required to be filed.

(c) that if the campaign finance statement due seven (7) days before the general election is not received in the city recorder's office by 5 p.m. on the due date due, if practicable the candidate's name will be removed from the ballot by blocking out the candidate's name before the ballots are delivered to the voters, or, if removing the candidate's name is not practicable, the voters will be informed that the candidate has been disqualified and that any votes cast for the candidate will not be counted.

(d) that if any campaign finance statement or verified financial statement is not filed when due, the entity or candidate may be guilty of an infraction.

C. All statements and reports required by this chapter shall be available for public inspection and copying at the office of the city recorder during normal business hours and no later than one (1) business day after the statement or report is filed. D.

The city recorder shall inspect all campaign finance statements, verified financial statements, and reports within one day after the same are filed. In addition, the city recorder shall inspect any filed campaign finance statement, verified financial statement,

B. Notwithstanding subsection (A), a candidate who files a campaign finance statement seven (7) days before a general election is not disqualified if:

1. the statement details accurately and completely the information required under section 2.46.090(A)(4), except for inadvertent omissions or insignificant errors or inaccuracies; and

2. the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

C. If a political committee or personal campaign committee or person fails to file or correct a financial statement within two (2) days after receiving notice under subsection 2.46.100D of this chapter, or its successor, or if any filed financial statement or report discloses a violation of this chapter, the city recorder shall notify the city attorney and shall furnish the city attorney copies of all papers and other information in the city recorder's possession relating thereto.

SECTION 6. That Section 2.46.120 of the Salt Lake City Code, relating to the Campaign Financing Disclosure, be, and the same hereby is, amended as follows:

2.46.120 Unlawful Acts Designated-Violation-Penalty:

A. It shall be an infraction, punishable as provided by chapter 1.12 of this code, or its successor, (1) for any person to fail to file when due any required campaign finance statement, verified financial statement, or report specified in this chapter or to knowingly or willfully falsify or omit any information required by any of the provisions of this chapter, or (2) for any candidate, either personally or through a personal campaign committee, to receive a contribution in violation of the limits set forth in subsections 2.46.050A and B of this chapter.

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2005.

Published: _____.

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ROSS C. "ROCKY" ANDERSON
MAYOR

SALT LAKE CITY CORPORATION

OFFICE OF THE MAYOR

JUN 27 2005

Statement of Objections

Pursuant to Utah Code Section 10-3-1214, I hereby provide this statement of objections for my veto ("disapproval") of the Ordinance Amending Certain Sections of Chapter 2.46 of the Salt Lake City Code, Relating to Campaign Financing Disclosure (Ordinance No. 24 of 2005).

My objection is limited to the definitions of "coordinated expenditure" in Section 1 B. 6. and ""expenditure" in Section 1 G. Taken together, those definitions are extremely unclear, confusing, unworkable, and discriminatory. Also, they are likely violative of the Equal Protection Clause, and perhaps the Free Speech Clause, of both the US and Utah Constitutions.

For instance, these definitions would exempt from reporting the posting of "bumper stickers," but not other types of signs on cars, even if (1) the cars are privately owned, or (2) the signs are not posted in places normally used for advertising. Also, there is no definition of "bumper sticker." What if what we commonly refer to as a bumper sticker is placed on the trunk, on the hood, on the door, or in the window of a car? Would the posting of that message require reporting? There can be no good reason for discriminating between a "bumper sticker" and another sign of another dimension, or between a sign placed on a bumper and one placed on a trunk, hood, door, or window.

The definition of a "coordinated expenditure" includes "advertising" on "taxi cabs" and "billboards." That is discriminatory in a number of ways. First, why include "taxi cabs" but not limousines, shuttle vans, buses, other commercial vehicles, or even private vehicles? Second, the definition is unclear as to whether it includes signs on taxi cabs that are in a place not normally used for commercial advertising by a third party ("non-advertising space"). If the definition is meant to include all signs on taxi cabs except "bumper stickers," where can those

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bumper stickers be placed? Are they prohibited in the back windows, where many people like to tape bumper stickers so they will not have difficulty removing them? Also, if the ordinance is intended to require reporting the value of all signs other than bumper stickers on taxi cabs, regardless of whether they are placed on non-advertising space, that requirement cannot be justified in light of the exception for signs "in a part of a *building* that is not normally used for commercial advertising by a third party." [Italics added.] The disparate treatment of signs in non-advertising space on *cars* and signs in non-advertising space in *buildings* is unjustifiably discriminatory.

If the ordinance is intended to cover all signs on taxi cabs other than "bumper stickers," how are signs placed in non-advertising space to be valued? The ordinance provides that "[a]n in-kind coordinated expenditure shall be valued at the usual and normal value of such expenditure, such as the value of the use of the advertising space on a billboard or taxi cab." If signs are placed in non-advertising space on taxi cabs, there would be no "usual and normal value of such expenditure," yet the non-reporting of value for posting such signs might be construed to be a violation of the ordinance. (In fact, Council Member Buhler has wrongly accused me of exceeding the current campaign contribution limits because my previous campaign staff worked with a taxi cab company to post "wrap" signs in windows or on doors of cabs where they do not normally post commercial advertising.) In light of the consequences of violating the ordinance, far more workable, coherent, non-discriminatory guidance should be provided to candidates than is provided by this confusing, contradictory, discriminatory ordinance.

Dated this 27th day of June, 2005.

Sincerely,

A handwritten signature in black ink, appearing to read "Ross C. Anderson", with a long, sweeping horizontal line extending to the right.

Ross C. Anderson
Mayor, Salt Lake City

M E M O R A N D U M

DATE: June 10, 2005
TO: City Council Members
FROM: Russell Weeks
RE: Proposed Campaign Financing Disclosure Revisions
CC: Cindy Gust-Jenson, Rocky Fluhart, Ed Rutan, Ken Cowley, Gary Mumford, Boyd Ferguson, Sonya Kintaro

This memorandum pertains to proposed changes to sections of City Code Chapter 2.46 relating to campaign financing disclosure. The City Council discussed the amendments at a June 9 briefing.

OPTIONS

Given the direction the City Council appeared to take June 9, the Council has two options.

The City Council could:

- Adopt the version of the proposed amendments that it appeared to support on June 9.
- Amend the version further if a Council Member would like to amend it.

POTENTIAL MOTIONS

- I move that the City Council adopt the ordinance amending certain section of *City Code Chapter 2.46*, relating to campaign finance disclosure.
- I move that the City Council adopt the ordinance amending certain section of *City Code Chapter 2.46*, relating to campaign finance disclosure with the following amendments (any amendment a City Council may wish to make.)

BACKGROUND/DISCUSSION

At the City Council briefing session on June 9 the City Council indicated that it favored the second of two versions of proposed amendments to *City Code Chapter 2.46*. That version is in City Council packets for the Council's meeting June 14. As indicated in the "Options" and "Potential Motions" sections of this memorandum, Council Members may amend the version, but Council Members appeared to be satisfied with the second version of the proposed ordinance at the June 9 discussion.

As indicated in a City Council staff memorandum dated June 7, the proposed amendments stem from a variety of sources. A main source was a series of amendments proposed

earlier this year by the City Attorney's Office and the City Recorder's Office to bring the *City Code* into conformance with Utah law. The City Council adopted the amendments May 12 as part of a package of amendments that included raising the amount of money a person could donate to a City Council or mayoral candidate. The package also included a section prohibiting candidates from converting campaign contributions for personal use. On May 26 Mayor Ross Anderson vetoed the section of the ordinance the City Council adopted on May 12 that increased the amount of money someone could donate to a City Council or mayoral candidate. An editorial in *The Salt Lake Tribune* also argued against the increase. In addition, City Council Members received a letter from *Deseret News* Editor Rick Hall that requested three changes: the reinstatement of a February date for candidates to report campaign contributions, requiring mayoral candidates as well as City Council candidates to report campaign contribution of more than \$500, and "adding a provision that, in cases of donations by check, the name of the person who signed the check also be identified, if it differs from the name printed on the check." Finally, City Council Member David Buhler asked the City Attorney's Office to provide a definition of a "coordinated expenditure" to address the use of candidates' advertising on media such as billboards or moving vehicles.

The second version the City Council forwarded for its formal consideration does not include the following language in the section proposed to amend the current Section 2.46.090 titled *Financial Reporting* (Pages 7-9, clean copy): "For each contribution in excess of fifty dollars (\$50) made by check in which the name printed on the check differs from the name of the person signing the check, the name of the person signing the check" would be identified.

The proposed ordinance also would:

- Continue the current aggregate contribution limits of \$1,500 for City Council candidates and \$7,500 for mayoral candidates.
- Enact the new sections of the proposed ordinances including the prohibition against candidates converting campaign contributions for personal use that the City Council originally considered on May 12.
- Reinstatement a February date for candidates to report campaign contributions.
- Enact a requirement that mayoral candidates as well as City Council candidates report campaign contributions of more than \$500.
- Enact a definition of "coordinated expenditure."

Under the proposed ordinance amendments, the term "coordinated expenditure" would mean:

"... Except as provided in the next sentence, an expenditure made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his or her personal campaign committee, or their agents. Coordinated expenditures include coordinated advertising on billboards and on taxi cabs, but does not include a lawn sign, a sign on residential property, a bumper sticker, a handheld sign, or a sign in a part of a building that is not normally used for commercial advertising by a third party. An in-kind coordinated expenditure shall be valued at the usual and normal value of such expenditure, such as the value of the use of the advertising space on a billboard or taxi cab."

deseretnews.com

Deseret Morning News, Tuesday, June 28, 2005

Rocky's 2nd veto brewing a battle

By Brady Snyder

Deseret Morning News

It's "Veto Reloaded" for Salt Lake City's campaign finance disclosure ordinance.

After declining to veto any City Council action during his first 5 1/2 years in office, Mayor Rocky Anderson has issued his second veto in as many months, once again striking down revisions to the city's campaign finance disclosure ordinance.

While council members declined to override the mayor's first veto, this time might be different.

"I think without a doubt we're going to override it," councilwoman Nancy Saxton said.

Previously, Anderson vetoed the law because the council sought to increase the maximum amount one donor could contribute— from \$7,500 to \$10,000 for mayoral candidates and \$1,500 to \$2,000 for the City Council candidates.

Now he has again vetoed the ordinance after the council added provisions designed to force candidates to claim free advertising as in-kind contributions.

That provision was specifically aimed at Anderson, who last year received free window displays on many Yellow Cab taxis but declined to report the displays as an in-kind contribution. One industry watcher said the displays were free advertising worth as much as \$60,000.

After consulting with the City Attorney's Office, city elections clerk Sonya Kintaro ruled Anderson didn't have to claim the window displays as free in-kind advertising under the city's existing law.

Council members wanted to close that "loophole" and make sure that any free advertising would be declared in the next election.

But Anderson maintains the new ordinance is "extremely unclear, confusing, unworkable and discriminatory." Also, the law is "likely violative of the Equal Protection Clause and perhaps the Free Speech Clause, of both the U.S. and Utah Constitutions," according to a "statement of objections" letter Anderson sent to the City Council outlining his veto.

Anderson maintains signs in taxi cabs, like the window wraps Yellow Cab drivers displayed during his 2003 re-election bid, are not in typical advertising locations and therefore it would be confusing as to how to value such displays or report them.

It also seems unfair that businesses could display political signs in their windows and not count that as advertising but taxis couldn't, Anderson wrote. Under the ordinance, the only sign a taxi could have that wouldn't be considered advertising is a bumper sticker.

"Far more workable, coherent, non-discriminatory guidance should be provided to candidates than is provided by this confusing, contradictory, discriminatory ordinance," Anderson wrote.

Council members maintain they are not trying to limit anybody's free speech but simply want candidates to declare as in-kind gifts displays that should be considered advertising.

"I'm disappointed that he would veto it based on our attempt to close a loophole that he exploited with vigor," city councilman Dave Buhler said.

The City Attorney's Office drafted the ordinance and consulted other similar laws in culling language for it. Council members say they are perplexed that city attorneys would find the language constitutional but Anderson wouldn't.

"Obviously, they think they did it in a way that comports with the law, but the mayor is also an attorney and he disagrees," Anderson's spokeswoman Deeda Seed said.

Council Chairman Dale Lambert said council members have asked him to schedule time at a future council meeting where they could override the veto. The council may be willing to alter some language in the ordinance to make it clearer as long as the intent of the ordinance remains intact, Lambert said.

Lambert also said Monday that city attorneys have ruled that the council's budget action last week was proper. Anderson had publicly wondered about the council's ability to mandate that the city's 10 new police officers be assigned to patrol duty. The mayor had asked for a legal opinion on the matter.

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The Salt Lake Tribune

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Article Last Updated: 6/28/2005 07:52 AM

Council wins OK to direct police funds

Funding rules: But the Council chairman expects an override of the action

By Heather May
The Salt Lake Tribune
Salt Lake Tribune

For the second time, Mayor Rocky Anderson has vetoed a Salt Lake City campaign-finance ordinance.

On Monday, he objected to a section that would have - had it been in force during his 2003 re-election campaign - affected his ability to have his name plastered on taxicab windows and doors for free.

In a letter, the mayor said the new ordinance - drafted by city attorneys - was "extremely unclear, confusing, unworkable and discriminatory" and may violate the Utah and U.S. Constitutions' free-speech and equal-protection clauses.

Because the measure - which also banned personal use of campaign contributions - passed unanimously earlier this month, Council Chairman Dale Lambert expects the council to override the veto next week.

If so, Anderson said he may challenge the ordinance in court.

Lambert said the public deserves to know how groups contribute to campaigns and try to influence elections, particularly when those groups have significant business before the city. During 2003, Anderson's office was working on new cab regulations that the council has since rejected.

"They [cab drivers] were doing a coordinated campaign activity with the mayor," Lambert said of the signs. "I'm not saying that's wrong. There ought to be a better way of disclosing it so people know what groups and individuals are contributing in various ways to campaigns."

Councilman Dave Buhler pushed for the new rule, which requires candidates to report expenditures they coordinate, including organized advertising on cabs and billboards.

Anderson, who contends the taxi signs were like bumper stickers and had no value, didn't have to disclose them then. Under the new rules, he would have had to report them as in-kind contributions and he could have received only \$7,500 worth. Based on advertising rates for space sold on the top of cabs, one estimate put the wraps' value at tens of thousands of dollars.

"The mayor in his last campaign exploited this loophole in a pretty egregious way," Buhler said. "It really is different than putting a bumper sticker on a car" because the wraps are more visible.

But Anderson said the new rules are discriminatory because they single out taxicabs but don't require disclosure of coordinated advertising on limousines, buses, shuttle vans, private vehicles or buildings. And he wondered how candidates would value the ads when they are placed in a spot - like car windows - not normally sold to advertisers.

The new rules said candidates would not need to value and report bumper stickers or lawn signs. But Anderson fears the rules could require candidates to report bumper stickers if they were placed somewhere other than a car bumper.

"The ordinary person who wants to put a sign in their car doesn't have that freedom of expression," Anderson said. "But [Buhler] wants campaigns to be bought out by rich people who can afford \$10,000 contributions."

Buhler wanted to allow donors to give up to \$10,000 to mayoral candidates instead of \$7,500, and the council passed that change last month. But Anderson, who spent a record \$769,000 during his 2003 re-election, vetoed it, prompting this second campaign finance ordinance, which reinstates the \$7,500 cap.

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City Beat - July 22, 2004

That's a Wrap

For at least one mayor, attack dog David Yocom is a sweet little pussycat.

by Shane Johnson



Rocky Anderson took his second ride into the mayor's office last November, but murmurs have persisted ever since that he skipped out on the fare. Until last week, that is. With little fanfare, and even less investigation, the Salt Lake County District Attorney's Office cleared Anderson of allegedly failing to disclose donated advertising space on dozens of taxicabs for eight months leading up to the last election.

Screening the case for Salt Lake County, attorney Marty Verhoef—whose boss, Democratic District Attorney David Yocom, has been loudly accused by Republicans of using the office as a partisan whipping stick—told *City Weekly* he declined to prosecute Anderson, because there was no “reasonable likelihood of conviction.”

Russell Ridge, for one, isn't convinced. For four years, Ridge has tried to break into Salt Lake City's hyper-regulated, hyper-protected taxicab market. The owner of a downtown limousine service, Ridge has been frustrated that Anderson's office hasn't given him the time of day, or a hearing to pitch his proposal for a new cab company. And he harbors a sneaking suspicion that Anderson's snug relationship with the biggest of the three existing cab companies, Yellow Cab Co., might have something to do with the holdup—not to mention a pending ground transportation ordinance, drafted in the mayor's office, which Ridge feels will cement the current taxicab oligarchy.

In 2003, Ridge complained to Elections Clerk Sonya Skyles that Anderson should disclose the 2 feet by 4 feet ads that plastered roughly 37 Yellow Cabs during the run-up to the election. After conferring with the city attorney, Skyles cleared Anderson's campaign. Ridge's persisting allegations, Anderson says, are baseless.

“This is all driven by one disgruntled person that's not getting his way, that has apparently tremendous access to a journalist who seems obsessed about this rather than any real issues going on in the city,” Anderson said.

That "obsession" began in April, when Assistant City Attorney Boyd Ferguson told *City Weekly* that the "cab wraps" did not constitute in-kind contributions, because "the campaign didn't ask [Yellow Cab] to do it, and they weren't doing it in cahoots with each other." He emphasized "the key is whether it's coordinated" and, as backed-up by Anderson, concluded that the wraps were tantamount to big "bumper stickers."

Proving that an aversion to bureaucratic hullabaloo isn't confined to Salt Lake County government, Ferguson never bothered to ask Anderson or Yellow Cab President Don Barron if they indeed coordinated efforts. Barron and the mayor confirmed they did.

("I have never done an investigation," Ferguson now admits.)

In a later letter to *City Weekly*, Ferguson noted another exception to the reporting law: "If a taxi driver places a campaign sign on a part of a taxi that is not rented for advertising, no in-kind contribution results."

There again, Ferguson failed to reconcile some untidy facts. To say nothing of the recognized value of ad space on UTA train and bus facades, Salt Lake City taxis have for years sported taxi "toppers," space that rents for about \$150 per month, according to advertising firm Medallion Taxi Media Inc. Using the going rate for toppers as a gauge, the 37 cab wraps referenced in an e-mail to Anderson would have cost the campaign \$44,400, Ridge says. In other markets the rear-window wraps rent for as much or more. If taken individually, the in-kind donations would not violate the city's \$7,500 cap on giving. But, if taken as a single contribution from Yellow Cab, the Anderson campaign would have been well over its limit.

Lending to the theory that the wraps were worth more than the printed paper, Anderson commissioned the paid services of University of Utah marketing professor Alan Sandomir, also a campaign volunteer, who devised a mathematical model to determine the maximum reach, frequency and impressions of each wrap.

Sandomir never considered the wraps as advertising, per se, but "I treated it as if it were actually advertising," he said in May. "There's more riding on the wraps, because we spent more on [producing] them."

"The intrinsic value of the wraps is considerably higher [than bumper stickers]," Sandomir said. "I think the city attorneys owe a better explanation."

Ridge also wonders whether the cabbies volunteered to ferry Anderson's likeness around town, as maintained by Ferguson. A former Yellow Cab employee told *City Weekly* that for many drivers, who subleased cabs from other owner/operators, there was no choice. They did as the cab owners instructed, the source said.

E-mails between Anderson and a campaign coordinator from February 2003 indicate at least a casual awareness of the wraps' value. Besides Anderson's receipt of graphic art titled "TaxiWindowAd.jpg," the campaign bandied about industry terminology, referring to the taxi wraps as "taxi wraps;" never "big bumper stickers."

Unsatisfied with the city's answers, Ridge took his gripes to the county which, in late May, forwarded

the complaint to Salt Lake City Prosecutor Sim Gill for possible criminal action. A month later, citing a potential conflict of interest, Gill put together a file and sent it back to the County District Attorney.

Without making so much as a probing phone call, and acting under the impression that the matter revolved around bumper stickers, Verhoef decided against prosecuting Anderson. Whether "wraps" or "bumper stickers," convincing a jury beyond a reasonable doubt that they had monetary value, and that the campaign knew as much, would be problematic, he stated. And, since Anderson relied on Ferguson's assurance that the deal was kosher, Verhoef said it would be unfair to conclude the mayor knowingly broke the disclosure law.

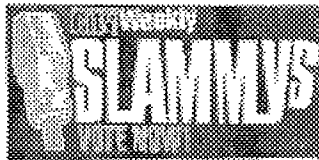
Regardless, Ridge insists that "Yellow Cab was looking for help from Rocky," and is now getting it with the new ordinance. Anderson maintains he has no sway over the process.

The disgruntled Ridge might be assuaged if Anderson at least admitted that his campaign got a boatload of free publicity from an obviously interested party, legal or not. The obsession, as it were, might stem from a city attorney who appeared more interested in the outcome of an inquiry than determining the facts going in. Add to that a district attorney's office plagued by allegations of partisan enforcement which, when it came time to investigate a comrade in arms, exhibited nowhere near the zeal it has in the case of Republican County Mayor Nancy Workman.

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