



12 - Item Form

Request to place an item on the City Council Agenda

Please read the information on the back before filling out this form.

**Note: The subject matter must be within the jurisdiction of the City Council.*

Date: January 7, 2015

Name: Mike Feinstein

Topic or issue you would like to raise before the City Council:

Recommended Action: Strengthen Referendum Disclosure Provisions in the Santa Monica Municipal Code

Executive Summary: To promote the public's right to know both who is financing and who is being paid to conduct referenda signature gathering campaigns - in 2001 the City Council established a new section in the Santa Monica municipal code (11.04.165) to require financial disclosure for all referendum campaigns *during the actual signature gathering period*, rather solely upon calendar-based deadlines as provided by state law, which don't necessarily correspond to local timelines.

In 2014, a successful referendum signature campaign was conducted in Santa Monica on the Bergamot Transit Village/Hines project. A review of filings from that period suggest that the deadlines in 11.04.165 do not sufficiently ensure the public's right to know. Specifically there are gaps both during the filing period, when the City Council meets to certify the valid signatures, and afterwards when the City Council meets to determine whether to place the ordinance on the ballot or rescind its approval.

With this written communication, the City Council is requested to direct staff to return with amendments to 11.04.165 to ensure that public receives referendum disclosure information in a more timely manner than at present, and that the three specific amendments recommended below are considered.

Background: On July 24, 2001 the City Council [approved adoption](#) of emergency Ordinance No. 2016 (CCS) entitled: "AN ORDINANCE OF THE CITY OF SANTA MONICA ESTABLISHING ADDITIONAL DISCLOSURE FILING REQUIREMENTS APPLICABLE TO CAMPAIGN COMMITTEES SUPPORTING AND OPPOSING BALLOT MEASURES".

The ordinance established Santa Monica Municipal Code section 11.04.165:

(a) In order to ensure that any person interested in the finances of any committee that is raising or spending funds to support or oppose an initiative, recall or referendum, such committees shall file their financial disclosure documents on dates that are within the time period in which signatures are gathered.

For referenda, the Municipal Code [11.04.16\(c\)](#) establishes “a thirty-day signature gathering period, campaign disclosure statements shall be filed on the tenth day of the period covering days one through five, on the twenty-fifth day of the period covering days six through twenty, and by the sixtieth day after the end of the period covering days twenty-one through thirty.”

For the Bergamot Transit Village/Hines referendum, this corresponded to February 12-16, to be filed on February 21; February 17-March 3, filed on March 8, and March 4-12, filed by May 12th.

Based upon experience with that referendum, the following changes are recommended:

Specific Requested Council Actions (3):

(1) Amend [11.04.16\(c\)](#) so that the “twenty-fifth day of the period covering days six through twenty” is changed to the twenty-fourth day, or another day to ensure a filing no later than the twenty-fourth day.

In Santa Monica, the referendum clock generally starts ticking on Wednesdays, because ordinances are adopted on Tuesdays. Therefore the 25th day in this timeline will always fall on a Saturday, meaning the 25th day is effectively the 27th day, because it falls on a weekend. In 2014 this meant March 8th fell on a Saturday, with the report March 8th report not due until Monday, March 10th.

Amending the 25th day to the 24th day in the municipal code would increase the public's right to know by making information effectively available three days earlier (27th to 24th).

Sometimes signatures are also handed in by choice even earlier than the allotted 30 days, making timely disclosure for days six through twenty even more relevant. For example, the Hines referendum signatures were handed in two days before the deadline, and in

1993 the Civic Center Specific Plan referendum signatures were handed in eight days early.

A caveat with the 24th day is that it may fall on an alternate Friday when City Hall is closed. In such cases, the deadline could be automatically set for the day before. Alternatively / additionally, this reporting period could cover day less, to fit an earlier reporting deadline.

(2) Amend [11.04.16\(c\)](#) so that “sixtieth day” in the “sixtieth day after the end of the period covering days twenty-one through thirty” is changed to “seventh day”

Under the current Municipal Code, reporting for days twenty-one through thirty is set at sixty days *after* the conclusion of the allotted thirty days of the signature period. As a result, significant campaign donations and expenditures can go unreported during the entire signature drive, as well as most or all of the subsequent community discussion, including any Council decision about rescission or placing it on the ballot.

This amendment would require that reportable campaign activity between days twenty-one through thirty would be reported much earlier than currently required – requiring a report no later than one week after the close of the signature gathering period.

This earlier reporting would ensure that the public receives this information (a) while the submission of signatures is recent, newsworthy and has the community's attention; and (b) before City Council certifies the number of valid petition signatures (which is required at the next regular meeting of the Council, after the city clerk and the county determine the sufficiency or insufficiency of the petition, for which they have up to thirty days per CA Elections Code [9114](#).)

An additional advantage is this date would consistently fall on a Thursday, and thus have no reporting conflicts with Fridays when City Hall is not open. In terms of the potential burden of such earlier filing deadline, even though it is only a week after the close of the campaign, it only covers activity during a ten day period.

In 2014, the report for March 4-12 was supposed to be filed no later than May 12th, twenty days *after* the signatures were certified as valid, and *only one day* before the May 13th City Council hearing on rescission. This timing unnecessarily kept the public uninformed, while important policy discussions occurred in the community in response to the referendum qualifying. And that assumed this reporting deadline was met.

But in 2014, *the report for days twenty-one through thirty was filed a week late on 5/19, entirely after* the Council made its decision whether to rescind or place on the ballot. This meant the public was not informed of a \$16,007.85 payment to a signature-gathering company during the last ten days of the referendum period until *69 days after the end of*

the signature gathering period, and six days after the Council made its decision on rescission.

(3) Amend [11.04.16\(c\)](#) so that additional reporting is required for days thirty-one through day 'x' (a specific day to be determined), to capture post-signature gathering reporting activity, to be reported no later than one week before the date of the public hearing at which the City Council decides whether to place the ordinance on the ballot or rescind its approval.

It is not uncommon for there to be additional fundraising after the end of a signature drive. This amendment would expand the public's right to know by ensuring that financial reporting for contributions and expenditures after the end of the signature gathering period is placed in the public record by the time the Council takes up the question of rescission or placing on the ballot its decision challenged by referendum.
