

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

March 20, 1984

Milan Milkovich
Chief Deputy City Clerk
45-300 Club Drive
Indian Wells, CA 92260

Re: Advice Letter No. A-84-049

Dear Mr. Milkovich:

This letter is in response to your request for information on the campaign provisions of the Political Reform Act.

FACTS

The District #2 Committee is attempting to recall Frank Chilson, the Mayor of Indian Wells. The February 1984 edition of the City's newsletter contained an article about the attempted recall. The District #2 Committee and your City have requested information about whether the newsletter created any reporting obligations for the City.

CONCLUSION

The newsletter does not create any reporting obligations for the City because the payment for the article is not an independent expenditure.

DISCUSSION

Regulation 2 Cal. Adm. Code Section 18225(b) provides that the term "expenditure," as used in the Political Reform Act, includes any monetary or nonmonetary payment made by any person that is used for communications which expressly advocate the defeat of a clearly identified candidate. A candidate is clearly identified if the communication states his name, makes unambiguous reference to his office, or unambiguously describes

Milan Milkovich
March 20, 1984
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him in any manner. A communication "expressly advocates" the defeat of a candidate if it contains express words of advocacy such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," "reject," "sign petitions for" or otherwise taken as a whole, unambiguously urges a particular result in an election. A person (or a government agency) who makes \$500 or more of such payments qualifies as an "independent expenditure committee" and must comply with the Act's filing requirements.

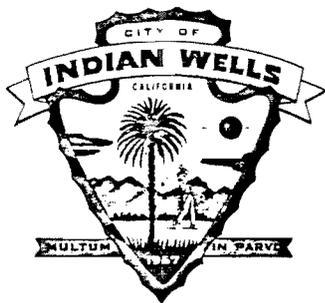
The article in question clearly identifies Mayor Frank Chilson, but it does not expressly advocate his defeat. The article presents both sides and does not unambiguously urge a particular result in the election. Therefore, the payment for the article does not constitute an independent expenditure and the City has no reporting responsibility concerning it.

If you have any additional questions, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:plh
cc: Richard Buss



City of Indian Wells

45-300 CLUB DRIVE • INDIAN WELLS, CALIFORNIA 92260

MAR 13 12 10 PM '84

March 8, 1984

Mr. Dan Stanford, Chairman
Fair Political Practices Commission
1100 K Street
Sacramento, CA 95814

Dear Mr. Stanford:

I am taking the liberty of writing to you since we met at the Palm Desert Resort Country Club on October 25, 1983. You were our speaker for the C.V.A.G. group representing all of the Coachella Valley Cities. Your suggestion at the time was to write or call regarding matters relating to possible violation of the Political Reform Act and its provisions.

The puzzling aspects of an enclosed letter sent to John Koplinger, Executive Director of the Fair Political Practices Commission, and another inquiry from a City Council member of Indian Wells about a political issue needs clarification. It seems to our staff that every step we take in administration to carry out our duties seems to be challenged and related to a political issue.

The City publishes a Monthly Bulletin from the record to keep residents and property owners abreast of events in our small community. The article in question is enclosed to provide a guide in advising us if a determination of a violation exists. We know that the original intent of the article related to "Attempt to Recall Mayor Chilson" was an honest effort to present both sides of an issue. The intent of the article versus the negative response of the reader is the puzzle we would like to solve. Actually, we experienced some criticism from both pro and con positions which, in its simplest terms, may mean that it was handled properly but was interpreted by the very bias of the reader.

What, in your opinion, would be our responsibility in this situation?

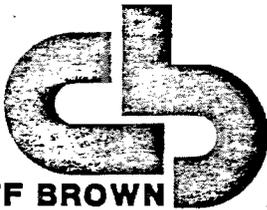
Very truly yours,

CITY OF INDIAN WELLS

Milan Milkovich

MILAN MILKOVICH
Chief Deputy City Clerk

MM/bjc
cc: Mr. John Koplinger



CLIFF BROWN ASSOCIATES / PUBLIC RELATIONS COUNSELORS — (619) 346-1186

newsletter
file

February 7, 1984

Prince E. Pierson
City Manager
City of Indian Wells
City Hall
44-950 Eldorado Drive
Indian Wells, California 92260

RECEIVED

FEB 14 1984

CITY OF INDIAN WELLS

BY _____

Dear Prince:

Councilman Arenstein in a recent telephone conversation objected to a statement in the February Indian Wells newsletter, namely, "The District #2 Committee strongly supports and takes credit for helping to elect, Councilmen J.D. Aughtry and William Arenstein."

In our conversation, Councilman Arenstein did not dispute the truth of the statement; he objected to it being included in the newsletter because it was too "political."

As you know, the current movement to recall Mayor Frank Chilson from office is a "political" issue. The article was written to present both sides of a newsworthy event factually and impartially to residents of Indian Wells. The recall issue could not be ignored in a city newsletter.

This article,--as well as all others in the February newsletter,--was read and approved, prior to publication, by City Hall.

Since Councilman William Arenstein was not quoted, and the source for the material was the District #2 Committee newsletter post-script, it was accepted as factual and no clearance was required from Councilman Arenstein.

Sincerely,

Terry J. Tripp

Indian Wells

DISTRICT #2 COMMITTEE

Post Office Box 2891

Indian Wells, California 92261

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MAR 8 1 32 PM '84

February 2, 1984

Mr. John Koplinger
Executive Director
Fair Political Practices Commission
1000 K Street
Sacramento, CA 95814

Dear Sir:

In telephonic conversation with your Southern office it was recommended that we forward the enclosed document for your consideration.

We are in the process of recalling the Mayor of Indian Wells and are at this time 26% over the required number of signatures needed to mandate the special recall election.

Our joint committees have directed me to ask if this official newsletter does, in fact, constitute an endorsement of the current mayor by the City of Indian Wells since this is an official Indian Wells newsletter.

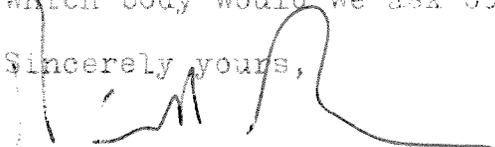
Should not approximately 25% of the cost of this newsletter be construed as a political contribution to the Chilson campaign?

Should not such an expenditure be approved by City Council if legal?

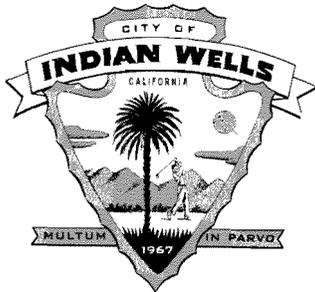
Is an expenditure of this nature a legal act (i.e. a municipality contributing to the political campaign of an individual)?

If there is a possibility of actionable illegality, to which body would we ask our attorney to address our complaint?

Sincerely yours,


Richard K. Suss
Treasurer, Indian Wells District #2 Committee
Vice Mayor, City of Indian Wells
1975-1980

CC. Mr. Prince E. Pierson, City Clerk



City of Indian Wells

CITY HALL • 44-950 ELDORADO DRIVE • INDIAN WELLS, CALIFORNIA 92260 • (619) 346-2489

CITY COUNCIL

Frank Chilson, Mayor
Richard R. Oliphant, Vice Mayor
William Arenstein
James D. Aughtry
Dr. Henry Ure

Incorporated: July 14, 1967

BULLETIN NO. 126

FEBRUARY 1984

YEAR IN REVIEW

Public health and safety, gating and redevelopment are a few of the principal issues that concerned Indian Wells residents during 1983.

Last year saw the initiation of a monthly series of free health and safety forums at City Hall, held from February through May. Those attending the programs received expert advice on such topics as use of prescription drugs and over-the-counter medications, fire safety, nutrition for seniors, and home security.

(over)



ATTEMPT RECALL OF MAYOR CHILSON

Five Indian Wells residents have filed a petition with the Riverside County Elections Department to recall Mayor Frank Chilson.

The petition, filed in December, was signed by Anne and Edgar Whittington, C.B. Duranceau, Ted J. Hamilton and Richard H. Buss.

As grounds for the recall, the proponents claim the mayor has made "intemperate remarks about both citizens and elected officials," and that he has shown "contempt of Indian Wells residents by appointing councilmen instead of the due process of voting for same."

Mayor Chilson has responded to the charges by calling the grounds of "intemperate remarks" vague and unsubstantiated, and by pointing out he does not have the power to appoint anyone to the City Council. He states all appointments to fill vacated terms of office on the council have been made by a majority vote of the City Council, as required by law.

The recall proponents - also known as the District #2 Committee - have until Feb. 21 to gather approximately 275 signatures (one quarter of Indian Wells' registered voters) in order to qualify for a special election. If sufficient signatures are obtained, the special election will be



Sheriff's Sgt. Ron Dye (left) congratulates Indian Wells aide Tony Diaz during the Civic Center Open House held in December. Looking on is Diaz's wife Debbie, and Vice Mayor Richard Oliphant. Diaz was instrumental in apprehending a burglary suspect while on patrol. He spotted the suspect and radioed for the Sheriff's Department to intercept as the suspect's vehicle proceeded through the city. Search warrants were later issued for the suspect's residence, leading to the solution of several unsolved burglaries. Mrs. Diaz is dispatcher for the department.

scheduled in late May or June. The city's next regularly scheduled election will be in November, when Mayor Chilson's term of office expires. He has indicated he intends to seek a third term.

Chilson has been a member of the City Council since October 1974 when he was appointed to fill the unexpired term of retiring Councilman D.J. Bogardus. He was unanimously elected mayor by members of the council in May 1975, and subsequently reelected.

The District #2 Committee strongly supports, and takes credit for helping to elect, Councilmen J.D. Aughtry and William Arenstein. The committee also supports the candidacy of Hal Hanover to replace Mayor Chilson on the City Council.

The District #2 Committee is in favor of gating the last ungated residential area of Indian Wells, south of Highway 111 between Indian Wells Lane and Cook Street. The committee, whose chairman is Phillip Manuell, has accused Chilson of opposing gating and claims he has tried to roadblock gating efforts.

Mayor Chilson says the gating issue

has come before the City Council five times in the past four years. He noted that he has voted favorably in each instance. Chilson points out his voting record is public information and can be substantiated by checking the City Council minutes.

A Committee to Retain Frank Chilson as Mayor of Indian Wells has been formed, with 79 members, to oppose the recall movement. Chairman of the committee is M.J. "Curly" Simon.

The committee is urging citizens, through mailings and personal telephone calls, not to sign the recall petition. It favors retaining Chilson because he "has devoted his attention and effort toward making and keeping Indian Wells the finest of residential communities."

The committee further points out that Chilson has "helped to implement many programs," including construction of the new fire station, paramedic unit and new City Hall complex; construction of the Deep Canyon Channel to curb flooding; undergrounding of utilities, and city street improvements.

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Fair Political Practices Commission

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Technical Assistance • • Administration • • Executive/Legal • • Enforcement • • Statements of Economic Interest
(916) 322-5662 722-5660 322-5901 322-6441 322-6444

March 14, 1984

Richard H. Buss
Treasurer
Indian Wells District #2 Committee
P.O. Box 2891
Indian Wells, CA 92261

Re: A-84-049

Dear Mr. Buss:

Your letter requesting advice under the Political Reform Act has been referred to Janis Shank McKeon, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:plb