



COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council
FROM: Sean Murphy, Public Policy Analyst
DATE: November 6, 2015 4:25 PM
RE: Campaign Finance Reform
Legislative Sponsor: **Council Priority**

PROJECT TIMELINE:
Briefing: 11/10/2015
SetDate:
Public Hearing: 11/17/ 2015
Potential Action: 12/1/2015,
Clearline

ISSUE AT-A-GLANCE

The last full discussion the Council had regarding potentially lowering the current limits for campaign contributions was held on April 28 when Paul Ryan of the Campaign Legal Center presented a court history on the matter and answered Council Members' questions regarding policy and legal considerations around enacting new, lower limits.

In the interim, both the City Attorney's Office and Council staff have conducted research into some of the Council's questions and options related to campaign finance.

The Attorney's Office is prepared to discuss issues related to the structuring of PACs, Super-PACs, and the question of candidates carrying over campaign funds after an election, i.e. "war chests". Council staff have prepared an analysis of historical funding amounts and trends in Salt Lake City campaigns over the last 10 years. That analysis is detailed below.

Goal of the briefing: Review the research both the City Attorney and Council staff have conducted regarding potential changes to the City's campaign finance procedures. Advise staff on additional research and questions that need clarification, and provide direction on elements to include in a draft ordinance for upcoming Public Hearings.

POLICY QUESTIONS

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- 1) At different points through the year, the Council has discussed various options related to limiting campaign contributions. The four primary options the Council has discussed are below. These may be the thrust of any straw polls the Council takes on this item:

1. Limiting “individual” contribution limits.
2. Eliminating all “corporate” (for-profit and not-for-profit) contributions.
3. Restricting the carrying of “war chests” after an election.
4. Limits on contributions from any entity engaged in business with the City.

- 2) Council staff has compiled a considerable amount of data related to the City’s election campaigns from 2003-2013. Information has been tabulated in files that can produce various reports, graphs, and visual aids to better hone in on specific details about these campaigns. What the Council will find below is effectively a sampling of the information available, albeit, a sample that Council staff believes will help answer some of the specific questions the Council has raised in the past.

The attempt is to provide a basis of pertinent information without inundating Council Members with graphs and figures. That said, if Council Members have specific requests about presenting different types of data, or would like staff to look at various races in a particular way, that can be done.

Considerable time has passed since the Council last discussed this topic, and the Council Chair has indicated that this item will receive additional work session time during the month, so there will be more opportunities to address individual concerns related to the data.

- 3) Council Members have been approached by the Move to Amend group on several occasions about this issue over the last year. Move to Amend drafted an initial proposal on campaign limits and have recently updated that proposed ordinance. That new proposal has been shared with the Council.

Would the Council like staff to further review the proposed draft the group has forwarded?

- 4) There is fundamental question in the proposal before the Council: should there be less money in City campaigns? It’s a question to keep in mind while looking at the analysis provided in this text, because, in all contexts where staff have modeled the impact of new restrictions on campaign contributions, some aspect of maintaining existing or historic campaign contribution and expenditure levels becomes constrained.

So at a basic level, regardless of the analysis below, the question is whether or not Council Members want to try to constrain or reduce the total amount of money in City campaigns.

ADDITIONAL & BACKGROUND INFORMATION

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I. History

The topic of campaign finance reform was initially forwarded to the Council by the Move to Amend group. Move to Amend has proposed both a \$500 limit on contributions from “individuals” in Council races and a \$1000 limit in Mayoral races, along with a complete ban on corporate donations in both. This would be all corporations – for-profit and not-for-profit. The proposal now includes a ban on “war chests” and restrictions on those conducting business with the City.

With the initial proposal before the Council, combined with Paul Ryan’s suggestions, the Council requested staff to conduct an analysis of historical funding amounts in City races. Mr. Ryan told the Council that if they were to enact any restriction characterized as “very low” (a restriction of \$200 was offered as an example), the City would be sued by one of several interest groups and would “almost certainly” lose. If, however, a limit in the range of \$500 for Council races and \$1000 for Mayoral races was imposed and tied to the Consumer Price Index, the City would at least be in the company of other cities that have recently lowered contribution limits.

It was also suggested by both the Attorney’s Office and later by Mr. Ryan that if the Council chose to enact new limits, conducting a historical analysis that verified previous contribution levels would bolster the City’s position in the face of a legal challenge. Several Council Members stated that they believed the proposed limit was reasonable, but that such an analysis would be sensible.

II. Methodology

Before conducting our own analysis, Council staff reached out to several municipalities that have enacted campaign restrictions to inquire about their analytical method. Council staff reached out to a total of 47 municipalities that have set new, lower contribution limits. Of those, only five municipalities responded that they had conducted any analysis specific to their own city and electoral process. Council staff were unable to obtain records of those studies to use as an example for our own process.

Staff analyzed approximately 3,800 Council and 6,400 Mayoral contributions over 24 electoral races in the last 10 years. In breaking down those individual contributions, staff looked at total contributions by district, by year, by type of donation, and by successful campaigns.

NOTE: Two considerations on the methodology – When a couple was listed as a single contributor in the City’s reporting system, staff divided that contribution by two and created two unique data points. Additionally, the analysis does not combine multiple contributions from one source. For instance, in a 2011 mayoral race, one corporate donor made 15 separate donations of in-kind services of \$50 to the same candidate. In this

analysis, those contributions will appear as 15 discrete donations, as opposed to one \$750 donation.

If the Council is interested, staff can prepare a separate analysis in which (1) donations from couples are counted as one contribution and/or in which (2) multiple donations from the same source are combined into one donation.

In staff's anecdotal analysis, the second would likely have more impact on the Mayoral contribution analysis than the Council, as Mayoral races tend to be longer and donors appear to be more likely to donate more than once in a single race.

II-A. Dollar-per-Vote & Results of Eliminating Corporate Contributions

A dollar-per-vote analysis uses the actual amount of expenditure per race over previous years to derive a theoretical spending minimum that would generate a majority of votes. This assessment relies on actual spending and voter turnout data from previous races to establish a theoretical model of the cost of campaigns. The model's results will vary from the historical record as several campaign factors are not considered (candidate popularity, strength of candidate pool, etc.), but the model should reflect a baseline spending amount necessary to win previous races.

Staff have also produced a simple model for contextualizing the proposal to eliminate corporate donations. These will hopefully be useful to Council Members in making their decisions regarding limits on contribution amounts and the total cost of running a successful campaign.

III. Council Races

III-A. Successful Campaigns

Perhaps the most useful category to analyze is those candidates who won their respective races. While figures and information are available for all candidates in the study period, Council staff elected to focus on those candidates who ran successful campaigns for the bulk of the information provided here. Figure 1 below details the contributions that winning candidates raised in all Council races from 2003-2013.

The graph depicts the spread of contributions across all districts. The average total amount raised by district across time is \$21,074. There is clear clustering in the high-teens to mid-twenty thousand dollar range. The largest amount raised for any successful campaign was the 2007 District 6 race. It should be noted that that number includes the candidate's own \$12,000 contribution, which also reflects the largest dollar amount of self-financing for any successful campaign in the study period. The lowest amount raised by a winning candidate was \$0 in the 2003 District 2 race.

Fig. 1 – Total Contribution Amounts: Successful Council campaigns, all Districts, 2003-2013

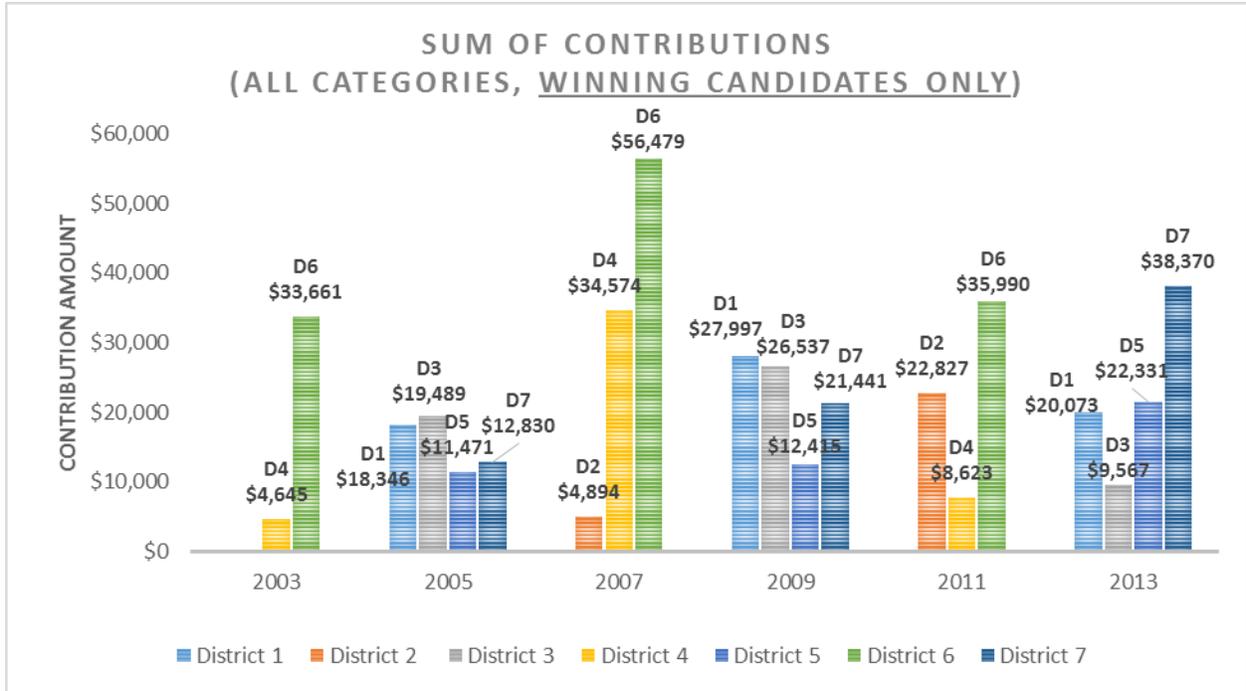


Fig. 2 displays the total number of contributors to each winning Council race over time. Council Districts have averaged 112 contributors in all races across 2003 – 2013.

Fig. 2 – Total Unique Contributors: Successful Council campaigns, all Districts, 2003-2013

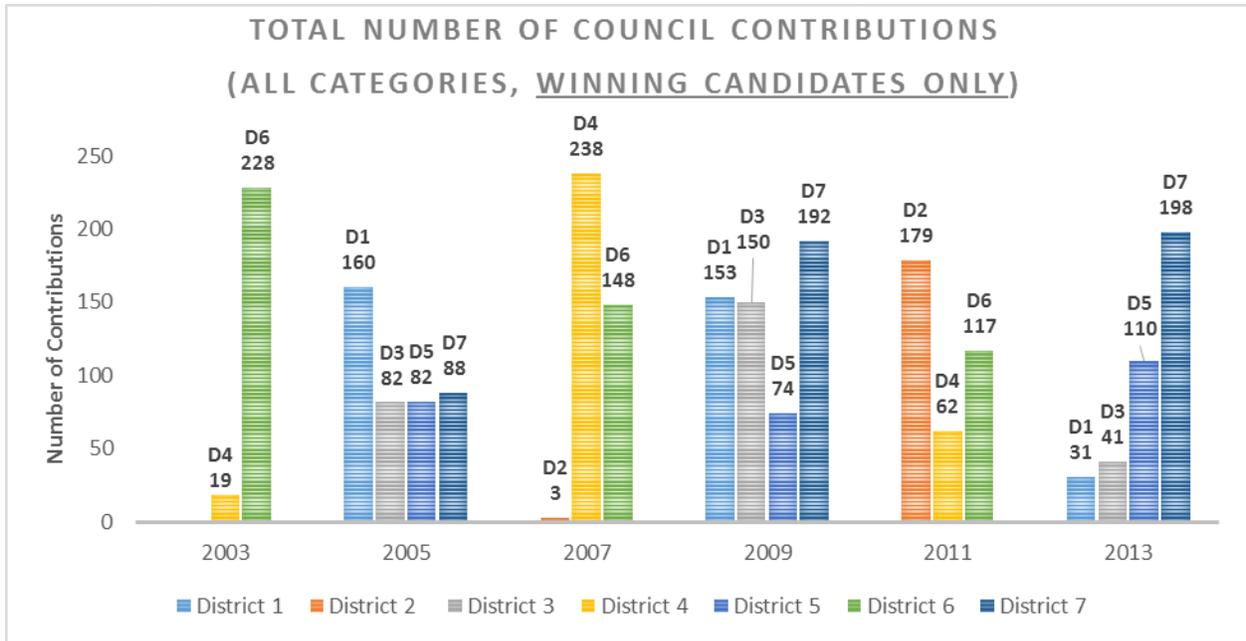
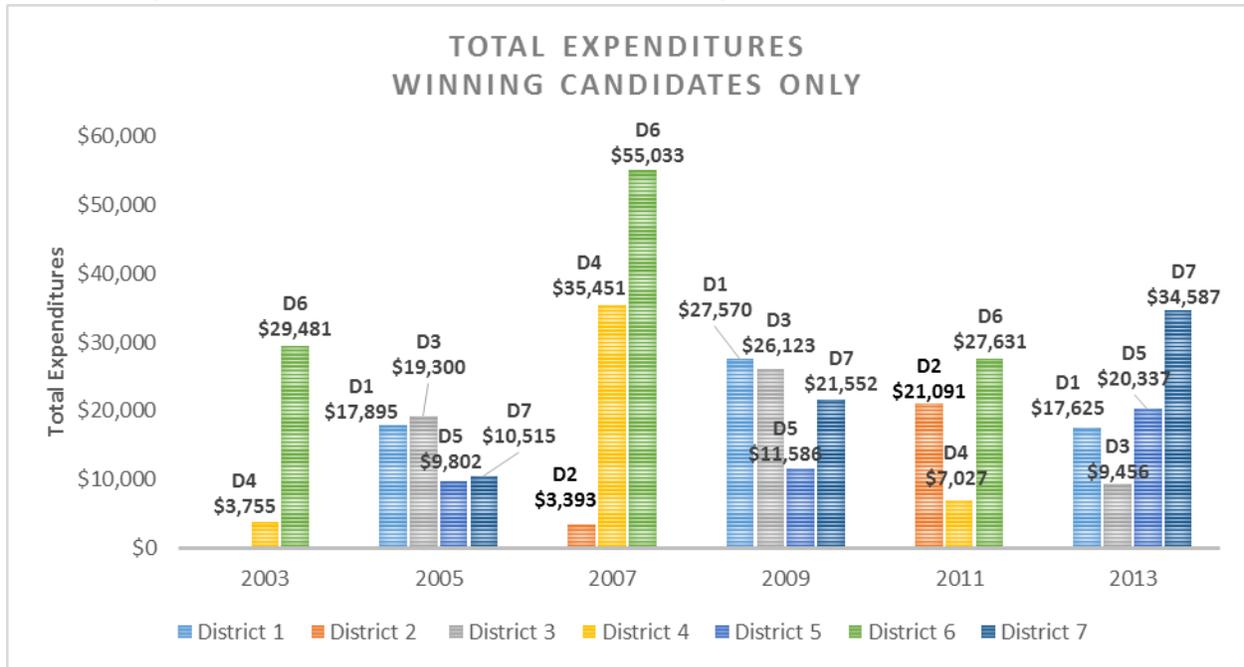


Fig. 3 below shows how many of the dollars above were spent on the candidates' campaigns. On the whole, winning candidates spent an average of \$19,486, which is 93% of all funds raised.

This is helpful in understanding issues related to carrying funds from one campaign to the next – while it may currently be possible to do so, most Council candidates are spending their funds during the race.

Fig. 3 – Total Expenditures for Successful Campaigns: all Council Districts, 2003 – 2013



a

Fig. 3 is more useful if we apply the total number of votes won to the amount spent in the race (as Fig. 1 displays). If we do so, we find that on average, winning Council candidates have spent \$9.58 per vote across all districts over all years. The average amount spent across in any given year is \$9.43. The average amount spent in each District is \$9.73.

Table 1 – Dollars Spent per Vote for Successful Campaigns: all Council Districts, 2003-2013

	2003	2005	2007	2009	2011	2013	Average
District 1		\$13.14		\$18.90		\$19.06	\$17.03
District 2	0		\$2.67		\$18.92		\$7.20
District 3		\$8.73		\$10.19		\$5.19	\$8.04
District 4	\$1.49		\$12.46		\$4.60		\$6.18
District 5		\$10.50		\$5.06		\$11.69	\$9.08
District 6	\$4.99		\$11.18		\$9.46		\$8.54
District 7		\$7.85		\$11.07		\$17.10	\$12.01
Average	\$2.16	\$10.06	\$8.77	\$11.31	\$10.99	\$13.26	\$9.58

III-B. Defining a “Winning Campaign”

Council Members have continually expressed an interest in understanding how much money it takes to win races so that any new limits won't be too burdensome to mounting a successful campaign. While anticipating future changes to media, advertising and consultation fees may vary greatly, posing real difficulty in predicting the cost of future campaigns, we can understand something about the past by conducting a dollar-to-vote analysis.

Table 1 opens some interesting options. We now have dollar-per-vote cost for all Council races in the last 10 years. We also have the voter turnout records of each of those races over the same period. If we multiply those factors by 51% (to win by 51% of votes in a general election), we will have a conservative estimate (in dollars) of the total amount necessary to win a majority vote in each of those Council races over the years:

$$\text{Cost per vote} * \text{Voter turnout per race} * 51\% = x \text{ (the minimum amount needed to win each race)}$$

Those dollar amounts have been plugged into Table 2. Now we have the average total dollar amount needed to win across all Districts and all years. We can also see that the average contribution requirement across all Council races for the period is \$16,287.

Winning candidates in these races needed to raise, at a minimum, an average of \$16,287 to win a majority of the votes in their general elections.

Table 2 – Total minimum dollar amount needed to win majority of general election: all Council District, 2003-2013

	2003	2005	2007	2009	2011	2013	Average
District 1		\$13,946		\$21,235		\$17,322	\$17,501
District 2	\$0		\$3,269		\$18,729		\$7,333
District 3		\$18,909		\$25,413		\$6,292	\$16,871
District 4	\$3,775		\$31,601		\$4,617		\$13,331
District 5		\$5,312		\$6,150		\$12,675	\$8,046
District 6	\$24,009		\$52,679		\$23,235		\$33,308
District 7		\$9,933		\$21,984		\$25,614	\$19,177
Average	\$9,261	\$12,722	\$29,183	\$17,599	\$15,527	\$12,096	\$16,287

With those numbers now filled in, we can calculate the average dollar amount needed from each individual donor in those races in order to win 51% of the vote. Table 3 represents the average minimum contribution each winning candidate would have needed to receive from the entire pool of donations in order to win at least 51% of the vote in the general election.

Table 3 – Minimum Average Contribution Requirement: per individual donation, all Council Districts, 2003-2013

	2003	2005	2007	2009	2011	2013	Average
District 1		\$51		\$114		\$133	\$99
District 2	\$0		\$149		\$80		\$76
District 3		\$106		\$79		\$126	\$104
District 4	\$66		\$106		\$73		\$82
District 5		\$65		\$83		\$96	\$81

District 6	\$102		\$140		\$120		\$121
District 7		\$67		\$69		\$67	\$68
Average	\$56	\$55	\$131	\$69	\$91	\$89	\$88

Looking at the total donor pool for each race (the candidates of donors, if you will), we can see just how much each Council Member needed to raise, on average, from each donor in these races in order to win a conservative majority in their races.

Hopefully this will provide some insight into the question of exactly how much cash is required to win seats in Council races.

III-C. Corporate Contributions: for-profit & not-for-profit

If the Council is considering the proposal to eliminate corporate contributions (and all contributions from non-profit organizations), then understanding exactly how much money would be taken out of the campaign pool should be helpful.

Using the same format as the tables above, Table 4 displays the percentage of corporate donation received in each of the Council races over time ("corporate" being for-profit business entities here). We can clearly see that such donations impact the donation base of Council Districts very differently. District 1 has received the greatest percentage of total donations from corporate entities, possibly due to the number of businesses in the district relative to number of residents/registered voters in those neighborhoods.

Again, these figures are for successful campaigns only.

Table 4 – Total For-profit Corporate Contributions: all successful campaigns, all Districts, 2003-2013*

	2003	2005	2007	2009	2011	2013	Average
District 1		28%		30%		49%	35%
District 2	0%		0%		9%		3%
District 3		23%		11%		0%	11%
District 4	9%		7%		24%		13%
District 5		19%		34%		14%	23%
District 6	22%		12%		30%		21%
District 7		25%		15%		10%	17%
Average	10%	24%	6%	23%	21%	18%	18%

* This is based on the dollar amount of contributions, not the number of donations

In Table 5 the format is replicated to display all non-profit, union, and political organization donations over the same period. Table 6 may be the most informative. It combines all for-profit and not-for-profit corporate donation percentages. This is the total percentage of campaign donations that would be eliminated from each of the previous district races under the proposed rule change.

Table 5 – Total Non-profit Corporate Contributions: all successful campaigns, all Districts, 2003-2013

	2003	2005	2007	2009	2011	2013	Average
District 1		7%		21%		4%	11%

District 2	0%		61%		14%		25%
District 3		1%		17%		9%	9%
District 4	1%		12%		7%		7%
District 5		4%		12%		28%	14%
District 6	9%		8%		18%		12%
District 7		12%		11%		8%	10%
Average	3%	6%	27%	15%	13%	12%	13%

Table 6 – All Corporate Contributions: for-profit & non-profit, all successful campaigns, all Districts, 2003-2013

	2003	2005	2007	2009	2011	2013	Average
District 1		35%		50%		53%	46%
District 2	0%		61%		24%		28%
District 3		23%		28%		9%	20%
District 4	10%		19%		31%		20%
District 5		23%		46%		42%	37%
District 6	31%		19%		48%		33%
District 7		37%		26%		18%	27%
Average	14%	30%	33%	38%	34%	31%	30%

III-D. Eliminating Corporate Contributions

Finally, in order to understand the implications of eliminating corporate contributions from City races, staff constructed a basic model to show the shortfall in funding. If the Council chooses to ban corporate contributions, there are likely five possible outcomes:

- 1) campaign contribution amounts decrease,
- 2) candidates reach out to more individuals for contributions, growing their donor pool
- 3) existing contributors increase the total amount that they donate,
- 4) candidates rely increasingly on self-financing, or
- 5) some combination of the above.

This is effectively the burden of need, which may or may not exist—the need to produce additional contributions may fall on one or all of the groups listed from 2 to 4. Or, if an increase in need does not occur, the contribution amounts for all campaigns would flatten to some extent, and overall contributions and expenditures would decrease.

As stated previously, this analysis could take many different forms. For this example, we'll focus on the 3rd possibility. The hypothetical situation is that as corporate donations become unavailable, candidates rely more heavily on their existing donor base in order to raise the same amount of funding.

$$\frac{\text{Corporate \$ eliminated}}{(\# \text{ total donors} - \# \text{ corporate donors})} = \$ \text{ per individual donor needed to fill gap}$$

This formula will help us answer the question: If successful candidates from the 2003-2013 races were put in this position, how much additional cash would they have had to raise from their existing donor pool?

The average additional amount of funding that candidates would have needed to receive from each donation is outlined in Table 7.

Table 7 – Additional Average Amount Needed per Donation after Eliminating Corporate Donations: all successful Council candidates, 2003-2013

	2003	2005	2007	2009	2011	2013
District 1		\$44		\$116		\$507
District 2	\$0		\$2,985		\$33	
District 3		\$63		\$53		\$23
District 4	\$29		\$30		\$43	
District 5		\$36		\$98		\$100
District 6	\$51		\$84		\$190	
District 7		\$67		\$33		\$37

If we combine these numbers with the information in Table 3, we can see the average amount each successful candidate would have needed to raise in order to win a majority in their general election, assuming the donor pool remained the same.

Had corporate contributions been restricted in these previous races while every other factor remained constant (total spent in campaign, total number of contributors, etc.), this is the average additional amount the winning candidates would have needed from each existing donor in order to reach the amount they actually raised in those races.

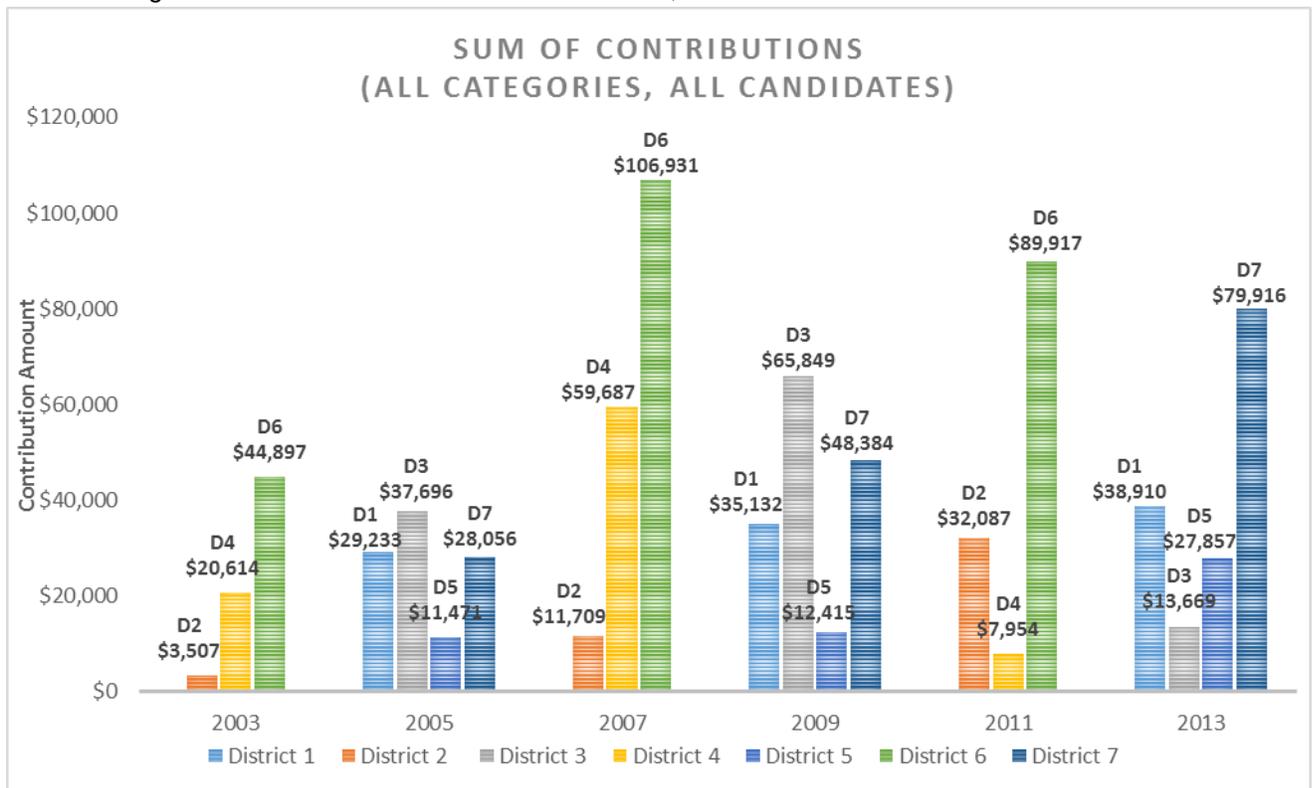
Table 8 – Total Average Amount Needed per Contributor after Eliminating Corporate Donations: all successful Mayoral candidates, constant contributor pool, 2003-2013

	2003	2005	2007	2009	2011	2013
District 1		\$95		\$230		\$640
District 2	\$0		\$3,134		\$113	
District 3		\$169		\$132		\$149
District 4	\$95		\$136		\$116	
District 5		\$101		\$181		\$196
District 6	\$153		\$224		\$310	
District 7		\$134		\$102		\$104

III-E. Additional Information on District Races

The graph below details all campaign contributions made to all candidates in Council races from 2003 – 2013. This gives a sense of where different districts lie on the spectrum in terms of contribution amounts.

Fig. 4 – Total Contributions: all Council District, 2003 - 2013



III-F. Self-Funded Campaigns

Council Members have expressed concern over the possibility that exceptionally wealthy individuals may have a greater advantage in funding campaigns if lower limits are set. The Supreme Court has definitively ruled that individuals cannot be restricted in providing funding to their own campaigns. This has raised a concern that if the Council elects to limit contributions beyond the current \$1,500 level, future candidates who lack the ability to self-finance their campaigns may have a difficult time competing against independently-wealthy candidates.

This may be a philosophical question to some extent as it is not possible to reliably model the likelihood that future wealthy candidates will outspend future less-wealthy candidates. However, in the past, we have seen that candidates who rely heavily on self-financing are not winning elections.

Below is a table that shows the percentage of candidate self-financing for winning campaigns from 2003-2013.

Table 9 – Self-Financing: Winning candidates’ percentage of self-financing relative to all contributions, successful Council races, 2003-2013

	2003	2005	2007	2009	2011	2013	Average
District 1		1.6%		0.0%		0.0%	0.5%
District 2	0.0%		38.7%		6.6%		15.1%
District 3		15.4%		0.5%		10.5%	8.8%
District 4	0.5%		1.7%		0.0%		0.7%
District 5		0.0%		5.8%		0.0%	1.9%
District 6	0.0%		21.2%		0.3%		7.2%
District 7		3.9%		4.7%		9.2%	5.9%
Average	0.2%	5.7%	20.5%	2.1%	2.3%	3.5%	5.7%

On the whole, most winning candidates from the study period have spent very little of their own money as a percentage of their entire campaign. The average for winning Council races, across all Districts is 6% self-financing. There is one candidate whose self-financing is anomalously high; in 2007 the winning candidate from District 7 self-financed 38% of the campaign (though that amount was still only \$2,180 out of a total campaign of \$5,450 - both numbers adjusted to 2015 inflation). If we remove that anomalous campaign from the equation, winning candidates have self-financed their campaigns at an average amount of 4% total contributions.

III-G. Balancing Measures: exceptionally wealthy candidates

Philadelphia has a process to address the possibility that an exceptionally wealthy individual may disrupt the competitiveness of a race due to lowered contribution limits. In the event that a candidate spends an excess of \$250,000 of their own money in a race, the individual contribution limit in that race will double. This occurred in May 2015 for an at-large seat on the city’s council and limits for both individuals and political committee/unincorporated business organizations automatically doubled.

The Council may consider such a trigger. If the Council is interested in this approach, staff can conduct additional research and propose a comparable amount to the Philadelphia ordinance. The Attorney’s Office may also be able to offer an opinion on this.

III-G. Volunteer Contributions

Council Members have raised the question of how volunteer contributions are categorized, or potentially limited. This can be viewed as a matter of considering opportunity costs – some contributors may want to donate their time to a campaign but cannot due to other obligations, and so they may instead donate cash. Other people who may have little cash to offer but considerable time may be able to donate that time to candidate. So if the Council is considering restricting monetary donations, then perhaps contributions of volunteer hours should be restricted, too.

This question was posed to Paul Ryan when he appeared before the Council on April 28. His suggestion was to not attempt to limit volunteer hours as it would draw considerable scrutiny if challenged in court,

and that such a measure may have the appearance of attempting to constrain an individual’s ability to participate in the democratic process.

IV. Mayoral Races

IV-A. Mayoral Campaign Size

It’s a bit harder to continue the theme of focusing predominantly on successful campaigns when we turn to mayoral races as there are only three contests in the study period. And more, there are only two individual winners over that time.

To provide a more complete picture, staff have provided both information on both “all candidates” and “successful campaigns.” Individual candidates are represented by the letters A-K on the x-axis.

Fig. 5 – Total Contributions in Dollars: all Mayoral candidates, 2003-2011

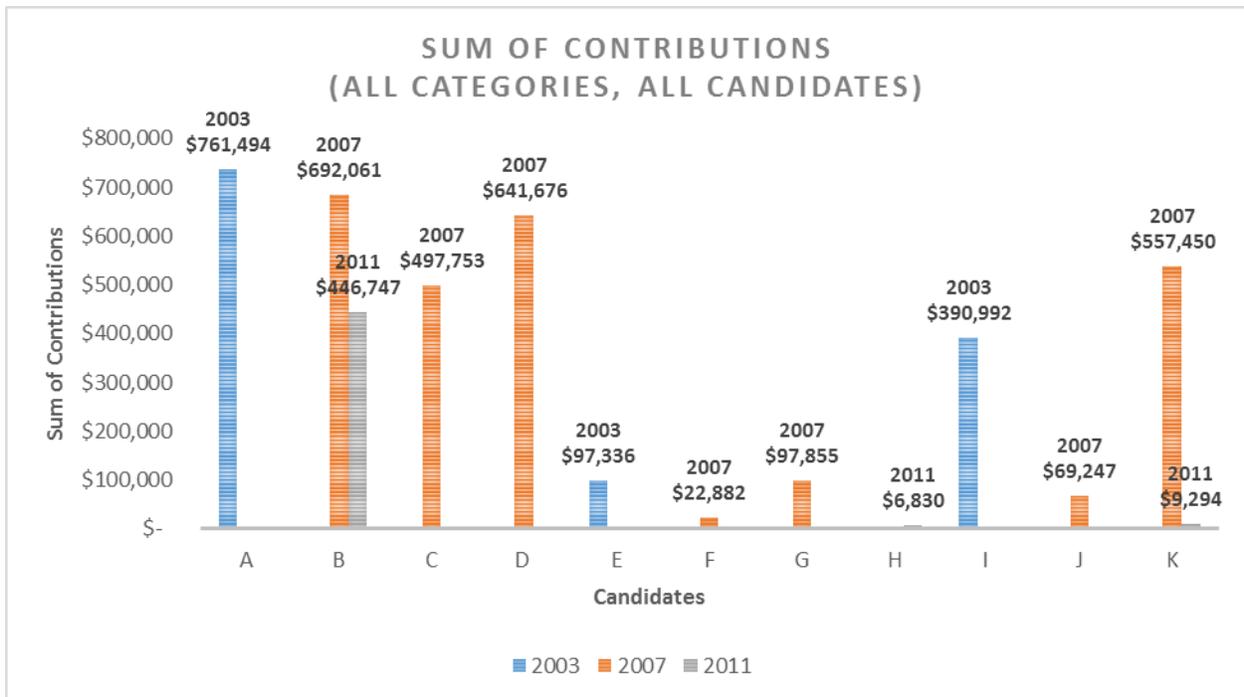
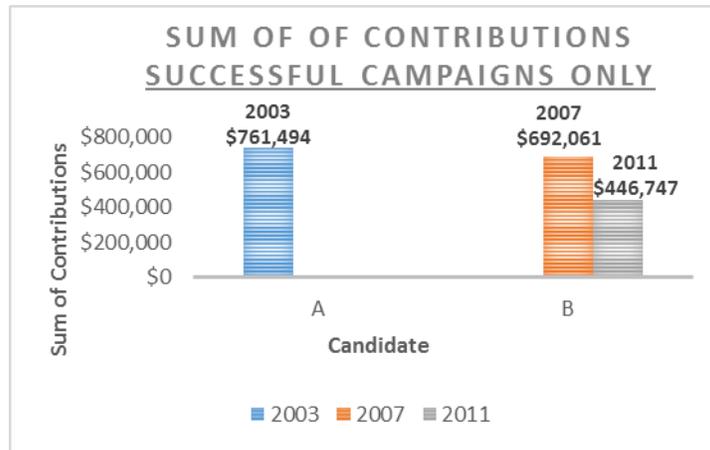


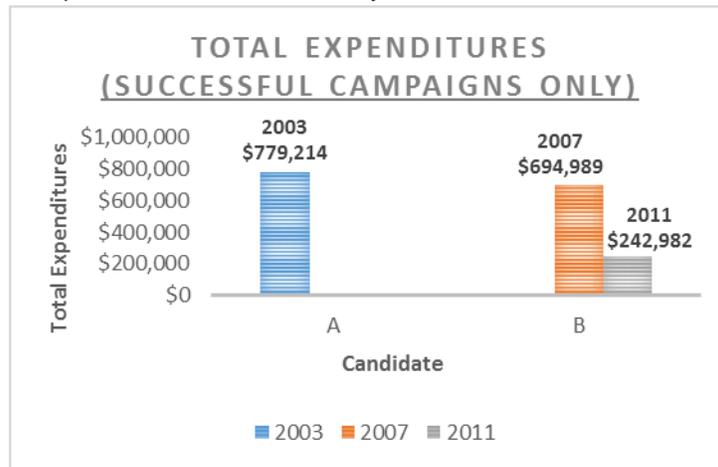
Fig. 6 – Total Contributions in Dollars: successful Mayoral candidates, 2003-2011



Below are figures for the expenditures in the successful mayoral races. Here we can see that in both 2003 and 2007, candidates reported spending an excess of contribution funds – just over 100% of contributions in 2007 and 102% in 2003. However, in 2011, the winning candidate spent only 54% of contributions.

Based on these figures, successful mayoral candidates are spending 85% of the contributions they receive.

Fig. 7 – Total Expenditures: successful Mayoral candidates, 2003-2011



IV-B. Dollar-per-Vote

Now to again apply the total number of votes won to the amount spent in each race (as in Fig. 6). If we do so, we find that on average, winning Mayoral candidates have spent about \$30 per vote across all years, which is 70% more than successful Council candidate have spent per vote over the same period.

Table 10 – Dollars Spent per Vote for Successful Campaigns: Mayoral races, 2003-2013

	2003	2007	2011	Average
Votes	22,254	27,556	14,189	21,333
Expenditure	\$761,494	\$692,061	\$446,747	\$633,434
\$ Per Vote	\$34.22	\$25.11	\$31.49	\$29.69

In Table 6, the dollar-per-vote methodology laid out on page 6 is continued. Here we can assess the theoretical total average amount that each mayoral candidate would need to spend in order to capture 51% of the general election vote.

Table 11 – Total minimum dollar amount needed to win majority of general election: Mayoral races, 2003-2013

	2003	2007	2011	Average
\$ Per Vote	\$34.22	\$25.11	\$31.48	\$30.27
Voter Turnout	41,844	43,209	18,942	34,665
Total \$ required	\$730,270	\$553,339	\$304,110	\$532,194

With those average campaign spending totals now estimated, we can calculate the average dollar amount needed from each individual donor in those races in order to win 51% of the general election vote. Table 12 represents the average minimum contribution each winning candidate would have needed to receive from the entire pool of contributors in order to win at least 51% of the vote in the general election.

Table 12 – Minimum Average Contribution Requirement: per individual donor, Mayoral races, 2003-2013

	2003	2007	2011	Average
Total \$ required	\$730,270	\$555,339	\$304,110	\$529,906
Pool of contributors	1,241	1,603	683	1,176
Average \$ needed from each contributor	\$588	\$346	\$445	\$460

Table 12 shows that (1) if the donor pool for each winning candidate remained the same, and (2) if each candidate needed to spend the same amount per vote that they spent in their race, then (3) candidates across all 3 mayoral races would need to average \$460 from each individual donor.

IV-C. Corporate Contributions

Table 13 displays the percentage of corporate (for-profit and not-for-profit) contributions that successful candidates received in the three races.

Table 13 – Total Corporate Contributions: all successful campaigns, all Districts, 2003-2013

	2003	2007	2011	Average
Candidate A	38.0%			38.0%
Candidate B		25.4%	37.1%	31.2%

Average	38.0%	25.4%	37.1%	34.1%
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Now we again replicate the process for modeling the impact banning corporate contributions. The equation:

$$\frac{\text{Corporate \$ eliminated}}{(\# \text{ total donors} - \# \text{ corporate donors})} = \$ \text{ per individual donor needed to fill gap}$$

Following the steps outlined in Section D above, we see the average amount each successful candidate would have needed to raise in order to win a majority in their general election, assuming the donor pool remained the same.

Table 14 – Total Average Amount Needed per Donation after Eliminating Corporate Donations: all successful Mayoral candidates, constant contributor pool, 2003-2013

	2003	2007	2011	Average
<i>Successful Mayoral Races</i>	\$286	\$123	\$280	\$230

Had corporate contributions been restricted in these previous races while every other factor remained constant (total spent in campaign, total number of contributors, etc.), this is the average additional amount the winning candidates would have needed from each existing donor in order to reach the amount they actually raised in their races.

ATTACHMENTS:

- A. Super_PAC_issues_-_City_Council_version_2015 (PDF)

Super PACs and Hybrid PACs; Campaign War Chests

Regular PACs

A “political committee” (“PAC”) is a group of persons who cooperate to promote the election or defeat of a candidate or issue. See City Code Section 2.6.010.

The amount of money donors may contribute to regular PACs may be limited. See City Code Section 2.6.050.

Super PACs

Super PACs are groups that work for the election or defeat of particular candidates, but who do it by making only “*independent expenditures*,” which are expenditures made independently of (and not in coordination with) the candidate or the candidate’s personal campaign committee.

They are also known as “independent expenditure-only political committees.”

Donations to Super PACs

Donors may *contribute unlimited amounts* of money to Super PACs.

The legal rationale is that independent expenditures can’t have a corrupting influence on the candidate because they are independent and not coordinated with the candidate. Because that is true, courts have ruled that there can also be no corrupting influence in giving contributions to Super PACs, because Super PACs can make only non-corrupting independent expenditures.

Must Super PACs Register with the Government?

Federal

Federal registration requirements apply only to federal elections.

Utah

The Utah Code requires “political action committees” (PACs) to register with the Lieutenant Governor and file periodic financial statements.

The Utah Code does not distinguish regular PACs from Super PACs.

The registration requirement also applies to PACs that support a candidate for a *City* election. See 20A-11-101(34, 40).

Reporting Requirements About Independent Expenditures

Even though Super PACs are not subject to contribution limits, they may be required to file reports about their donors and their independent expenditures. See Citizens United v. FEC, 558 U.S. 310, 366-371 (2010).

In Utah, PACs working to support the election or defeat of a candidate for *state* office must file reports about their independent expenditures. See Utah Code Section 20A-11-1704.

Hybrid PACS

A hybrid PAC is a PAC that intends to make *both* independent expenditures and contributions to candidates.

Contribution Limits

If a hybrid PAC maintains *separate bank accounts* for its “hard money” purposes (that is, contributions to candidates) and its “soft money” purposes (that is, independent expenditures), contribution limits may apply to the hard money, but not to the soft money. See Republican Party of New Mexico v. King, 741 F.3d 1089 (10th Cir. 2013).

Notably, at the federal level the Federal Election Commission does not enforce contribution limits against hybrid PACS if: (1) the hybrid maintains separate bank accounts; (2) the moneys in those accounts remain segregated; and (3) each account pays a percentage of administrative expense that closely corresponds to the percentage of activity for that account.

Campaign War Chests/Carry-over Restrictions

Most courts that have analyzed war chest/carry-over restrictions have invalidated them. The legal test is: (1) does the law burden political speech, and (2) if it does, is the law narrowly tailored to advance a **compelling** governmental interest (that is, corruption or the appearance of corruption)?

One court explained that a ban on spending war chest funds for future campaigns did not address corruption at all, because there was no link between the elimination of corruption and a ban on spending money **already received**.

Only about four cases have considered this issue, and they range from 1989 to 2004.

Reportedly war chest/carry-over regulations are common in the United States. That may indicate that such restrictions are not being challenged or invalidated these days.

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