

MEMORANDUM

Memorandum to: Carrboro Mayor and Board of Aldermen

From: Mike Brough

Subject: Ordinance limiting amount of contributions to candidates

Date: September 22, 2008

At its meeting on September 9, 2008, the Board requested information on the charter amendment passed in the "short session" of the General Assembly this past July relating to campaign financing. This memorandum responds to that request.

The essence of the amendment, which adds new Sections 2-8 and 2-9 to the Town Charter, is set forth in Subsection 2-8(a). That subsection reads as follows:

Except as provided by G.S. 163-278.13(c), the town may by ordinance limit the amount of contributions which any individual, person, or political committee may contribute to any candidate for town office. The ordinance may not set a limitation which has a dollar amount greater than the dollar amount set in the general law which would apply to elective office in the town. The ordinance may not set a limitation lower than two hundred fifty dollars (\$250.00) per election.

G.S. 163-278.13(a) makes it unlawful for any individual or entity to contribute to any candidate or political committee an amount of money in excess of \$4,000. G.S. 163-278.13(c) establishes an exemption to that limitation for a candidate or a candidate's spouse, parents, brothers, or sisters. Thus, my understanding of the charter amendment is that it allows the Board by ordinance to limit the amount that any person or political committee (other than the candidate or the candidate's spouse, parents, or siblings) may contribute to a candidate or political committee in a particular election, so long as that limit is a minimum of \$250 and does not exceed \$4,000.

It should be noted that G.S. 163-278.13(b) also prohibits a candidate from soliciting or accepting any contribution in excess of \$4,000, but the charter amendment does not authorize the Town to adopt an ordinance regulating the amount that a candidate can accept.

The charter amendment provides that an ordinance setting a limitation for the 2009 regular election may be adopted at any time, but expires automatically 60 days prior to filing for the 2011 regular election. The amendment further provides the time frames within which similar ordinances may be enacted for the 2011 and subsequent elections. In other words, the ordinance must be renewed every two years, presumably to ensure that the contribution caps would be appropriately adjusted.

The amendment does not provide any particular enforcement mechanism, so presumably it would be subject to the same enforcement alternatives applicable to other ordinances – criminal fines, civil penalties, and injunctive relief.

If the Board wishes me to draft an ordinance, please so advise and I will do so. I can leave the amount of the cap blank or can enter any figure within the above limitations that the Board specifies.

AN ORDINANCE AMENDING THE CARRBORO TOWN CODE TO ESTABLISH A \$250
LIMIT ON CONTRIBUTIONS TO CANDIDATES FOR TOWN ELECTED OFFICES

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Article II of Chapter 5 of the Carrboro Town Code is amended by adding a new Section 5-15 to read as follows:

Section 5-15 Limitation on Campaign Contributions for Town Offices

(a) No person, political committee, or other entity may contribute to any candidate for the office of mayor or any candidate for the office of alderman any money or make any other contribution in any election (regular or special) in excess of \$250.00 (two hundred fifty dollars).

(b) The definitions in Article 22A of Chapter 163 of the General Statutes apply to the provisions of this section. In addition, as used herein, the word "candidate" also means a political committee authorized by the candidate for that candidate's election.

(c) The provisions of this section do not apply to contributions made by a candidate or a candidate's spouse, parents, brothers, or sisters.

(d) The provisions of this section are authorized and shall be interpreted in accordance with Sections 2-8 and 2-9 of the Town Charter, as established by Chapter 97 of the 2008 Session Laws.

(e) The provisions of this section shall expire 60 days prior to the opening of filing for the 2011 regular town election, except that such expiration will not make lawful any contribution made before that date that is in violation of this section.

Section 2. Subsection 5-21(b) of the Carrboro Town Code is amended to read:

(b) A violation of any of the provisions of this chapter, other than Section 5-15, shall subject the offender to a civil penalty of twenty-five dollars for the first offense, fifty dollars for the second offense within a thirty-day period, and one hundred dollars for the third or any additional offense that occurs within any thirty-day period. A violation of the provisions of Section 5-15 shall subject the offender to a civil penalty of _____. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

Section 3. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 4. This ordinance shall become effective upon adoption.