

October 27, 2011

**Testimony by**  
**Deanna Bitetti, Associate Director of Common Cause/New York**  
**to the**  
**Campaign Finance Board of New York City**  
**Re: Requirements for Disclosures of Independent Expenditures**

Good morning Chairman Parkes and Executive Director Loprest and members of the New York City Campaign Finance Board. Thank you for the opportunity to speak today. I would also like to thank the Campaign Finance Board for their willingness to meet with us and our other good government colleagues to clarify specific statements in the proposed rules.

My name is Deanna Bitetti, and I am the Associate Director of Common Cause/New York. Common Cause/NY is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause/New York has been a long-standing advocate for innovative campaign finance and ethics laws in New York, as well as throughout the country. Common Cause has remained a steadfast and ardent supporter of campaign finance reform –including advocating for public financing of elections and greater transparency and disclosure of independent expenditures.

Common Cause/NY has also been a long standing supporter of requiring the disclosure of independent expenditures in city elections. As a result of this glaring gap in New York City's Campaign finance laws independent actors –such as corporations, political parties, or labor unions – are able to spend freely in New York City elections, with their actions largely hidden from public view or scrutiny. We welcomed and supported the ballot measure that would require the disclosure of independent expenditures. However, some key issues must be addressed regarding the Proposed Independent Expenditures Rules released by the CFB.

Before even beginning to address the rules themselves, Common Cause/NY believes we must first look at the underlying purpose of seeking disclosure of the source and nature of independent expenditures. We support reporting and disclosure requirements for independent expenditures in order to help foster an informed electorate, not to limit the number of communications that attempt to influence voters. Too often, independent expenditures provide substantial funding for campaign communications that are designed to sway public opinion but not to provide voters with information to assess the credibility of the statements or arguments made or to allow the targets of the attack a fair chance to respond.

However, Common Cause/NY does not believe that member to member communications should have to be disclosed as electioneering communications. **We are concerned with organized money and not organized people.** We see it as a positive thing that people band together to

develop positions on important public policy issues and convince others to support or oppose candidates or specific positions or legislation.

We believe the first line of concern in addressing independent expenditures is to insure that their source is as transparent as possible, in order to allow voters to assess the credibility of the actual source of the claims made by the independent expenditure campaign. However, this is not a problem in member to member communications. Individuals who are members of a specific organization – who choose to use their dollars to support that organization or who attend events sponsored by the organization and ask to receive information from it, are not confused as to the source of any communications about candidates or referenda they get from the organizations. In fact, they probably support such organizations because of those activities.

In the Proposed Rules emails are exempt but attachments to an email are not exempt and the cost of creating of such a flyer must be reported as an independent expenditure. We believe that emails between members, regardless of content or attachments, should be exempt. When a union member or someone who has signed up for email alerts from an advocacy group receives the organization's endorsement, they are not confused as to the source of the communication. They have means readily available to them to determine the cost incurred by the organization of which they are a part to communicate with them. Some unions may have as many as 125,000 members, and could be a powerful force in influencing the outcome of elections. However we believe that the sheer numbers of members who receive a message does not automatically determine whether the communication should be reported as an independent expenditure. Further, while some may fear that members will print out an attachment and show it to a friend, household partner, neighbor etc., as long as the sending entity does not encourage or ask their members to do so, we believe that this is a healthy part of a true democratic process that actively encourages and welcomes the political participation of constituents and individuals and is protected under the first amendment. We believe the same is true for mailed attachments to members.

We are further concerned that the Electioneering Communication definition is too broad – encompassing genuine legislative advocacy initiatives undertaken by groups around the city – especially in light of the fact that the 90 day timeline before an election can coincide with City budget negotiations. In addition to union groups, many non-profits around the City take part in issue campaigns aimed at specific elected officials around budgetary matters. There is genuine concern that if some of these activities are captured by the electioneering communication definition non-profits and base building groups will not be able to engage in advocacy work.

One possible way to reconcile the definition of electioneering communications is to limit the reportable expenditures to **public communications**– thereby avoiding chilling the speech of non-profits and member organizations that routinely engage in genuine legislative advocacy around such issues as the New York City budget and specific bills brought before the Council. The Federal definition states that a communication is publicly distributed “if it is disseminated

for a fee by a television station, radio station, cable television system or satellite system” and we believe that keeping reportable expenditures within this very public scope is reasonable. We understand that the Federal definition may not capture some publicly distributed materials- such as mailers or other campaign literature – and think that defining public communication based on the understanding that certain communications are public if it is reasonable to assume that the communication will reach a to-be determined number of people in the public is a good starting point.

Federal guidelines suggest a 60 day disclosure requirement for electioneering communications for Federal elections prior to a general election and 30 days prior to a primary election. Common Cause/NY believes the CFB proposed 90 days is too long and suggests a 30 day disclosure requirement. We would also like to highlight the possibility that the primary date for the elections will be moved and in light of this change the CFB would have to revisit the timeline.

All too often, large independent expenditure campaigns are conducted in the name of an inoffensive sounding committee or one with a totally misleading name, hiding the identity of the special interests bankrolling the electioneering. There is a great interest in capturing “sham campaigns” that seek to cover-up electioneering communications as genuine issue advocacy. It is for this reason that Common Cause/NY also supports disclosure of the three largest contributors on the communication of any independent expenditure made to the public so that the electorate can be informed of who is behind the messages they are seeing and hearing. We are in favor of the Los Angeles reporting requirements that requires that campaign communications funded by an independent expenditure supporting or opposing City candidates shall include the phrase “Not authorized by a City candidate,” and shall also include the name of any contributor of \$25,000 or more to a committee funding the independent expenditure. Examples of such types of disclaimers from the LA system are attached.

It is for these reasons that Common Cause/NY makes these specific suggestions regarding the independent expenditure rules:

- **Any communication specifically and narrowly addressed to a member (live or recorded phone call, mail, email sent only to members), irrespective of whether it contains express advocacy or an electioneering communication should be exempt. So, a mailer that says, for example “SEIU endorses Jane Doe” that goes only to members is exempt. Common Cause/NY believes that it is the delivery directly to a particular person (i.e., a member vs. public dissemination) which controls whether it should be defined as an independent expenditure, not the form of the communication.**
- **The Electioneering Communication definition is too broad and thought should be given to narrowing the scope by requiring disclosure of public communications. The federal definition that a communication is publicly distributed “if it is disseminated for a fee by a television station, radio**

station, cable television system or satellite system” for purposes of electioneering communications provides a good starting point but may not capture all electioneering communication and thought should be given to expanding the types of communications included while limiting the definition to public communications.

- **The period for disclosing an electioneering communication should be shortened to 30 days prior to an election**
- **Campaign communications funded by an independent expenditure supporting or opposing City candidates or any ballot initiative should follow the Los Angeles model and include the names of any contributor of \$25,000 or more to a committee funding the independent expenditure, as well as contain a disclaimer that it is not funded by any City candidate.**

Lastly, as we move along in this process we need to ensure that there is a robust reporting system in place to make it relatively easy to report the expenditures, as well as to search and analyze the reports.

We thank the board for their willingness to undertake such an important rule making process to increase disclosure of independent expenditures and ensure that the public is adequately educated about what they are seeing and hearing during election time. We look forward to continuing to work with the CFB to strengthen and enhance independent expenditure reporting requirements. Thank you once again for providing me with the opportunity to speak today.

*Elect*



**JOSE**

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**FOR CITY COUNCIL**



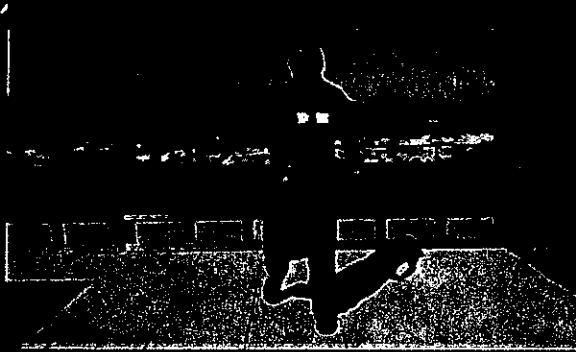
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Ed Lee Is... 2 LEGIT 2 QUIT (MC Hammer, Brian Wilson, will.i.am, Ashkon)



Watch Brian Wilson Dance



Watch the Cameos

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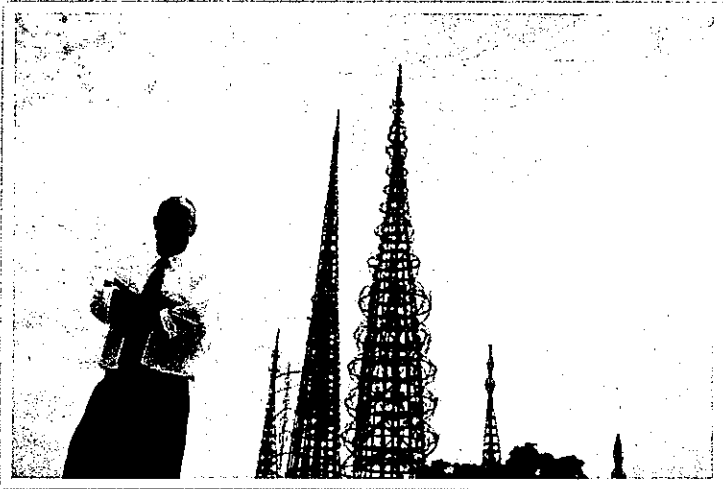
# Pat McOsker FOR CITY COUNCIL

*Fighting for local jobs  
and new opportunities*

ON TUESDAY, NOVEMBER 8th

**VOTE for LOCAL JOBS**

**Pat McOsker** FOR CITY COUNCIL



**Vote Pat McOsker for City Council on Tuesday, Nov 8th**

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# Pat McOsker is fighting for local jobs in our community

## **PROTECTED OUR NEIGHBORHOODS**

Pat McOsker has served as a firefighter and first responder, working at every neighborhood fire station in our community. As the president of the United Firefighters of Los Angeles, Pat McOsker has stood up to politicians and stopped them from making bad decisions that would hurt our neighborhoods and cost us local jobs.

## **FOUGHT FOR LOCAL JOBS AND YOUTH PROGRAMS**

Pat McOsker helped deliver new fire stations, created thousands of jobs, and helped expand after-school and job training programs for our youth.

**Now he's running for City Council to bring accountability to City Hall and push job creation as a top priority to get our economy back on track.**



## **PAT McOSKER'S PLAN FOR JOB CREATION AND ECONOMIC GROWTH**

We have a naturally diverse economy because of the strength of small and start-up companies in Los Angeles, including: logistics, clean tech, fashion, entertainment, intellectual property, finance, retail and hospitality. More business and good development means more jobs and a greater tax base.

As the president of the United Firefighters of Los Angeles, Pat McOsker has real experience on important budget and economic issues through many years of negotiations with three mayors, dozens of councilmembers and many city departments.

Improving the business climate will create more opportunities, more investment, more jobs, and a greater tax base to provide government the resources to accomplish its core functions. **HERE ARE SOME OF PAT'S PRIORITIES:**

- ▶ Expand and invest in the port to create jobs and economic opportunities
- ▶ Promote business and jobs to create a vibrant local economy and tax base
- ▶ Support the LAX modernization and continue progress on the Bradley Terminal
- ▶ Keep DWP rates for water and power clean, reliable and reasonably priced
- ▶ Fight for local hire and local purchasing programs at the Port, Airports and DWP
- ▶ Cut red tape that restricts job creation and puts a burden on small businesses

Please visit [patmcosker.com](http://patmcosker.com) to read Pat's entire jobs plan



## **Pat McOsker for City Council** VOTE TUESDAY, NOVEMBER 8th