

ACTION CALENDAR

December 12, 2006

To: Honorable Mayor and
Members of the City Council

From: Councilmember Dona Spring

Subject: Use of Public Funds for membership in organizations making political
endorsements.

RECOMMENDATION:

That the City Council requests a City Manager drafted policy that will prohibit city memberships in organizations that participate in electoral politics such as the Berkeley Chamber Of Commerce.

BACKGROUND:

It is recommended that the City Council support a policy of not using public funds for memberships in organizations that participate in electoral politics. In the November 2006 election the Berkeley Chamber formed a political action committee which endorsed candidates and ballot measures and raised money to pay for mailers on behalf of their endorsements. Public funds are prohibited from being expended in organizations that support political activities. This action is prudent in order "to avoid potential civil or criminal penalties for using public resources to pay for memberships in organizations that participate in local political the city manager's office (please see attached news clipping.) The Chamber of Commerce and its political action pack were affiliated, with similar officers and office space. The Office of Economic Development and the Fire Department are two of the city departments paying for Chamber memberships.

FINANCIAL IMPLICATIONS: a savings benefit or at least \$700

CONTACT PERSON: Councilmember Dona Spring 981-7140

Attachment

1. Berkeley Daily Planet Article

Richmond City Council Drops Chamber Membership

by Judith Scherr, Berkeley Daily Planet, page 1, 11-17-06

The Richmond City Council voted Nov. 14 to drop its membership in the Richmond Chamber of Commerce "to avoid potential civil or criminal penalties for using public resources to pay for memberships in organizations that participate in local political activities," according to an e-mail from Richmond City Councilmember Tom Butt.

A letter to Richmond City Attorney John Eastman from consulting attorney Jayne Williams of Meyers, Nave, Riback, Silver & Wilson, cites the case of *Stanson v. Mott*, from which she concludes that "such a membership paid for from the city's treasury would undermine established jurisprudence and public policy that the public's time, money or other resources may not be used to promote or oppose ballot measures or for other political campaign purposes?."

Williams further cites California state government code Section 54964(a) which says: "An officer, employee, or consultant of a local agency may not expend or authorize the expenditure of any of the funds of the local agency, to support or oppose the approval or rejection of a ballot measure or the election or defeat of a candidate, by the voters."

In Berkeley, the City Manager's Office pays \$245 membership dues annually to the Berkeley chamber as does the Fire Department, according to budget manager Tracy Vesely. (The Police Department is listed as a Chamber member, but payment of dues has not been verified.)

This year the Berkeley Chamber of Commerce endorsed candidates for mayor and City Council and for and against ballot measures, as it has in previous elections.

The Daily Planet asked Deputy City Attorney Kristy van Herick, who is secretary to the Fair Political Campaign Practices Commission, whether Berkeley could be similarly in violation in belonging to an organization that supports and opposes political candidates and measures. Van Herick, however, said that since the question does not fall within the purview of Berkeley's local election law, she is unable to respond.

Berkeley City Manager Phil Kamlarz did not return calls before deadline.