



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM  
EXECUTIVE DIRECTOR

**Date:** October 18, 2017

**To:** San Francisco Ethics Commission

**From:** LeeAnn Pelham, Executive Director

**Re:** **AGENDA ITEM 9 – Information on Legislative Items of Interest to Commissioner Kopp**

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**Summary** This item provides information about two legislative concepts regarding 1) the misuse of public campaign funds, and 2) the use of “Cash-Out Proceeds” for a political purpose, which Commissioner Kopp has requested be brought forward for review and possible action by the Ethics Commission.

**Action Requested** No action is required at this time, however Staff will proceed as requested per any policy direction provided by the full Commission.

### Background

At the Commission’s regular monthly meeting on September 25, 2017, Commissioner Kopp asked about the status of two items of pending or proposed legislation about which he had previously communicated with Staff. He has requested that they be reviewed and scheduled for action at the Commission’s October meeting.

#### 1. Misuse of Public Funds

In June, Commissioner Kopp relayed to Staff language provided to him by Supervisor Safai regarding the misuse of public funds and requested research on any misuse of public funds in the context of the receipt of public financing dollars:

“Any individual who has received public financing and has utilized that public financing during their campaign for office and subsequently cannot account for the use of that public financing in a manner required by the Ethics Commission shall be barred from receiving public financing for any subsequent campaign until and when the Ethics Commission has received the full accounting of the use of previously-received public-financing dollars from that same individual and his or her campaign.”

In July, Staff conducted preliminary research of prior Commission audits and enforcement actions but did not find instances that to date that have revealed the unlawful expenditure of public matching funds.

## 2. Cash-Out Proceeds

On September 5, 2017, Staff received information from Supervisor Farrell's office at the request of Commissioner Kopp about an ordinance Supv. Farrell had sponsored to prohibit the use of cash-out proceeds for use in a political campaign.<sup>1</sup> "Cash-Out Proceeds" are funds received in connection with any sale, transfer or refinancing of an Affordable Housing development, any and all funds received by an Owner of an Affordable Housing development that are not needed or utilized to retire existing debt or construct, improve or preserve the Affordable Housing development. The proposed ordinance was introduced at the Board of Supervisors on January 24, 2017. The Board voted on it on March 21, 2017 and the Ordinance failed by a 3-8 vote.

Given Staff's ongoing priority focus on the development and refinement of the Commission's proposed *2017 Anti-Corruption and Accountability Ordinance*, we have not yet conducted further review of or research on either topic.

### **Considerations and Next Steps**

This item has been agendaized to enable the Commission to determine how it wishes to proceed regarding these two items to provide its policy direction to Staff.

By way of background, to help manage the volume and flow of its policy work, the Commission in 2016 adopted the practice of using an Annual Policy Plan as a tool to assist it in prioritizing and sequencing policy matters it planned to consider during the coming year. In adopting the Plan, the Commission considered several guiding principles that would help guide its assessments:

- the most significant areas of policy most overdue for examination;
- areas of known policy gaps where the risks posed by those gaps are greatest;
- current programs or policies most in need of evaluation to identify effectiveness gaps;
- ensuring policies are addressed as part of a comprehensive whole rather than piecemeal, wherever possible, to ensure approaches to one issue also support the overall goals of related policies;
- establishing processes for policy analysis and development that broadly engage the public; and
- emerging issues not yet addressed by existing policies, but should be.

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<sup>1</sup> See attached email from Jess Montejano dated 9/5/2017 at Attachment 1.

To promote its effectiveness in rigorously assessing existing laws, addressing emerging policy issues, and ensuring strong, workable, and enforceable legislation and regulation, the Commission adopted its Annual Policy Plan premised on three key goals:

*Advancing the Commission's pro-active, independent policy role.* An annual process to identify key programs and policies most in need of attention helps regularize the Commission's processes for ensuring effective legislation and regulation. It also can serve to deepen policy engagement with interested persons to identify, evaluate, and develop policies and regulations.

*Predictability for Improved Policymaking.* Communicating how the Commission is prioritizing issues helps support continuity and predictability in the work it has planned. In turn, that can help the general public and those who follow the Commission's policy work most closely engage effectively on issues they care about, for example, through effective outreach and Interested Persons meetings.

*Flexibility.* As with any plan, some flexibility is needed to allow for the unanticipated, particularly when issues emerge with some time sensitivity. Effectively shaping public policies demands that the Commission's policy work allow for its scope and pace to adapt, when needed. For example, the Commission may determine that emerging issues that are urgent or time-sensitive should be placed ahead of others previously identified and sequenced on its Annual Plan. Alternatively, the Commission may direct that other items of significance that have lower urgency be sequenced accordingly.

For reference, as the Commission considers how it wishes to proceed, the Annual Policy Plan that has been updated for the month of October appears as part of Item 10 on the October 23<sup>rd</sup> meeting agenda.

**From:** [Montejano, Jess \(BOS\)](#)  
**To:** [Pelham, Leeann \(ETH\)](#); [Kundert, Kyle \(ETH\)](#)  
**Cc:** [Kopp, Quentin \(ETH\)](#)  
**Subject:** Affordable Housing Cash Out Proceeds Restrictions in Upcoming Ethics Package  
**Date:** Tuesday, September 5, 2017 5:23:02 PM

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Leann/Kyle –

Hope all is well. Here is a link: <https://sfgov.legistar.com/LegislationDetail.aspx?ID=2946975&GUID=4ADEAC6C-9183-4D4E-9DFC-A4EA03D8F74E&Options=Advanced&Search=> to an ordinance that was considered by the Board that would have set limitations on profits used from “cash out proceeds” by affordable housing developers for purely political purposes. Commissioner Kopp requested that I send you the full language of the ordinance, so that it can be possibly included in the upcoming package of ethics reform policies that is working its way through the Commission.

Please let me know if you have any questions, or if I can be helpful in any other way.

Thanks,

Jess

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