

Posted on Fri, Jul. 22, 2005

## **Report: Election fund rule violated**

**Group says councilman raised too much; city says law misinterpreted**

**By John Higgins**

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Akron City Councilman Dan Horrigan, D-1, violated Akron's campaign finance law in 2003, accepting \$2,050 more than the law allows from single sources, according to a report issued this week by reform advocates.

But the city says the report by the Northeast Ohio American Friends Service Committee is inaccurate and Horrigan and other council members accused of violations have done nothing wrong.

The accusations -- based on how the campaign finance reform advocates believe the law should be interpreted -- come just a few months before every sitting council member faces election.

The same reform advocates, Greg Coleridge of AFSC and attorney Warner Mendenhall, made the same claims using the same arguments in 2003 against Akron Mayor Don Plusquellic.

"Their entire agenda is capital-P Politics," Horrigan said of Mendenhall and Coleridge.

"They're rehashing the same old argument."

The debate revisits a four-year battle in the federal courts to determine if Akron's voter-initiated 1998 charter amendment was constitutional.

To sort it all out requires some history and context.

That 1998 charter amendment that said candidates for ward seats couldn't accept more than \$100 from a single source and candidates for at-large council seats or for mayor couldn't accept more than \$300 from a single source.

The city took the case to federal court, hoping to get the whole law declared unconstitutional because the limits were too low.

During the court battle, parts of the law were declared unconstitutional, but much of it survived. By early 2003, Akron had one of the most stringent campaign finance laws in the country.

The charter amendment required that the City Council pass an ordinance, consistent with the amendment, that enabled its enforcement.

The law department drafted that ordinance and in July 2003, the City Council -- including Ward 2 Democrat Joe Finley who helped pass the original amendment -- voted unanimously to pass it.

Coleridge and Mendenhall, like Finley, had some minor suggestions, but ultimately they urged its passage as well.

But after seeing how it was applied in the 2003 election, Mendenhall and Coleridge now believe the council-passed law is flawed.

“I don't care what the ordinance says,” Mendenhall said. “They're not enforcing the charter.”

### **`Per election' limits**

Here's what Mendenhall and Coleridge most dislike about the ordinance they initially supported:

It specifies that contribution limits are set “per election” and defines “per election” to mean any ballot in which a candidate's name appears.

In a typical election year, that would be the primary election in September and the general election in November.

That means that a candidate for a ward seat may collect \$100 from an individual for the primary and *another* \$100 from that person for the general election.

Finley says he doesn't regret his vote supporting the ordinance and has made no attempt since then to amend it. However, he said he never intended for the limits to apply to both elections separately.

“Although we did raise some issues, it didn't pertain to this particularly,” Finley said. “We were not going to go against the balance of the ordinance. It was a hard-fought victory to get it at all.”

Although Mendenhall recalls not being entirely satisfied with the ordinance, he said he didn't want to delay the implementation any longer, either.

He filed suit last year asking a judge to clarify the contribution limits, but he voluntarily withdrew it. He might consider filing again, but he hopes the law department will enforce the charter to his satisfaction.

“We have to go back beyond the ordinance to the charter itself,” Mendenhall said. “They are violating the charter and the charter is law.”

And it's through that lens that Coleridge says they are judging the compliance of the mayor and City Council members in the last election.

In 2003, Mendenhall and Coleridge accused the mayor of taking in \$600 per single source instead of the \$300 limit. The city said it was \$300 per election and there were two elections, although Plusquellic faced no opposition in the primary.

The current report accuses the Law Department of failing to investigate Plusquellic's filings, particularly for three contributions that exceeded even the \$600 limit.

Cheri Cunningham, an assistant Akron law director, said those contributions were investigated. The law department determined they were legal because they came from partnerships and state law allows a contribution to be allocated among the partners, she said.

The report released this week mostly looks at council members and applies the same interpretation -- that the limit is for both the primary and the general together, not for each separately

Mendenhall also considers contributions made in 2001 and 2002 fair game in the calculations, but the city says the law went into effect in 2003 and is not retroactive, so those contributions shouldn't be counted.

If reform advocates don't like the ordinance, they can change it, Akron Law Director Max Rothal said.

``The law has been set forth. It's specific and there's a presumption of constitutionality," Rothal said. ``They liked it before when it was passed; now they don't like it. The law can't be interpreted by what they like one day and don't like another day."

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