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Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

October 30, 2003

AO-03-06

Debby D'Amico, Assistant Webmaster
150 Emmons Street
Franklin, MA 02038

Re: Announcing Political Fundraisers on a Municipal Website

Dear Ms. D'Amico:

This letter is in response to your September 22, 2003, request for an advisory opinion as to whether announcements for political fundraisers may be posted on the Town of Franklin's website.

The Town of Franklin pays to host a website (*www.franklin.ma.us*) developed and maintained by the Franklin Web Committee, which is comprised of unpaid volunteers. The website has a "Town Crier" feature that enables members of the public to post non-commercial notices that are identified by category ("town," "community," "school," "business," or "general") and type ("event," "meeting," "meeting minutes," "news," "offer," "registration," "report," "update"). Each notice appears on its own web page. Hyperlinks to some notices are featured under a "Town Crier" heading on the website's home page and there is also a separate page containing hyperlinks to all of the current "Town Crier" notices.

Any group or individual is welcome to submit a notice for posting on the "Town Crier" portion of the website. You have indicated that notices submitted for posting are generally approved unless a notice is redundant or otherwise violates the terms and conditions stated on the website, which safeguard against offensive, commercial or prank postings. Recent postings have included announcements for athletic events, a local play, volunteer opportunities, a religious seminar, a flea market, and a high school reunion.

To post a notice, an individual accessing the website from any personal computer need only click on either the "submit" hyperlink next to the "Town Crier" heading on the homepage or one of the "submit your organization[']s notice" hyperlinks found on the "Town Crier" page or in the body of each current notice. The individual is then asked to complete an online form requiring the following information: his or her name and telephone number; the title, category and type of the notice; and

dates that the notice should appear. In addition, certain optional information is requested including the location, date(s) and time of the event; the name of the sponsoring organization; and contact information. There is a large text field where supplemental information may be typed, and an option to include a hyperlink to any outside website on the final notice page. Once the form is completed, there is a button for an individual to click on to submit the request.

After a request to post a notice is submitted, an e-mail is automatically generated to Webmaster Les Barnes, who is an unpaid volunteer. The e-mail notifies Mr. Barnes that a notice has been submitted and provides a hyperlink to a page where he is able to review the completed on-line form. This page is identical to the request page completed by the interested party, except instead of a "submit" button on the bottom, there are two buttons giving Mr. Barnes the options of either approving or rejecting the notice. If the request is approved, the notice is automatically posted on the town's website; rejected requests are not. Either way, the requesting party is automatically notified of the outcome via e-mail. Notices that are posted are automatically removed from the site when the notice has expired.

This process is usually undertaken by Mr. Barnes on his own time. You have indicated that you manage the notice requests when Mr. Barnes is not available. In addition to your volunteer position as Assistant Webmaster, you are also employed by the Town of Franklin.

On behalf of the Web Committee you presently seek guidance as to whether a political party committee could use the "Town Crier" feature to announce a political fundraiser.

QUESTION

May a local party committee utilize the on-line "Town Crier" feature described above to post announcements regarding campaign events, including fundraising events?

ANSWER

Yes. As long as equal access is provided to any party committee that wishes to utilize the "Town Crier" service, there is nothing in the campaign finance law to preclude a political party committee from posting campaign fundraising and other events on the town website under the circumstances set forth above.¹

In Anderson v. City of Boston, 376 Mass. 178 (1978) appeal dismissed, 439 U.S. 1069 (1979), the Supreme Judicial Court concluded that the City of Boston could not appropriate funds, or use funds previously appropriated for other purposes, to influence the vote on a statewide ballot question. Based on this opinion, public resources may not be used to *support or oppose* political parties, candidates or ballot questions. The Anderson opinion does not prevent public resources from being used in a political context where the resources used are minimal and serve the legitimate, neutral purpose of promoting voter participation or interest in the political process. Consequently, this office has consistently advised that political candidates and committees may be offered access to certain public resources as long as similar access is afforded to all committees or candidates on the same terms.²

¹ Your letter was limited to the propriety of a local party committee's ability to post fundraiser announcements on the "Town Crier." It should be noted that the Web Committee could also permit candidates and other political committees to post fundraiser announcements on the "Town Crier" subject to equal access as described in this opinion.

² Conversely, a municipality may also prohibit such access, provided the restriction applies equally to all candidates and committees.

For example, in AO-01-29, this office advised that, subject to equal access, a municipality could include links on its website to the websites maintained by local party committees, even if the local party committees' websites solicited contributions, votes or volunteers; or contained express advocacy supporting or opposing candidates, political parties or ballot questions. The same principles apply here. See also AO-99-14 and AO-99-15 (advising that a city may provide either space or a link on its website to all local candidates).

In addition, while the town website is run by volunteers, some of these individuals, like you, may also be appointed public employees. Therefore, it is important to mention that the manner in which notices to the "Town Crier," are submitted and posted appears to comply with M.G.L. c. 55, §§ 13-14, the provisions of the campaign finance statute that restrict political activity by government employees and in public buildings. Section 13 of the campaign finance law prohibits the solicitation or receipt of political contributions by appointed public employees. Section 14 of the campaign finance law provides that no person, whether public employee or otherwise, shall "in any building occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value" for political campaign purposes.

Because notices are automatically generated based on on-line request forms completed by groups and individuals, the process would not constitute improper political fundraising activity by an appointed public employee. Any administrative tasks associated with the posting process or the maintenance of the website by a government employee would be consistent with Section 13 because such functions are unrelated to the actual request for funds, and do not constitute the solicitation or receipt of political contributions. See AO-88-25 (advising that a public employee may perform clerical tasks such as data entry in connection with political fundraising). Finally, Section 14 is not implicated where the "Town Crier" feature is used to post fundraising announcements because the process described above does not involve a political solicitation in a building occupied for a governmental purpose.

This opinion is issued solely within the context of the Massachusetts campaign finance law and is based on the representations made in your letter and to OCPF's staff. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned to the left of a vertical line that extends downwards from the end of the signature.

Michael J. Sullivan
Director

MJS:bp