

## **Background on CB 20-1194, Suspension of Fair Elections Fund transfer for 2021**

**From:** Flynn, Kevin J. - CC Member District 2 Denver City Council

**Sent:** Thursday, October 8, 2020 10:23 PM

**To:** # City Council Councilmembers <#CityCouncilCouncilmembers@denvergov.org>

**Subject:** Budget follow up data

Colleagues,

I wanted to provide a little more background for my suggestion that we consider reducing or suspending the annual \$2 million general fund transfer to the Fair Elections Fund and instead, in this year of an extraordinarily difficult financial emergency, rely on that to fund some of our identified budget amendment priorities that the mayor's proposed budget didn't sufficiently address.

I had a cordial discussion Thursday morning with one of the drafters of the original initiative, Owen Perkins, who understandably will oppose this. We compared data that both he and I had researched, and his main point was that the public financing of city election campaigns passed by a large majority, and should be respected. I do not disagree in the least, and I believe both our data show that a reduction or full suspension of the transfer this year does no harm at all to the voters' intent and that the fund would still have sufficient capacity in 2023 to fund all the demand.

First, the Fair Elections Fund legislation itself, as originally drafted by Owen and his partners, literally contains the permission to do this. It anticipated that there could be a year just like the one we face, and the voters authorized us to consider this. It would take nine votes of the body: *Sec. 15-51(b)(4) - The city council may, by adoption of an ordinance by not less than a two-thirds (2/3) vote of its membership, make an official declaration of fiscal emergency and suspend or reduce the amount of the annual appropriation specified in this subsection.*

Second, a review of spending by all of the candidate committees that engaged in the 2019 election cycle shows that all 51 separate campaigns combined could not have received any more than a maximum total of \$4.3 million in Fair Elections Fund matching money for the full four-year cycle if the rules of 2E had been in effect then. The real number would be much less had I taken the time to pull out donations over the new lower limits and donations from non-Denver residents that aren't eligible for matching funds. But at worst, the \$8 million fund would have had a remaining balance of \$3.7 million. That's a huge cushion when we're considering suspending up to \$2 million of it in our present emergency.

I feel fairly confident in this, because Owen's website CleanSlateNow did its own calculation of 2019 election funding as of April that year, just before the May election, and published a figure of just under \$2.7 million it estimated the Fair Elections Fund would have given to the 51 candidates up to that point.

Now it's fair to note, as Owen and I discussed, that if the 2E rules had been in effect last year, campaigns might have used different fundraising strategies, so we won't know until 2023 how this will actually work. But the plus-margin of \$3.7 million surplus remaining the fund after paying out the matches should give us reason to consider this approach.

And finally, to reiterate what I said during our budget meeting, it would be tone-deaf in a year when city workers are being forced to take eight-day furloughs without pay and more next year, and agencies and programs are being slashed, for this body to declare as off-limits a \$2 million taxpayer gift to the future political campaigns that we and our opponents will wage.

I respectfully ask that we seriously consider this approach.

Kevin

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**From:** Flynn, Kevin J. - CC Member District 2 Denver City Council <Kevin.Flynn@denvergov.org>  
**Sent:** Thursday, October 15, 2020 12:56 PM  
**To:** Lopez, Paul D. - C&R Elected Clerk and Recorder <Paul.Lopez@denvergov.org>; Volkosh, Dan J. - C&R Administrator III <Daniel.Volkosh@denvergov.org>; Szekeres, Andrew J. - C&R Campaign Finance Administrator <Andy.Szekeres@denvergov.org>  
**Subject:** Fair Elections Fund

Paul, Dan and Andy,

CM Kashmann forwarded your memo about the Fair Elections Fund to me, and I question some of the assumptions. First, the statement that "there will be a record number of term-limited vacancies" in the 2023 election isn't true at all; it's actually the second-lowest total ever. There are only four elected officials who are term limited in 2023 -- mayor, two at-large council seats and Council District 8. The record year was 2003, when term limits took effect. That year, 12 of 15 elected positions were left open, and there were 70 total candidates. When I ran in 2015, there were seven open seats and 50 total candidates for all races. There also were seven open seats in 2011.

I also would question the assumptions in the spreadsheet of disbursements from the fund. While assuming 60 total candidates might be reasonable because of the attraction of taxpayer-funded matching money, it isn't reasonable to expect every one of them will achieve the threshold of donors required to start receiving any money from the fund. Your scenario shows 14 candidates for mayor all surpassing the threshold. A look at candidate reports from prior elections shows how difficult it is even for council candidates to surpass the lower limit of 100 Denver resident donors.

I think the estimate that \$7.4 million will be disbursed is therefore much higher than reasonable.

Kevin

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**From:** Flynn, Kevin J. - CC Member District 2 Denver City Council  
**Sent:** Wednesday, October 21, 2020 12:01 PM  
**To:** # City Council Councilmembers <#CityCouncilCouncilmembers@denvergov.org>  
**Subject:** Use of Fair Elections Fund

Colleagues,

I wanted to send this in conjunction with a budget update at ops, to let you know that the clerk's office is re-doing the memo it sent earlier that had a scenario of the 2023 election estimating \$7.2 million would be disbursed from the Fair Elections Fund. It's re-doing it after I pointed out some of the flawed assumptions that went into it.

Clerk Lopez's letter last night opens up additional consideration, depending on the response from the council and the administration on a commitment to backfill this suspension. While I do not believe a full \$8 million fund is necessary, it is worth discussing. In addition, to address a concern I've heard from 2E backers that this could set a precedent for suspending the transfer again in 2022, I personally commit to oppose a second suspension, given that my analysis of the 2019 election cycle showed more than \$4 million would be needed to fully fund the demand.

The \$4.3 million figure I derived as the maximum possible public match for all 51 candidate committees in the 2019 election cycle is an absolute ceiling, and the real figure would have been significantly less. That's because I used the gross total spending by all committees without then reducing it by the amount of contributions no longer permitted (non-natural-person sources such as PACs, corporations, LLCs, unions, etc), by the amount of contributions that exceed the new lowered limits (e.g., \$1,000 max for district council candidates now lowered to \$200), and by filtering out any contributions that came from people who don't live in Denver, which aren't eligible for a match.

The true figure would have been much lower.

Finally, a review of research on the topic of publicly funded elections of the type adopted in Denver found no direct evidence that it leads to a significantly greater number of candidates than what we've seen in the past. The most crowded ballot in recent Denver history was 71 in 2003, when term limits first kicked in, and there were 12 open seats out of 15 elected offices at the time (clerk and recorder was an appointee in 2003). The 2023 election will have four open seats.

Kevin

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**From:** Flynn, Kevin J. - CC Member District 2 Denver City Council  
**Sent:** Thursday, October 22, 2020 11:54 AM  
**To:** # City Council Councilmembers <#CityCouncilCouncilmembers@denvergov.org>  
**Subject:** Fair Elections Fund bill

Colleagues,

Due to the charter deadlines we have to work with in approving the annual budget, I filed a bill today to suspend the general fund transfer in 2021 to the Fair Elections Fund. Because of the discussion in ops committee yesterday, and the information from Clerk Lopez, I drafted it so that most of it is restored prior to the 2023 election. The bill draft includes a requirement that the 2022 general fund transfer be set at \$2.5 million, and the 2023 transfer at \$3 million. With the \$2 million already transferred this year, that would make the transfers to the fund total \$7.5 million. I filed this after consultation with Brendan Hanlon and with the mayor's office.

Whether the body proceeds this way or not, I had to file the bill today in order for it to be aligned with budget amendment votes on Nov. 2 and final adoption Nov. 9.

If you have any questions about this, I'm available to answer. Thanks.

Kevin