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ATTACHMENT 1

MEMORANDUM

TO: Mayor and Town Council
W. Calvin Horton, Town Manager

FROM: Ralph D. Karpinos, Town Attorney

SUBJECT: Cary Public Campaign Finance Case

DATE: April 2, 2003

Yesterday the Wake County Superior Court affirmed the decision of the North Carolina Board of Elections in an appeal brought by the Town of Cary. The State Board had ruled that Cary's contributions to candidates running for Cary municipal office were subject to the state limitation on contributions (\$4,000). Attached is an article from today's News and Observer.

Ruling upheld against Cary

By LORENZO PEREZ, Staff Writer

RALEIGH -- A Wake Superior Court judge Tuesday upheld a State Board of Elections ruling against the town of Cary's campaign financing program and two Town Council members who were ordered to repay nearly \$16,000 they received through the first-in-the-state initiative.

Judge Ripley E. Rand ruled that the elections board did not exceed its statutory authority June 25 when it ruled that Cary had broken state law by giving too much money to council members Jack Smith and Julie Aberg Robison for their 2001 runs for office.

The council members and town officials had argued that municipalities don't fall under the same \$4,000-per-election contribution limits governing individuals and political action committees.

But the elections board ruled that municipalities do -- and that Smith and Robison should repay any town contributions of more than \$4,000. If Rand's ruling isn't overturned by a higher court, Robison, a council newcomer who defeated seven rival candidates for an at-large seat, would have to pay back \$12,910 of the \$16,910 she received from the town; Smith, \$2,981 of the \$6,981 he collected.

Attorney Michael Crowell, who represented the town, Smith and Robison, said Tuesday that he would have to confer with all his clients to decide whether to appeal Rand's ruling to the state Court of Appeals.

Smith said he was "deeply saddened and troubled" by Rand's decision, adding that the council spent months vetting its campaign finance program and held a public hearing before its approval.

Under the plan, the town offered matching funds to top vote-getters if the candidates limited their spending.

Smith, Cary's mayor pro tem, said he questions the timing of the board's ruling, well after the election results were final, which he said shows it was political.

"That's unconscionable and immoral," Smith said. "I hope we move forward and appeal this."

An urban planner with the Research Triangle Institute, Robison was in Bulgaria on business this week and unavailable for comment.

Other municipalities considering their own campaign finance programs are following the case closely, Crowell said. With neither the state elections board nor the courts willing so far to support any municipal financing plan that offers candidates more than \$4,000, Crowell said new legislation could be introduced in the General Assembly to assert municipalities' rights.

Cary's Town Council approved its campaign finance program in December 2000 to limit the influence of special interests and individual contributors in local elections.

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