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REPORT TO THE COMMITTEE ON BUDGET AND FINANCE

LEGAL EFFECT OF CHANGING NAME OF "COUNCIL POLICY" TO "CITY POLICY"

INTRODUCTION

The Committee on Budget and Finance has asked this Office to review the term "Council Policy" in light of the new Strong Mayor form of government and discuss the legal effect of changing the name of "Council Policy" to "City Policy."

DISCUSSION

The City of San Diego sets forth its policies in various documents such as Council Policies, Administrative Regulations, and Department Instructions. Council Policies are the policy statements of the City Council not covered by ordinance. Council Policy (CP) 000-01 establishes a "Council Policy Manual" which contains "all City policy statements adopted by resolution of the Council." Generally, policy statements in the Council Policy Manual will include municipal matters for which the responsibility of decision is placed in the City Council by virtue of the City Charter, the San Diego Municipal Code, or specific ordinances and resolutions. Council Policy 000-01.

The City Charter provides that the City Manager may prescribe such general rules and regulations as he may deem necessary or expedient for the general conduct of the administrative Departments. San Diego Charter § 28. These rules and regulations are of a continuing nature and are known as Administrative Regulations (AR). The Charter gives similar authority to the Director of each Department to issue rules and regulations for the proper conduct of the Department so long as the Department's rules are not contrary to any AR. San Diego Charter § 28. These rules and regulations issued by a Department Director are known as Department Instructions. San Diego Admin. Reg. 1.00 § 2.

On June 8, 2010, the electorate voted to make "permanent" the new Strong Mayor form of government. Under the Strong Mayor structure, all executive authority, power and responsibilities of the appointed City Manager conferred in Articles V, VII, and IX of the Charter were transferred to the Mayor. *Id.* The Mayor now has the authority to provide rules and regulations for the conduct of Administrative Departments. The Department Director's ability to formulate rules for their departments remains unchanged.

The City Council retains its legislative powers under Strong Mayor except most resolutions and ordinances passed by the Council are now subject to a mayoral veto. San Diego Charter §§ 250-295. Nothing in the recently enacted Strong Mayor amendments affects the Council's ability or authority to enact City policy statements. However, as we have said in prior opinions, these policies may not mandate or dictate the administrative operations of a City Department. City Att'y Report 2010-30 (July 26, 2010). Whether they are called "Council Policy" as set forth in CP 000-01 or called "City Policy" is a matter left up to the discretion of the City Council.

CONCLUSION

Policy statements made by the City Council today have the same force and effect as those made before the Strong Mayor change. The City Council may in its legislative discretion rename "Council Policy" as "City Policy." However, a name change would not impact the legal significance given to such policy statements.

Respectfully submitted,

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