

May 9, 1988

REPORT TO THE COMMITTEE ON PUBLIC FACILITIES AND RECREATION
WHETHER THREE MEMBERS OF A COUNCIL COMMITTEE CAN REPORT AN ITEM
OUT OF COMMITTEE "WITHOUT RECOMMENDATION" WITHOUT ALLOWING
DISCUSSION BY COMMITTEE MEMBERS OR THE PUBLIC

Item 11 on the Public Facilities and Recreation Committee agenda of April 27 was the "Report from the City Manager on a lease agreement between the City of Escondido and the City of San Diego." The item involved a proposal to lease an approximately 40-acre parcel of City-owned land in San Pasqual Valley to the City of Escondido for use for golf course operations.

One committee member had indicated earlier in the meeting that he had to leave at 12 noon. The committee did not commence discussion of the item until slightly after noon, and without a discussion, and while all five committee members were still present, a motion was made and seconded to report the matter out of committee to the City Council "without recommendation."

The chair then asked for a vote on the motion and there were three "ayes." At that point, committee member Wolfsheimer indicated that she was not ready to vote either yea or nay on the matter and requested an opportunity to speak to the issue.

Councilwoman McCarty, the committee chairperson, thereupon indicated that the committee was about to lose a quorum and she was unwilling to entertain further discussion on the matter either from the members of the committee or from the public.

Committee member Wolfsheimer then asked this office to report back as to whether the item had, in fact, been legally moved out of the committee to the City Council.

Our conclusion is that, as a legal matter, the item was, in fact moved to the City Council "without recommendation." Our conclusion is based primarily on the fact that three committee members voted in favor of sending the item to the City Council.

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Rule 17 of the Permanent Rules of the City Council is entitled "Conduct of Committee Business" and provides in part:

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a. The chairperson shall preside at all meetings of the committee. Whenever the chairperson is absent, the vice-chairperson shall preside.

b. The chairperson shall direct the

order of presentation of the arguments for and against matters for consideration by the committee, and shall permit questions to be asked by the various members of the committee in an orderly fashion and in keeping with proper decorum. (Emphasis added)

c. A majority of the membership of the committee shall constitute a quorum for the transaction of business, including the decision to recommend the adoption of any amendments to a resolution or ordinance. A majority of all members constituting the committee, however, shall be required to report a resolution or ordinance out of committee.

....

e. A resolution or ordinance shall be reported back to the Council only if the committee makes one of the following recommendations:

....

3. Forward to the Council with no Committee recommendation.

Rule 11 which is entitled "Committee Rules" provides in part as follows:

Except as provided in Rule 2, the permanent Rules of the Council shall govern the conduct of all committee meetings.

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Rule 17, as noted above, does specify that the chairperson "shall permit questions to be asked by the various members of the committee in an orderly fashion and in keeping with proper decorum." The chairperson, because of the lateness of the hour and the fact that one or more committee members were about to leave, determined not to hear arguments for or against item 11 nor to permit questions to be asked by committee members. A "point of order" could have been made at that point raising the issue of whether the chairperson was operating in violation of the committee's rules.

If a point of order had been raised prior to the calling for the vote, the chairperson under Robert's Rules would have thereupon made a ruling as to whether or not the rules were being violated. If the chairperson ruled that the rules were not being violated, that determination would be subject to appeal under Robert's Rules by a motion and second and a majority vote could

overrule the determination of the chairperson.

A point of order was not in fact raised, however, until after the question had been called for and three committee members had voted in favor of the motion. At that point it was too late, under Robert's Rules to raise a "point of order" and, even if it had been properly raised, since three committee members voted in favor of moving item 11 to the Council without recommendation, it appears unlikely that a ruling of the chairperson would have been overcome by a properly stated appeal. (See Robert's Rules of Order Newly Revised, sections 23 and 24.)

In summary, item 11 on the Public Facilities and Recreation Committee agenda of April 27 was adequately reported out of committee to the City Council. Robert's Rules of Order indicates that the chairperson of a committee may rule on the adequacy of committee action and on the appropriateness of points of order or objections to the consideration of a question. Councilwoman McCarty, the committee chairperson, refused to allow discussion prior to reporting the matter out of committee "without recommendation." The chair ruling and determination stands in accordance with Robert's Rules in the absence of a motion to overrule the chair determination and a vote of the majority of the committee to so overrule the chair.

It should be noted that when the matter appears on the Council agenda, any five councilmembers could direct that the matter be returned to the committee for additional discussion.

Respectfully submitted,

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