

REPORT TO THE COMMITTEE ON RULES, LEGISLATION,
AND INTERGOVERNMENTAL RELATIONS
PROPOSED MEMORANDUM OF UNDERSTANDING FOR NOTIFICATION OF LAND
USE
AND DEVELOPMENT ACTIONS BY COUNTY OF SAN DIEGO AND THE CITIES

In response to your memorandum of July 11, 1989, we have reviewed the Proposed Memorandum of Understanding (MOU). It is difficult to determine whether the review period requirement of Section 4 of the MOU would result in delays in the processing of projects. If the notice and review period were to run concurrently with the 45-day public input period of an EIR, there probably would be no delay. However, if a negative declaration is prepared for a project, the public input period is 30 days and the 45-day review period would either result in a delay or require the notice to be sent earlier than the negative declaration. The need to prepare a report, required by paragraph 5, responding to the comments and recommendations received in response to the notice may cause delays in scheduling projects for public hearings. However, this is a matter to which the Planning Department is best qualified to react.

The provisions of Sections 2.b. and 3.c. raise interesting questions. A city would be required to notice the county (Section 2.c.) regardless of the proximity of the regional facility or project to county land but the county is not obligated to notice a city unless the facility or project is within 5 miles of a city (Section 1.c.). Read literally, a city is required to notice all other cities if a regional facility or project is proposed without regard to the distance between the facility or project and the other city. If the county is not obligated to notice a city more than 5 miles from a project, it is unclear why a city should provide notice under the same circumstances. The impact of a project in North City West on the City of Imperial Beach seems remote at best.

The provisions of Sections 1.d., 2.c., and 3.d. provide for exclusion areas. While these sections would provide a means of addressing the problems posed in the preceding paragraph, the exchange of written exemptions between all the parties seems to be an awkward way to address a fundamental matter.

Respectfully submitted,
JOHN W. WITT
City Attorney

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