

February 12, 1990

REPORT TO THE HONORABLE

MAYOR AND CITY COUNCIL

DEPUTY MAYOR - ADMINISTRATIVE POWERS - AUTHORITY TO LIMIT PUBLIC ACCESS TO TENTH FLOOR COUNCIL OFFICES

It is the understanding of this office that Deputy Mayor Wolfsheimer recently directed that the locking devices be activated in the tenth floor reception area, thereby limiting access by the press and members of the general public to the interior tenth floor corridor upon which the various City Council offices front. It is also our understanding that Deputy Mayor Wolfsheimer's action was taken as a result of one or more incidents which indicate a need to perhaps provide greater security to the tenth floor interior corridor and the various Council offices.

Apparently some members of the press and perhaps members of the general public have complained as to the need to restrict public access as well as the authority of the Deputy Mayor to limit such access. One or more councilmembers have also expressed concern. Councilmember Henderson requested that this issue be placed upon the Council docket of February 12th for general discussion.

As a legal matter the City certainly has the right to limit access to the various Council offices by members of the public. It seems clear to this office that such action is legally available for reasons of security as well as for reasons of functional efficiency. Since the legality of limiting access to council interior offices is apparently not the issue, we will not address that matter in depth. The issue for discussion appears to be the authority of the Deputy Mayor to limit access to interior office on the tenth floor without the need for City Council action.

The basic function and duties of the Deputy Mayor are set forth in section 25 of the City's Charter. Section 25 provides in pertinent part "the Deputy Mayor shall perform all the duties of the Mayor as prescribed by this Charter or by ordinance when the Mayor is absent or unable to perform his duties." Under the basic provisions in the Charter therefore there is no authority placed in the Deputy Mayor to provide administration for the tenth floor offices.

However, section 22.2101 of the San Diego Municipal Code

establishes "a Division of Council Administration as a support element to the Deputy Mayor." The section provides that the division of Council Administration shall be under the administrative and policy direction of the Deputy Mayor "and shall be responsible for coordinating all the intragovernmental and intergovernmental administrative functions of the City Council and the several departments thereof."

The City's budget provides staffing for the Division of Council Administration. Under the title "Purpose and Description" the budget document specifies in part "Council Administration provides general office management for the council offices, including the preparation of payrolls, management of materials and supplies, and administration of general expenses for council offices." In view of the above specified functions it is our conclusion that the Deputy Mayor has the authority in connection with the Deputy Mayor's control over Council Administration staff, to "provide general office management for the Council offices," which phrase we feel includes the authority to provide adequate security devices between the tenth floor reception area and the interior corridor.

On the other hand, it is also clear that the majority of the City Council could review and supersede individual administrative actions of a Deputy Mayor. While this legal fact is not stated specifically in the Municipal Code or budget language, the majority of the Council can at any time modify the "job description" contained in the budget including adding a provision allowing review by the full Council of any administrative action of the Deputy Mayor as the director of the Division of Council Administration.

Another alternative, consistent with the action already taken by the Deputy Mayor, would be for the individual councilmembers who wish to provide less limited access to members of the press or specific individuals, to provide written direction to the tenth floor receptionist to simply allow access to such individuals upon request. This alternative may be the most appropriate in that it would provide a certain level of security to those councilmembers who wish a higher level of security and at the same time provide easy access to the offices of those councilmembers who direct that access to their office be given to specified individuals or groups.

Respectfully submitted,
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