

January 28, 1994
REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

ESTABLISHING A PERMANENT ADVISORY BOARD FOR
CIVIC EVENTS AND PROMOTIONAL PROGRAMS --
ITEM 150 - COUNCIL DOCKET OF JANUARY 31, 1994

The above item was on the Council docket on January 18, 1994 and the City Council directed the City Attorney to revise the ordinance to provide that the Mayor would appoint the chairperson of this nine-member board and each Councilmember would nominate one member. The Council also requested clarification of the appointment process with respect to appointments to boards created by the City Council. We have not revised the ordinance because we believe the procedure proposed for each Councilmember to nominate one member for the Mayor to appoint would be in violation of the Charter of the City of San Diego ("the Charter").

Advisory Boards and Committees are created pursuant to Section 43 of the Charter. Advisory Boards are created pursuant to Section 43(a) which provides in pertinent part:

- (a) The City Council may by ordinance
create and establish advisory boards.
Such boards shall be advisory to the
Mayor, Council or City Manager as may
be designated by ordinance. All
members of such boards shall be
appointed by the Mayor with Council
confirmation, and the terms of office
of such members may extend beyond the
elective term of the appointing Mayor
. . . . (Emphasis added.)

It is clear that the Mayor has the power of appointment subject to Council confirmation. The ordinance presently before you provides for each councilmember to nominate three persons from which the Mayor will appoint one. While the ordinance could provide that councilmembers will nominate two persons from which the Mayor will appoint one, we think that to limit the Mayor to appointing the single nomination of a councilmember would be effectively removing the power of appointment from the Mayor in

violation of Section 43(a) of the Charter.

Advisory Committees are created pursuant to Section 43(b) which provides:

- (b) The Mayor, City Council or City Manager may create and establish citizens' committees. Such committees shall be created and established only for the purpose of advising on questions with clearly defined objectives, and shall be temporary in nature, and shall be dissolved upon the completion of the objectives for which they were created. Committee members shall serve without compensation.
(Emphasis added.)

Temporary citizens' committees created pursuant to this section are appointed by the creator of the committee which may be the Mayor, City Council or City Manager.

For the past two years the City Council has adopted a resolution creating a temporary committee to make recommendations to the City Council for the annual allocation of Transient Occupancy Tax funds for Civic Events and Promotional Programs. (See Resolution No. R-281494 adopted on February 22, 1993 and Resolution No. R-283300 adopted on January 18, 1994.) Then the Mayor and each councilmember have submitted the name of one person to the City Manager to be included on the committee. This procedure is in accordance with Charter section 43(b) and may be continued if the Council desires.

We believe the alternatives available to the City Council are as follows:

- (1) Create a permanent Board by adopting the ordinance before you with Councilmembers nominating two or three persons each and the Mayor making the appointments pursuant to Section 43(a) of the Charter.
- (2) Continue the practice followed the last two years of the City Council creating a temporary committee and appointing the members.

Respectfully submitted,
JOHN W. WITT
City Attorney

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