



Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: November 18, 2008
TO: City Councilmembers
FROM: City Attorney
SUBJECT: Selection of 2009 Council President

The agenda for the City Council meeting of November 18, 2008, includes Item 334 entitled "Selection of a Council President for Calendar Year 2009." The Council President recommends the following three possible actions:

1. Select the new Council President
2. Select an Interim President until a date certain, and
3. Continue the selection of the President to a later date

In a memo dated November 3, 2008, three City Council members proposed that the Council President not be chosen until the City Council, containing four newly-elected members, meets for the first time on December 8, 2008. They suggest the City Clerk call the matter to order on that date and that the agenda include items electing the Council President and Council President Pro tem, and selection of the Council Committee Chairs.

We have reviewed existing procedures and make the following suggestions for the Council's consideration.

1. Selection of the Council President for 2009 Council Session.

Charter section 270(d) provides that: "The Council shall have the right to determine its own rules and order of business. . . including a process for selection of a presiding officer who shall have responsibility for chairing meetings of the Council and managing the docket process." Pursuant to that authority, the Council adopted the procedure for selecting the Council President.

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Rule 4.2 of the Permanent Rules states:

No later than the first meeting of the Council in January of each calendar year, the Council shall select a President from one of its members by majority vote of the Council. The President shall serve for a term of one year, commencing on the first meeting of the Council in January of each year, or until a successor is selected and qualified, whichever is later. . . . SDMC § 22.0101.5, Rule 4.2

[Emphasis added.]

Accordingly, the Rules contemplate that the City Council is to select its own presiding officer. Such selection must occur before January 1, and the term commences on the first meeting of the Council in January.

The timing of this selection initially was to coincide with the beginning of the new Mayor-Council form of governance in January 1, 2006. Since then, the Council has selected its President in November, with the selection of the Council President Pro Tem and committee assignments taking place in early December.

This year, the Council will be newly constituted effective December 8, 2008. The question has arisen whether it is appropriate for the current Council to select the Council President that will preside over the new Council. The Rules contemplate the outgoing Councilmembers select the leadership for the new Councilmembers. This concept is consistent with *general rules of proceedings*. In particular, *Robert's Rules of Order* notes that: "One session cannot interfere with the freedom of each new session to choose its own chairman pro tem. . . (pp. 116-118)," except in cases where selection is urgent due to illness or disability.

It is anticipated that the Councilmembers may assert it is necessary to select a Council President now, so that committee appointments can be made at the December 8-9, 2008, meeting. The Permanent Rules provide that such committee appointments are to be made no later than the second meeting in January. SDMC § 22.0101.5, Rules 4.3, 5.2(e), 6.2.1 and 6.2.2. Accordingly, there is ample time to meet the time line established in the Council Rules for those selections to occur at the first and/or second meetings in January, 2009. The Council also may schedule a special meeting in December to make these decisions.¹

2. Selection of an Interim Council President

Another option on the agenda is to select an interim Council President. Presumably, this person would serve effective December 8, 2008, and until the new Council President is selected

¹ We note that Rule 4.4 provides: "At any time, the President or President Pro Tem may be removed by a majority vote of the Council." Accordingly, the new Council may reverse a premature selection of the Council President by voting for removal and selection of a new Council President.

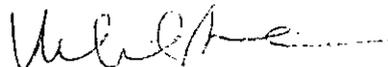
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by the new Councilmembers. This option may provide some certainty as to who would preside over the meeting on December 8, 2008. The Councilmembers may want to consider whether the interim Council President's authority should be limited to presiding over the first meeting and to make clear that the interim President may not select the Council President Pro Tem or make committee assignments.

A simpler alternative would be to have the City Clerk call the meeting to order on December 8, 2008, with the first order of business to be to immediately elect a temporary chair to preside during the meeting. The temporary chair would be vacated upon election of the Council President during that meeting.

MICHAEL J. AGUIRRE, City Attorney

By


Michael J. Aguirre
City Attorney

MJA:als

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City of San Diego
MEMORANDUM

DATE: November 3, 2008

TO: City Council
City Clerk Liz Maland

FROM: Councilmember Kevin Faulconer

Councilmember Donna Frye

Councilmember Brian Maienschein

Kevin Faulconer
Donna Frye
Brian Maienschein

RE: Selecting Council Leadership on December 8

Some have speculated about the possibility of scheduling an early vote on the new Council President, or on the appointment of an interim "Presiding Officer," before the new council members are seated. We are writing to express our strongest opposition to either possibility.

Council precedent and the principles of sound governance and democracy advise against the participation of departing council members in the selection of leadership for the new council.

The City Municipal Code specifies that the Council President's term takes effect at the first meeting of the Council in January. This logically implies that the election of a Council President occurs after new members are sworn in

"No later than the first meeting of the Council in January of each calendar year, the Council shall select a President from one of its members by majority vote of the Council. The President shall serve for a term of one year, commencing on the first meeting of the Council in January of each year, or until a successor is selected and qualified, whichever is later." (San Diego Municipal Code, Permanent Rules of Council, Rule 4.2, emphasis added)

We therefore propose the following process to facilitate an orderly and democratic transition:

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- Using precedent established in July 2005, we propose that the City Clerk open the City Council's meeting on December 8 - with the first order of business being the election of City Council leadership.
- The City Council docket for December 8 will include an agenda item relating to the election of the Council President and Council President Pro Tem - as well as selection of the Committee Chairs. Included shall be the discussion of the term of appointments.
- In anticipation of possible changes to the role of council leadership and the legislative process, the docket for December 8 should also include an agenda item relating to any proposed changes to the Permanent Rules of the City Council.

CC: Mayor Jerry Sanders
City Council Candidates, Districts 1, 3, 7
City Attorney Michael Aguirre and City Attorney Candidate Jan Goldsmith

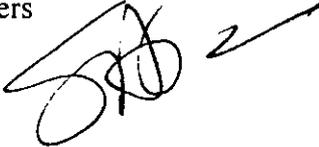
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City of San Diego

**COUNCIL PRESIDENT SCOTT PETERS
FIRST DISTRICT**

M E M O R A N D U M

TO: Honorable City Councilmembers
FROM: Council President Scott Peters 
DATE: November 3, 2008
SUBJECT: Calendaring Discussion on the Selection of a City Council President for 2009

I have received questions recently about the timing of the selection of a City Council President in 2009. It is my personal view that the management and leadership of the Council in 2009 is a matter for the new council, which next year will include four new members. However, that is not my individual decision, but a decision for the entire council. Therefore, I will calendar this matter for Council discussion in mid-November, on the 18th (which is the same timing for addressing the issue as in each of the past three years). At that time, the entire Council can discuss how to support a smooth and effective transition to new leadership, and how related decisions should be timed. Finally, we can conduct the discussion in an open meeting with the benefit of public input.

SHP/mg

cc: Honorable Mayor Jerry Sanders
Honorable City Attorney Michael Aguirre
Andrea Tevlin, Independent Budget Analyst

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REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY) 200
12/08

TO: CITY ATTORNEY 2. FROM (ORIGINATING DEPARTMENT): Office of the Council President 3. DATE: November 5, 2008

4. SUBJECT: Selection of a Council President for 2009

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) MaryAnne Pintar (66611/M.S. 10A) 6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) 7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED [X]

8. COMPLETE FOR ACCOUNTING PURPOSES

Table with columns: FUND, DEPT., ORGANIZATION, OBJECT ACCOUNT, JOB ORDER, C.I.P. NUMBER, AMOUNT, 9. ADDITIONAL INFORMATION / ESTIMATED COST:

10. ROUTING AND APPROVALS

Table with columns: ROUTE (#), APPROVING AUTHORITY, APPROVAL SIGNATURE, DATE SIGNED. Includes routing steps 1-11 and a checkmark for COUNCIL PRESIDENT.

11. PREPARATION OF: [X] RESOLUTIONS [] ORDINANCE(S) [] AGREEMENT(S) [] DEED(S)

In the Matter of Selecting a Council President for the 2009 Annual Year.

11A. COUNCIL PRESIDENT'S RECOMMENDATIONS:

Council is asked to consider the matter of selecting a Council President for calendar year 2009, and to take such actions as the Council deems appropriate. These actions may include:

- 1. Select a new Council President for calendar year 2009.
2. Select an Interim Council President until a date certain.
3. Continue the matter of selection of a Council President for calendar year 2009 to a later date.

Direct the City Attorney to prepare any necessary resolutions.

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12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): ALL

ENVIRONMENTAL IMPACT: THIS ACTION IS NOT A "PROJECT" FOR PURPOSES OF CEQA

HOUSING IMPACT: N/A

OTHER ISSUES: SEE ATTACHED DOCKET SUPPORTING INFORMATION: NOV 3 MEMO FROM COUNCIL PRESIDENT SCOTT PETERS; NOV 3 MEMO FROM COUNCILMEMBERS FAULCONER, FRYE AND MAIENSCHIN.

000011

200
12/08

-----Original Message-----

From: norma damashek [mailto:ndamashek@ucsd.edu]

Sent: Tuesday, November 18, 2008 8:45 AM

To: Madaffer, Councilmember Jim; Faulconer, Council Member Kevin; Young, Anthony; Peters, Councilmember Scott; Atkins, Councilmember; Maienschein, Councilmember; Hueso, Councilmember Ben; Frye, Donna

Cc: CLK City Clerk

Subject: LWV statement re. Item 334

Please consider the attached statement by the League of Women Voters concerning Item 334, Selection of Council President.

Thank you.

Norma Damashek

858 459-8751

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TO: San Diego City Council.
FROM: San Diego League of Women Voters
DATE: November 18, 2008
RE: Item 334 – Selection of Council President 2009

In 2005, following the passage of Prop F (which set up San Diego's 5-year trial period with a strong mayor form of government), a Citizen's Advisory Committee was appointed to assist in the transition from a city manager system to a mayor-council system.

It was a peculiar time, as I'm sure some of you remember well. In April of that year Mayor Dick Murphy -- the person slated to become San Diego's first strong mayor -- abruptly resigned. Fortunately, the transition process stayed on course and was brought to a satisfactory conclusion by the end of the year.

As an officer of the League of Women Voters, I was honored to chair the strong-mayor Citizens Advisory Committee, a balanced group of 11 leaders representing wide community and business interests. We held public hearings and worked with city staff and a San Francisco consulting firm hired by the city council to develop a series of recommendations aimed at ensuring that, above all, the new balance of power at city hall would be beneficial to the public.

The CAC recommendations dealt with crucial items like the creation of the office of Independent Budget Analyst; development of a new budget process; council committee structure; and of course the powers, authority, and selection of the presiding officer – now known as council president.

On the issue of council president, the CAC understood that a strong presiding officer could be an asset in terms of city council stability, efficiency, and political clout. On the other hand, the CAC also placed high value on a rotation system to promote increased equity and fair representation for all council districts.

It seems clear that a renewed discussion about the optimal balance between the promotion of council efficiency and the promotion of wide democratic representation is in order.

And it seems self-evident that this discussion, along with the selection of the next council president, belongs in the hands of the soon-to-be seated new city council and not in the hands of outgoing council members.

We respectfully urge you to continue this item until the new city council is seated.

Norma Damashek
San Diego League of Women Voters

From: CLK City Clerk
Sent: Wednesday, December 03, 2008 8:21 AM
To: Atkins, Councilmember; Faucett, Aimee; Faulconer, Council Member Kevin; Frye, Donna; Hueso, Councilmember Ben; Lujan, Magdalena; Madaffer, Councilmember Jim; Maienschein, Councilmember; Peters, Councilmember Scott; Pickens, Sonia; Soria, Patricia; Vetter, Gary; Yepiz, Lauren; Young, Anthony
Subject: FW: City Council Meeting Agenda Comment Form

-----Original Message-----

From: nsuserid@ada.sannet.gov [mailto:nsuserid@ada.sannet.gov]
Sent: Tuesday, December 02, 2008 7:38 PM
To: CLK City Clerk
Subject: City Council Meeting Agenda Comment Form

San Diego City Council Meeting Agenda Comment Form Submitted on Tuesday, December 2, 2008 at 19:38:12

Name: Mel Shapiro

Email: sdwatch@cox.net

Address: 3930 centre st

City: san diego

State: ca

Zip: 9

Area Code: 619

Telephone: 2949403

Source: San Diego City Council Meeting Agenda Comment Form at
<http://www.sandiego.gov/city-clerk/officialdocs/docketcomment.shtml>

Agenda Item: #200 December 8

Comments: Choosing council president doesn't have to be a political football.
Nothing wrong with rotating the job and using seniority.
Using this method, Frye would be president in 2009, Young in 2010.
Assuming that Hueso and Faulconer are reelected, they would be president in 2011 and 2012.
That's as far as I can project.
Merry Xmas and Happy New Year.

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