



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: RICHARD DOYLE
City Attorney

SUBJECT: Possible Reconsideration of
Certain Ballot Items

DATE: August 1, 2008

BACKGROUND

At the July 30, 2008 Rules-in-lieu meeting, two memoranda were provided relating to the ballot measures proposed for the November 4, 2008 election. Because the deadline to get ballot measures to the County Registrar of Voters is August 8, 2008, staff placed the items on the Council Agenda of August 5, 2008, in order to allow Council the opportunity to consider the matters.

ANALYSIS

There are separate proposals from Councilmembers Constant and Oliverio.

Card Table Increase Proposal

The proposal is from Councilmember Constant and seeks to revisit the question of whether to have a ballot measure that would both expand the number of card tables, as well as increase the cardroom tax.

At the special Council Meeting of June 19, 2008, the Council voted (8-3) not to consider increasing the number of card tables as part of a tax increase. This proposal to possibly revisit the issue is based on a recommendation from the Structural Deficit Elimination Plan Stakeholder Group, which occurred after the Council Meeting. In addition, cardroom representatives have had discussions with the Mayor's staff expressing their concerns with a proposed tax increase since the June 19, 2008 Council action.

Fire Station 37 Proposal

The proposal from Councilmember Oliverio is seeking to revisit the issue of whether to ask voters to allow the use of a portion of Lincoln Glen Park for the proposed Fire House 37.

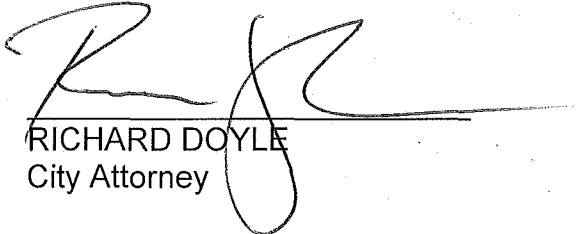
At the June 19 Council Meeting, staff was directed to submit this ballot proposal to the County Registrar of Voters. That measure has been submitted, but may be withdrawn by Council prior to August 8, 2008. This proposal is based on the statement that "important information was not available for the public discussion" at the June 19, 2008 Council Meeting.

Sunshine Requirements

Neither proposal has met the ten (10) day noticing requirement. However, the Council has the ability to waive their requirement due to unique circumstances. The unique circumstances in this case would be based on the following: (1) information or recommendations coming to the City during the hiatus, (2) the inability (because of the hiatus) to have the matter go to the Rules Committee in July; and (3) the August 8, 2008 deadline to get ballot measures to the Registrar of Voters.

Motion to Reconsider

Under our current Rules Resolution, a motion to reconsider must generally be made at the same meeting or the next Council Meeting following the meeting at which action was taken. However, since the first opportunity to agendize the matter was for the August 5 meeting, that effectively is the first meeting where a motion for reconsideration may be made. The motion must be made by a member on the prevailing side (Rules Resolution 4 (e)). As such, while staff has placed the item on the Council Agenda in order to allow the matter to be considered in compliance with the Brown Act, only a Councilmember on the prevailing side of the original vote may make a motion for reconsideration. In the card table issue, the prevailing members were Williams, Liccardo, Chu, Campos, Nguyen, Cortese, Chirco and Pyle. In the Fire Station issue, the prevailing members were Reed, Constant, Williams, Liccardo, Campos, Nguyen, Chirco and Pyle.



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For questions please contact RICHARD DOYLE, CITY ATTORNEY AT (408) 535-1950.