



**City of San Diego
Eighth District**

MEMORANDUM

DATE: January 7, 2013

TO: Jan Goldsmith, City Attorney

FROM: Councilmember David Alvarez

SUBJECT: Consideration of Nominees for Appointments to the San Diego Unified Port District Board of Commissioners

After meeting with representatives from your office, the Office of the City Clerk, and the Council President regarding the Port appointment item currently scheduled for this afternoon, (Item 201), I have great unease about this item. I have voiced my concerns and raised extensive questions over procedural aspects of Council Policy 000-13 (CP-000-13), and have received answers inconsistent with previous practice.

I certainly appreciate the efforts, especially of our City Clerk, to resolve inconsistencies in the guiding Council Policy, but this is simply not an issue that can be easily unwound. There is the appearance, if not the outright reality, of rules being changed midway through the process, with attendant benefits and harm to different nominees.

I have detailed my outstanding questions below. All section references are to Council Policy 000-13.

I request a written response to these questions before this item is heard so that the underlying issues can be resolved. We owe a fair, transparent, and orderly nomination process to each Councilmember, the nominees, and of course the public we serve.

1. Please define 'one time' as used in section (c)(4). Does the wording refer to a single ballot process, multiple votes taken in the same council meeting, during the same day, or another construction? Please provide a detailed rationale for the interpretation proposed by your office.
2. In section (C)(4)(a), CP-000-13 allows each Councilmember to "vote for the candidates(s) he or she feels to be most qualified...". To what does the (s) refer to if separate ballots are to be given for each vacant seat?

3. CP-000-13 anticipates a multiple vacancy situation (section (C)(4)(d)). Why does the proposed balloting procedure not follow this section of the Council Policy?
4. Under the proposed balloting, in filling the first vacancy, there are no eliminations of candidates in subsequent rounds of voting. How is this supported by either section (C)(4)(c) (allowing limits to the slate of finalists) or (C)(4)(d) (allowing a run-off between tied candidates)?
5. Why, under the proposed sequential balloting, the voting for each seat is accomplished with different processes?
6. Please confirm whether the proposed balloting methodology and interpretation of CP-000-13 were contemplated when the calls for nominations were made.
7. How are the proposed balloting procedures consistent with past Port Commission nominations? Specifically, consider:
 - a. The selection procedure of November 10, 2008, which featured three nominees, one ballot, and a request of Councilmembers to select two names.
 - b. The selection procedure of June 8, 2009 directing voting to proceed until a candidate receives five votes or a deadlock is reached, allowing for the elimination of a candidate receiving the lowest number of votes in any round, allowing for a run-off of tied lowest scoring candidates with a higher-scoring candidate who did not receive five votes, and declaring a deadlock to be reached after three rounds of voting. Note that the procedure was said to be carefully reviewed by the Council President in consultation with the City Attorney.
 - c. The selection procedure of January 10, 2011 in which voting was directed to simply continue in rounds until five votes are achieved.

cc:

Honorable Mayor Bob Filner
Honorable Council President Todd Gloria
Honorable City Councilmembers
Liz Maland, City Clerk
Andrea Tevlin, Independent Budget Analyst

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