

Interactions with KPBS

## **“San Diego’s Measure H would open city facilities to childcare, but includes confusing language”**

Oct. 31, 2022

### **Question:**

I'm working on an explainer for Measure H and had a question for your office.

In Section 55 of the charter, the previous two paragraphs say:

"the Council may, without a vote of the people, authorize the opening and maintenance of streets and highways over..."

and

"the Council may, without a vote of the people, authorize a lease of the property occupied by San Diego High School to the San Diego Unified School District for educational, cultural, recreational, and civic programs and activities..."

But then Measure H would add:

"The City Manager may, without a vote of the people, authorize childcare at recreation facilities and buildings on real property..."

My question is why the addition doesn't also say "Council" instead of "City Manager," as in,

"The Council may, without a vote of the people, authorize childcare at recreation facilities and buildings on real property"

### **Response:**

You will need to ask Councilmember Campillo that question, since he is the sponsor of Measure H and your question speaks to his intent.

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### **Question:**

My understanding from his office and from Councilman Cate's office is at the city attorney's office actually wrote the Measure. They both said to check with your office.

### **Response:**

This wording in Measure H is consistent with park operations under the City charter.

Regarding Section 55 of the charter, the full section of the first provision you listed states:

**'Whenever the City Manager recommends it, and the City Council finds that the public interest demands it,** the City Council may, without a vote of the people, authorize the opening and maintenance of streets and highways over ...'

Charter section 55 gives the City Manager (Mayor) control and management of the parks. Therefore, the City Manager can authorize certain activity that does not require Council approval, and can recommend other activity that does requires approval and action by the Council.

The wording in Measure H is similar to this section. The City Manager/ Mayor can **authorize** certain activity (in this case, allowing a childcare facility at a particular recreation facility). However, if the authorized or recommended activity typically requires City Council approval, the City must comply with those required procedures and processes. In this case, the City Manager can recommend/authorize certain recreation facilities be allowed to have childcare services in them, however if the lease is for longer than three years, it requires City Council approval.

Some, or all, of a project may require Council approval. It just depends on the scope of the project and lease.

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**Question:**

My question is, for the second part of the sentence you highlighted:

'Whenever the City Manager recommends it, and the City Council finds that the public interest demands it, the City Council may, without a vote of the people, authorize the opening and maintenance of streets and highways over ...'

It says the **CITY COUNCIL may**. So for the language proposed by Measure H, why does it also not say **CITY COUNCIL** and instead says **CITY MANAGER**?

**Response:**

City Charter section 28 may be helpful to you. It describes the City Manager's responsibilities, which include enforcing City ordinances and performing "such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council." So, for instance, the language in the Charter that you asked about delegates responsibility for streets and highways to the City Manager. If Measure H passes, the voters are approving an approval and implementation framework that involves both the City Manager and Council.

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**Question:**

So would it be fair to say that as written, the City Attorney's Office does not think Measure H gives the mayor unilateral authority over leases to childcare businesses?

**Response:**

Measure H adds child care to the acceptable uses of City parkland. It does not change San Diego Municipal Code Section 22.0901 Leases of Real Property, which describes the process for leasing City property, including leases on parkland.

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