


**OFFICE OF INDEPENDENT BUDGET ANALYST  
CITY OF SAN DIEGO  
M E M O R A N D U M**

DATE: October 26, 2006

TO: Michael Aguirre, City Attorney

FROM: Andrea Tevlin, Independent Budget Analyst 

SUBJECT: Relationships between the Mayor and City Council

---

Attached are my thoughts on the Blue Level Swim Program and Alpha Project's "Take Back the Streets Program," and why I believe the Mayor had an obligation to come before Council before taking the actions. As you know these programs have become the focal point of a much bigger issue which is the relationship between the Mayor and City Council and this new form of government. In my professional opinion, this government is not working as the voters envisioned when they passed Proposition F in that the appropriate checks and balances with regard to the budget are not occurring. What happened with these two specific programs is one small example of this.

We all are responsible for ensuring that a solid foundation is established in regard to how this form of government works. What we do today will set precedence for future elected officials, City employees and the entire community. I do not take the responsibilities of my office lightly. I came to San Diego to help make a difference and move San Diego towards good government. I look forward to reading your opinion on the relationships between the Mayor and City Council and the new form of government. In addition, I'm available to meet with you at your convenience.

Attachment 1 – General Comments  
Attachment 2 – Alpha Project's "Take Back the Streets"  
Attachment 3 – Blue Level Swim Program  
Attachment 4 – Related Issues

October 24, 2006

Attachment 1

**General comments: Why the Mayor should bring forward recommended budget changes to the Council for their consideration that impact service levels to the community or alter their adopted modifications to the Mayor's proposed budget:**

The City Council has ultimate budget authority per the Charter. The Council can amend the Mayor's budget and override his veto of any change with the same five votes as required for passage.

The Mayor has no veto authority over the Appropriation Ordinance.

The Charter says the Manager can "alter programs and activities based on funds available." In both cases - Take Back the Streets and Blue Level Swim - funds were available per the adopted budget and no deficits were identified in these areas for the Council during the budget process.

Section 16 of the adopted 2006-07 Appropriation Ordinance states "The powers of the Council not delegated to the Mayor as specifically set forth herein are reserved to the Council in accordance with the terms of the Charter."

"Budget" equals "policy" - "policy" equals the "budget." The budget is a spending plan that equates to an allocation of resources for specific policies, programs and services. The budget presented by the Mayor to the Council **represents** specific services, programs and activities.

Council modifications to the Mayor's proposed budget are considered throughout a series of community hearings with the public and are acted on in a public forum. Changes made by the Council represent changes in the services, programs and activities proposed by the Mayor.

The Council is the most available point of contact for the citizenry through weekly City Council meetings. It is critical that the Council be apprised and consulted when changes are made to their budget.

Both the Business Process Reengineering ordinance and the Managed Competition ballot measure, proposed by the Mayor's Office, include caveats that protect against the diminution of services to the public without approval by the City Council. Nowhere is this protection more critical than in the public budget process. Any diminution of services to the community needs to be considered by the Council in a public forum.

The Annual budget is a contract between the community, City Council and the Mayor. The Mayor proposes the budget, the City Council approves spending policies, and the Mayor is expected to execute those policies in good faith.

Good government cannot be legislated through ordinances and resolutions.

Attachments

**Case for why the Mayor had an obligation to bring his recommendation to convert the majority of budgeted funds for Alpha Project's "Take Back the Streets Program," to an in-house service, prior to taking this action:**

The City Council amended the Mayor's Proposed FY 07 Budget to add a specific line item for \$300,000 in general funds for Alpha Project's "Take Back the Streets Program" based on information from staff that it was no longer CDBG eligible. The Council also identified a funding source for this line item and presented the Mayor a balanced budget when they returned the budget to him on May 30, 2006.

The FY 07 Budget Adoption Resolution, adopted by the City Council and provided to the Mayor for his veto option, specifically identified IBA issued 06-9 "Final Modifications to the FY 2007 Budget," which specifically included a line item for the Alpha Project's "Take Back the Streets" Program as a change to the Mayor's budget.

This specific line item was spelled out clearly in six different documents, including memos from Council members, IBA reports and a memo from the Mayor's CFO during final Council budget decisions. (See attached documents.)

The memos from Council members clearly represented Alpha Project's "Take Back the Streets Program" budget priority of five individual Council members.

The IBA memos clearly stated that this is a program that provides work for homeless individuals. The services provided by "Take Back the Streets Program" are two fold: to provide jobs for homeless and to provide trash collection services for the community. This cannot be duplicated by in-house staff.

The IBA memo clearly states that "it is expected that the Environmental Services Division will provide contract oversight and will report back to Council on the types of services to be provided."

"Take Back the Streets" is a long standing Alpha Project branded program – the name cannot be adopted for utilization by Environmental Services.

The Mayor did not exercise his veto authority over the Council's budget modifications, and, therefore, accepted and supported the modifications as presented, including Alpha Project's "Take Back the Streets Program."

The implementation issues that surfaced regarding this program should have been raised with the Council when staff learned of them, and options presented to Council for their consideration.

Attachments

**Case for why the Mayor had an obligation to bring his recommendation to eliminate the Blue Level Swim Program mid-year to Council before taking such action:**

Since 2000, the program has been funded in the budget and has been operating. (See attached letter to swim parents from Parks staff.)

The program has been operating for the first four months of the current fiscal year with budgeted funds. In the letter to parents, the staff states "the Department can no longer continue to fund this competitive sports program."

The staff was able to quantify the costs of this program in the budget. (See confidential report from the Park and Recreation Department attached.)

The Department has known for some time that this specific program, as well as the Aquatics Program as a whole, has been operating in a deficit, but they represented that all existing programs would continue in the Fiscal Year 2007 budget. They did not raise the issue of the Aquatics Program deficit to a higher level during the budget process. (See attached staff report to Council dated October 13, 2006.)

The attached confidential memo shows that elimination of the program was considered at some point last year "effective after the long-course season which ends in late-July" with notification to parents "no later than late-June."

The attached memo also shows that other options were considered by the staff, but not surfaced for Council consideration during the budget process.

The confidential report also states that the recommendation to eliminate the program is "due to the City's current fiscal crisis." The end of the year (FY 06) budget report from Financial Management showed the Park and Recreation Department coming in \$2.4 million under budget **after** absorbing the \$400,000 deficit for the Aquatics Program. The Department is projected to be under budget in the current year based on Financial Management's Period 1-2 report.

The decision to eliminate an existing budgeted program for kids was not made in a public forum and reasons and options were never vetted for public or legislative consideration.

The Mayor repeatedly represented throughout the FY 07 budget development process that he was proposing no service cuts in his budget and specifically stated that his budget included "No Budget Cuts to Parks" in budget discussions, reports and press releases. (See attached press release.)

Swim programs, including the Blue Level Program, have consistently been of great interest to the community and have been the subject of intense budget hearings in the past.

The City does not currently have the capacity to break down the budget on a service level or programmatic basis, making it impossible for the legislative body to “see” on a budgetary basis all of the separate programs that are represented in the budget numbers.

However, the fact that the Blue Level Swim Program was provided and included in the Budget in the prior year represented to the Council that it was included in the Fiscal Year 2007 Budget. No representation was given that the program had been cut.

It is logistically impossible to call out every program in the budget as opined by Ms. Dubick at the recent Budget & Finance Committee meeting: “where a program has not been specifically called out in a budget, the authority to make, alter, change or even eliminate falls within managerial authority.” (See attached remarks by Ms. Dubick.)

The reappropriation of any current year savings resulting from eliminating the Blue Level Swim Program would have to be approved by the Council.

**OTHER RELATED ISSUES:**

DOCKET INFORMATION

**Why was the Mayor not obligated to provide backup information for docket items on the "Take Back the Streets Program" or "Blue Level Swim Program"?**

They originally took the position that the Mayor did not need to do reports explaining his actions because "this was not their item, it was the Council's item." In the end, the Mayor issued a report on the Blue Level Swim Program Friday at 5:15 p.m., and "Take Back the Streets Program" Monday at 5:30 p.m. prior to Tuesday morning's Council meeting.

STATUS OF COUNCIL BUDGET MODIFICATIONS

**What obligation does the Mayor have to implement the Council's adopted modifications to the budget or report back to Council of some version he does plan to implement?** By talking to departments, the IBA recently learned that four months into the fiscal year, only two positions of the 60 positions that the Council added to the budget have been implemented. (See attachment.) The Council identified funding for these positions and presented a balanced budget to the Mayor on May 30, 2006. These Council modifications to the Mayor's budget were adopted by Council as part of the Budget Adoption Resolution on May 30, 2006. The Mayor did not veto the Council's budget, therefore, representing embracement of the Council modifications.

October 18, 2006

**CITY COUNCIL MODIFICATIONS TO MAYOR'S FY 2007 BUDGET  
POSITION SUMMARY**

<u>Function</u>	<u>Positions Authorized</u>	<u>Filled</u>	<u>In Hiring Process</u>	<u>Not In Active Hiring Process</u>
Disability Services	1.0	--	1.0	--
Ethics Commission	2.0	--	2.0	--
Youth Librarian	1.0	--	1.0	--
Graffiti Control	2.0	--	--	2.0*
New Parks Facilities	16.0	1.63	.5	14.67**
Robb Field Asst Dir	1.0	1.0	--	--
Youth Rec Leaders	6.68	--	--	6.68
Sr. Planner - Historic	1.0	--	1.0	--
Police Civilians	<u>30.00</u>	<u>--</u>	<u>--</u>	<u>30.0</u>
TOTAL	60.68	2.63	5.5	52.55***

\* Held for BPR review.

\*\* 5.0 FTE not needed until January due to opening dates, 2.5 FTE undergoing classification studies.

\*\*\* Represents an estimated \$4.5 million in department budgets.