

## Murphy win more likely as vote tally winds down | Mayor's race ballot count said to turn against Frye

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The numbers point strongly to Dick Murphy's re-election as the vote count in the San Diego mayor's race enters what may be its final day today.

"It's all over but the shouting and the lawsuits," market researcher John Nienstedt said.

On Tuesday, Nienstedt, founder of San Diego polling company Competitive Edge Research & Communication Inc., said Councilwoman Donna Frye's chances of overtaking Murphy in the vote count were remote. Yesterday, he said they were gone.

Political consultant Chris Crotty said the two were still in a statistical dead heat, but that for Frye to win, she is "going to have to get more of the write-ins than she has been getting, which given the trend is highly unlikely."

Frye's supporters aren't close to conceding, but their focus has shifted from the vote-counting warehouse to Superior Court, where a judge will weigh in Monday.

Michael Workman, the county's chief spokesman, said he would have a better idea today when the vote count would be finished. The goal is to complete the count by 5 p.m. today, he said.

As of yesterday morning, Murphy had nearly caught up to the write-in vote, according to results posted by the county Registrar of Voters Office.

Murphy was 147 votes behind the write-ins after trailing by more than 4,200 early Nov. 3, the day after the election.

Yesterday's tally showed the write-ins with 156,158 votes, Murphy with 156,011 and county Supervisor Ron Roberts in third place with 140,338.

The results also showed that 152,155 write-in votes have been verified for Frye. That number is expected to grow because not all of the 156,158 write-in votes that have been counted have been checked to determine if they were cast for Frye or someone else.

After Election Day, the registrar had about 250,000 absentee and provisional ballots to count, with about half believed to be from San Diego. As of yesterday, 13,500 ballots

remained to be counted. It was not known how many were from the city.

Frye's entry into the race a little more than a month before the election shook up what would have been a repeat of the 2000 mayor's race between Murphy, a former Superior Court judge, and Roberts, an architect and longtime politician.

For months, the 60-something Republicans had wrestled over who should lead San Diego at a time of limited borrowing ability, credit-rating downgrades, an overdue audit of city books and federal investigations into financial disclosures.

The arrival of Frye, a 52-year-old Democrat and an occasional minority of one on council votes, expanded the debate to include open government and gave Murphy and Roberts an unexpected grass-roots challenge to overcome.

Murphy declined through a spokesman to talk to the news media yesterday, but one of his campaign consultants, Jennifer Tierney, said the mayor and his supporters are "excited about these numbers."

"Sure, it's moved beyond better," Tierney said. "Every day that Dick gains votes, it becomes that much more difficult for Donna to catch up. She'd have to reverse a continuous trend we have seen throughout the counting of the absentees and provisionals, and that's not likely."

Frye and her campaign manager did not return phone calls seeking comment.

It was perhaps the candidates' most quiet day since the vote count began.

It's common that write-in candidates have a small portion of votes disqualified because they are for someone other than the certified write-in candidate. The registrar of voters has not said how many have been disqualified.

Regardless of the vote count, the election's outcome will not be known until legal challenges have been exhausted.

A federal judge declined to stop the vote count earlier this week, but set a hearing for Nov. 30 on claims that the city charter prohibits write-in candidates and other issues raised in a lawsuit challenging Frye's candidacy.

A Superior Court hearing will be held Monday in a lawsuit filed by the League of Women Voters of San Diego to compel election officials to count votes that had Frye's name on the write-in line but did not have the bubble next to it filled in.

Frye supporters call the suit essential to their candidate's victory.

"There's a good chance that Donna won," said Donald Cohen, a consultant to the San Diego-Imperial Counties Labor Council, which backed Frye. "She just may not get to

be the mayor if we're prevented from counting every vote."

Frye's attorney, Marco Gonzalez, said yesterday that may be the councilwoman's only shot at becoming mayor.

Gonzalez said there could be 2,000 to 10,000 such votes, though he acknowledged there is no way to know until they are counted.

"At the end of the day, if more people voted for Dick, he's the winner," Gonzalez said. "Donna Frye would agree that if Dick Murphy legitimately gets more votes, then he wins, but it's going to come down most likely to this issue of non-bubbled write-ins."

Staff writer Daniel J. Chacon contributed to this report.

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