

**CITY OF SAN DIEGO
M E M O R A N D U M**

DATE: December 6, 2007

TO: Honorable Council President Peters

FROM: Jay M. Goldstone, Chief Operating Officer 

SUBJECT: Item 5 on December 6, 2007 Rules Committee Agenda

I wish to express my concerns regarding item 5, "Improper Influence of Professionals" on today's Rules, Open Government and Intergovernmental Relations Committee agenda. I believe this item has been placed on the agenda at the request of the City Attorney in response to an Audit Committee (Kroll) recommendation.

While I support the intent of the Kroll recommendation, the approach and language suggested by the City Attorney is too vague and appears to give him sole discretion to determine when there is a violation.

Based upon discussions with the City's independent auditor, the City Attorney is considered a member of management and is a principal stakeholder in the audit process. He is responsible for opining on legal issues with a financial affect on the City's financial statements and disclosures (i.e., his office writes a substantial portion of the notes, has a key role in the DPWG, and prepares the FASB 5 letter). For the City Attorney to serve in this capacity and also have the discretion to charge someone with undue influence appears to me to present a major conflict of interest. This would be true under any circumstance, but especially when there is no clear definition of what constitutes a violation.

I ask that the Rules Committee **NOT** take any action on this matter at this time. We will return to you with a recommendation.

Thank you.

Cc: Honorable Mayor Jerry Sanders
Honorable City Council Members
City Attorney
Independent Budget Analyst