

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: December 28, 2007

TO: Members, Community Planners Committee Subcommittee on Indemnification

FROM: City Attorney

SUBJECT: Latest Draft of Proposed Indemnification Ordinance

Attached please find a copy of the City Attorney's latest proposed Indemnification Ordinance as well as a strikeout version of the Indemnification Ordinance. This draft is noted as Corrected Copy 4 of the Ordinance.

As I indicated to the Subcommittee earlier in December, the primary changes you will note are the development of a new Section 3 that is based upon the standard for defense and indemnification of City employees as laid out in California Government Code section 995. Section 995 obligates a City to provide defense of civil actions or proceedings except under certain circumstances that are spelled out in the Code and are paraphrased in my draft ordinance.

In addition, as I had told the group in December and as I discussed with the CPC at our November meeting, I have prepared a new Section 5 that articulates a process for the City Attorney's withdrawal from representation that mirrors the standard for attorneys under the California Rules of Professional Conduct. The California rules articulate standards for mandatory withdrawal from representation, which are listed as conditions under which the City Attorney "must" withdraw in the draft ordinance, as well as standards for permissive withdrawal, when under the ordinance the City Attorney "may" withdraw.

In addition, I have made several edits that were proposed by the CPC and have attempted to address some concerns that Michael Freedman had expressed at the CPC meeting.

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Please note that I have yet to have the opportunity to discuss the CPC's concerns regarding the use of the words "conflict of interest" in this ordinance with the City Attorney. I will attempt to have a conversation with him before our meeting on January 3rd and will let you know.

MICHAEL J. AGUIRRE, City Attorney

By



Alex W. Sachs

Deputy City Attorney

AWS

Attachments

cc: Michael J. Aguirre, City Attorney
Karen Heumann, Assistant City Attorney
Mary Wright, CPCI
Cecilia Gallardo, CPCI
Marianne Greene, Deputy City Attorney