

Mayor Jerry Sanders  
Remarks on Status of Kroll Investigation  
July 10, 2006

President Peters, Honorable Councilmembers.

I'm here this afternoon to speak to the City Council about the status of the Kroll investigation and my plans for the City to re-access the public credit markets.

As of today, nearly two years after they were hired, Kroll has not delivered a report for us to review. And what's worse is that they have missed yet another target date and given us no timeframe for the delivery of their report. In fact, in conversations with my staff, they have made suggestions that the report may not be delivered until August.

In spite of almost daily inquiries – and the fact that they have been provided with every possible piece of information they need – Kroll has provided us with no further information on when you – and our citizens – can expect to receive the report. My staff and I have told them repeatedly that they will not get any additional funds from the City of San Diego.

The only power that I have over our current situation is the truth – to tell the whole unvarnished truth. So, I will use that power as freely as I must in the hopes that Kroll will understand that their delay is affecting the lives -- and the livelihoods of millions of people. I don't think it's an exaggeration at this point to say that they are holding our City hostage.

I am speaking directly to Kroll now – and to any other large multi-national corporation that thinks they can take advantage of San Diego taxpayers – when I say the following: you should know that I will take all measures necessary to protect our citizens from any actions that impede our collective productivity as a City.

I will not hesitate, for a moment, to appear before Congress, to educate my fellow mayors nationwide or to speak with the national media about the ways in which I believe this profit making entity has taken advantage of a bad situation.

It is my deeply held opinion that the arrangement the City entered into with Kroll was ill conceived and overly general. It in essence allowed for the current situation to occur. The imposition of Sarbanes Oxley on a municipal entity like ours is without parallel and needs to be rethought so that no other government entity has to suffer to the extent that our city has.

Congress conceived of Sarbanes Oxley to hold publicly traded companies accountable. That is entirely understandable and proper.

There is no reason that I can think of as to why a private corporation with a profit motive should be allowed to serve as an audit committee -- or worse, as an investigations arm with no controls - - for a government entity with limited resources.

In my opinion, Kroll has repeatedly based its authority to improperly expand the scope of their investigation on an all-encompassing need for independence. That's not right. Independence does not exist in a vacuum – everything must have checks and balances to it.

The Sarbanes-Oxley Act must be changed, or new legislation must be enacted by Congress to specifically address municipal entities. As the current legislation exists, this has the potential to become a cottage industry where troubled municipalities can be easily exploited.

I have been extremely patient with Kroll. I have asked you on two separate occasions to authorize additional funds. I have publicly rationalized their repeated delays. It all stops today.

I am frustrated and angry because our citizens elected me to manage effectively and to deliver solutions. I have done everything within my power to expedite the delivery of this report, to no avail. Unfortunately, as you will hear in a moment, we have few productive options at our disposal.

At one point, I gave serious consideration to putting an end to the Kroll investigation in spite of the fact that KPMG has made it clear that without it, they will not issue audited financial statements for Fiscal Year 2003. I shared my thoughts with the City Attorney.

I want the Kroll investigation finished. We have spent entirely too much money not to see it come to an end. To me, it will represent closure. It will represent the end of one period from which we learn and never repeat and the beginning of a new era that represents new opportunities for our City. I am also of the belief that our taxpayers expect us to have audited financial statements for all years. We got ourselves into this situation. We now need to make the difficult choices to get ourselves out.

I have told Kroll that I want the report to be released in an open session of the City Council. I want the report issued on our terms, not theirs. I don't want them to hold a news conference to announce the findings; I don't want them issuing a press release or meeting with the Editorial Board of the Union Tribune; I don't want them meeting with you or me to discuss it before the public receives it. And I don't want them simply to mail the report to us.

I want everyone to receive it at the same time in an open session of the City Council. This \$20 million report belongs to the people and everyone should know its full contents at the same time.

The release of the Kroll report is important not only because it represents the end of one chapter but because it represents the beginning of the next...the release of our audits for Fiscal Years 03, 04 and 05. And now 06.

KPMG has made it crystal clear that the timing for the release of the FY03 audited financial statements is contingent on the release of the Kroll report. Any culpabilities, inappropriate activities, and/or illegalities contained in the Kroll investigation will have to be reviewed by the City and KPMG so that they can be incorporated into the FY03 CAFR.

It is our reasoned opinion at this time that the FY04 audited financial statements can be released approximately 3 weeks after the release of the FY03 audited financials. The FY05 audited financials will follow 90 days following the release of the FY04 statements. And we will then begin to work on FY06.

It was – and remains – my plan to re-access the public credit markets by the end of this calendar year. Let me explain what that means. As you will remember, San Diego still has existing credit ratings with two of the three bond rating agencies: Fitch’s and Moody’s.

As a result of our inquiry, Standard and Poor’s has told us that they are agreeable to begin meeting with City officials once we have released the FY03 and FY04 audited financial statements. This does not mean that they will restore our rating without the release of the FY05 audit, however, this is a very positive development since to date, S&P has refused to even meet with the City.

So, my plans are to once again have *access to* – those are important words, “access to” -- public capital by the end of this year.

But as you can appreciate, all of that is dependent – contingent even – on the timely release and the investigative analysis contained in the Kroll report. Time is running out to achieve this goal.

Our City has many pressing needs. As our citizens know, there is a critical requirement city-wide for the capital that comes from public markets. We desperately need to make necessary repairs and improvements to our water and wastewater systems.

I will remain vigilant on this matter in order to ensure that Kroll understands what their repeated delays mean to the City and its citizens. I promise to keep you fully informed. Thank you.

Thank you.

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