



City of Long Beach

Working Together to Serve

Memorandum

Office of the City Attorney

DATE: October 2, 2012

To: Mayor and Members of the City Council

FROM: Robert E. Shannon, City Attorney *RES*

SUBJECT: Agenda Item #15 - October 2, 2012, Agenda

Agenda item #15 for your consideration tonight requests "... an independent investigation into the recent accusations made by Commissioner Doug Drummond against fellow commissioners and current and former City employees, and report back to City Council."

The referenced "accusations" relate to statements allegedly made by Commissioner Drummond in closed session and thereafter leaked to the media.

Please be advised that you may not legally take the requested action.

First, this item relates to a personnel matter involving the conduct of one or more City employees/officers. As such, that Government Code prohibits any public discussion of the merits/disposition of the incident.

Second, the item proposes a public discussion of statements made in a closed session and thereafter improperly leaked to the media. For this separate reason, public discussion of what occurred at the closed session is improper.

Third, the City Council lacks the authority to undertake an independent investigation of this incident. As it relates to the conduct of non Civil Service employees (as is here the case), the City Attorney's Office, pursuant to the City Charter, maintains that authority. And in fact, such an investigation was conducted.

Again, the outcome of that personnel investigation is confidential and not subject to public discussion.

For all of the foregoing reasons, the requested action is beyond your legal authority.

RES:kdh
#A12-02034

cc: Patrick West, City Manager
Suzanne Frick, Assistant City Manager
Larry Herrera, City Clerk