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New City Atty. on the Offensive in San Diego

Michael Aguirre vows to tackle the city's legal, fiscal and political issues, but critics say he is overstepping his role.

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SAN DIEGO — Swearing-in speeches are normally low-key, civil affairs, but that's not what City Atty. Michael Aguirre had in mind earlier this month when he took the oath.

Aguirre launched into an unbroken litany of criticism aimed at his predecessor, high-ranking city staff and the City Council for having afflicted San Diego "with its most serious legal and financial crisis in our history."

In his first three weeks on the job, this former federal prosecutor, fraud-buster and City Hall nemesis served notice "frankly and boldly" that he plans to be a city official unlike any other and doesn't care whose toes get trampled.

While national attention has fixated on the disputed race between Mayor Dick Murphy and Councilwoman Donna Frye, the real City Hall-shaking change in the state's second-largest city is taking place in the office of the new city attorney.

Maybe a recent headline in the alternative San Diego City Beat newspaper said it all: "Aguirre's Already Causing Trouble." Historically, city attorneys have seen their main job as advising council members and city department chiefs. Not so with Aguirre. He believes his responsibility to voters supersedes his role as legal counsel.

Aguirre vows to insert himself into the post-election fight between Frye and Murphy by issuing an unsolicited, unofficial opinion about whether so-called empty oval votes for Frye should be counted. Frye supported Aguirre's upstart candidacy.

His swearing-in speech on Dec. 6 was a signal that he planned to make changes.

Starting with an uplifting quote from President Kennedy — he's a Kennedy-phile who once edited a book of speeches by Robert F. Kennedy — Aguirre concluded that the city cannot dig its way out of its pension mess "until a new generation of leadership takes hold."

Aguirre left no doubt that he thinks he should be the leader of that new generation.

His supporters gave him a standing ovation. City Council members, their own upbeat speeches now overshadowed, left grumbling about headline-grabbing and exaggeration.

Aguirre has moved to make his office central to the city's efforts to resolve major financial, political and legal issues: an unfinished audit, plunging credit ratings, investigations by the U.S. attorney and the Securities and Exchange Commission and an inability to sell bonds to finance city projects.

To his supporters, he has been dynamic and visionary. To his detractors, he is highhanded, egocentric and brimming with questionable legal theories. Whether Aguirre's activism proves a help or a hindrance to the city's attempt to right its fiscal ship remains to be seen. At the very least, it promises to add in-your-face drama to civic life.

John Kaheny, who spent two decades as a San Diego deputy city attorney before becoming city attorney in Chula Vista, says Aguirre has touched off a "civil war" by attacking the council. Kaheny, a blunt retired Marine, calls him "Mike Arrogant."

"Aguirre has sent the message: He is the emperor and now runs City Hall," Kaheny said.

Others praise Aguirre for breaking windows to let some fresh air into a city government grown stale.

"He has nothing to gain by downplaying or covering up the city's financial problems," said political consultant Cynthia Vicknair, an Aguirre supporter. "It's a time of growth at San Diego City Hall. I think we'll see a high level of tension between the council and Mr. Aguirre."

Critics believe that Aguirre is using prosecutorial zeal to grab power from a mild-mannered mayor and distorting the traditional role of the city attorney as legal counsel for the City Council.

At a council meeting last week, Murphy, who abhors public confrontation, struggled to keep Aguirre from dominating the session and debating council members.

"Mr. Aguirre, I run the meeting," Murphy said, to little effect.

Aguirre's swearing-in speech was only his opening shot. In rapid succession he:

- Announced he will run his own investigation of the city's pension deficit — parallel to investigations being done by the U.S. attorney and the SEC — and establish a "public integrity" unit to prowl City Hall for ethical violations.
- Picked a fight with the city's pension board by asserting that he has the right to fire the board's outside counsel and install himself as its attorney.

The move came after the pension board tried to punish a whistle-blower whose husband is one of Aguirre's unpaid advisors. The pension board is fighting back.

- Released documents of the kind kept secret by his predecessors: legal bills for city employees being questioned by federal authorities and subpoenas issued by the SEC.

Now 55, Aguirre's two-decade rise to political prominence has been fraught with controversy and failure.

He was rejected by voters for City Council, district attorney and Congress. His lawsuits aimed at

overturning decisions by elected officials were largely rebuffed, notably efforts to stop expansion of Qualcomm Stadium and force county supervisors to redraw district lines to increase the chances of minority representation on the all-white Board of Supervisors.

But with news from City Hall dominated by the pension deficit and federal investigations, voters were in the mood for change, albeit narrowly.

Aguirre defeated Executive Assistant City Atty. Leslie Devaney 50.23% to 49.43%. Devaney, who predicted that Aguirre would politicize the office, had been a top aide to termed-out City Atty. Casey Gwinn.

In a campaign overshadowed by the mayor's race, Aguirre promised sweeping changes in the city attorney's office.

Unlike employees in other departments, the 130 lawyers in Aguirre's office do not have job security because they serve at the pleasure of the city attorney. Devaney and her husband have already submitted their resignations.

But others support Aguirre's actions.

"He's showing some independence and a devotion to law that's refreshing," said business attorney John Howard, who is suing to overturn the mayoral election on the theory that Frye's write-in candidacy violated the city charter.

"The fact he's making a lot of noise is good," Howard said. "He's keeping them honest in a way no one has in a long time."

Still, noise and confrontation could have a price, particularly because Aguirre is dealing with a government in which power is shared among nine council members, each with a separate power base.

"Mike has come in with both guns blazing," said lobbyist John Dadian. "He's shaking things up, and that's good. But he has to be careful not to shake it up so much he'll wreck the foundation."