

(R-91-1983 REV. 1)

RESOLUTION NUMBER R-278044

ADOPTED ON JUNE 3, 1991

WHEREAS, the matter of the claim of Susan Bray against The City of San Diego regarding stress and harassment was discussed by Council in Closed Session on May 14, 1991; and

WHEREAS, Council directed an inquiry into the matter of the settlement of the claim and appointed Josiah Neeper, Esq., as special fact finder to determine the facts of the matter and report back to Council on May 20, 1991; and

WHEREAS, part of Council's charge to Mr. Neeper was to determine circumstances and facts, and make recommendations thereon in a report to be furnished on May 20, 1991; and

WHEREAS, the report was delivered orally to Council on June 3, 1991 in an open, public hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That the report and recommendations by Mr. Josiah Neeper, Esq., special fact finder in the matter of the claim entitled Bray v. City of San Diego, a copy of which is attached as Attachment A, be and the same are hereby accepted.

2. That the City Manager be and he is hereby directed to take charge and look into the long term disability claims and report back to the Rules Committee with any recommended changes.

3. Conceptually approve drafting any appropriate amendments to Council Policy 000-09, to be discussed in a meet and confer closed session as soon as possible.

APPROVED: JOHN W. WITT, City Attorney

By Jack Katz
Jack Katz
Senior Chief Deputy

JK:smm
05/15/91
06/17/91 REV. 1
Or.Dept:Mayor
R-91-1983
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MEMORANDUM of June 3, 1991

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Dist. in
Chamber

To: Honorable Mayor and Council

From: Josiah L. Neeper, Special Counsel

Subject: Recommendations Following Report

On May 20, 1991, I presented to you the findings and conclusions of my investigation into the matter placed on the agenda as Bray v. City of San Diego. As you requested, I have prepared the following recommendations for your consideration.

I. City Staff Involvement

Pursuant to the findings and conclusions in my report, I recommend that you direct the City Manager to take the following actions with respect to each of the individuals having a particular role in the matter investigated:

(a) Refer on your behalf the issues related to the City Attorney and his staff's involvement in this matter to the State Bar Committee on Ethics with report back on disposition;

(b) Direct the Civil Service Commission to investigate and review the performance of the Personnel Director and the Equal Employment Investigative Officer in this matter with report back on disposition; and

(c) Himself (the City Manager) to investigate and review the performance of the Risk Management Director and the Labor Relations Manager with report back on disposition.

II. Policy Changes

I recommend that you approve and direct the following changes in the City's claims policies:

(a) Require Council approval of all settlements which have a total value in excess of \$20,000 from one or any combination of funding sources, including the value of future payments; and

(b) Direct the City Manager and City Attorney to inform the Council of any claim, litigation, or discrimination complaint, regardless of value, involving an employee directly appointed by the Council when it is determined that reasonable cause exists for such charge, and again upon disposition of such charge; and

ATTACHMENT A
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(c) Direct the Civil Service Commission to include a provision in the Discrimination Complaint Procedure requiring notification such as provided in II.(b) above.

III. Management Audit of the Planning Department

I recommend that you direct the City Manager and City Auditor to conduct an audit of the Planning Department and report the findings to the Council by July 15.

IV. Reimbursement from Robert Spaulding

I recommend that you direct the City Attorney to continue to evaluate and report to Council on possible methods to seek reimbursement from Robert Spaulding for the monies paid, or to be paid, in this matter. I make no recommendation that Council further review the performance of Mr. Spaulding, although he chose not to disclose the matter to the Council, as he has resigned his employment by the City.

V. City Manager

No recommendation is made with respect to the former City Manager. He assumed primary and direct responsibility for approving the terms and conditions of the settlement and for not disclosing the settlement to the Council. He has retired and the Council no longer has jurisdiction over his performance.

Verbally added by Mr. Neeper at the June 3, 1991 Council Meeting:

It is the policy of the City Council that employees, who are determined to have committed unlawful discrimination, shall personally pay for the costs of their defense and the damages awarded through settlement or by a court to the extent allowed by law.

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CORRECTED COPY

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JUN 03 1991

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

| Council Members | Yeas | Nays | Not Present | Ineligible |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ron Roberts | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| John Hartley | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| H. Wes Pratt | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Tom Behr | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| J. Bruce Henderson | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bob Filner | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By  Deputy.

Office of the City Clerk, San Diego, California

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Adopted **JUN 03 1991**