

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
SPECIAL CLOSED SESSION DOCKET  
FOR  
MONDAY, JULY 12, 2004  
AT 2:00 P.M.  
COMMITTEE ROOM – 12<sup>TH</sup> FLOOR**

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**NOTE:** In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings, adopted on March 29, 2004, a portion of the regular open meeting agenda of the City Council has been reserved for City Attorney comment, public comment, and City Council discussion of the content of this Closed Session Docket. Please see the Open Session Agenda to determine when such matters may be heard.

Due to the anticipated length of the regular City Council meeting of Tuesday, July 13, 2004, the Mayor is calling a Special Closed Session of the City Council for Monday, July 12, 2004, in the Committee Room on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California. **The Special Closed Session will commence immediately following the conclusion of the regular open session of the City Council that day, to be held.**

Pursuant to the new temporary Council Rule on closed sessions, the public will have the opportunity to comment on these matters during the regular open session of the City Council on July 12, 2004. The open session agenda for that day will reflect the appropriate open session item for public comment. **The Closed Session called pursuant to this memorandum may continue into Tuesday, July 13, 2004.**

The agenda for the Special Closed Session is the following:

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):**

**CS-1 *Border Business Park v. City of San Diego***

Appellate Case No. D039225; SDSC Case No. GIC 692794

*Otay Acquisitions v. City of San Diego*

SDSC Case No. GIC 753247

*National Enterprises, Inc. v. City of San Diego*

SDSC Case Nos. GIC 791407; GIC 805465

ACA assigned: Les Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. In closed session, the City Attorney will report on the status of on-going settlement negotiations and request further direction regarding those negotiations.

**CS-2 *Gleason v. San Diego City Employees' Retirement System*  
San Diego Superior Court Case No. GIC 803779**

HDCA assigned: Chris Morris

This matter involves litigation concerning the City's retirement system and the City's obligation to fund that system. A tentative settlement has been reached with the plaintiffs, the terms of which generally involve certain payments by the City to the system in each of Fiscal Years 2005, 2006, 2007 and 2008. In closed session, the City Attorney and the City's outside counsel will report to the City Council on the conduct of negotiations to finalize a settlement agreement, and the status of the court proceedings to implement the settlement.

**CS-3 *City of San Diego v. Conwell Shonkwiler & Associates*  
San Diego Superior Court Case Nos. 795620 and 795634**

DCA assigned: McGuinness

This matter involves a lawsuit filed by the City against its architect and programming consultants, Conwell, Shonkwiler & Associates [CSA] and DMG Maximus, Inc. [DMG], respectively, arising out of the Water Department Central Facility Project. The City alleges that CSA and DMG were negligent in the performance of their professional services and that negligence caused City damages. City also alleges both defendants breached their respective contracts with the City. It is recommended that the City settle its action against CSA for \$2.3 million and continue to prosecute its action against DMG.

**CS-4 *Joice Salim v. City of San Diego*  
Claim No. LP04-7773-0482**

DCA assigned: Brodie

This matter arises from a sewer backup that damaged the claimant's house in La Jolla. In closed session, the City Attorney will brief the City Council on the matter and discuss possible settlement.

**Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):**

**CS-5 In the matter of *City of San Diego Bond Offerings, Securities & Exchange Commission No. LA-2842, and United States Attorney's Office Investigation into certain City of San Diego Financial Disclosure Matters.***

ACA assigned: Les Girard

The Federal Securities & Exchange Commission and the United States Attorney's Office for the Southern District of California have initiated investigations into certain financial disclosure matters of the City. The investigations were initiated in mid-February, 2004, and the City has been cooperating with the investigating authorities in the course of the investigations to-date. In closed session, the City's outside counsel and the City Attorney will advise the City Council on the progress of the investigations and legal issues relating to the City's response to and cooperation with the investigating authorities.

**CS-6 Anticipated Litigation**

In closed session the City Attorney will advise the City Council on a matter presenting a significant exposure to litigation. In the opinion of the City Attorney it would not be prudent to identify the facts and circumstances presented by this matter because those facts and circumstances may not be known to any potential plaintiff, and such identification could be detrimental to the City's interests and compromise its legal position.

**CS-7 *Meadows Del Mar v. City of San Diego***

ACA assigned: Girard

This matter involves a dispute over the construction of a public trail on private property. In closed session the City Attorney will advise the City Council on the merits of the matter and seek direction regarding a possible resolution.

**Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):**

**CS-8 Anticipated Litigation**

ACA assigned Girard

In closed session the City Attorney will advise the City Council on a matter involving the initiation of litigation. In the opinion of the City Attorney it would not be prudent to identify the facts and circumstances presented by this matter because those facts and circumstances may not be known to any potential defendant, and such identification could be detrimental to the City's interests and compromise its legal position.