

**CITY COUNCIL OF THE CITY OF SAN DIEGO
CLOSED SESSION DOCKET
FOR
TUESDAY, SEPTEMBER 7, 2004, AT 9:00 A.M.
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

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 Labor Day Holiday on Monday, September 6, 2004, there is no Monday meeting at which public notice of the closed session items can occur, **there will be no closed session from 9:00 a.m. to 10:00 a.m. on Tuesday, September 7, 2004, but rather that the closed session that day will commence following the open session notice on the agenda for Tuesday, September 7, 2004, and following the conclusion of the open session.**

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

**CS-1 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 821191**

DCA assigned: Gleeson

This matter concerns the litigation filed by the De Anza Cove Homeowners Association [HOA] against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation, other matters affecting the litigation.

CS-2 *Conde v. City of San Diego, et al.*
San Diego Superior Court No. GIC 834467

ACA assigned: Girard

This matter concerns the special election to fill the Council District 4 seat following the death of Council Member Lewis. The Plaintiff contends that the City Council was required to take up the matter of the vacancy at its meeting of August 10, 2004, and that the special election to fill the District 4 seat must take place on November 2, 2004. Plaintiff also seeks a declaration that former Council Member George Stevens is not eligible to run for the District 4 seat.

In Closed Session, the City Attorney will advise the City Council on the status of the matter and the City's legal position with respect to the issues.

CS-3 *Gonzalez-Bardford v. Abdelnour, et al.*
San Diego Superior Court No. GIC 834544

DCA assigned: Chapin

This matter concerns Proposition F, a measure on the November 2, 2004, ballot that proposes to amend the City Charter to implement on a trial basis the "strong mayor" form of government. The Plaintiff contends that the wording of the ballot question is false and misleading, and is asking the court to require its revision.

In Closed Session, the City Attorney will advise the City Council on the status of the matter and the City's legal position with respect to the issues.

CS-4 *Bernstein v. City of San Diego*
Claim File No. LP04-7773-1448

HDCA assigned: Devaney

This is an un-litigated claim, which arises from a sewer back-up that damaged claimant's home in La Jolla. In closed session, the City Manager and City Attorney will brief the City Council on the matter and discuss a proposed settlement of it.

**CS-5 *Charles Terry Brown v. Charles G. Abdelnour*
San Diego Superior Court No. GIC834850**

DCA assigned: Duvernay

This matter concerns Proposition J, a measure on the November 2, 2004, ballot that proposes to amend the City Charter and Municipal Code to implement a Transient Occupancy Tax [TOT] increase from 10.5 percent to 13 percent. The Plaintiff contends that the wording of the City Manager's Fiscal Analysis is ballot question is false and misleading, and is asking the court to require its revision.

In Closed Session, the City Attorney will advise the City Council on the status of the matter, the City's legal position with respect to the issues and potential settlement of the matter.

**CS-6 *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: 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.