

**CITY COUNCIL OF THE CITY OF SAN DIEGO
CLOSED SESSION DOCKET
FOR
MONDAY, JUNE 23, 2008
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meetings, adopted on February 28, 2005, 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. **Public testimony for this Closed Session Agenda will be taken today during the 2:00 p.m. Council meeting.**

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

**CS-1 *Stephen Cicero v. City of San Diego*
San Diego Superior Court Case No. 37-2008-00085133-CU-PT-CTL**

EACA Assigned: D. McGrath

This matter is a lawsuit filed by the above Plaintiff seeking to invalidate the City of San Diego Ordinance No. O-19747 which established the General Fund Deferred Maintenance Capital Improvement Financing. In Closed Session, the Mayor will request the retention of outside legal counsel to assist in this action.

**CS-2 *County of San Diego v. Redevelopment Agency of the City of San Diego, et al.*
San Diego County Superior Court Case No. GIC 850455
(Consolidated with San Diego County Superior Court Case No. GIC 850829)**

DCA Assigned: G. Spitzer

This litigation regards the validity of City Council’s adoption of the Grantville Redevelopment Plan, Ordinance No. O-19380. The City Council and the Redevelopment Agency will confer with the City Attorney regarding settlement and the status of litigation.

**CS-3 *Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park*
San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL**

DCA Assigned: M. Severson

The *Scottsdale Insurance Company v. City of San Diego* matter is an action filed by Scottsdale Insurance Company for declaratory relief, reimbursement, equitable subrogation and contribution in relation to insurance benefits paid in the *De Anza Cove Homeowners Association, Inc. v. City of San Diego* litigation. In Closed Session, the City Attorney will brief the City Council on the status of this matter, and request the retention of outside counsel to handle this litigation.

**CS-4 *Alison Terry v. City of San Diego*
U. S. District Court Case No. 06CV1459 JAH (CAB)**

DCA Assigned: J. Cordileone

This is a lawsuit alleging gender discrimination against the Lifeguard Service by a female seasonal lifeguard. The plaintiff in this lawsuit against the City of San Diego has made a written settlement offer which the City Attorney wishes to present to the City Council.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b)(1) and 54956.9(b)(3)(C):

CS-5 Tolling of potential litigation by Verizon Wireless against the City

DCA Assigned: C. Fitzgerald

At a hearing on April 14, 2008, the City Council voted to deny the following applications involving telecommunication towers: (1) an application for a Conditional Use Permit, No. 292627, and a Site Development Permit, No. 450714, for facilities at the north side of Mt. Ada Road, between Mt. Rias Place and Mt. Albertine Avenue, more particularly described as a portion of Parcel B, Parcel Map No. 227, in the CC-1-3 zone of the Clairemont Mesa Community Plan area ("Mt. Ada Site"); and (2) an application for a Conditional Use Permit, No. 296127, and a Planned Development Permit, No. 453612, for facilities at the north side of Highway 94 at 30th Place, more particularly described as Lot 2, Hilltop, Map 5357 and Lots 15 to 18, Block 97, E.W. Morse Subdivision, Map 547, in the MF-3000 zones ("30th Place Site"). Verizon Wireless has threatened legal action to challenge these denials. City Attorney's Office will provide information regarding potential litigation and tolling agreement relating to the claims.

**CS-6 Tolling of potential claims by Otay Mesa Coalition Group against the City
DCA Assigned: C. Fitzgerald**

Pardee Homes, Integral Otay Mesa Ventures, Sunroad Otay Partners, LP, San Diego County Investors, Brown Field Technology Park, D.R. Horton Homes, Centex Homes and MNA Consulting filed a claim pursuant to the Torts Claim Act alleging claims, rights for causes of action against the City arising from an agreement relating to the Otay Mesa Community Plan Update. City denied the claims. City Attorney's Office will provide information regarding potential litigation and tolling agreement relating to the claims.

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

CS-7 Anticipation of litigation against SDG&E and other parties responsible for causing the 2007 brush fires and resulting property damage and other losses

DCA Assigned: C. Welch

There are six actions pending before Judge Richard E. L. Stratus in Dept. 75 of the San Diego Superior Court (*Payne v. SDG&E*, Case No. 37-2007-0081806-CU-PO-CTL; *Downing v. SDG&E*, Case No. 37-2007-00081604-CU-NP-CTL; *Malone v. SDG&E*, Case No. 37-2008-0081779-CU-PO-CTL; *Waldon v. SDG&E*, Case No. 37-2007-00079891-CU-EI-NC; and *Wood v. SDG&E*, Case No. 37-2007-00083093-CU-PO-CTL) against SDG&E alleging SDG&E power lines or other equipment caused the October 2007 fires. The City Attorney's Office anticipates it may be necessary to file a complaint (or cross-complaint if suit is filed on a claim recently asserted against the City) against SDG&E independently in light of the City's own litigation damage and losses and information or evidence indicating SDG&E's potential legal liability for the October 2007 wildfires. The City Attorney's Office will discuss retention of Harvey Levine of Levine Steinberg Miller & Huver to evaluate the City's claims and to represent the City if suit is filed.

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

CS-8 Property: 5036-60 Sterling Court, San Diego (south end of Winona Avenue)

Agency Negotiator: Jim Barwick, Director, Real Estate Assets Department

Negotiating Party: Larry Zajonc

Under Negotiation: Price and terms of payment

DCA Assigned: K. Davies

Discussion of negotiations regarding the offer received from Larry Zajonc for the sale of his property to the City for a proposed park (Fox Canyon).