

**CITY COUNCIL OF THE CITY OF SAN DIEGO
CLOSED SESSION DOCKET
FOR
MONDAY, JANUARY 26, 2009
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: In accordance with the San Diego City Council Permanent Rules 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 *Michael T. Uberuaga v. City of San Diego*
United States District Court Case No. 08cv1960 MMA (BLM)**

DCA Assigned: D. Karlin

This matter involves a lawsuit filed by a former City employee requesting the City provide him a legal defense including payment of all attorney fees, costs and expenses with regard to the civil action brought by the United States Securities and Exchange Commission and investigations by the San Diego City Attorney's Office, the United States Attorney's Office for the Southern District of California and the San Diego County District Attorney's Office.

CS-2 *Valerie O'Sullivan v. City of San Diego*
San Diego Superior Court Case No. GIC 826918;
California Court of Appeal Case Nos. D053230 and D054378

La Jolla Friends of the Seals, et al. v. National Oceanic and Atmospheric Administration National Marine Fisheries Service, et al.
U.S. District Court Case No. 08cv1847 WQH POR

Animal Protection Rescue League v. State of California, et al.
United States District Court No. 07-cv-2320-JM-AJB; Ninth Cir. Case No. 08-55319;
United States Supreme Court Case No. 08-561

DCA Assigned: G. Schaefer

In the first case, a Superior Court Judge rendered a judgment against the City and ordered the City to dredge Children's Pool Beach. In the second case, a non-profit organization and a citizen sued the City and the Federal Government over whether a federal permit is necessary to remove the seals at Children's Pool and whether a rope barrier must be installed during the seal pupping season. In the third case, a similar lawsuit was brought against the City and the Plaintiffs appealed the dismissal of that lawsuit to the United States Supreme Court. The City Attorney needs to discuss in closed session with the Mayor and City Council the status of all three of these cases and the related appeals. The City Attorney also intends to present to the Mayor and City Council for its consideration a settlement offer that was made by the Plaintiffs in the *La Jolla Friends of the Seals* case.

CS-3 *Crable, et al. v. City of San Diego*
San Diego County Superior Court Case No. 37-2008-00077405-CU-EI-CTL

Al-Quraini, et al. v. City of San Diego
San Diego Superior Court Case No. 37-2008-00080246-CU-EI-CTL

McCormick, et al. v. City of San Diego
San Diego Superior Court Case No. 37-2008-00082194-CU-EI-CTL

Dyer v. City of San Diego
San Diego Superior Court Case No. 37-2008-00092648-CU-EI-CTL

DCA Assigned: G. Spitzer

This item concerns litigation which has already been formally initiated against the City. Retained counsel, the City Attorney, and City Council will confer regarding the status, strategy, and management of the litigation.

Conference with Legal Counsel - Anticipated litigation – significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):

CS-4 Number of Potential Cases: 5 known potential plaintiffs

DCA Assigned: T. Zeleny

In closed session, the City Attorney will discuss litigation threatened by environmental groups over the United States Environmental Protection Agency's tentative approval of the City's application for a modified National Pollutant Discharge Elimination System permit for the Point Loma Wastewater Treatment Plant. The City Attorney will also discuss an offer by San Diego Coastkeeper and the San Diego Chapter of Surfrider Foundation to avoid litigation by cooperating on a study of the feasibility of diverting wastewater from the Point Loma Plant through increased wastewater recycling.

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

CS-5 Number of Potential Cases: One

DCA Assigned: J. Dawson

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-6 Agency Negotiators: Bill Kay, Tim Davis, Scott Chadwick, Kim Nguyen, Woo-Jin Shim, Thom Harpole, Lourdes Silva, Judy von Kalinowski, Valerie VanDeweghe, Javier Mainar, Brian Fennessy, David Ramirez, Bob Kanaski, Paul Cooper, Jan Goldsmith, Tanya Tomlinson, Joan Dawson, William Gersten, and Lori Thacker

Employee Organizations: Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, Municipal Employees Association, AFSCME Local 127 AFL-CIO, and Deputy City Attorney Association

DCA Assigned: J. Dawson

Discussion with the Mayor and City Council pending contract negotiations with employee unions (Police Officers Association, International Association of Firefighters Local 145, Municipal Employees Association, AFSCME Local 127, and the Deputy City Attorney's Association).