

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
CLOSED SESSION DOCKET  
FOR  
MONDAY, FEBRUARY 23, 2009  
CITY ADMINISTRATION BUILDING  
COMMITTEE ROOM – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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**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 Labor Negotiator, pursuant to Government Code section 54957.6:**

**CS-1 Agency Negotiators:** William Kay, Timothy Davis, Scott Chadwick, Judy von Kalinowski, Thom Harpole, Kim Nguyen, Woo-Jin Shim, Lourdes Silva, Valerie VanDeweghe, Javier Mainar, Brian Fennessy, David Ramirez, Robert Kanaski, Paul Cooper, Jan Goldsmith, Tanya Tomlinson, Joan Dawson, William Gersten, 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 on 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).

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

**CS-2 San Diego Bay Shipyard Sediment Removal, Regional Water Quality Control Board Cleanup & Abatement Order No. R9-2005-0126**

DCA Assigned: F. Ortlieb

The City Attorney will brief the Mayor and City Council regarding the status of mediation in this matter, and seek further direction from the Mayor and City Council in Closed Session.

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

**CS-3 *Grace Church of North County v. City of San Diego, et al.*  
United States District Court Case No. 07-CV-419H (RBB)**

DCA Assigned: C. Leone

Grace Church of North County, Plaintiff in this matter, filed an action in the Southern District Court alleging constitutional violations arising from the approval by the Planning Commission for a Conditional Use Permit for a time shorter than was requested.

**CS-4 *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. The City Attorney will advise the Mayor and City Council on the status of the litigation, including a potential settlement, and discuss the possibility of making determinations under Government Code section 995.2 in closed session.

**CS-5 *SDCERS v. City Attorney Michael Aguirre*  
San Diego Superior Court Case No. GIC 841845**

DCA Assigned: W. Chung

This action is a consolidation of three separate lawsuits as well as the three labor union complaints in intervention. In closed session, the City Attorney will brief the Mayor and City Council on this matter and seek further direction from the Mayor and City Council.

**CS-6** *City of San Diego v. SDCERS*  
**San Diego Superior Court Case No. 37-2007-00081912-CU-WM-CTL**

DCA Assigned: W. Chung

This is the writ of mandate action regarding the purchase of service credits that the City recently prevailed on. In closed session, the City Attorney will brief the Mayor and City Council on this matter and seek further direction from the Mayor and City Council.

**CS-7** *City of San Diego v. SDCERS*  
**San Diego Superior Court Case No. 37-2007-00077604-CU-MC-CTL**

DCA Assigned: W. Chung

This is the declaratory relief action to determine whether certain pension benefits for new City employees terminated on July 1, 2005 or February 17, 2007. Wright & L'Estrange is handling this matter on behalf of the City. In closed session, the City Attorney will brief the Mayor and City Council on this matter and seek further direction from the Mayor and City Council.

**CS-8** *Insurance Company of the State of Pennsylvania, et al. v. City of San Diego*  
**United States District Court, Southern District of California Case No. 02-CV-0693 (BEN)(RBB)**

DCA Assigned: D. Karlin

The *Insurance Company of the State of Pennsylvania, et al. v. City of San Diego* is an on-going matter. In closed session, Latham and Watkins will brief the Mayor and City Council on the status of this matter and discuss the continued retention of their firm to handle this litigation.

**CS-9** *San Diego Police Officers' Association v. Michael Aguirre, et al. (POA I)*  
**United States District Court for the Southern District of California**  
**Case No. 05-CV-1581**

*Erica Aaron v. Aguirre, et al. (POA III)*  
*United States District Court for the Southern District of California*  
*Case No. 06-CV-1451*

*San Diego Police Officers' Association v. Aguirre, et al. (POA VI)*  
**San Diego Superior Court Case No. 37-2007-00075432-CU-MC-CTL**

*Erica Aaron v. City of San Diego*  
**San Diego Superior Court Case No. 37-2008-00093078-CU-OE-CTL**

*Mark S. Annis v. City of San Diego (POA VIII)*  
**San Diego Superior Court Case No. 37-2008-00092949-CU-BC-CTL**

*Marcus Abbe v. City of San Diego (POA II)*  
**United States District Court for the Southern District of California**  
**Case No. 05-CV-1629 and United States District Court for the Southern District of California Case No. 06-CV-0538**

DCA Assigned: G. Schaefer

The *San Diego Police Officers' Association v. Michael Aguirre, et al.*, and other related cases are on-going matters. In closed session, Latham and Watkins will brief the Mayor and City Council on the status of these matters and discuss the continued retention of their firm to handle the litigation.

**CS-10** *Border Business Park v. City of San Diego*  
**San Diego Superior Court Case No. 692794**

DCA Assigned: David Karlin

The *Border Business Park v. City of San Diego* is an on-going matter. In closed session, Latham and Watkins will brief the Mayor and City Council on the status of this matter and discuss the continued retention of their firm to handle this litigation.

**CS-11 *De Anza Cove Homeowners Association, Inc. v. City of San Diego, et al.*  
San Diego Superior Court Case No. GIC 821191**

DCA Assigned: R. Walters

This matter is an action filed by the De Anza Cove Homeowners Association for damages and declaratory relief. In closed session, the City Attorney will brief the Mayor and City Council on the status of the matter and discuss the possible retention of outside counsel for a related insurance coverage matter.

**CS-12 *City of San Diego v. Sunroad Enterprises et al.*  
San Diego Superior Court Case No. GIC 877054**

DCA Assigned: C. Brock

Case No. GIC 877054 was initiated by the City Attorney to abate the public nuisance created by Sunroad Enterprises' construction of a 12 story, 180 foot building which had been declared a "hazard" to air navigation at the City's Montgomery Field Airport by the Federal Aviation Administration [FAA]. Sunroad Enterprises cross-complained against the City claiming the City issued permits for the building, and, therefore, the City is responsible for any monetary loss Sunroad may incur. In closed session, the City Attorney will discuss the status of the pending litigation and associated costs.

**CS-13 *Christopher Stavros v. City of San Diego*  
Claim No. LP05-0534-2204**

DCA Assigned: D. Shanahan

The *Christopher Stavros v. City of San Diego* matter is a non-litigated claim arising out of a failed City storm drain. The failed storm drain caused water intrusion into the lower level of the Stavros' residence and also caused severe soil erosion of the slope under and around the residence. In closed session, the City Attorney will brief the Mayor and City Council on this matter and recommend settlement.