

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, JULY 16, 2007  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Peters at 2:04 p.m. Council President Peters recessed the meeting at 3:55 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:01 p.m. with Council Member Maienschein not present. Council President Pro Tem Young recessed the meeting at 5:38 p.m. to convene the Redevelopment Agency. Council President Pro Tem Young reconvened the regular meeting at 5:43 p.m. with Council President Peters not present. Council President Pro Tem Young adjourned the meeting at 5:44 p.m. to convene into Closed Session.

**ATTENDANCE DURING THE MEETING:**

- (1) Council Member Peters-present
  - (2) Council Member Faulconer-present
  - (3) Council Member Atkins-present
  - (4) Council Member Young-present
  - (5) Council Member Maienschein- present
  - (6) Council Member Frye-present
  - (7) Council Member Madaffer-present
  - (8) Council Member Hueso-present
- Clerk-Maland (mz)

FILE LOCATION:            MINUTES



ITEM-1:

ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso- not present

FILE LOCATION:

MINUTES



ITEM-10:

INVOCATION

Invocation was given by Pastor Jeff Burnell of Horizon Park Chapel.

FILE LOCATION:

MINUTES



ITEM-20:

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Faulconer.

FILE LOCATION:

MINUTES

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Madaffer introduced Drew Spence, a new summer intern for Council District 7, from Patrick Henry High School.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:08 p.m.)

COUNCIL COMMENT-2:

Council President Peters introduced Meghan Barry, an intern for the day, for Council District 1

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:08 p.m.)

CLOSED SESSION ITEMS:

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

**CS-1 Property Damage Claim: *John Trunkey, 7595 Hillside Drive***

**REFERRED TO CLOSED SESSION OF TUESDAY, JULY 17, 2007**

DCA Assigned: C. Fitzgerald

This matter involves a claim arising out of a sewer backup that caused extensive damage to the La Jolla home of John Trunkey.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:23 p.m. – 5:23 p.m.)

**Council President Peters closed the hearing.**

**CS-2 Potential Amicus Brief: *County of San Diego, et al. v. San Diego NORML, et al.*  
San Diego Superior Court Case No. GIC 860665**

**REFERRED TO CLOSED SESSION OF TUESDAY, JULY 17, 2007**

DCA Assigned: M. Nuesca

The County of San Diego has sued the State of California and others, arguing state medical marijuana laws are preempted by federal law. The trial court issued a ruling in the State's favor. The County appealed to the Fourth District Court of Appeal. Councilmember Atkins has expressed an interest in having the City Attorney on behalf of the City, file an amicus brief in support of the State of California.

Closed Session Comment 1:

Dion Markgraaf commented on State medical marijuana laws.

Closed Session Comment 2:

Raymond Duffy commented on the democracy toward medical marijuana laws.

Closed Session Comment 3:

Jeffrey Meyer commented on filing a brief to represent patients in San Diego.

Closed Session Comment 4:

Malcolm Barker commented on dispensaries and support for medical marijuana.

Closed Session Comment 5:

Lauren Calton commented on the “Compassionate Use Act”.

Closed Session Comment 6:

Margaret Dooley commented on the lawsuit against medical marijuana.

Closed Session Comment 7:

Joe Southworth commented on the benefits of medical marijuana for his medical condition.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:38 p.m.)

**Council President Peters closed the hearing.**

**CS-3 Claim: La Jolla Cove Property Management**

**REFERRED TO CLOSED SESSION OF TUESDAY, JULY 17, 2007**

DCA Assigned: R. Palmucci

This is an un-litigated claim arising out of a water main break which caused flood damage to real and personal property of the owners and tenants of several houses in a North Park neighborhood on Sunday, April 22, 2006. The loss was handled in accordance with City Council Policy 400-10. Presently, the total damages are \$139,176.26. The City Attorney requests that the City Council consider establishing a financial reserve to manage the ongoing costs of these claims of the case in Closed Session until the full amount can be determined.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:23 p.m. – 5:23 p.m.)

**Council President Peters closed the hearing.**

**CS-4 *Harvey Furgatch v. San Diego Unified Port District, et al.*  
San Diego Superior Court Case No. GIC 775242**

**REFERRED TO CLOSED SESSION OF TUESDAY, JULY 17, 2007**

CDCA Assigned: H. Carlyle and DCA Assigned: J. Riley

Plaintiff alleges his lawsuit was a substantial factor in causing the termination of the purchase and sale agreement for the transfer of property (Tailgate Park) from the City to the San Diego Unified Port District. The Council will be advised of the status of this litigation and discuss whether to waive the attorney client and attorney work product privileges, in a limited scope, for the purpose of defending this lawsuit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:23 p.m. – 5:23 p.m.)

**Council President Peters closed the hearing.**

**CS-5** *City of San Diego v. Sunroad Enterprises et al.*

**San Diego Superior Court Case No. GIC 877054**

**REFERRED TO CLOSED SESSION OF TUESDAY, JULY 17, 2007**

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 has 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 is responsible for any monetary loss Sunroad may incur. The City Attorney and outside counsel, Latham & Watkins, will discuss the status of the pending litigation and associated costs.

Closed Session Comment 1:

Joy Sunyata commented on processes in litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:23 p.m. – 5:27 p.m.)

**Council President Peters closed the hearing.**

**Public employment - performance evaluation, pursuant to California Government Code Section 54957(b)(1):**

**CS-6 Title: Independent Budget Analyst**

**REFERRED TO CLOSED SESSION OF TUESDAY, JULY 17, 2007**

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:37 p.m. – 5:37 p.m.)

**Council President Peters closed the hearing.**

CS-7 Title: City Clerk

**REFERRED TO CLOSED SESSION OF TUESDAY, JULY 17, 2007**

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:37 p.m. – 5:37 p.m.)

**Council President Peters closed the hearing.**



ITEM-150: Lobbying Representation in Sacramento, CA.

(See Reports to the City Council No. 07-113 and 07-050; Intergovernmental Relations Department's 3/7/2007 PowerPoint; and PowerPoint dated 2/7/2007.)

(Continued from the meeting of June 25, 2007, Item 150, Subitem B, at the request of Councilmember Hueso, for further review.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2007-967 Cor. Copy) ADOPTED AS AMENDED AS RESOLUTION  
R-302835

Authorizing the Mayor, or his designee, to enter into and execute, for and on behalf of the City, a contractual agreement for state lobbying representation for a term of two years commencing July 1, 2007, in an amount not to exceed \$336,000, with Sloat Higgins Jensen & Associates and Marston+Marston, Incorporated, under the terms and conditions set forth in the agreement;

Authorizing the expenditure of an amount not to exceed \$168,000, solely and exclusively, for the purpose of providing funds for the above agreement with Sloat Higgins Jensen & Associates and Marston+Marston, Incorporated, contingent upon the City Auditor and Comptroller first furnishing one or more certificates demonstrating that the funds necessary for expenditures are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS  
COMMITTEE'S RECOMMENDATION:**

On 3/7/2007, Rules voted 5 to 0 to approve the recommendation that Sloat Higgins Jensen & Associates/Marston+Marston be selected as the City's Sacramento lobbyist, with direction that contract terms be provided prior to City Council consideration. (Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea.)

On 2/7/2007, Rules voted 5 to 0 to approve the Mayor's recommendation with direction to the Independent Budget Analyst to prepare a report prior to adoption of the budget regarding the appropriate oversight of the lobbying function. (Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea.)

**SUPPORTING INFORMATION:**

For more than 40 years, the City has contracted with government relations firms to ensure that the City maintains effective advocacy before the legislative and executive branches of the Federal and State governments. These advocates, working through the Community and Legislative Services Division, Intergovernmental Relations Department, advocate City adopted policy regarding: funding opportunities; Legislative goals; and Regulatory goals.

The principal responsibility of the lobbying contractor shall be achieving funding and determined legislative and regulatory outcomes on behalf of the City.

**FISCAL CONSIDERATIONS:**

Contract costs are \$348,000 annually combined. Patton Boggs, LLP will be compensated \$180,000 annually and Sloat Higgins Jensen/Marston+Marston, Incorporated will be compensated \$168,000 annually.

Funding for the contract costs have been included in the Mayor's Proposed Fiscal Year 2008 budget. The impact to the General Fund is \$219,600 for Department 220; impact to Non-General Fund is \$128,400 dispersed among Refuse Disposal Fund (\$10,440), Recycling (\$8,400), Water (\$34,800), Metropolitan Waste Water (\$71,400), and Development Services (\$3,360). Contract payments will occur via the General Fund with the Non-General Fund providing reimbursement under the cost allocation described above.

During the current fiscal year the Intergovernmental Relations Department conducted a review of the previous allocations by fund and compared those to the actual time spent on lobbying activities by the federal and state lobbying contractors. Based upon the results of that review, the funding allocations from each fund have been reduced to more accurately reflect the amount of time the contract lobbyists spend working on non-general fund priorities.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Rules, Open Government and Intergovernmental Relations Committee voted 5-0 on February 7, 2007, to authorize the Mayor to negotiate and execute an Agreement with Patton Boggs, LLP for federal lobbying services.

The Rules, Open Government and Intergovernmental Relations Committee voted 5-0 on March 7, 2007, to authorize the Mayor to negotiate and execute an Agreement with Sloat Higgins Jensen/Marston+Marston, Incorporated for state lobbying services.

The San Diego City Council voted 7-0 on June 25, 2007, to authorize the Mayor to negotiate and execute an Agreement with Patton Boggs, LLP for federal lobbying services.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: -

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): -

Nelson/Michell

Aud. Cert. 2700815.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. – 3:00 p.m.)

MOTION BY MADAFFER TO ADOPT AS AMENDED FOR SLOAT HIGGINS JENSEN AND ASSOCIATES AND MARSTON+MARSTON, INCORPORATED TO SUBMIT WRITTEN REPORTS TO THE MAYOR AND CITY COUNCIL. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



[ITEM-151:](#) Amendments to the Municipal Lobbying Ordinance.

(See memorandum from San Diego Ethics Commission dated 5/11/2007.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2007-137)                   INTRODUCED AS AMENDED, TO BE ADOPTED ON  
TUESDAY, JULY 31, 2007

Introduction of an Ordinance amending Chapter 2, Article 7, Division 40 of the San Diego Municipal Code by retitling and amending Section 27.4001; amending Sections 27.4002 and 27.4004; repealing Section 27.4005; amending Sections 27.4006 and 27.4007; retitling and amending Sections 27.4009 and 27.4010; amending Section 27.4012; repealing Sections 27.4013 and 27.4014; amending Sections 27.4015 and 27.4016; retitling and amending Section 27.4017; adding New Section 27.4018; retitling, amending, and renumbering previous Section 27.4018 to Section 27.4019; repealing Sections 27.4020 and 27.4021; retitling and amending Sections 27.4022, 27.4023, and 27.4024; adding Section 27.4030; amending and renumbering Section 27.4025 to Section 27.4040; amending and renumbering Section 27.4026 to Section 27.4041; adding Section 27.4045; amending and renumbering Section 27.4027 to Section 27.4050; amending and renumbering Section 27.4028 to Section 27.4055; and amending Chapter 2, Article 7, Division 35 by amending Section 27.3503, all relating to the City of San Diego Municipal Lobbying Ordinance.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS  
COMMITTEE'S RECOMMENDATION:**

On 3/7/2007, Rules voted 5 to 0 to approve. (Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea.)

**SUPPORTING INFORMATION:**

The proposed amendments to the Municipal Lobbying Ordinance are reflected in the Ordinance, Alternative A, Strike-Out Ordinance, and City Attorney Digest. The proposed reforms are extensive and are explained in detail in the memo from Stacey Fulhorst dated May 11, 2007. If adopted, the proposals will:

- 1) Change the registration threshold;
- 2) Require lobbying firms and organization lobbyists to register (instead of individual lobbyists) and disclose the activities of their officers and employees;
- 3) Require the disclosure of additional information on lobbyist registration forms and quarterly disclosure reports; and
- 4) Limit gifts to City Officials from lobbying firms and organization lobbyists to \$10 per month.

**FISCAL CONSIDERATIONS:** None.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

Approved by the Rules Committee on March 7, 2007.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Public discussion at eighteen Ethics Commission meetings from November 2005 through April 2007, as well as public discussion at Rules Committee meetings on October 25, 2006, and March 7, 2007.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Persons who are compensated to contact City Officials for the purpose of influencing municipal decisions, as well as the firms and organizations who employ such persons.

Fulhorst

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:00 p.m. – 4:30 p.m.)

MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE AS AMENDED BY THE CITY ATTORNEY'S RECOMMENDATION WITH THE EXCLUSIONS OF NUMBERS 4 AND 9; AND CHANGE THE LANGUAGE PERTAINING TO GIFTS NOT TO INCLUDE TICKET OR OTHER ADMISSION TO AN EVENT HELD AS A NON-PROFIT ENTITY; AND REFER MAYOR'S MEMORANDUM TO THE ETHICS COMMISSION AND THE RULES COMMITTEE. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-200: Amending Chapter 6, Article 3, of the San Diego Municipal Code by adding Language that Clarifies the Meaning of the Land/Water Distinction as Characterized within Section 55.1 of the City Charter.

(See Report to the City Council No. 07-119; memorandum from the City Attorney dated 11/13/2006; and letter from Judith A. Swink dated 5/14/2007. Districts 2 and 6.)

(Continued from the meeting of 5/15/2007, Item 53, at the request of the Mayor's Office, for clarification regarding land/water distinctions within the City Charter.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2007-131 Cor. Copy 2) INTRODUCED AS AMENDED, TO BE  
ADOPTED ON TUESDAY, JULY 31, 2007

Introduction of an Ordinance amending Chapter 6, Article 3, Division 25, of the San Diego Municipal Code by amending Section 63.25.1, relating to Public Works and Property, Public Improvement and Assessment Proceedings.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 11/15/2006, NR&C voted 3 to 0 to forward this item to full City Council for action.  
(Councilmembers Faulconer, Frye, and Hueso voted yea. Councilmember Atkins not present.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:30 p.m. – 5:23 p.m.)

MOTION BY FRYE TO INTRODUCE THE ORDINANCE AS AMENDED AS RECOMMENDED BY THE CITY ATTORNEY TO CHANGE THE WORDING FOR THE DEFINITION FOR BOTH "LAND OF MISSION BAY" AND "WATERS OF MISSION BAY" TO READ AS FOLLOWS: "DEDICATED LAND AREA OF MISSION BAY" AND "DEDICATED WATER AREA OF MISSION BAY". Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the February 5, 2008 election:

| <u>DAY</u> | <u>DATE</u> | <u>DAYS<br/>BEFORE<br/>ELECTION</u> | <u>EVENT</u>  |
|------------|-------------|-------------------------------------|---|
| Friday     | 9/14/2007   | 144                                 | LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee |
| Wednesday  | 9/19/2007   | 139                                 | Rules Committee review  |
| Monday     | 9/24/2007   | 134                                 | Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee ( <i>NB: E-127 is 10/1/2007, a legislative recess</i> )  |
| Monday     | 10/8/2007   | 120                                 | Council adopts propositions for ballot; directs City Attorney to prepare ordinances   |
| Monday     | 10/29/2007  | 99                                  | Council adopts ordinances prepared by City Attorney   |
| Friday     | 11/9/2007   | 88                                  | Last day for City Clerk to file with Registrar of Voters all elections material   |
| Monday     | 11/26/2007  | 71                                  | Last day to file ballot arguments with City Clerk   |

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

**REPORT OUT OF CLOSED SESSION:**

None.

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Council President Pro Tem Young at 5:43 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:43 p.m. – 5:43 p.m.)