

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JANUARY 28, 2008
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 2:02 p.m. Chief Financial Officer Jay Goldstone gave an update on the status of the Mount Soledad Landslide and the wildfire emergencies. Council President Peters recessed the meeting at 3:29 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:36 p.m. with Council Member Falconer not present. The meeting was adjourned by Council President Peters at 5:25 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Falconer-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 (sr)

FILE LOCATION: MINUTES



ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-not 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

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Pastor Jon Doolittle of Clairemont Lutheran Church.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council President Pro Tem Madaffer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

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

- CS-1 *In The Matter of: Natural Gas Anti-Trust Cases I, II, III & IV (Relating to City of San Diego v. Sempra, et al.)***
Re: All Price Indexing Cases, JCCP Nos. 4221, 4224, 4226, and 4228

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

DCA Assigned: F. Ortlieb

This matter involves a pending consolidated action suit against retail sellers of natural gas for anti-competitive acts and unfair business practices in 2000 and 2001. In Closed Session, the City Attorney will discuss recommended settlements proposed for Sempra defendants (Sempra Energy, Sempra Energy Trading, Southern California Gas Company, and San Diego Gas & Electric Company).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

- CS-2 *Taxpayers for Responsible Land Use, et al. v. City of San Diego, et al.***
San Diego Superior Court Case No. GIC867378

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

DCA Assigned: C. Brock

Case No. GIC 867378 was initiated by Taxpayers for Responsible Land Use (Taxpayers) contesting the sale of City property to Hillel of San Diego for the construction of a student center near University of California, San Diego. Taxpayers also challenged the sufficiency of the Mitigated Negative Declaration for the project under the California Environmental Quality Act (CEQA). The City Attorney and outside counsel, Suzanne Varco, Esq., will discuss the court's rulings in the litigation, the issues presented for appeal, and ongoing settlement discussions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

**CS-3 *Heisey v. City of San Diego*
San Diego Superior Court Case No. GIC 865903
(Consolidated with *Foote v. City of San Diego*
San Diego Superior Court Case No. GIC 865903)**

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

DCA Assigned: C. Brock

Plaintiff filed her Complaint for Nuisance, Trespass, Preliminary and Permanent Injunction, and Inverse Condemnation [Complaint] against the City in May 2006. Plaintiff's Complaint alleges water intrusion entering defects in the City street and gutter in front of her home has resulted in permanent damage to the hillside and patio structures on her property. In Closed Session, the City Attorney will present Plaintiff's settlement proposal to the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

**CS-4 *City of San Diego v. Sunroad Enterprises et al.*
San Diego Superior Court Case No. GIC 877054**

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

**CS-5 *Zucchet, et al. v. City of San Diego*
San Diego Superior Court, Case No. 857389**

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

DCA Assigned: J. Cordileone

Plaintiffs seek reimbursement of attorney fees incurred defending a case filed against them by the City of San Diego. The City Attorney will discuss possible settlement of the case in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

**CS-6 *City of San Diego v. MBM Associates, et al.*
San Diego Superior Court, Case No. 878013**

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

DCA Assigned: J. Cordileone

City must evaluate options with regard to settling or appealing the Trial Court's sustaining of demurrers to City's complaint against certain landowners and developers in Mission Valley.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel – anticipated litigation, pursuant to California Government Code Section 54956.9(b)

CS-7 *Regional Water Quality Control Board Tentative Cleanup and Abatement Order No. R9-2005-0126*

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

CDCA: M. Severson
DCA Assigned: F. Ortlieb

In Closed Session, the City Attorney's Office will update the City Council on the status of this matter involving an impending tentative order of the Regional Water Quality Control Board for the cleanup and abatement of toxic sediments in San Diego Bay near shipyard sites and the mouth of Chollas Creek.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

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

CS-8 Agency negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Jessica Falk Michelli, William Gersten, and L. 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

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 29, 2008

DCAs Assigned: W. Gersten/J. Falk Michelli/L. Thacker

Discuss with 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).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.



ITEM-200: Variable Rate Debt and Derivatives Workshop for the City Council.
(Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-595) REFERRED TO COMMITTEE

Authorizing and directing the Mayor, or his designee, to develop or cause to be developed a Variable Rate Debt and Derivative Policy;

Directing the Mayor, or his designee, to return to the Council for consideration of such policy as soon as practical.

STAFF SUPPORTING INFORMATION:

On November 6, 2007, the City Council adopted Resolution R-803152 formally adopting the City of San Diego Debt Policy ("Debt Policy"). Said Resolution also required that the Mayor shall, by the end of Fiscal Year 2008 cause a Variable Rate Debt and Derivatives Policy to be brought forward to the Budget and Finance Committee for inclusion as an appendix to the Debt Policy. This Variable Rate and Derivatives Workshop will enable the City Council to understand the use of variable rate method and derivative instruments for City bond issuances, and mechanics and operational considerations in developing and implementing an effective variable rate program. This workshop will be conducted at 2:00 p.m. on January 28, 2008. This workshop will be conducted by Jim Bemis of Montague, DeRose and Associates (MDA) and City Debt Management staff. MDA, having served as the Financial Advisor on various City financing transactions, has extensive experience in assisting municipalities in managing variable rate debt and derivatives activities.

If the City Council consents, an action item is herewith recommended that the City Council authorize the Mayor and/or his designee to develop the City of San Diego Variable Rate and Derivatives Policy to govern future implementation of such instruments. Upon completion, said policy will be presented to the City Council by the end of Fiscal Year 2008, in accordance with Resolution R-803152, for inclusion as an appendix to the City's Debt Policy.

FISCAL CONSIDERATIONS:

No fiscal impact.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council adopted Resolution R-803152 formally adopting the City of San Diego Debt Policy.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not Applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Not Applicable.

Kommi/Lewis

Staff: Lakshmi Kommi - (619) 236-6928
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:38 p.m. – 5:14 p.m.)

MOTION BY FAULCONER TO REFER THE ISSUE TO THE BUDGET OR AUDIT COMMITTEE FOR FURTHER CONSIDERATION. Second by Hueso. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.



ITEM-201: City Council Budget Priorities for Fiscal Year 2009.

(See Independent Budget Analyst Report No. 08-7.)

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-599) ADOPTED AS RESOLUTION R-303356

Accepting the report of the Independent Budget Analyst No. 08-7, dated January 17, 2008 (Report) concerning budget priorities for the Fiscal Year 2008-2009 Budget, and directing Independent Budget Analyst to deliver the Report, together with each Councilmember's Fiscal Year 2009 Budget Priorities, by February 1, 2008 to the Mayor for his consideration.

SUPPORTING INFORMATION:

Prior to the presentation of the Mayor's Proposed Budget, the City Council annually adopts by resolution its budgetary priorities for submission to the Mayor by February 1, 2008. This year, Councilmembers were requested to submit their priorities for the Fiscal Year 2009 Budget by January 9, 2008 to Budget and Finance Committee Chair Toni Atkins. These budget priorities are scheduled to be discussed by the full City Council at its meeting the week of January 28, 2008, and will then be submitted to the Mayor.

On January 9, 2008, the Budget and Finance Committee discussed criteria for the format of the upcoming budget hearings, and committee members made suggestions for additional information to be included.

The purpose of this action is to convey to the Mayor the Fiscal Year 2009 budget priorities established by each City Councilmember via their memorandum; and to convey the expectations of the City Council for the upcoming budget hearing presentations.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:18 p.m. – 3:36 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION AS DRAFTED WITH THE COMMENTS OF CITY COUNCIL MEMBERS THAT WERE SUBMITTED TO THE BUDGET AND FINANCE COMMITTEE CHAIR TONI ATKINS. 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-250: Notice of Pending Final Map Approval – City Villas.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “City Villas” (T.M. No. 207858/PTS No. 110127), located on the southeast corner of 16th Street and E Street in the Centre City Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-251: Notice of Pending Final Map Approval – The Billboard Lofts.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “The Billboard Lofts” (T.M. No. 217288/PTS No. 119369), located on the northwest corner of Ash Street and Union Street in the Centre City Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-252: 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 June 3, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	1/18/08	137	LAST DATE (10:00 a.m.) for public, departments and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	1/23/08	132	Rules Committee review
Monday	1/28/08	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	2/4/08	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	2/25/08	99	Council adopts ordinances prepared by City Attorney
Friday	3/7/08	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	3/20/08	75	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.

ITEM-S400: Ballot Proposition forwarded to City Council

Pursuant to Council Policy 00-21, on January 23, 2008, the Rules Committee voted to forward to City Council a ballot proposition (Charter amendment to provide for mandatory recycling), for consideration of placement on the June 3, 2008 ballot.

NOTE: This ballot proposition will be considered on the docket of February 4, 2008.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:25 p.m. in honor of the memory of:

Helen Hernandez as requested by Council President Peters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:22 p.m. - 3:25 p.m.)