

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, APRIL 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 2:04 p.m. The meeting was adjourned by Council President Peters at 3:15 p.m.

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 (sr)

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-present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Kai Kamp of Horizon Christian Fellowship.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

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

CS-1 *City of San Diego v. Tracy Means, et al.*
San Diego Superior Court Case No. GIC 858344/Appellate Court Case No. D051840

Tracy Means v. The City of San Diego
San Diego Superior Court Case No.: GIC 864419 (the City prevailed)

Tracy Means v. City of San Diego
A municipal corporation and a Political Subdivision of the State of California
U. S. District Court Case No. 08CV0580 WQH (Por)

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCA Assigned: J. Cordileone

Attorney Paula Rosenstein, acting on behalf of Tracy Means, former Deputy Director of the Airports Division of the City of San Diego's Department of Real Estate Assets wrote the City Council a letter on February 13, 2008, requesting global settlement of three cases between her and the City.

Closed Session Comment 1:

Paula Rosenstein commented on the merits of the case and the urgency of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:11 p.m.)

Council President Peters closed the hearing.

CS-2 *City of San Diego v. Sunroad Enterprises et al.*
San Diego Superior Court Case No. GIC 877054

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 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, settlement, and associated costs.

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

Closed Session Comment 1:

Joy Sunyata commented on the need to settle litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:11 p.m. - 3:13 p.m.)

Council President Peters closed the hearing.

CS-3 Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCA Assigned: W. Chung

In closed session, the Mayor requests that Outside Counsel provide advice relating to proposed Pension System Changes included in the Voluntary Compliance Program Filing that may affect the pension benefits of employees, retirees and their beneficiaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:07 p.m.)

Council President Peters closed the hearing.

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

CS-4 Agency Negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Rod Betts, Jessica Falk Michelli, William Gersten, Lori Thacker, and Alan Hersh

Employee Organizations: Municipal Employees Association, AFSCME Local 127 AFL-CIO, and Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCA's Assigned: W. Gersten/J. Falk Michelli/L. Thacker/A. Hersh

Discussions regarding impasse on proposed impasse procedures.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:07 p.m.)

Council President Peters closed the hearing.

CS-5 Agency Negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Rod Betts, Jessica Falk Michelli, William Gersten, Lori Thacker, and Alan Hersh

Employee Organizations: Municipal Employees Association, AFSCME Local 127 AFL-CIO, and Deputy City Attorney Association

REFERRED TO CLOSED SESSION OF TUESDAY, APRIL 29, 2008

DCA's Assigned: W. Gersten/J. Falk Michelli/L. Thacker/A. Hersh

The Mayor and City Council will be updated on the status of the labor negotiations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:06 p.m. - 3:07 p.m.)

Council President Peters closed the hearing.



ITEM-150: Professional Audit Consultant Recommendations for an Effective Internal Employee Hotline.

(See Jefferson Wells' 1/24/2008 report, 2/22/2008 memorandum, and 1/28/2008 PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-922) ADOPTED WITH DIRECTION AS RESOLUTION
R-303626

Accepting the Hotline Report, and related hotline memoranda from Jefferson Wells and the Office of Ethics and Integrity;

Implementing Recommendation 1 of the Hotline Report which states "Hotline Complaints Should Be Reported to the Audit Committee";

Implementing Recommendation 2 of the Hotline Report which states "Hotline Activity Should Be Reported to the Audit Committee and Audited";

Implementing Recommendation 3 of the Hotline Report which states that the "Hotline Number Should Be Publicized to All Citizens";

Implementing anticipation of possible Charter reform in June 2008, and as soon as is practicable, Recommendation 4 of the Hotline Report which advocates "Hotline Oversight by the Independent City Auditor".

AUDIT COMMITTEE'S RECOMMENDATION:

On 2/25/2008, Audit voted 3 to 0 to forward the recommendation to the full City Council. (Councilmembers Faulconer, Atkins, and Young voted yea.)

The City's Audit Committee received and discussed a report from their professional audit consultant (Jefferson Wells) entitled "Analysis and Recommendations for an Effective Internal Employee Hotline" on January 28th and February 25th, 2008. Related hotline memoranda from Jefferson Wells and the Office of Ethics and Integrity were received and discussed by the Audit Committee on February 25th and March 24th, 2008. At these meetings, the Audit Committee unanimously adopted two motions to forward recommendations provided within the Jefferson Wells Hotline Report and related memoranda to the City Council for consideration. This resolution would accept the Jefferson Wells Hotline Report and specify that the four recommendations within the Report be implemented as soon as is practicable.

FISCAL CONSIDERATIONS: To be determined.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On February 25th and March 24th, the Audit Committee unanimously adopted two motions to forward recommendations provided within the Jefferson Wells Hotline Report and related memoranda to the City Council for consideration.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Kawar/Tevlin

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 3:05 p.m.)

MOTION BY FAULCONER TO ADOPT WITH DIRECTION TO REVIEW/DRAFT A WHISTLEBLOWER RETALIATION AND CONFIDENTIALITY ORDINANCE INTO THE MUNICIPAL CODE AND AMEND BY REPLACING “SHALL” WITH “SHOULD” IN SECTIONS 2, 3, AND 4. AMEND SECTION 2 TO SPECIFY E-MAIL NOTIFICATION OF COMPLAINTS INVOLVING SENIOR CITY MANAGEMENT, ALLEGATIONS OF IMPROPER FINANCIAL ACTIVITY AND FRAUD, WASTE AND/OR ABUSE RECEIVED BY THE HOTLINE WILL BE REPORTED TO THE AUDIT COMMITTEE CHAIR, OR OTHER DESIGNATED MEMBER OF THE COMMITTEE, TO ENSURE COMPLIANCE WITH THE BROWN ACT. DIRECT THE CITY AUDITOR/INTERNAL AUDITOR TO PRESENT A HOTLINE ADMINISTRATION PLAN TO THE AUDIT COMMITTEE FOR APPROVAL TO BE PRESENTED TO CITY COUNCIL FOR APPROVAL. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



ITEM-200: Reclassifying and Changing the Number of Commissioners on the City of San Diego’s Commission on Gang Prevention and Intervention.

STAFF’S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-76) INTRODUCED WITH DIRECTION, TO BE ADOPTED
ON TUESDAY, MAY 13, 2008

Introduction of an Ordinance amending Chapter 2, Article 6, Division 19, of the San Diego Municipal Code by amending Sections 26.1902 and 26.1903, all related to the Commission on Gang Prevention and Intervention. The purpose of this ordinance is to amend Chapter 2, Article 6, Division 19 to add certain public officeholders to the Commission and to change meeting requirements. The additions are: the San Diego County District Attorney; the San Diego County Chief of Probation; the State of California Chief District Administrator, Department of Corrections, Division of Adult Parole Operations; the San Diego County Sheriff San Diego Unified School District, Superintendent; the Superintendent of the County Office of Education and the Chief of Police for the City of San Diego as a member.

STAFF SUPPORTING INFORMATION:

The Commission on Gang Prevention and Intervention has completed its strategic action goals and action plan for impacting gang activity in the City of San Diego. The Commission has established relationships with various countywide organizations. However, the State has informed all cities that preference will be given in their most recent RFP processes to applicants that incorporate regional approaches to anti-gang activities. Each city grantee must establish a coordinating and advisory council to prioritize the use of the funds with the goal of reducing gang activity in the city and adjacent areas. Membership must include:

- City officials;
- Local law enforcement including the county sheriff, chief probation officer , and District Attorney;
- Local educational agencies, including school districts and the County Office of Education; and
- Community-based organizations;

These funding opportunities are a result of Governor Schwarzenegger's California Gang Reduction, Intervention and Prevention (CalGRIP) Initiative, which resulted in part in the appropriation of \$9,500,000 in the State Budget for this year.

FISCAL CONSIDERATIONS:

Not applicable.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Commission on Gang Prevention and Intervention had two separate discussions about this and felt that it would encourage regional collaboration and encourage broader city-wide discussions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The city will benefit through meeting qualifications regarding state grants and enhance its ability to accomplish the strategic goals outline in the Commission's Strategic Action Plan.

Underwood/Olen

Staff: Lynn Sharpe-Underwood - (619) 236-5936
Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:10 p.m. - 2:19 p.m.)

MOTION BY YOUNG TO INTRODUCE WITH DIRECTION TO RETURN TO THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE WITH RECOMMENDATIONS AND OPTIONS HOW COUNCIL CAN PARTICIPATE IN THE COMMISSION. 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-201: Funding Transfer for Managed Competition Consultant Support.

(See Report to the City Council No. 08-066.)

STAFF'S RECOMMENDATION:

Hold the first public hearing:

RETURNED TO STAFF

Amend the Fiscal Year 2008 Appropriations Ordinance (O-19652) to authorize the City Auditor and Comptroller to appropriate and expend \$400,000 in the Business Office (Fund 100, Dept. 210) from the General Fund Unallocated Reserves (Fund 100) to fund managed competition consultant support;

Authorize the Mayor to ratify contract 8020-07-Z with Grant Thornton LLP for managed competition program support with an authorization to expend, not to exceed limit of \$1,550,000, contingent upon the City Auditor and Comptroller first certifying that funds are available;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

STAFF SUPPORTING INFORMATION:

Essential elements of a successful managed competition program include detailed preliminary planning and well defined, performance-based Statements of Work (SoW). In order to gain the specialized knowledge and experience necessary to support these processes, the managed competition program issued a Request for Proposals (RFP) on October 19, 2006. Four proposals were received and were evaluated separately for technical merit and price. Grant Thornton was evaluated the best value provider and was awarded a one-year contract, including four option years. Over the past eight months, the City has issued task orders under Department Director signature authority against the contract for discrete elements of work.

The managed competition program has made significant progress and is now in need of more robust support to assist in SoW development.

FISCAL CONSIDERATIONS:

Funding in the amount of \$400,000 has been identified from the General Fund Unallocated Reserve for transfer to Department 210.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- March 27, 2006 - City Council adopted Ordinance O-19474, placing on the November 7, 2006 ballot the proposition to amend Article VIII of the City Charter by adding Subsection (c) regarding the use of managed competition to Section 117.
- January 9, 2007 - City Council approved Ordinance O-19565, which amended Article 2, Division 37 of the Municipal Code.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Thirty-seven potential consultants were contacted and made aware of the RFP. The RFP was advertised in the San Diego Daily Transcript and posted to the City's official web site.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Interested parties include:

- The voters of the City of San Diego, who expressed their enthusiasm for a managed competition program within the City of San Diego (City) through their approval of Proposition C in November 2006
- City employees
- The City's recognized labor unions
- Local businesses
- The residents and visitors of the City of San Diego

Managed competition is intended to aide the City of San Diego in ensuring that it is delivering quality services to taxpayers, residents, and visitors in the most economical and efficient means possible.

Danegger/Goldstone

Aud. Cert. 2800680.

Staff: Anna Danegger - (619) 236-6107

NOTE: Today's action is the first public hearing. See the docket of Monday, May 5, 2008, for the second public hearing.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:09 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO STAFF. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.



ITEM-202: Impasse Hearing on Proposed Impasse Procedures.

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

IMPASSE HEARING NOT NECESSARY

Providing for an impasse hearing, if necessary, for Management and the Municipal Employees Association ("MEA"), AFSCME Local 127, and the Deputy City Attorneys Association ("DCAA") currently involved in negotiations regarding a new impasse procedure;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

FILE LOCATION: MEET

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

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 3:15 p.m.