

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, FEBRUARY 23, 2009
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 Hueso at 2:01 p.m. The meeting was adjourned by Council President Hueso at 4:19 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Lightner-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Gloria-present
 - (4) Council Member Young-present
 - (5) Council Member DeMaio-present
 - (6) Council Member Frye-present
 - (7) Council Member Emerald- present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES



ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Lightner-present
- (2) Council Member Faulconer-present
- (3) Council Member Gloria-present
- (4) Council Member Young-not present
- (5) Council Member DeMaio-not present
- (6) Council Member Frye-present
- (7) Council Member Emerald- present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Reverend Wayne Riggs of Plymouth Congregational Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

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

FILE LOCATION: MINUTES

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Frye announced the Natural Resources and Culture Committee's workshop Wednesday at 5:30 p.m. with the Water Department regarding water allocation.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:10 p.m. - 2:11 p.m.)

COUNCIL COMMENT-2:

Council Member Gloria thanked all who participated at the San Diego Speaks Budget Forum in District 3 on Saturday.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:11 p.m. - 2:12 p.m.)

COUNCIL COMMENT-3:

Council President Hueso commented on the memo distributed on Friday regarding the American Recovery and Reinvestment Act.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:12 p.m. - 2:16 p.m.)

CLOSED SESSION ITEMS:

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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).

Closed Session Comment 1:

Hud Collins commented on fair negotiations.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:09 p.m.)

Council President Hueso closed the hearing.

**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**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.

**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)**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.

**CS-4 *Michael T. Uberuaga v. City of San Diego*
United States District Court Case No. 08cv1960 MMA (BLM)**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

Closed Session Comment 1:

Hud Collins commented the defense of Mr. Uberuaga.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:09 p.m. - 4:11 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

Closed Session Comment 1:

Hud Collins commented on the initiation of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:11 p.m. - 4:13 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

Closed Session Comment 1:

Hud Collins commented on the necessity of outside counsel.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:13 p.m. - 4:16 p.m.)

Council President Hueso closed the hearing.

**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)**

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

Closed Session Comment 1:

Hud Collins commented on the necessity of outside counsel.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:13 p.m. - 4:16 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.

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

REFERRED TO CLOSED SESSION OF TUESDAY, FEBRUARY 24, 2009

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.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:07 p.m. - 4:07 p.m.)

Council President Hueso closed the hearing.



[ITEM-200](#): Informational Report from the San Diego City Employees' Retirement System (SDCERS) Actuary on the City's June 20, 2008 Actuarial Valuation.

(See June 30, 2008 Actuarial Valuation Draft dated 2/23/2009.)

COUNCIL PRESIDENT HUESO'S RECOMMENDATION:

HEARING HELD

Hear Informational Report from the San Diego City Employees' Retirement System (SDCERS) Actuary on the City's June 30, 2008 Actuarial Valuation.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 4:04 p.m.)

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Hueso at 4:19 p.m. in honor of the memory of:

Aida Mancillas at the request of Council Member Gloria.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:16 p.m. – 4:19 p.m.)