

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
CLOSED SESSION DOCKET  
FOR  
TUESDAY, NOVEMBER 15, 2005 AT 9:00 A.M.  
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 Rule 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 on Monday, November 14 2005, during the 2:00 p.m. Council meeting.**

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

**CS-1** *City of San Diego v. Cal Southwest Construction, Inc., et al.*  
San Diego Superior Court No. GIC835418

DCA assigned: P. Fusco

This case arose out of the March 12, 2003, water main break during construction of the Group 535 Project on Pacific Coast Highway [PCH]. The break caused major flooding of PCH, and contaminated soils to wash into the San Diego Bay. The City contends Cal Southwest Construction (the general contractor on the project) caused the main break. The City has been involved in litigation with Defendant since September 2004. In closed session the City Attorney requests that the Mayor and Council consider making a formal offer for settlement with Defendant, under California Code of Civil Procedure section 998.

**CS-2 *Border Business Park v. City of San Diego***

Appellate Case No. D039225; SDSC Case No. GIC 692794

***Otay Acquisitions v. City of San Diego***

SDSC Case No. GIC 753247

***National Enterprises, Inc. v. City of San Diego***

SDSC Case Nos. GIC 791407; GIC 805465

ACA assigned: D. McGrath

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. The Border Business Park case has been referred to a mediation process in the appellate court. In closed session the City Attorney will report on the status of the mediation and request appropriate direction.

**CS-3 *San Diego Police Officers Association v. Michael Aguirre, et al.***

United States District Court No. 05 CV 1581

ACA assigned: D. McGrath

This matter is an action filed by the San Diego Police Officers Association for damages and declaratory relief. In closed session the City Attorney will brief the Council on the status of the matter.

**Conference with Legal Counsel – anticipated litigation – initiation of litigation, pursuant to California Government Code section 54956.9(c):**

**CS-4 *Transient Occupancy Tax***

DCA assigned: D. Shanahan

In closed session, the City Attorney will seek authority to pursue a lawsuit against multiple web booking companies to recover the Transient Occupancy Tax collected by the subject companies. The taxes actually collected by the web booking companies are returned by them and are not, as required by the SDMC, remitted to the City of San Diego.