

CITY OF SAN DIEGO COUNCIL DOCKET



COUNCIL PRESIDENT

Sherri Lightner • First District

COUNCIL PRESIDENT PRO TEM

Marti Emerald • Ninth District

COUNCIL MEMBERS

Lorie Zapf • Second District

Todd Gloria • Third District

Myrtle Cole • Fourth District

Mark Kersey • Fifth District

Chris Cate • Sixth District

Scott Sherman • Seventh District

David Alvarez • Eighth District

**Andrea Tevlin
Independent
Budget Analyst**

**Jan Goldsmith
City Attorney**

**Liz Maland
City Clerk**

Council Chambers, 12th Floor, City Administration Building
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Tuesday, February 3, 2015

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, FEBRUARY 3, 2015, AT 10:00 AM
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

This information will be made available in alternative formats upon request, as required by the Americans with Disabilities Act (ADA), by contacting the City Clerk at (619) 533-4000 or <mailto:cityclerk@sanidiego.gov>. Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, require different lead times, ranging from five business days to two weeks. Please keep this in mind and provide as much advance notice as possible in order to ensure availability. Assistive Listening Devices (ALDs) are available in Council Chambers upon request.

Pursuant to California Senate Bill 343 (Section 54957.5(b) of the Brown Act), late-arriving documents related to City Council meeting agenda items which are distributed to the legislative body prior to and during the Council meeting are available for public review in the Office of the City Clerk on the second floor of the City Administration Building, 202 C Street, San Diego, CA 92101. This relates to those documents received after the agenda is publicly noticed and during the 72 hours prior to the start of the meeting. Please note: Approximately one hour prior to the start of the Council Meeting, the documents will be available just outside Council Chambers in the lobby of the 12th floor of the City Administration Building in a binder labeled “SB 343.” Late-arriving materials received during the City Council meeting are available for review by making a verbal request of City Clerk staff located in Council Chambers.

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. – 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk. (Rev. 1/30/15)

OTHER LEGISLATIVE MEETINGS

The **SAN DIEGO HOUSING AUTHORITY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Housing Authority Secretary at (619) 578-7564. Internet access to the agenda is available at:
<http://www.sdhc.org/Media-Center/SDHC-Meetings/Housing-Authority-Meetings/>

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF COUNCIL MINUTES

The Council Minutes of the following meetings will be approved by Unanimous Consent unless pulled for discussion:

12/22/2014 - Adjourned

12/23/2014 - Adjourned

12/29/2014 - Adjourned

12/30/2014 – Adjourned

PROCLAMATIONS/CEREMONIAL ITEMS

NOTE: The following Proclamations will be presented in Council Chambers and approved by Unanimous Consent unless pulled for discussion.

ITEM-30: Francis Parker Girls Volleyball Team Day.

PRESENTED BY MAYOR FAULCONER AND COUNCILMEMBER GLORIA:

Proclaiming February 3, 2015, to be the "Francis Parker Girls Volleyball Team Day" in the City of San Diego.

ITEM-31: Black History Month.

PRESENTED BY COUNCILMEMBER COLE:

Proclaiming the month of February 2015, to be “Black History Month” in the City of San Diego.

ITEM-32: Miracle Babies Day.

PRESENTED BY COUNCILMEMBER SHERMAN:

Proclaiming February 3, 2015, to be "Miracle Babies Day" in the City of San Diego.

NOTE: The following Proclamation will NOT be presented in Council Chambers. It will be approved by Unanimous Consent unless pulled for discussion.

ITEM-33: National Wear Red Day.

COUNCIL PRESIDENT LIGHTNER'S RECOMMENDATION:

Proclaiming February 5, 2015, to be “National Wear Red Day” in the City of San Diego.

SPECIAL ORDERS OF BUSINESS

None.

ADOPTION AGENDA, CONSENT ITEMS

The Consent items listed beginning on the next page are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*). Because these items may be handled quickly, if you wish to be heard submit your Request to Speak form prior to the start of the meeting.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Per Section 22.0101, Rule 2.6, of the San Diego Municipal Code, comments are limited to three minutes per speaker, and three minutes per subject regardless of the number of people requesting to speak on that subject

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY, CITY CLERK COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:

- * ITEM-50: Exemption of two Program Manager positions and one Program Coordinator position from the Classified Service, as approved by the Civil Service Commission on December 11, 2014.

ITEM DESCRIPTION:

Exempt two Program Manager positions and one Program Coordinator position from the Classified Service for the Ethics Commission. The first Program Manager position will be responsible for administering and implementing the Ethics Commission's Audit Program. The second Program Manager position will be responsible for administering and implementing the Ethics Commission's Investigation Program. The Program Coordinator position will be instrumental in assisting with the administration of the Ethics Commission's Education Program and overall operations, and will also review/analyze disclosure reports to identify potential violations of Governmental Ethics Laws.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/20/2015, Item 50. (Council voted 9-0):

(O-2015-67)

Declaring that pursuant to Charter Section 117(a)(17), with the Civil Service Commission's review and approval, the City Council now exempts from the Classified Service, and declares to be in the Unclassified Service of the City, two Program Manager positions and one Program Coordinator position for the Department, performing the duties set forth in the December 16, 2014, Memorandum from Personnel Director Hadi Dehghani, to the Honorable Council President and City Council.

- * ITEM-51: Amendment to San Diego Municipal Code Pertaining to the Operations of Medical Marijuana Consumer Cooperatives and Approval of Associated Permit Fee Schedule. (Citywide.)

ITEM DESCRIPTION:

Amend the existing language in San Diego Municipal Code Chapter 4 (Health and Sanitation), Article 2, Division 15, regarding Medical Marijuana Consumer Cooperatives. These provisions generally guide the operations of Medical Marijuana Consumer Cooperatives and establish an Operating Permit, (aka Public Safety Permit), process in addition to the Conditional Use Permit required by O-20356, (aka the Land Use Ordinance). The item includes the approval of a fee schedule associated with the issuance of the Operating Permit.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/20/2015, Item 330, Subitem A. (Council voted 8-1. Councilmember Zapf voted nay):

(O-2015-69)

Amending Chapter 4, Article 2, Division 15, of the San Diego Municipal Code by amending Sections 42.1502, 42.1504, 42.1505, 42.1507, and by amending and renumbering Sections 42.1508, 42.1509, 42.1510, 42.1511, 42.1512, and 42.1513, relating to Medical Marijuana Consumer Cooperatives. This ordinance amends existing regulations regarding Medical Marijuana Consumer Cooperatives to create processes relating to permit application and regulatory actions including revocation, impose a one-year limit on the permit, and amend interior signage requirements and edible packaging requirements. This ordinance also makes non-substantive organizational Amendments to the existing provisions. This ordinance does not amend the City's land use regulations relating to Medical Marijuana Consumer Cooperatives.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: Contract Amendment No. 2 to the Construction Management Agreement with Jacobs Project Management Co. (JPM) for the Point Loma Grit Processing Improvements Project. (Peninsula Community Area. District 2.)

ITEM DESCRIPTION:

Council Authorization to execute the Second Amendment of the Agreement (H094759) with Jacobs Project Management Co. (JPM) for construction management services for the Point Loma Grit Processing Improvements Project. This Amendment provides additional funds to the existing scope of work. The additional funds will allow JPM to continue construction management tasks for the new grit processing facility.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2015-388 Cor. Copy) (Rev. 1/30/15)

Authorizing the Chief Financial Officer to transfer appropriations of \$668,853 from A-BO.00001, Annual Allocation-Metro Treatment Plants, Fund No. 700009, Metro Sewer CIP, to CIP S-00315, Point Loma Grit Processing Improvements Project, Fund No. 700009, Metro Sewer CIP;

Authorizing the Mayor, or his designee, to execute the Second Amendment to the Agreement with Jacobs Project Management Co. (JPM) for construction management services in CIP S-00315, Point Loma Grit Processing Improvements, Fund No. 700009, Metro Sewer CIP, in an amount not to exceed \$368,853, under the terms and conditions set forth in the document, contingent upon the Chief Financial Officer furnishing one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$368,853 from CIP S-00315, Point Loma Grit Processing Improvements, Fund No. 700009, Metro Sewer CIP for the purpose of construction management services, contingent upon the adoption of the Annual Appropriation Ordinance for the applicable fiscal year, and contingent upon the Chief Financial Officer furnishing one or more certificates demonstrating that the funds for this expenditure are, or will be, on deposit in the City Treasury;

Authorizing the Chief Financial Officer, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The total cost for professional construction management services with Jacobs Project Management Co. is \$3,540,599. Funding of \$3,171,746 was previously authorized and is available in CIP S-00315, Point Loma Grit Processing Improvements, Fund No.700009, Metro Sewer CIP, and funding for the additional \$368,853 will be available in CIP S-00315, Point Loma Grit Processing Improvements, Fund No. 700009, and Metro Sewer CIP for this purpose. Authorize the transfer of \$668,853 from A-BO.00001, Annual Allocation - Metro Treatment Plants, Fund No. 700009, Metro Sewer CIP, to S-00315, Point Loma Grit Processing Improvements, Fund No.700009, Metro Sewer CIP of which \$368,853 will be used for Amendment No. 2 with Jacobs Project Management Co. (JPM) and \$300,000 will be used for project contingency for remainder of the project. The project cost may be reimbursed with current or future financing. This Agreement is scheduled to be funded in FY 2011-2015. No future funding is anticipated for this Agreement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- Jacobs Project Management Co.: Council approved the Agreement on July 27, 2010 (R-306042, \$2,409,040).
- Amendment No. 1 December 17, 2013 (R-308666, \$762,706).
- This item was heard by the Infrastructure Committee meeting on January 21, 2015.

ACTION: Motion by Council President Pro Tem Emerald and second by Councilmember Cole, to forward Staff's recommendation to Full City Council.

VOTE: 4-0; Kersey-yea, Cole-yea, Zapf-yea, Emerald-yea.

Nagelvoort/Heinrichs

Primary Contact\Phone: Mark Nassar\619-533-6600, MS 908A
Secondary Contact\Phone: Iraj Asgharzadeh\619-533-5105, MS 908A
City Attorney Contact: Jung, Jeremy A.

- * ITEM-101: Community Projects, Programs and Services funding allocation to the Montezuma Economic Development Corporation dba College Neighborhoods Foundation for the College Area Community Garden. (District 9.)

ITEM DESCRIPTION:

Approval of the funding allocation from Council District 9, along with authorization from the City Council are requested to allow the Mayor, or his designee, to enter into an Agreement with the Montezuma Economic Development Corporation dba College Neighborhoods Foundation for an amount not to exceed \$9,420, for the College Area Community Garden.

COUNCIL PRESIDENT PRO TEM EMERALD'S RECOMMENDATION:

Adopt the following resolution:

(R-2015-367)

Declaring that the allocation described herein is made for a public purpose;

Waiving Council Policy 100-06, 3(g), which provides: "An organization may not apply to receive funding for an event or program which has already occurred, nor any capital improvement, goods, supplies, materials, or equipment which have already been purchased";

Authorizing and directing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Montezuma Economic Development Corporation dba College Neighborhoods Foundation in an amount not to exceed \$9,420 for the project described herein, under terms and conditions set forth in the Agreement;

Authorizing the Chief Financial Officer to expend an amount not to exceed \$9,420 from the Community Projects, Programs and Services Budget Fund No. 100000, Cost Center No. 1109110009, to provide funds for the above-referenced Agreement, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

\$9,420 in Community Projects, Programs and Services Funding from the following Fund/Costs Centers: Fund No. 100000, Cost Center No. 1109110009, for the purpose of funding the College Area Community Garden.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

Flores

Primary Contact\Phone: Marisa Berumen\619-236-7754

Secondary Contact\Phone: Lori Witzel\619-236-6442

City Attorney Contact: Dugard, Prescilla

- * ITEM-102: Extend the contract with the Law Firm of Sullivan Hill Lewin Rez & Engel for continuing legal work in *Janet Wood v. City of San Diego*, San Diego Superior Court Case No. 37-2010-00105217-CU-CR-CTL.

ITEM DESCRIPTION:

The Law Firm of Sullivan Hill Lewin Rez & Engel was retained in 2002 to represent the City of San Diego in this litigation. \$350,000 was authorized. Over 12 years, 3 different suits were filed in Federal and State Courts and the case has been appealed twice in Federal Court. It will go up on appeal in the State Court and will almost certainly go to the State Supreme Court. Periodically an increase in the maximum amount of fees has been required. On the eve of trial, even more essential experts and consultants have been needed, and the City Attorney's Office requests that the City Council grant the Chief Financial Officer authority to spend an additional \$350,000, from the Public Liability Fund to cover additional fees and costs.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2015-368 Cor. Copy) (Rev. 1/28/15)

Authorizing the Mayor, or his designee, to expend an additional \$350,000 for the Law Offices of Sullivan Hill Lewin Rez & Engel to provide legal services, including costs incurred, defending and prosecuting demurrers and motions for summary judgment and, depending upon results, trial and/or appeal in the case *Janet Wood v. City of San Diego*, San Diego Superior Court Case No. 37-2010-00105217-CU-CR-CTL;

Authorizing the Chief Financial Officer to appropriate and expend an amount not to exceed \$350,000 from the Public Liability Fund No. 720045, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

The City of San Diego has been paying the Sullivan Hill Lewin Rez & Engel Law Firm at its agreed upon hourly rates as they were in 2002. In the past 12 ½ years, payments are approaching the currently approved sum of \$1,750,000 in fees and expert costs. With the approaching trial, there will be another increase in fees and costs. This supplemental request has a "not-to-exceed" sum of \$350,000, which will be paid from the Public Liability Fund No. 724005. The total amount committed over the past 12 ½ years, including this current extension, will be \$2,100,000.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In Closed Session in 2002, the City Council approved retention. Periodically over the last 12 years the Council has been briefed on the status of the case, approved additional sums, and evaluated various settlement proposals and defense strategies.

Bamberg

Primary Contact\City Attorney\ Phone: Joe Cordileone\619-533-5854

- * ITEM-103: Settlement of claim of Janet Wood re the City of San Diego Pension's Surviving Spouse Continuation Benefit, Risk Management File Nos. LX04-0880-0680 and LX04-0880-0683.

ITEM DESCRIPTION:

This is a complaint alleging that the Surviving Spouse Continuation Benefit of the City's Pension Plan discriminates against unmarried individuals.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2015-369 Cor. Copy) (Rev. 1/28/15)

Authorizing payment of a sum not to exceed \$70,266.67 (principal of \$68,000 plus estimated interest at the legal rate from January 1, 2015, to time of payout), to be paid from the Public Liability Fund No. 720045, in settlement of each and every claim for damages, interest, costs and fees of any type, including attorney fees, against the City, its agents and employees, arising from the litigation;

Authorizing the City Comptroller to issue a check not to exceed the sum of \$70,266.67 (representing principal of \$68,000 plus whatever amount is actual interest, accrued at the legal rate, from January 1, 2015, to payout), payable to "Law Office of Michael A. Conger, in trust, for the benefit of Janet Wood."

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

City of San Diego will pay from the Public Liability Fund No. 720045, an amount not to exceed the sum of \$70,266.67 (principal of \$68,000 plus estimated interest at the legal rate from January 1, 2015, to payout).

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was considered and approved in Closed Session on October 28, 2014.

Bamberg

Primary Contact\City Attorney\Phone: Joe Cordileone\619-533-5854

* ITEM-104: Settlement of the attorney fee claims of Plaintiff Alison N. Terry, Risk Management File No. LX 06-0447-2462.

ITEM DESCRIPTION:

The complaint pertains to employment gender discrimination suffered by Plaintiff Alison N. Terry. The proposed settlement would resolve all claims for attorney fees brought by Plaintiff Alison N. Terry.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2015-387)

Authorizing the Mayor, or his designee, to pay the sum of \$875,000 from the Public Liability Fund No. 720045, in settlement of each and every claim for attorney fees against the City of San Diego, its agents and employees, arising from the employment discrimination lawsuit of *Alison N. Terry v. City of San Diego*, United States District Court Case No. 06-cv-1459 MMA (KSC);

Authorizing the Chief Financial Officer to appropriate and expend \$875,000 from the Public Liability Fund No. 720045, contingent upon the Chief Financial Officer first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Comptroller to issue a check in the amount of \$875,000, made payable to the Law Office of Michael A. Conger, in full and final settlement of all of Alison Terry's for attorney fees against the City of San Diego, its agents and employees.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Settlement amount of \$875,000 will be paid from the Public Liability Fund No. 720045.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The item was approved in Closed Session on December 16, 2014.

Bamberg

Primary Contact\City Attorney\Phone: Kristin Zlotnik\619-533-5862, MS 59

* ITEM-105: Appointment to the Parking Advisory Board.

MAYOR FAULCONER'S RECOMMENDATION:

Adopt the following resolution:

(R-2015-360)

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Parking Advisory Board, for the term expiring as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>DATE ENDING</u>
Elvin Lai (La Jolla, District 1) (Filling the vacancy in the seat previously held by Mike McNeill)	Pacific Beach Community Parking District Representative	December 31, 2015

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m. (Rev. 1/28/15)

ITEM-330: Financial Training for the City Council: Role of Governance over the Audit and Financial Statements.

ITEM DESCRIPTION:

This item provides financial training for the City Council. The training is entitled Role of Governance over the Audit and Financial Statements. It is an informational item and there is no associated City Council action.

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

Informational item only.

SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On December 6, 2006, the City Council adopted Resolution R-302243 to implement a comprehensive financial training program as recommended in IBA Report No. 06-59. Financial Statement Overview training is one component of that program. The City Council last received training on the Financial Statement Overview subject area on February 27, 2012.

Kawar

Primary Contact\Phone: Jeff Kawar\619-533-4764, MS 3A

Secondary Contact\Phone: Andrea Tevlin\619-236-6555, MS 3A

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT