

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
THE CLOSED SESSION MEETING REPORT  
FOR MONDAY AND TUESDAY, FEBRUARY 11-12, 2013  
CITY ADMINISTRATION BUILDING  
COMMITTEE ROOM – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

**REPORTING THE RESULTS OF THE CLOSED SESSION MEETING**

Only items that can be disclosed are reported out in the Open Session of the regular City Council meeting. Public comment on Closed Session items are taken in Open Session. Please refer to the City Clerk’s minutes for Open Session for more information. Assistant City Attorney Mary Jo Lanzafame reports the results of the Closed Session meeting of February 11-12, 2013, as follows:

**CLOSED SESSION MEETING FOR MONDAY, FEBRUARY 11, 2013**

(Closed Session Items were heard on Tuesday, February 12, 2013.)

**CLOSED SESSION MEETING FOR TUESDAY, FEBRUARY 12, 2013, AT 9:00 A.M.**

(**NOTE**: The Closed Session Meeting was held at 9:00 a.m. and continued to 2:00 p.m. and 4:30 p.m.)

**ROLL CALL:**

Present: Mayor Filner, Council President Gloria, Council President Pro Tem Lightner, and Councilmembers Faulconer, Kersey, Zapf, Sherman, Alvarez, and Emerald

**CLOSED SESSION ITEMS:**

**Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(d)(1):**

**CS-1 *Academy of Our Lady of Peace v. City of San Diego***  
United States District Court Case No. 09CV0962 CAB (MDD)

DCA Assigned: C. Brock

Motion: To authorize the entry of the consent decree by the Court in full and for final settlement of the case.

Moved: Councilmember Emerald, District 9

Seconded: Councilmember Faulconer, District 2

Vote: Passed 6 to 2, with Councilmembers Gloria and Lightner voting “No” and Council District 4 vacant.

Report: This item was reported out by Assistant City Attorney Mary Jo Lanzafame on Tuesday, February 12, 2013, at 4:23 p.m.

Today, in Closed Session, the City Council voted on Closed Session Item No. 1, *Academy of Our Lady of Peace v. City of San Diego*, United States District Court Case No. 09CV0962 CAB (MDD), to authorize the entry of the consent decree by the Court in full and for final settlement of the case. The Academy sued the City claiming the City violated its rights under the federal Religious Land Use and Institutionalized Persons Act.

The Consent Decree will order the City to issue a Permit for the Modernization Project and pay a monetary settlement to OLP in the amount of \$500,000.

The Permit will allow OLP to construct a two-story classroom building and a two-story parking structure; will allow OLP to demolish a single family dwelling owned by OLP on Uvada Street without any further discretionary review by the City; will allow the removal of two other houses, one on Collier Street and one on Copley Street, owned by OLP; and will allow, through a conditional use permit, student enrollment of 750 students on campus.

Upon notice by OLP, the City will remove the Collier single family dwellings and the Copley single family dwellings from the OLP property. The removal must occur by May 1, 2014, unless a new date is agreed to by OLP, the City, and approved by the Court. The City will be responsible for all aspects of the removal of the two homes. OLP will retain no legal interest in, or responsibility for, the Copley and Collier single family homes following their removal from OLP's property.

The City will limit the cost to OLP for processing further permits needed for the Modernization Project to no more than One Hundred Thousand Dollars.

All further permits needed for OLP's Modernization Project will be processed through the City's Express Plan Check Process at no extra cost to OLP.

Other than payment of the Settlement Funds, each party will bear their own costs and fees associated with the Action.

The Action will be dismissed with prejudice when the terms of the Consent Decree have been met.

**CS-2 *City of San Diego v. Kinder Morgan, et al.***  
United States District Court Case No. 07-CV-1883 (MMA)

DCA's Assigned: D. Bamberg and J. Taylor

Motion: To authorize the City Attorney to file a notice of appeal.

Moved: Councilmember Emerald, District 9

Seconded: Councilmember Zapf, District 6

Vote: Passed 8 to 0, with Council District 4 vacant.

Report: This item was reported out by Assistant City Attorney Mary Jo Lanzafame on Tuesday, February 12, 2013, at 4:23 p.m.

The City Council also voted on Closed Session Item No. 2, *City of San Diego v. Kinder Morgan, et al.*, United States District Court Case No. 07-CV-1883 (MMA), to authorize the City Attorney to file a notice of appeal. This matter involves a pending lawsuit in federal court and a parallel administrative enforcement action before the Regional Water Quality Control Board against the party responsible for contamination of the Qualcomm Stadium site.

**CLOSED SESSION MEETING FOR TUESDAY, FEBRUARY 12, 2013, AT 2:00 P.M.**

**ROLL CALL:**

Present: Council President Gloria, Council President Pro Tem Lightner, and Councilmembers Faulconer, Kersey, Zapf, Sherman, Alvarez, and Emerald

Absent: Mayor Filner (absent for the meeting)

**CLOSED SESSION ITEMS:**

**CS-3** *Animal Protection and Rescue League, et al. v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2012-00086105

DCA Assigned: G. Schaefer

Report: Nothing to report out.

**CS-4** *Volker Hoehne v. City of San Diego*  
San Diego Superior Court Case No. 37-2012-00096556

DCA Assigned: G. Schaefer

Report: Nothing to report out.

**Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(d)(4):**

**CS-5** Number of Cases: One

ACA Assigned: D. Worley

Report: Nothing to report.

**Conference with Legal Counsel – significant exposure to litigation, pursuant to California Government Code section 54956.9(d)(2):**

CS-6 Number of Cases: One

DCA Assigned: L. FitzGerald

Report: Nothing to report out.

**Conference with Labor Negotiators pursuant to California Government Code section 54957.6:**

**CS-7 City Designated Management Team Representatives**

Report: This item was heard at the end of the first afternoon session (2:45-3:00 p.m.) and at the second afternoon session (4:30 p.m.) on Tuesday, February 12, 2013.

**CLOSED SESSION MEETING FOR TUESDAY, FEBRUARY 12, 2013, AT 4:30 P.M.**

**ROLL CALL:**

Present: Mayor Filner, Council President Gloria, Council President Pro Tem Lightner, and Councilmembers Faulconer, Kersey, Zapf, Sherman, Alvarez, and Emerald

**CLOSED SESSION ITEMS:**

**Conference with Labor Negotiators pursuant to California Government Code section 54957.6:**

**CS-7 City Designated Management Team Representatives**

Report: Nothing to report out.

REPORTED BY: /s/ Mary Jo Lanzafame  
Mary Jo Lanzafame  
Assistant City Attorney