

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
FOR MONDAY AND TUESDAY, APRIL 15-16, 2013, 2013
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH 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 April 15-16, 2013, as follows:

CLOSED SESSION MEETING FOR MONDAY, APRIL 15, 2013

(Closed Session Items were heard on Tuesday, April 16, 2013.)

CLOSED SESSION MEETING FOR TUESDAY, APRIL 16, 2013, AT 9:00 A.M.

(NOTE: The Closed Session Meeting was held at 9:00 a.m. and continued to 11:30 a.m.)

ROLL CALL:

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

Absent: Mayor Filner (absent for the meeting)
Councilmember Alvarez, Council District 8 (absent for the meeting)

CLOSED SESSION ITEMS:

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

CS-1 *San Diegans for Open Government, et al. v. City of San Diego*
San Diego Superior Court Case No. 37-2011-000101571

DCA Assigned: A. Contreras

Motion: Authorize settlement agreement

Moved: Councilmember Emerald, District 9

Seconded: Council President Gloria, District 3

Vote: Passed 7 to 0 with Councilmember Alvarez absent and Council District 4 vacant.

Report: This item was reported out by Assistant City Attorney Mary Jo Lanzafame on Tuesday, April 16, 2013, at 4:45 p.m.

Today, in Closed Session, the City Council voted on Closed Session Item Number 1, *San Diegans for Open Government, et al. v. City of San Diego*, San Diego County Superior Court Case No. 37-2011-000101571. This case arises from a California Environmental Quality Act challenge to the City’s Master Storm Water Maintenance

Program. The Council voted to authorize the settlement agreement. As part of the settlement agreement, the parties agree that City will modify its Master Maintenance Program, complete certain special studies, and, regardless of the Court's award, the City will pay no more than \$200,000 and no less than \$50,000 in attorneys' fees and mutual releases.

NOTE: This item was heard during the second closed session meeting on Tuesday, April 16, 2013, at 4:08 p.m.

CS-2 *Save La Jolla v. City of San Diego*

San Diego County Superior Court Case No. 37-2011-00089460-CU-WM-CTL

DCA Assigned: C. Brock

Motion: To refrain from seeking appellate review

Moved: Councilmember Lightner, District 1

Seconded: Councilmember Emerald, District 9

Vote: Passed 7 to 0 with Councilmember Alvarez absent and Council District 4 vacant.

Report: This item was reported out by Assistant City Attorney Mary Jo Lanzafame on Tuesday, April 16, 2013, at 4:45 p.m.

The City Council also voted on Closed Session Item Number 2, *Save La Jolla v. City of San Diego*, San Diego County Superior Court Case No. 37-2011-00089460-CU-WM-CTL. This case is a challenge under the California Environmental Quality Act by *Save La Jolla* to the City's issuance of permits for a deck expansion. The Council voted to refrain from seeking appellate review.

NOTE: This item was heard during the second closed session meeting on Tuesday, April 16, 2013, at 4:23 p.m.

CS-3 *City of San Diego v. SCI Consulting Group, et al.*

Orange County Superior Court Case No. 30-2012-605504-CU-BC-CJC

DCA Assigned: C. Brock

Motion: Authorize the settlement agreement

Moved: Councilmember Faulconer, District 2

Seconded: Councilmember Emerald, District 9

Vote: Passed 7 to 0 with Councilmember Alvarez absent and Council District 4 vacant.

Report: This item was reported out by Assistant City Attorney Mary Jo Lanzafame on Tuesday, April 16, 2013, at 4:45 p.m.

The City Council voted on Closed Session Item Number 3, *City of San Diego v. SCI Consulting Group, et al.*, Orange County Superior Court Case No. 30-2012-605504-CU-BC-CJC. The City filed a lawsuit against *SCI Consulting* for breach of contract, professional negligence and express indemnity. The Council voted to settle the litigation.

The defendants will pay the City \$200,000 in settlement of all claims. In exchange, the City will dismiss the action and pay *SCI* \$79,577.37 for past invoices. The parties release and discharge each other from any and all claims except that the City reserves its rights to all other claims which may arise from certain agreements between the City and Schultz Consultants, Inc.

NOTE: This item was heard during the second closed session meeting on Tuesday, April 16, 2013, at 4:29 p.m.

CS-4 *Jane Doe v. City of San Diego, et al.*

United States District Court Case No. 12-cv-0689-MMA (DHB)

DCA Assigned: C. Milligan

Report: Nothing to report.

NOTE: This item was heard during the second closed session meeting on Tuesday, April 16, 2013, at 4:22 p.m.

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

DCA Assigned: M. Wharton

The City Attorney's Office will discuss the potential to initiate litigation and seek direction.

Motion: Initiate litigation

Moved: Councilmember Emerald, District 9

Seconded: Councilmember Gloria, District 3

Vote: Passed 7 to 0 with Councilmember Alvarez absent and Council District 4 vacant.

Report: This item was reported out by Assistant City Attorney Mary Jo Lanzafame on Tuesday, April 16, 2013, at 4:45 p.m.

The City Council voted on Closed Session Item No. 5, to initiate litigation. Once litigation is formally commenced, the action, the defendants, and other particulars will be disclosed to any person upon inquiry unless to do so would jeopardize effective service of process or settlement negotiations.

NOTE: This item was heard during the second closed session meeting on Tuesday, April 16, 2013, at 4:22 p.m.

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

CS-6 City Designated Management Team Representatives

DCA Assigned: Not Assigned

CLOSED SESSION MEETING FOR TUESDAY, APRIL 16, 2013, AT 11:30 A.M.

ROLL CALL:

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

Absent: Mayor Filner (absent for the meeting)
Councilmember Alvarez, Council District 8 (absent for the meeting)

CLOSED SESSION ITEMS:

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

CS-6 City Designated Management Team Representatives

DCA Assigned: Not Assigned

Report: Nothing to report.

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