

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
FOR MONDAY AND TUESDAY, FEBRUARY 2 AND 3, 2015
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. Executive Assistant City Attorney Paul E. Cooper reports the results of the Closed Session meeting of February 2 and 3, 2015, as follows:

CLOSED SESSION MEETING FOR MONDAY, FEBRUARY 2, 2015

(Closed Session Items were heard on Tuesday, February 3, 2015.)

CLOSED SESSION MEETING FOR TUESDAY, FEBRUARY 3, 2015, AT 9:00 A.M.

ROLL CALL:

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

Absent: None.

CLOSED SESSION ITEMS:

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

CS-1 *Bernate Ticino Trust, et al. v. City of San Diego*

San Diego Superior Court Case No. 37-2013-00075491-CU-WM-CTL

DCA Assigned: C. Brock

Motion: To seek appellate review

Moved: Council President Lightner, District 1

Seconded: Council President Pro Tem Emerald, District 9

Vote: Passed 6 to 2, with Councilmember Sherman recused.

Report: This item was reported out by Chief Deputy City Attorney John Hemmerling on Tuesday, February 3, 2015, at 4:15 p.m.

The City Council voted on Closed Session Item Number One, *Bernate Ticino Trust, et al. v. City of San Diego*, San Diego Superior Court Case No. 37-2013-00075491-CU-WM-CTL, to seek appellate review. This case arises from a San Diego City Council action granting two appeals challenging the use of a California Environmental Quality Act categorical exemption for a Process 2 Coastal Development Permit.

CS-2 *City of San Diego v. Matosantos, et al.*
Sacramento Superior Court Case No. 34-2013-80001454

DCA Assigned: M. Wharton

Motion: To refrain from seeking appellate review
Moved: Councilmember Alvarez, District 8
Seconded: Council President Lightner, District 1
Vote: Passed unanimously 9 to 0.
Report: This item was reported out by Chief Deputy City Attorney John Hemmerling on Tuesday, February 3, 2015, at 4:15 p.m.

The City Council also voted on Closed Session Item Number Two, *City of San Diego, etc. v. Matosantos, etc.*, Sacramento Superior Court Case No. 34-2013-80001454, to refrain from seeking appellate review. The pending litigation involves a dispute between the City and Successor Agency and the Department of Finance arising from the portion of the Department of Finance's Housing Funds DDR final determination requiring the City to return the amount of the LaFornara Parcel to the Successor Agency for distribution to the Taxing Entities.

CS-3 *City of San Diego v. Matosantos, et al.*
Sacramento Superior Court Case No. 34-2013-80001364

DCA Assigned: M. Wharton

Motion: To seek appellate review
Moved: Council President Lightner, District 1
Seconded: Councilmember Alvarez, District 8
Vote: Passed unanimously 9 to 0.
Report: This item was reported out by Chief Deputy City Attorney John Hemmerling on Tuesday, February 3, 2015, at 4:15 p.m.

Furthermore, the City Council voted on Closed Session Item Number Three, *City of San Diego, etc. v. Matosantos, etc.*, Sacramento Superior Court Case No. 34-2013-80001364, to seek appellate review. The pending litigation involves a dispute between the City and Successor Agency and the Department of Finance arising from the Department of Finance's rejection of the Ballpark Cooperation Agreement as an Enforceable Obligation in the Department of Finance's final determination on the Successor Agency's Recognized Obligation Payment Schedule for the time period January 1, 2013 to June 30, 2013.

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

CS-4 Number of Cases: Two

DCA Assigned: K. Reisch

Motion: To initiate or intervene in litigation

Moved: Council President Pro Tem Emerald, District 9

Seconded: Councilmember Cate, District 6

Vote: Passed unanimously 9 to 0.

Report: This item was reported out by Chief Deputy City Attorney John Hemmerling on February 3, 2015, at 4:15 p.m.

Lastly, the City Council voted on Closed Session Item Number Four 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.

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

CS-5 City Designated Management Team Representatives:

DCA Assigned: Not assigned

Report: Nothing to report.

REPORTED BY: /s/ Paul E. Cooper
Paul E. Cooper
Executive Assistant City Attorney