

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
THE CLOSED SESSION MEETING REPORT  
FOR WEDNESDAY, DECEMBER 13, 2017  
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. Mary Nuesca, Assistant City Attorney for Special Projects, reports the results of the Closed Session meeting of December 13, 2017, as follows:

**CLOSED SESSION MEETING FOR WEDNESDAY, DECEMBER 13, 2017, AT 11:00 A.M.**

**ROLL CALL:**

Present: Mayor Faulconer, Council President Cole, Council President Pro Tem Kersey, and Councilmembers Bry, Ward, Cate, Sherman, Alvarez, and Gomez.

Absent: Councilmember Zapf, Council District 2, absent for the meeting.  
Councilmember Kersey, Council District 5, absent for Items CS-3, CS-4, CS-5a, CS-5b, and CS-5c.  
Councilmember Cate, Council District 6, absent for Items CS-5a, CS-5b, and CS-5c.

**CLOSED SESSION ITEMS:**

**Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation, pursuant to California Government Code section 54956.9(d)(4):**

**CS-1 Number of Cases: One**

DCA Assigned: P. Prather

Report: Nothing to report.

**Conference with Legal Counsel – Significant Exposure to Litigation, pursuant to California Government Code section 54956.9(d)(2):**

**CS-2 *Western Hills Real Estate Management v. City of San Diego***

Risk Management Department Claim File No. 14713

DCA Assigned: C. Mougin

Report: Nothing to report.

**Conference with Legal Counsel – Existing Litigation, pursuant to California Government Code section 54956.9(d)(1):**

**CS-3 *Scott Pearson v. City of San Diego, et al.***

United States District Court Case No. 17cv1452 H (KSC)

Risk Management Department Claim File No. 17098

DCA Assigned: A. Adema

Report: Nothing to report.

**CS-4 *Barry Links, et al. v. City of San Diego***

United States District Court Case No. 17cv0996 H (KSC)

Risk Management Department Claim File No. 16508

DCA Assigned: A. Adema

Report: Nothing to report.

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

**CS-5a *Batalla Vidal, et al. v. Baxan, et al.***

No. 1:16-cv-04756 (NGG-JO), (E.D.N.Y. Aug. 25, 2016)

SCDCA Assigned: D. Karlin

Motion: To initiate or intervene in litigation

Moved: Councilmember Ward, District 3

Seconded: Councilmember Bry, District 1

Vote: Passed 5 to 1 with Councilmember Sherman voting “No” and Councilmembers Zapf, Kersey, and Cate absent.

Report: This item was reported out by Assistant City Attorney Sanna Singer on Wednesday, December 13, 2017, at 4:25 p.m.

The City Council voted on Closed Session Item Number 5a, *Batalla Vidal, et al. versus Baxan, et al.*, Case Number 1:16-cv-04756 (NGG-JO), (E.D.N.Y. August 25, 2016), to participate in the filing of an amicus curiae brief. In this case, Plaintiff Martín Jonathan Batalla Vidal filed an action for declaratory and injunctive relief against Defendants Kathy A. Baran, Director, California Service Center, Kelvin Medlock, Associate Director, California Service Center, Susan M. Curda, District Director, and Donald W. Neufeld, Associate Director, Service Center Operations, U.S. Citizenship and Immigration Services, claiming that Defendants’ revocation of Plaintiff’s three-year employment authorization, which was obtained pursuant to Deferred Action for Childhood Arrivals, was not in accordance with law.

**CS-5b *State of New York, et al. v. Donald Trump, et al.***

No. 11:17-cv-05228 (NGG-JO), (E.D.N.Y. Sept. 6, 2017)

SCDCA Assigned: D. Karlin

Motion: To initiate or intervene in litigation

Moved: Councilmember Ward, District 3

Seconded: Councilmember Bry, District 1

Vote: Passed 5 to 1 with Councilmember Sherman voting “No” and Councilmembers Zapf, Kersey, and Cate absent.

Report: This item was reported out by Assistant City Attorney Sanna Singer on Wednesday, December 13, 2017, at 4:25 p.m.

The City Council also voted on Closed Session Item Number 5b, *State of New York, et al. versus Donald Trump, et al.*, Case Number 11:17-cv-05228 (NGG-JO), (E.D.N.Y. September 6, 2017), to participate in the filing of an amicus curiae brief. In this case, the States of New York, Massachusetts, Washington, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Iowa, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Virginia filed an action for declaratory and injunctive relief against Defendants Donald Trump, in his official capacity as President of the United States, U.S. Department of Homeland Security, Elaine C. Duke, in her official capacity, U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and the United States of America, alleging that a September 2017 U.S. Department of Homeland Security memorandum rescinding Deferred Action for Childhood Arrivals violates the U.S. Constitution by violating the equal protection and due process clauses, and violates various aspects of the Administrative Procedure Act.

**CS-5c *The Trustees of Princeton University, et al. v. United States of America, et al.***

No. 1:17-cv-02325 (CRC), (D.D.C. Nov. 3, 2017)

SCDCA Assigned: D. Karlin

Motion: To initiate or intervene in litigation

Moved: Councilmember Ward, District 3

Seconded: Councilmember Bry, District 1

Vote: Passed 5 to 1 with Councilmember Sherman voting “No” and Councilmembers Zapf, Kersey, and Cate absent.

Report: This item was reported out by Assistant City Attorney Sanna Singer on Wednesday, December 13, 2017, at 4:25 p.m.

Lastly, the City Council also voted on Closed Session Item Number 5c, *The Trustees of Princeton University, et al. versus United States of America, et al.*, Case Number 1:17-cv-02325 (CRC), (D.D.C. November 3, 2017), to participate in the filing of an amicus curiae brief. In this case, Plaintiffs Princeton University, Microsoft Corporation, and Maria De La Cruz Perales Sanchez filed an action for declaratory and injunctive relief against Defendants the United States of America, the U.S. Department of Homeland Security, and Elaine C. Duke, in her official capacity as Acting Secretary of DHS, to

enjoin the rescission of the Deferred Action for Childhood Arrivals and to obtain a declaration that the DACA program was lawful as initially promulgated and remains lawful today. This case was filed in the U.S. District Court for the District of Columbia.

REPORTED BY: \_\_\_\_\_  
Mary T. Nuesca  
Assistant City Attorney for Special  
Projects

REPORTED BY: /s/ *Mary T. Nuesca*  
Mary T. Nuesca  
Assistant City Attorney for Special  
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