

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
FOR MONDAY AND TUESDAY, DECEMBER 3 AND 4, 2007
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

REPORTING RESULTS OF CLOSED SESSION MEETINGS

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 Karen Heumann reports the results of the Closed Session Meetings of December 3 and 4, 2007, as follows:

CLOSED SESSION MEETING FOR MONDAY, DECEMBER 3, 2007

Closed Session Items were heard on Tuesday, December 4, 2007.

CLOSED SESSION MEETING FOR TUESDAY, DECEMBER 4, 2007

ROLL CALL:

Present: Mayor Jerry Sanders, Council President Peters, Council President Pro Tem Young, and Councilmembers Faulconer, Atkins, Maienschein, Frye, Madaffer, and Hueso

Absent: All Present

CLOSED SESSION ITEMS:

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

**CS-1 *City of San Diego v. Willkie Farr and Gallagher, LLP*
San Diego Superior Court Case No. 37-2007-00072584-CU-BT-CTL**

EACA Assigned: D. McGrath

Motion: Initiate Litigation
Moved: Council President Peters - Dist. 1
Seconded: Councilmember Frye - Dist. 6
Vote: 8/0 [Passed Unanimously]
Absent: All Present

**Reported out in Open Session on December 4, 2007, at 2:00 p.m. by
Karen Heumann, Assistant City Attorney:**

Today, the City Council voted in Closed Session on Item CS-1, *City of San Diego v. Willkie Farr and Gallagher, LLP*, San Diego Superior Court Case No. 37-2007-00072584-CU-BT-CTL, to initial litigation with a motion by Council President Peters - second by Councilmember Frye. The motion passed unanimously with all Council Members present

**CS-2 *Insurance Company of the State of Pennsylvania v. City of San Diego*
United States District Court Case No. 02-CV-0693**

EACA assigned: D. McGrath

Nothing to report

**CS-3 *Harvey Furgatch v. San Diego Unified Port District, et al.*
San Diego Superior Court Case No. GIC 775242**

DCA assigned: J. Riley

Motion: To waive confidentiality and attorney-client privilege for the Closed Session minutes of May 16 and 17, 2007, for the Furgatch and Tailgate Park matters only for the limited purpose of defending this action.
Moved: Council President Peters - Dist. 1
Seconded: Councilmember Hueso - Dist. 8
Vote: 8/0 [Passed Unanimously]
Absent: All Present

**Reported out in Open Session on December 4, 2007, at 2:00 p.m. by
Karen Heumann, Assistant City Attorney:**

Today, the City Council voted in Closed Session on Item CS-3, *Harvey Furgatch v. San Diego Unified Port District, et al.*, San Diego Superior Court Case No. GIC 775242, to waive confidentiality and attorney-client privilege for the limited purpose of defending this action for the Closed Session minutes of May 16 and 17 for the Furgatch and Tailgate Park matters only. Motion by Council President Peters - second by Councilmember Hueso. The motion passed unanimously.

**CS-4 *Coastal Law Enforcement Action Network v. City of San Diego;
Air California Adventure, LLC; David Jebb - (Complaint);
City of San Diego v. Air California Adventure, LLC;
Air California Adventure, Inc.; David Jebb; Maya Jebb - (Cross-complaint)*
San Diego Superior Court Case No. GIC861914**

DCA Assigned: M. Dickenson

Motion: Authorize settlement Agreement
Moved: Council President Peters - Dist. 1
Seconded: Councilmember Frye - Dist. 6
Vote: 8/0 [Passed Unanimously]
Absent: All Present

**Reported out in Open Session on December 4, 2007, at 2:00 p.m. by
Karen Heumann, Assistant City Attorney:**

Today, the City Council voted in Closed Session on Item CS-4, *Coastal Law Enforcement Action Network v. City of San Diego*; Superior Court Case No. GIC 861914 and the related cross action to authorize settlement as follows:

The Agreement requires the City's lessee of the Torrey Pines Gliderport to reimburse the City for its \$20,000 payment to the Plaintiff which was required by a prior settlement agreement between the City and the Plaintiff in this matter, pay Plaintiff \$5,000, and obtain permits for all unpermitted development or for their removal. It requires the City to comply with the terms of its prior Settlement Agreement with the Plaintiff and to appoint a Park and Recreation Department liaison for the Torrey Pines City Park to work with the community and serve as a liaison to the Torrey Pines City Park Advisory Board. It requires the Plaintiff to comply with the terms of its prior Settlement Agreement with the City and to dismiss this litigation with prejudice.

Motion by Council President Peters - second by Councilmember Frye. The motion passed unanimously.

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

CS-5 Proposed litigation against the California State University Board of Trustees

DCA Assigned: C. Fitzgerald

Motion: Initiate Litigation
Moved: Council President Peters - Dist. 1
Seconded: Councilmember Madaffer - Dist. 7
Vote: 8/0 [Passed Unanimously]
Absent: All Present

**Reported out in Open Session on December 4, 2007, at 2:00 p.m. by
Karen Heumann, Assistant City Attorney:**

Today, the Redevelopment Agency and City Council voted in Closed Session on Items: Redevelopment Agency 3 and Closed Session 5. Both docketed as *Proposed Litigation against the California State University Board of Trustees*, to initiate litigation with a motion by Council President Peters - a second by Councilmember Madaffer. Motion passed unanimously.

CS-6 Proposed litigation against Aviation International, Inc.

DCA Assigned: J. Serrano

Motion: Initiate Litigation
Moved: Councilmember Hueso - Dist. 8
Seconded: Councilmember Madaffer - Dist. 7
Vote: 8/0 [Passed Unanimously]
Absent: All Present

**Reported out in Open Session on December 4, 2007, at 2:00 p.m. by
Karen Heumann, Assistant City Attorney:**

Today, the City Council voted in Closed Session on Items **CS-6, *Proposed Litigation against Aviation International, Inc.***, and CS-8, *Conference with Real Property Negotiator, Property: 6929 Curran Street, San Diego, CA. 92154*, to initiate litigation. The motion by Councilmember Hueso - second by Councilmember Madaffer. Motion passed unanimously.

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

**CS-7 *San Diego Navy Broadway Complex Coalition v. City of San Diego, et al*
*San Diego Superior Court Case No. GIC 880444***

DCA Assigned M. Dickinson

Nothing to report

Conference with Real Property Negotiator, pursuant to California Government Code section 54956.8:

CS-8 Property: 6929 Curran Street, San Diego, CA. 92154

Agency Negotiator: Michael Tussey and Christian Anderson

Negotiating Parties: Aviation International Inc., President is Juan Escalante

Under Negotiation: Price and payment terms of lease.

DCA Assigned: J. Serrano

Motion: Initiate Litigation
Moved: Councilmember Hueso - Dist. 8
Seconded: Councilmember Madaffer - Dist. 7
Vote: 8/0 [Passed Unanimously]
Absent: All Present

**Reported out in Open Session on December 4, 2007, at 2:00 p.m. by
Karen Heumann, Assistant City Attorney:**

Today, the City Council voted in Closed Session on Items CS-6, *Proposed Litigation against Aviation International, Inc.*, and **CS-8, Conference with Real Property Negotiator, Property: 6929 Curran Street, San Diego, CA. 92154**, to initiate litigation. The motion by Councilmember Hueso - second by Councilmember Madaffer. Motion passed unanimously.

**REPORT OUT FOR PRIOR CLOSED SESSION MEETING MADE IN OPEN SESSION
ON DECEMBER 4, 2007, AT 2:00 p.m.:**

Assistant City Attorney Karen Heumann reported out the result of a prior Closed Session Meeting that is now reportable.

1. November 20, 2007 Closed Session Meeting
Item CS-2: *George Isbell, et al. v. City of San Diego*
U.S.D.C. Southern District of California Case No. 98cv0688

In the Closed Session Meeting of *November 6, 2007*, the City Council voted on Item CS-2, *George Isbell, et al. v. City of San Diego*, U.S.D.C. Southern District of California Case No. 98cv0688, to authorize settlement in an amount not to exceed \$100,000. This information was not disclosed previously because the settlement had not yet been finalized. Now that the settlement is finalized for \$100,000, it is reportable. The motion was made by Council President Peters and seconded by Councilmember Frye. It passed 5 to 0 with Council President Pro Tem Young and Councilmembers Atkins and Hueso absent.

REPORTED BY: _____

Karen Heumann
Assistant City Attorney