

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
FOR MONDAY AND TUESDAY, NOVEMBER 16 AND 17, 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 November 16 and 17, 2015, as follows:

CLOSED SESSION MEETING FOR MONDAY, NOVEMBER 16, 2015

(Closed Session Items were heard on Tuesday, November 17, 2015.)

CLOSED SESSION MEETING FOR TUESDAY, NOVEMBER 17, 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; all present.

CLOSED SESSION ITEMS:

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

CS-1 *Border Business Park, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC692794

National Enterprises, Inc. v. City of San Diego
San Diego Superior Court Case No. GIC73001

Otay Acquisitions, LLC v. City of San Diego
San Diego Superior Court Case No. GIC753247

Otay Truck Parking, LP v. City of San Diego
San Diego Superior Court Case No. 37-2009-00095661-CU-EI-CTL

Border Business Park, Inc. v. City of San Diego
San Diego Superior Court Case No. 37-2011-00090494-CU-EU-CTL

DCA Assigned: David J. Karlin, Chief Deputy City Attorney
Christopher Garrett, Robert Howard & Jake Ryan, Latham & Watkins,
LLP
Cecilia O'Connell Miller, Procopio, Cory, Hargreaves & Savitch, LLP

Motion: To accept a signed settlement offer
Moved: Councilmember Alvarez, District 8
Seconded: Council President Pro Tem Emerald, District 9
Vote: Passed unanimously 9 to 0.
Report: This item was reported out by Assistant City Attorney Mary Nuesca on
Tuesday, November 3, 2015, at 5:35 p.m.

The City Council voted on Closed Session Item Number One, *Border Business Park, Incorporated v. City of San Diego*, San Diego Superior Court Case Number GIC 692794; *National Enterprises, Incorporated v. City of San Diego*, San Diego Superior Court Case Number GIC 73001; *Otay Acquisitions, LLC v. City of San Diego*, San Diego Superior Court Case Number GIC 753247; *Otay Truck Parking, LP v. City of San Diego*, San Diego Superior Court Case Number 37-2009-00095661-CU-EI-CTL; and *Border Business Park, Incorporated v. City of San Diego*, San Diego Superior Court Case Number 37-2011-00090494-CU-EU-CTL, to accept signed settlement offers from the above-named plaintiffs and two of the City's former insurance carriers.

These cases involve alleged breaches to a 1986 development agreement, a 1987 sewer facilities reimbursement agreement, and other disputes surrounding the 312-acre Border Business Park in Otay Mesa.

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

CS-2 *Thomas Perez v. City of San Diego*

San Diego Superior Court Case No. 37-2014-00016621-CU-OE-CTL

DCA Assigned: K. Zlotnik

Motion: To seek appellate review
Moved: Council President Pro Tem Emerald, District 9
Seconded: Councilmember Sherman, District 7
Vote: Passed 8 to 0 with Councilmember Alvarez abstaining.
Report: This item was reported out by Assistant City Attorney Mary Nuesca on
Tuesday, November 3, 2015, at 5:37 p.m.

The City Council also voted on Closed Session Item Number Two, *Thomas Perez v. City of San Diego*, San Diego Superior Court Case Number 37-2014-00016621-CU-OE-CTL, to seek appellate review. This case involves claims for unpaid City of San Diego employee wages.

