

# CITY OF SAN DIEGO COUNCIL DOCKET



## COUNCIL PRESIDENT

**Todd Gloria • Third District**

## COUNCIL PRESIDENT PRO TEM

**Sherri Lightner • First District**

## COUNCILMEMBERS

**Edward Harris • Second District**

**Myrtle Cole • Fourth District**

**Mark Kersey • Fifth District**

**Lorie Zapf • Sixth District**

**Scott Sherman • Seventh District**

**David Alvarez • Eighth District**

**Marti Emerald • Ninth District**

**Andrea Tevlin  
Independent  
Budget Analyst**

**Jan Goldsmith  
City Attorney**

**Liz Maland  
City Clerk**

**Council Chambers, 12<sup>th</sup> Floor, City Administration Building**

**Monday, July 28, 2014**

**AGENDA FOR THE  
REGULAR COUNCIL MEETING OF  
MONDAY, JULY 28, 2014, AT 2:00 PM  
CITY ADMINISTRATION BUILDING  
COUNCIL CHAMBERS – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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This information will be made available in alternative formats upon request, as required by the Americans with Disabilities Act (ADA), by contacting the City Clerk at (619) 533-4000 or <mailto:cityclerk@sandiego.gov>. Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, require different lead times, ranging from five business days to two weeks. Please keep this in mind and provide as much advance notice as possible in order to ensure availability. Assistive Listening Devices (ALDs) are available in Council Chambers upon request.

Pursuant to California Senate Bill 343 (Section 54957.5(b) of the Brown Act), late-arriving documents related to City Council meeting agenda items which are distributed to the legislative body prior to and during the Council meeting are available for public review in the Office of the City Clerk on the second floor of the City Administration Building, 202 C Street, San Diego, CA 92101. This relates to those documents received after the agenda is publicly noticed and during the 72 hours prior to the start of the meeting. Please note: Approximately one hour prior to the start of the Council Meeting, the documents will be available just outside Council Chambers in the lobby of the 12th floor of the City Administration Building in a binder labeled “SB 343.” Late-arriving materials received during the City Council meeting are available for review by making a verbal request of City Clerk staff located in Council Chambers.

**ROLL CALL**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**NON-AGENDA PUBLIC COMMENT**

Non-agenda public comment is taken on Tuesday pursuant to San Diego Municipal Code Section 22.0101, Rule 2.6.

**MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY, CITY CLERK COMMENT**

**UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)**

**REQUESTS FOR CONTINUANCE**

The Council will consider requests for continuance based on when the item was noticed to be heard.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS**  
**ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:**

ITEM-200: Adoption of ordinance amending Chapter 3 of the San Diego Municipal Code by adding Article 9, Division 1, Sections 39.0101 through 39.0115 relating to earned sick leave and minimum wage to be provided to employees working in the City of San Diego. (Rev. 7/24/14) (Citywide.)

**ITEM DESCRIPTION:**

Approve Council ordinance related to earned sick leave and minimum wage for employees working in the City of San Diego. (Rev. 7/24/14)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced as amended by Council at time of introduction on 7/14/2014, Item 600, Subitem-A. (Council voted 6-3. Councilmember Kersey-nay, Councilmember Zapf-nay, and Councilmember Sherman-nay.):

(O-2015-11 Rev.)

Amending Chapter 3 of the San Diego Municipal Code by adding Article 9, Division 1, Sections 39.0101 through 39.0115, relating to the earned sick leave and minimum wage to be provided to employees working in the City of San Diego.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS  
ORDINANCES TO BE INTRODUCED:**

ITEM-201: Consideration of Proposed Ordinances Regulating the Use and Retail Sales of Electronic Cigarettes. (Citywide.)

**ITEM DESCRIPTION:**

1. Sub-Item A (O-2014-109): Introduce a proposed ordinance amending various provisions of the San Diego Municipal Code relating to smoking and the use of tobacco products and electronic cigarettes.
2. Sub-Item B (O-2014-125): Introduce a proposed ordinance amending various provisions of the San Diego Municipal Code relating to retail sales of tobacco products, electronic cigarettes, electronic cigarette paraphernalia, and vaping juice.

**COUNCILMEMBER EMERALD'S RECOMMENDATION:**

Introduce the following ordinances:

Subitem-A: (O-2014-109)

Introduction of an Ordinance amending Chapter 4, Article 3, by deleting current Section 43.1001, by amending and renumbering Section 43.1002 to Section 43.1001, by amending and renumbering Section 43.1003 to Section 43.1002, by amending and renumbering Section 43.1004 to Section 43.1003, by amending and renumbering Section 43.1005 to Section 43.1004, by amending and renumbering Section 43.1007 to Section 43.1005, by renumbering Section 43.1008 to Section 43.1006, by amending and renumbering Section 43.1009 to Section 43.1007, by amending and renumbering Section 43.1010 to Section 43.1008; amending Chapter 5, Article 9, by amending Section 59.0202; amending Chapter 6, Article 3, by amending Section 63.20.16; amending Chapter 6, Article 8 by amending Section 68.0131; amending Chapter 14, Article 1, by amending Section 141.0621, of the San Diego Municipal Code, all relating to smoking and the use of tobacco products and electronic cigarettes.

Subitem-B: (O-2014-125)

Introduction of an Ordinance amending Chapter 3, Article 3, of the San Diego Municipal Code by amending the title of Division 45, and by amending Sections 33.4501, 33.4502, 33.3403, 33.4504, 33.4505, 33.4506, 33.4508, 33.4509, 33.4510, 33.4511, 33.4512, 33.4513, 33.4514, 33.4515, 33.4516, 33.4517, 33.4518, and 33.4519; by amending Chapter 4, Article 3, by amending the title of Division 11, and by amending Sections 43.1101, 43.1102, and 43.1103; and by amending Chapter 5, Article 8, by amending the title of Division 3, and by amending Sections 58.0301, 58.0302, 58.0303, 58.0304, 58.0305, 58.0306, 58.0307, 58.0308, 58.0309, 58.0310, and 58.0311, all relating to retail sales of tobacco products, electronic cigarettes, electronic cigarette paraphernalia, and vaping juice.

**STAFF SUPPORTING INFORMATION:**

FISCAL CONSIDERATIONS: N/A.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On February 26, 2014, the Public Safety and Livable Neighborhoods Committee to approve drafting of an ordinance related to use and retailing of electronic cigarettes.

ACTION: Motion by Councilmember Kersey, second by Councilmember Cole

VOTE: 3-0-1; Zapf-yea, Cole-yea, Kersey-yea; Emerald-absent.

- On June 18, 2014, the Public Safety and Livable Neighborhoods Committee unanimously approved the proposed Municipal Code revisions regulating the use and retailing of electronic cigarettes, including the advertising and promotion of electronic cigarettes.

ACTION: Motion by Councilmember Kersey, second by Councilmember Harris, to approve and forward to Council the draft ordinance language and request the draft language be circulated to all impacted and relevant City departments.

VOTE: 4-0-0; Emerald-yea, Cole-yea, Harris-yea, Kersey-yea.Flores

Primary Contact\Phone: Marisa Berumen\619-236-7754

City Attorney Contact: So, Kenneth R.\Peter, Linda L.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS  
RESOLUTIONS:

ITEM-202: FY 14 Slurry Seal Groups II & III.

**ITEM DESCRIPTION:**

Authorize the funding, advertisement, award and execution of two major maintenance contracts. These contracts will provide for the repair and slurry sealing of approximately 66 miles of various asphalt streets located throughout the City.

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2014-804)

Approving the specifications for the construction of "FY 14 Slurry Seal Group II" and "FY 14 Slurry Seal Group III" as advertised by Public Works Department;

Authorizing the Mayor, or his designee, to award and execute construction contracts for FY 14 Slurry Seal Group II, with the lowest responsible and reliable bidder, in an amount not to exceed \$3,200,000; and for FY 14 Slurry Seal Group III, with the lowest responsible and reliable bidder, in an amount not to exceed \$3,200,000;

Authorizing the Chief Financial Officer to expend funds in an amount not to exceed \$7,000,000, solely and exclusively, to provide funds for the above projects and related costs, contingent upon the Chief Financial Officer first certifying that the funds are, or will be, on deposit with the City Treasurer, as follows:

- (a) an amount not to exceed \$3,500,000, Fund 200306, Prop 42 Replacement Fund, for the purpose of construction of "FY 14 Slurry Seal Group II"; and
- (b) an amount not to exceed \$3,500,000, Fund 200306, Prop 42 Replacement Fund, for the purpose of construction of "FY 14 Slurry Seal Group III".

Subitem-B: (R-2014-807)

Declaring that the Slurry Seal of Streets Groups II and III projects are categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301(C);

Declaring that the Council of the City of San Diego has determined that an exception to the exemption as set forth in CEQA Guidelines Section 15300.2 does not apply.

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:**

Funding in the amount of \$7,000,000 is available to be expended from Proposition 42 Replacement Fund 200306. Expenditures from this funding source are required to be used to maintain and improve the public right of way.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** None.

McFadden/Heinrichs

Primary Contact\Phone: John Helminski\619-527-7504, MS 44

Secondary Contact\Phone: Walter Gefrom\619-527-7509, MS 44

City Attorney Contact: Gerrity, Ryan P.

**ADOPTION AGENDA, DISCUSSION, HEARINGS**

**NOTICED HEARINGS:**

ITEM-203: Connections Housing (1250 Sixth Avenue) – Conditional Use Permit/Planned Development Permit/Neighborhood Use Permit No. 2010-62 12-Month Review and Amendment. (Downtown Community Plan Area. District 3.)

**ITEM DESCRIPTION:**

Connections Housing (1250 Sixth Avenue) - Conditional Use Permit/Planned Development Permit/Neighborhood Use Permit No. 2010-62 12-Month Review and Amendment - Core Neighborhood of the Downtown Community Plan Area.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2015-32 Cor. Copy)

Adoption of a Resolution declaring that Connections Housing Downtown, L.P., is in conformance with Conditional Use Permit/Planned Development Permit/Neighborhood Use Permit No. 2010-62 (CUP/PDP/NUP) and an amendment to CUP/PDP/NUP is approved to require a yearly review to be conducted annually until 2018 and the following findings are adopted with respect to the amendment to CUP/PDP/NUP No. 2010-62 which are supported by the minutes, maps, and exhibits, all of which are incorporated herein by this reference;

Granting an amendment to CUP/PDP/NUP No. 2010-62 to Connections Housing Downtown L.P., Permittee, under the terms and conditions set forth in the attached permit which is made a part of this Resolution.

**NOTE:** This item is not subject to the Mayor's veto.

**STAFF SUPPORTING INFORMATION:**

**FISCAL CONSIDERATIONS:** None.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** None.

Phillips/Graham\ek

Primary Contact/Phone: Eri Kameyama/619-533-7177

City Attorney Contact: Thomas, Shannon M.

**CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT**

In accordance with the San Diego City Council Permanent Rule for Noticing and Conduct of Closed Session Meeting, adopted on February 28, 2005, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Closed Session Agenda. Public testimony on Closed Session items is taken in Open Session on Mondays, except when there is no Monday meeting. Public testimony on Closed Session items is always taken prior to the actual Closed Session. Closed Session may take place any time after public testimony, but is typically held on Tuesdays at 9:00 a.m. The Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including the City internet address.

**NOTE:** Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the Closed Session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

**Information Item - No Action Required - The City Council shall:**

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Allow for questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in Closed Session; 4) Refer matters discussed to Closed Session.

**PUBLIC NOTICES:**

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-250: Submission of Ballot Proposals for the November 4, 2014 Ballot.

**SUBMISSION OF BALLOT PROPOSALS  
FOR THE NOVEMBER 4, 2014 BALLOT**

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket, prior to the election, the ballot proposals which have been referred to Council following Committee review.

The City Clerk has established the following administrative guidelines for the November 4, 2014, election.

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Tuesday	6/03/14	154	LAST DATE (5:00 p.m.) for public, departments and agencies to submit ballot proposals to City Clerk for review by Committee.
Wednesday	6/11/14	146	Committee review.
Monday	6/16/14	141	Council Docket (PUBLIC NOTICE) lists proposals referred by Committee.
Monday	6/23/14	134	Council adopts propositions for ballot; directs City Attorney to prepare ordinances.
Monday	7/14/14	113	Council adopts ordinances prepared by City Attorney.
Friday	8/08/14	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/21/14	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk at (619) 533-4000.

## ITEM-251: General Election Public Examination Period.

June 2, 2014

Pursuant to San Diego Municipal Code Section 27.0403, candidate statements, the propositions and related ballot materials for said candidate races and propositions, to be submitted to the voters within the City of San Diego at the election of November 4, 2014, will be available for public examination for ten (10) calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the ballot or sample ballot materials be amended or deleted. Please note the following examination periods:

<u>Document</u>	<u>Start date</u>	<u>End date</u>
Candidate Statements of Qualifications <b>and</b> Designations of Principal Profession or Occupation	July 30, 2014	August 8, 2014
Ordinances calling election <b>and</b> Ordinances placing measures on the ballot	August 11, 2014	August 21,2014
City Attorney's impartial analysis, ballot title and summary, <b>and</b> Mayor/IBA/City Auditor's fiscal analysis	August 19, 2014	August 28, 2014
Ballot Arguments	August 22, 2014	September 1,2014

For additional information regarding this matter, please contact the Office of the City Clerk at (619) 533-4000.

ITEM-252: Arguments Supporting or Opposing Propositions

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Municipal General Election to be held on Tuesday, November 4, 2014, the City Clerk has fixed 5:00 p.m. on Thursday, August 21, 2014, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. ([Forms](#) for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

Item-253: **Notice** of Pending Final Map Approval - Bird Rock Mixed Use.

Notice is hereby given that the City Engineer has reviewed and will approve on the date of this City Council meeting that certain final map entitled "Del Mar Mesa " (T.M. No. 10114, PTS No. 334227) located on the corner of La Jolla Boulevard and Bird Rock Avenue, in the "Zone 4" of the La Jolla Planned District, within the La Jolla Community Planning Area, Council District 1, a copy of which is available for public viewing at the office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 PM, 10 calendar days from the date of this City Council meeting stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the map approval findings or need additional information about the map or your appeal rights, please feel free to contact Gregory P. Hopkins (619) 446-5291.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT