



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

FOR IMMEDIATE RELEASE: November 5, 2014

Contact: [Gerry Braun](mailto:gbraun@sandiego.gov), Director of Communications: gbraun@sandiego.gov (619) 533-4782

CITY WINS \$120 MILLION INFRASTRUCTURE BOND LAWSUIT

Judge rejects SDFOG lawsuit that delayed fire stations, libraries, storm drains, streets, sidewalks

San Diego, CA: In a resounding affirmation of San Diego's right to use bond proceeds to pay for neighborhood improvements, a Superior Court Judge has denied a legal challenge by San Diegans for Open Government to a financing method the City of San Diego has used for decades.

The lawsuit by SDFOG and lawyer Cory Briggs sought to outlaw the use of lease revenue bonds to pay for City infrastructure projects – replacing storm drains and sidewalks, repaving streets and building libraries and fire stations. At the time he filed his lawsuit, Briggs publicly accused City Attorney Jan Goldsmith of allowing the City to use an illegal financing method. “Our City Attorney doesn’t go to any great lengths to make sure the city follows the law,” Briggs claimed at the time. ⁽¹⁾

However, the decision by Superior Court Judge John S. Meyers concluded that the financing method Briggs claimed to be illegal was expressly approved by the California Supreme Court in the 1998 landmark case *Rider v. San Diego*, and is now used by public agencies throughout the state. “*Rider* very clearly establishes the structure of lease financing as appropriate,” Meyers stated, adding, “it's legal.”

“This lawsuit was unnecessary,” Goldsmith said. **“Like it or not, the Supreme Court has found lease revenue bonds legal and they are relied on for infrastructure projects by cities throughout California.”**

Mayor Kevin L. Faulconer declared the ruling **“a victory for all of San Diego’s neighborhoods.”**

“Now that this legal roadblock has been removed, we’ll be able to move aggressively on neighborhood repairs and ensure every community benefits,” Faulconer said. **“I want to thank City Attorney Jan Goldsmith and his team for working diligently to win this case on behalf of all San Diegans.”**

The City was represented in the three-day trial by Deputy City Attorney Meghan Ashley Wharton, whom Goldsmith said did an extraordinary job on behalf of taxpayers.

Had the Briggs lawsuit succeeded, San Diego would have been unable to finance any City project that could not

(1) “Lawsuit may not stop road bonds,” by Mark Walker, SDU-T, April 3, 2014

be built and paid for within a year absent a ballot measure.

The \$120 million in lease revenue bonds at stake in the case were earmarked to pay for capital improvement projects prioritized by the Mayor and City Council.

The bonds would provide more than \$48 million for neighborhood libraries, fire stations, life guard stations and other neighborhood facilities designated earlier this year. In addition, it will fund nearly \$22 million to replace aging storm drains and facilities, \$43 million for new paving and streets and \$1 million for new sidewalks.

"This is an important step toward fixing our neighborhoods," Council President Todd Gloria said. **"During this legal battle over a known responsible funding mechanism, our neighborhoods have had to wait for road repairs, expanded branch libraries and fire station upgrades. I hope to be able to deliver those improvements soon."**

Among the specific projects that SDFOG tried to block:

- **Replacement of Hillcrest fire station (Station No. 5).** This station, the second busiest in the City, currently houses dated firefighting vehicles because it is too small for modern equipment.
- **Reconstruction of City Heights fire station (Station No. 17).** Home to one of the busiest engine companies in the United States, Station No. 17 is too small to house the additional firefighters needed to serve the surrounding neighborhoods.
- **Design of new fire stations in Skyline and on Home Avenue.** These facilities would provide faster Fire and Rescue response times to communities that do not receive the same level of service as the rest of San Diego. The bond will pay for their design; construction would be financed by a future lease revenue bond -- which, of course, would also be derailed by the Briggs lawsuit.
- **Completed construction of Skyline Branch Library.** This new library provides computers for a residents who cannot afford home Internet access and provides much-needed after-school programs and services for young children and teens.
- **Construction of the new Mission Hills/Hillcrest Branch Library.** This City has received a \$10 million anonymous donation to fund library construction – more than half of the project's total cost – but that donation is heavily at risk if the City cannot provide the remaining funds.
- **Completed construction of South Mission Beach Lifeguard Station.** The station covers the busiest area of beach in San Diego, and currently is too small to handle the 24-hour workforce needed to keep beachgoers safe.

Other funds will be used for the La Jolla Cove lifeguard station, San Ysidro Branch Library, the San Carlos Branch Library, the University Village tot lot, Tierrasanta athletic field lighting, upgrades to the SDPD pistol range and the Mission Beach Boardwalk sea wall.

In addition, the bonds will fund \$4.3 million in accessibility projects citywide.

A full project list of the earmarked projects can be found on page 10 of the attached document, Report to the City Council No. 14-01.

The bonds were to have been issued in May, but were delayed by the SDFOG lawsuit.

Councilman Mark Kersey, who chairs the Council Infrastructure Committee, said he hopes these projects will move forward without further delay.

"The funding made available by this bond will improve all of San Diego's neighborhoods," Kersey said. "It makes a significant investment in our priority projects in our neighborhoods, enhances public safety through new fire stations and completes projects that have been on the City's waiting list for far too long."

Judge Meyers' decision follows by a victory by the San Diego City Attorney's office in a case in which SDFOG and Briggs unsuccessfully tried to prevent Business Improvement Districts from promoting neighborhood events such as street fairs, farmer's markets and community festivals.

If successful in that case, SDFOG would have likely shut down such events as the Little Italy farmer's market and festivals. However, Superior Court Judge Ronald S. Prager found that SDFOG and Briggs failed to show they had even a reasonable likelihood of prevailing on the merits.

###