

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
THE CLOSED SESSION MEETING REPORT  
FOR TUESDAY, SEPTEMBER 13, 2005  
CITY ADMINISTRATION BUILDING  
COMMITTEE ROOM – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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**ROLL CALL:**

Present: Councilmembers Peters, Atkins, Young, Frye, and Madaffer

Absent: Councilmember Maienschein – Dist. 5 (Absent for Items CS-1, 7, 8, and 9)

Vacant: Mayor  
Councilmember District 2  
Councilmember District 8

**REPORTING RESULTS OF CLOSED SESSION MEETING**

Only items that can be disclosed are reported out in the Open Session of the regular City Council Meeting. Assistant City Attorney Karen Heumann reports the results of the Closed Session Meeting of September 13, 2005, as follows:

**CLOSED SESSION ITEMS:**

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

**CS-1 *George Isbell, Jr. v. City of San Diego*  
United States District Court Case No. 98cv0688**

DCA assigned: C. Lassman Rhamy

Motion: Defend Litigation  
Moved: Councilmember Peters – Dist.1  
Seconded: Councilmember Madaffer – Dist. 7  
Vote: 5/0 [Passed]  
Absent: Councilmember Maienschein – Dist. 5  
Vacant: Mayor  
Councilmember District 2  
Councilmember District 8

**CS-2 *Save Our Heritage Organisation v. City of San Diego, et al.*  
(Coronado Belt Line Railway)  
San Diego Superior Court Case No. GIC837743**

DCA assigned: J. Booth

Nothing to report

**CS-3 *Valerie O' Sullivan v. City of San Diego, et al.*  
San Diego Superior Court Case No. GIC 826918**

DCA assigned: D. Smith

Result: Refrain from Seeking Appellate Review

Motion: Seek Appellate Review

Moved: Councilmember Frye – Dist. 6

Seconded: Councilmember Young – Dist. 4

Vote: 4/2 [Failed]

Absent:

Vacant: Mayor

Councilmember District 2

Councilmember District 8

**CS-4 *Sierra Club v. California Coastal Commission and City of San Diego*  
San Diego Superior Court Case No. GIC844081**

DCA assigned: D. Smith

Nothing to report

**CS-5 *In Re: SEC Investigation into City Bond and Disclosure Practices***

ACA assigned: D. McGrath

Motion: Direct City Attorney to continue working with SEC

Moved: Councilmember Frye – Dist. 6

Seconded: Councilmember Young – Dist. 4

Vote: 6/0 [Passed]

Absent:

Vacant: Mayor

Councilmember District 2

Councilmember District 8

**CS-6 In re: United States Securities and Exchange Commission Investigation and United States Attorney investigation into City's Finances.**

ACA: A. Noone

Motion: Waive attorney-client privilege for June 30 subpoena except documents which release would compromise ongoing litigation negotiations  
Moved: Councilmember Peters – Dist. 1  
Seconded: Councilmember Frye – Dist. 6  
Vote: 6/0 [Passed]  
Absent:  
Vacant: Mayor  
Councilmember District 2  
Councilmember District 8

Reported out in Open Session on September 13, 2005: The City Council waived the protections of the attorney/client privilege and the Work Product Doctrine with respect to all documents responsive to the subpoena issued by the SEC on June 30, 2005, except those documents created for litigation commenced on or after February 12, 2004 and that the provision of any such materials to the SEC shall be subject to the existing Confidentiality Agreement between the City and the SEC.

Miss Heumann stated that the City Council voted that the protections of the attorney/client privilege and the attorney Work Product Doctrine be waived with respect to all documents responsive to the most recent subpoenas issued by the U.S. Attorney or U.S. Grand Jury, dated December 22, 2004; January 11, 2005; February 9, 2005, February 11, 2005, February 25, 2005, March 8, 2005, May 10, 2005, May 18, 2005, June 9, 2005; July 26, 2005; August 8, 2005; and August 16, 2005, to the extent those subpoenas request documents not previously requested by prior subpoenas issued by the same entity and except for those documents created for litigation commenced on or after February 12, 2004.

**CS-7 *The Lincoln Club of San Diego v. The City of San Diego*  
United States District Court Case No. 05cv1609 LAB (JMA)**

DCA assigned: D. Shanahan

Nothing to report

**CS-8 *William J. McGuigan v. City of San Diego, et al.*  
San Diego Superior Court GIC 849883**

ACA assigned: D. McGrath

Nothing to report

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

**CS-9 Cable Franchise**

DCA assigned: P. Edmonson

Motion: Initiate litigation against Cox for declaratory relief to determine the constitutionality of Government Code section 53066.3 in light of the Telecommunications Act of 1996.  
Moved: Councilmember Madaffer - Dist. 1  
Seconded: Councilmember Peters – Dist. 1  
Vote: 5/0 [Passed]  
Absent: Councilmember Maienschein – Dist. 5  
Vacant: Mayor  
Councilmember District 2  
Councilmember District 8

REPORTED BY: \_\_\_\_\_  
Karen Heumann  
Assistant City Attorney