

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
MONDAY AND TUESDAY, OCTOBER 8 and 9, 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 and Chief Deputy City Attorney Huston Carlyle report the results of the Closed Session Meetings of October 8 and 9, 2007, as follows:

CLOSED SESSION MEETING FOR MONDAY, OCTOBER 8, 2007

Closed Session Items were heard on Tuesday, October 9, 2007.

CLOSED SESSION MEETING FOR TUESDAY, OCTOBER 9, 2007

ROLL CALL:

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

Absent: Councilmember Maienschein - Dist. 5 (Not present for CS-2.)

CLOSED SESSION ITEMS:

Conference with Legal Counsel - anticipated litigation - initiation of litigation pursuant to California Government Code Section 54956.9(a):

CS-1 *City of San Diego v. San Diego City Employees' Retirement System (SDCERS)*

DCA Assigned:

Nothing to report

CS-2 *Mt. Soledad Geological Movement*

Motion: Authorize retention of outside counsel (both defense and insurance coverage).
Moved: Councilmember Madaffer - Dist. 7
Seconded: Council President Peters - Dist. 1
Vote: 5/2 [Passed] Council President Pro Tem Young (Dist. 1) and
Councilmember Frye (Dist. 6) voted "No"
Absent: Councilmember Maienschein - Dist. 5

**Reported out on October 9, 2007, at 7:10 p.m. by Chief Deputy City Attorney
Huston Carlyle:**

The City Council voted in Closed Session on Item CS-2, ***Mt. Soledad Geological Movement***, to authorize the retention of outside counsel (both defense and insurance coverage), in anticipation of litigation regarding the recent geological movement on Mt. Soledad, with said counsel reporting to the Mayor and City Council. The motion further included that the City Attorney's Office prepare points and authorities justifying its spending on hiring consultants and outside law firms in connection with this event and where the money is going to come from to pay for it. The motion further requested that the City Attorney's Office report on who it has been talking to in connection with this event. The motion was made by Councilmember Madaffer and seconded by Council President Peters. The motion passed 5 to 2 with Councilmembers Young and Frye voting "No" and Councilmember Maienschein absent.

**CS-3 *Yevdokia (Daisy) Bristman, et al. v. Western Trucking, LLC, et al.*
San Diego Superior Court Case No. GIC 855357**

DCA: B. Hsu

Nothing to report

**CS-4 *In the Matter of: Natural Gas Anti-Trust Cases I, II, III, & IV*
RE All Price Indexing Cases, JCCP Nos. 4211, 4224, 4226, and 4228**

DCA Assigned: F. Ortlieb

Nothing to report

**CS-5 *De Anza Cove Homeowners Association, Inc., v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 821191**

***Ernest Abbitt, et al. v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 865536**

DCA Assigned: M. Severson

Nothing to report

**CS-6 *La Jolla Country Club v. City of San Diego*
San Diego Superior Court Case No. GIC 872163**

DCA Assigned: C. Brock

Motion: Authorize settlement of \$70,000 in exchange for release of all future claims
and indemnity/hold harmless agreement.

Moved: Councilmember Atkins - Dist. 3

Seconded: Councilmember Frye - Dist. 6

Vote: 7/0 [Passed]

Absent: Council President Peters - Dist. 1 (Recused)

**Reported out on October 9, 2007, at 7:10 p.m. by Chief Deputy City Attorney
Huston Carlyle:**

The City Council voted in Closed Session on Item CS-6, *La Jolla Country Club v. City of San Diego*, San Diego Superior Court Case No. GIC 872163, to authorize settlement of \$70,000 in exchange for release of all future claims and an indemnity/hold harmless agreement from the Plaintiff. The motion was made by Councilmember Atkins and seconded by Councilmember Frye. The motion passed 7 to 0 with Council President Peters recused.

**CS-7 *Helsey v. City of San Diego*
San Diego Superior Court Case No. GIC 865903
(Consolidated with *Foote v. City of San Diego*
San Diego Superior Court Case No. GIC 865903)**

DCA Assigned: C. Brock

Nothing to report

**CS-8 *Foote v. City of San Diego*
San Diego Superior Court Case No. GIC 865903**

DCA Assigned: C. Brock

Motion: Authorize settlement of \$135,371 in exchange of dismissal of lawsuit with prejudice.
Moved: Councilmember Faulconer - Dist. 2
Seconded: Councilmember Hueso - Dist. 8
Vote: 8/0 [Passed-Unanimously]
Absent: All present

**Reported out on October 9, 2007, at 7:10 p.m. by Chief Deputy City Attorney
Huston Carlyle:**

The City Council voted in Closed Session on Item CS-8, ***Foote v. City of San Diego***, San Diego Superior Court Case No. GIC 865903, to authorize settlement of \$135,371 in exchange for dismissal of lawsuit with prejudice. The motion was made by Councilmember Faulconer and seconded by Councilmember Hueso. The motion passed unanimously 8 to 0.

**CS-9 *T-Mobile v. City of San Diego*
San Diego Superior Court Case No. 07-CV-815-WGH**

DCA Assigned: J. Serrano

Nothing to report

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

CS-10 *City of San Diego v. Manchester Pacific Gateway, LLC*

DCA Assigned: M. Dickenson

Motion: Initiation of litigation to enforce Manchester Pacific Gateway, LLC's, agreement to indemnify the City of San Diego.
Moved: Councilmember Faulconer - Dist. 2
Seconded: Councilmember Frye - Dist. 6
Vote: 8/0 [Passed-Unanimously]
Absent: All present

**Reported out on October 9, 2007, at 7:10 p.m. by Chief Deputy City Attorney
Huston Carlyle:**

The City Council voted in Closed on Item CS-10, *City of San Diego v. Manchester Pacific Gateway, LLC*, to initiate litigation to enforce Manchester Pacific Gateway, LLC's, agreement to indemnify the City of San Diego. The motion was made by Councilmember Faulconer and seconded by Councilmember Frye. The motion passed unanimously 8 to 0.

REPORTED BY: _____
Karen Heumann
Assistant City Attorney