

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
FOR MONDAY AND TUESDAY, FEBRUARY 4 AND 5, 2008
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 reports the results of the Closed Session Meetings of February 4 and 5, 2008, as follows:

CLOSED SESSION MEETING FOR MONDAY, FEBRUARY 4, 2008

Closed Session Items were heard on Tuesday, February 5, 2008.

CLOSED SESSION MEETING FOR TUESDAY, FEBRUARY 5, 2008

ROLL CALL:

Present: Council President Peters, Council President Pro Tem Madaffer, and Councilmembers Faulconer, Atkins, Young, Frye, and Maienschein

Absent: Mayor Jerry Sanders (Absent for Item CS-1)
Councilmember Hueso - Dist 8 (Absent for the meeting.)

CLOSED SESSION ITEMS:

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

**CS-1 *In The Matter of: Natural Gas Anti-Trust Cases I, II, III & IV (Relating to City of San Diego v. Sempra, et al.)*
Re: All Price Indexing Cases, JCCP Nos. 4221, 4224, 4226, and 4228**

DCA Assigned: F. Ortlieb

Motion: Authority to settle with Sempra.
Moved: Council President Pro Tem Madaffer - Dist. 7
Seconded: Council President Peters - Dist. 1
Vote: 7/0 [Passed]
Absent: Councilmember Hueso absent.

Report: Below is the report out from Closed Session made by Assistant City Attorney Karen Heumann at 2:05 p.m. during the February 5, 2008 Open Session:

Today, the City Council voted in Closed Session on Item CS-1, *In The Matter of: Natural Gas Anti-Trust Cases I, II, III & IV (Relating to City of San Diego v. Sempra, et al.)* to approve the settlement of the consolidated cases with Sempra for \$2.5M. The City's share is under \$100,000. The final amount will be established after tabulation of costs-to-date and pro-ration of the balance among the Plaintiffs. The motion was made by Council President Pro Tem Madaffer and the second by Council President Peters. The motion passed 7 to 0 with Councilmember Hueso absent.

**CS-2 *City of San Diego v. Sunroad Enterprises, et al.*
San Diego Superior Court Case No. GIC 877054**

DCA Assigned: C. Brock

Report: Nothing to report

**CS-3 *Zuchet, et al. v. City of San Diego*
San Diego Superior Court, Case No. 857389**

DCA Assigned: J. Cordileone

Motion: Authority to settle for \$88,893.93 and paid from the Liability Fund.
Moved: Councilmember Faulconer - Dist. 2
Seconded: Councilmember Frye - Dist. 6
Vote: 6/1 [Passed] – Council President Pro Tem Madaffer voted “No”
Absent: Councilmember Hueso absent.

Report: Below is the report out from Closed Session made by Assistant City Attorney Karen Heumann at 2:05 p.m. during the February 5, 2008 Open Session:

Today, the City Council voted in Closed Session on Item CS-3, *Zucchet, et al. v. City of San Diego*, San Diego Superior Court Case No. 857389, to authorize settlement for \$88,893.95 which will be paid from the Liability Fund. The motion was made by Councilmember Faulconer and the second by Councilmember Frye. The motion passed 6 to 1 with Council President Pro Tem Madaffer voting "No" and Councilmember Hueso absent.

Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:

CS-4 Agency negotiator: Steven Berliner, Richard Kreisler, Lisa Briggs, Scott Chadwick, Tanya Tomlinson, Thom Harpole, Abby Jarl, Hadi Dehghani, Val VanDeweghe, Jessica Falk Michelli, William Gersten, and L. Thacker

Employee organizations: Local 145 International Association of Firefighters AFL-CIO, San Diego Police Officers Association, Municipal Employees Association, AFSCME Local 127 AFL-CIO and Deputy City Attorney Association.

DCA's Assigned: W. Gersten/J. Falk Michelli/L. Thacker

Report: Nothing to report

REPORT OUT FOR PRIOR CLOSED SESSION MEETING MADE IN OPEN SESSION

Below is the report out for a prior Closed Session Item that is now reportable. The report was made by Assistant City Attorney Karen Heumann during the February 5, 2008 Open Session at 2:05 p.m.

Date: November 20, 2007 Closed Session Meeting
Item CS-2: *Latoshia Otis v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC 879100

On November 20, 2007, the City Council voted in Closed Session on Item CS-2, *Latoshia Otis v. City of San Diego, et al.*, San Diego Superior Court Case No. GIC 879100, to authorize a settlement which requires the City to pay the Plaintiff \$75,000, place the Plaintiff in a permanent Utility 1 position with the Streets Division should such a position come open during the current fiscal year, and allow the Plaintiff 30 days unpaid leave. As part of the settlement agreement, co-defendants McKeaver and Murphy have waived their right to seek indemnification from the City for their attorneys' fees and costs incurred in the defense of the lawsuit. The settlement agreement also

requires the City to pay the mediator for the unpaid balance for mediation services totaling \$682.50. The matter was recently settled and is now reportable. The motion was made by Council President Pro Tem Young and seconded by Councilmember Madaffer. The item passed unanimously 8 to 0.

REPORTED BY: _____

Karen Heumann
Assistant City Attorney