

**CITY COUNCIL OF THE CITY OF SAN DIEGO
THE CLOSED SESSION MEETING REPORT
FOR MONDAY AND TUESDAY, JUNE 16 AND 17, 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 June 16 and 17, 2008, as follows:

CLOSED SESSION MEETING FOR MONDAY, JUNE 16, 2008

Closed Session Items were heard on Tuesday, June 17, 2008.

CLOSED SESSION MEETING FOR TUESDAY, JUNE 17, 2008

ROLL CALL:

Present: Mayor Sanders, Council President Pro Tem Madaffer, Councilmembers Faulconer, Atkins, Maienschein, Frye, and Hueso

Absent: Council President Peters – Dist 1 (Absent for the meeting.)
Councilmember Young – Dist 4 (Absent for the meeting.)

CLOSED SESSION ITEMS

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

CS-1 *County of San Diego v. Redevelopment Agency of the City of San Diego, et al.*
San Diego County Superior Court Case No. GIC 850455
(Consolidated with San Diego County Superior Court Case No. GIC 850829)

DCA assigned: G. Spitzer

Report: Nothing to report

CS-2 *Hoa Nguyen v. City of San Diego, et al.*
San Diego Superior Court Case No. 37-2008-00080921-CU-OE-CTL

DCA assigned: K. Zlotnik

Report: Nothing to report

CS-3 *Steven A. Sloan, et al. v. City of San Diego*
San Diego Superior Court Case No. GIC 848641

Joseph A. Lopez, et al. v. City of San Diego
San Diego Superior Court Case No. GIC 869054

DCA assigned: K. Zlotnik

Report: Nothing to report

CS-4 *City of San Diego v. Vinson & Elkins*
Orange County Superior Court Case No. 06CC12932

EACA assigned: D. McGrath

Motion: Authorize settlement.
Moved: Council President Pro Tem Madaffer - Dist. 7
Seconded: Councilmember Hueso - Dist. 8
Vote: 6/0 [Passed]
Absent: Council President Peters - Dist. 1
Councilmember Young – Dist. 4

Report: Below is the report out from Closed Session made by Assistant City Attorney Karen Heumann in Open Session at @ 3:21 p.m.

Today, the City Council voted in Closed Session on Item CS-4, *City of San Diego v. Vinson & Elkins*, Orange County Superior Court Case No. 06CC12932, to authorize settlement. The settlement would require V&E to dismiss its cross-complaint against the City without the City having to pay any of the \$1.1 million V&E claimed to be due and owing. The City is required to pay costs incurred in the case, which, at less than \$70,000, represent approximately two percent of the total recovery. After deducting the agreed fees and costs, the net payment to the City will be approximately \$2,083,000.

The motion was made by Council President Pro Tem Madaffer and the second by Councilmember Hueso.

The motion passed 6 to 0 with Council President Peters and Councilmember Young absent.

Below is additional information regarding the above matter:

The San Diego City Council's unanimous approval of a \$4.3 million settlement in a malpractice case against the City's former counsel, Vinson & Elkins ("V&E"). The Houston-based law firm was hired in 2004 to conduct an internal review of the City's disclosure practices related to pension matters and its municipal bond offerings, as well as to represent the City in connection with an informal inquiry initiated by the U.S. Securities and Exchange Commission (SEC).

In 2005, City Attorney Aguirre asked the City Council to approve the filing of this lawsuit, which it did unanimously.

The case against V&E asserted that the firm committed errors and omissions in its capacity as the City's counsel in relation to an investigation by the SEC. The City claimed in the lawsuit that V&E failed to perform two engagements that required independent reports from V&E regarding the City's under funded municipal pension system. By entering into the settlement, V&E is not admitting liability.

V&E had counter sued the City for collection of more than \$1.1 million that the firm billed, but that the City had refused to pay. The settlement requires V&E to dismiss its case against the City without the City having to pay any additional fees to V&E.

In total, the proposed settlement is for \$4,350,000 gross which is comprised of cash in the sum of \$3.25 million and a \$1.1 million waiver of fees billed to the City by Vinson & Elkins but held back pending the outcome of this litigation.

This case was pursued without the City having to pay one dime up front. After legal fees, the City will net more than \$2 million from the V&E case.

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

CS-5 Number of Cases: One

DCA assigned: G. Spitzer

Report: Nothing to report

Conference with Real Property Negotiator, pursuant to California Government Code section 54956.8:

CS-6 Property: 5036-60 Sterling Court, San Diego (south end of Winona Avenue)

Agency Negotiator: Jim Barwick, Director, Real Estate Assets Department

Negotiating Party: Larry Zajonc

Under Negotiation: Price and terms of payment

DCA assigned: K. Davies

Report: Nothing to report

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

CS-7 Stephen Cicero v. City of San Diego

San Diego Superior Court Case No. 37-2008-00085133-CU-PT-CTL

DCA assigned: D. McGrath

Report: Nothing to report

REPORTED BY: _____

Karen Heumann
Assistant City Attorney