



Office of the City Manager

INFORMATION CALENDAR

March 23, 2010

To: Honorable Mayor and Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Zach Cowan, City Attorney

Subject: Settlement of Litigation: *Pacific Steel Casting v. Bay Area Air Quality Management District*

INTRODUCTION

All settlements that are not announced at the conclusion of a closed session are provided to the Council and the public via an information report.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to the Council's authorization on November 9, 2009, the City Attorney has entered into the attached settlement agreement.

BACKGROUND

This case concerns Public Records Act requests filed by the City and individuals for an Odor Management Plan (OMP) submitted by Pacific Steel Casting (PSC) to the Bay Area Air Quality Management District (BAAQMD). PSC designated the OMP as a "trade secret" in its entirety. In October 2008, a representative of the City submitted a request to BAAQMD for the OMP. BAAQMD notified PSC, which sued BAAQMD to prevent it from releasing the OMP.

In early 2009 the Council authorized the City Attorney to intervene in the case. At about the same time settlement negotiations began, and in November 2009 the Council authorized a settlement under which most of the OMP would be released, but certain parts would be redacted either as trade secrets or because of security concerns. After further negotiations and a judicially-supervised settlement conference, the parties reached an agreement and the case was settled in February 2010 by way of an agreement to a Consent Judgment. The parties' settlement included intervention by the City. This result and the agreed-upon redactions from the OMP, were also approved by the Healthy Air Coalition, which had filed a separate suit to obtain release of the OMP.

The Consent Judgment, to which the redacted OMP is an exhibit, is attached.

FISCAL IMPACTS

None.

CONTACT PERSON

Zach Cowan, City Attorney, 981-6998

Attachment:

- 1: Settlement Agreement, with redacted Odor Management Plan