

## **SEPTEMBER 2008 - CALENDAR**

(Meetings, Public Hearings, Court Dates - Updated 09/07//08)

### **September 2 - Regular City Council Meeting (10:00 am Tuesday)**

Details: Item 51 on the Consent Agenda is the second reading of the Waterfall Ordinance, Version A. The first reading of the ordinance was approved on July 21, 2008. **UPDATE!** The City Council approved Version A (see details under Current Issues).

### **September 3 - City Council Committee meetings; Rules Committee (9:00 am ) and Public Safety & Neighborhood Services (2:00 pm)**

Details: See City website for meeting information.

### **September 5 -SDCERS Esxecutive Committee (9:00am) and Disability Committee (10:00am)**

Details: See SDCERS website (end of Calendar) for meeting information.

### **September 8 - City Council Audit Committee (9:00 am)**

Details: See City website for information.

### **September 8/9 -Regular City Council Meetings (2:00 pm Monday, 10:00 am Tuesday)**

Details: See City website for meeting information.

### **September 9 - City of San Diego Retired Employees Assn., Regular Meeting (11:00 am)**

Details: **The meeting will be held at the Balboa Park Club** (Pallisades area), with the general meeting at 11:00 am and lunch at noon (check your meeting notice for menu details).

The program will be the SDCERS First Annual Membership Meeting, and CAO David Wescoe will present the current status of our retirement system, with time for Q&A. (The CSDREA Board meets at 9:30 am, same location, members welcome.)

### **September 10 - City Council Committee Meetings: Budget Committee (9:00 am) and Natural Resources & Culture (2:00 pm)**

Details: See City website for meeting information.- [www.sandiego.gov/citycouncil](http://www.sandiego.gov/citycouncil)

### **September 15/16 - City Council Regular Meetings (2:00 pm Monday, 10:00 am Tuesday)**

Details: See City website for details.

### **September 16 - Court Hearing, City of San Diego v. SDCERS - Purchase of Service lawsuit (37-2007-00081912-CU-WM-CTL)**

Details: This lawsuit/writ of mandate was filed by the City Attorney in November,2007 to compel SDCERS to reprice service credits purchased between 1997 and 2003. The lawsuit was subsequently amended to exclude persons who retired prior to November 16, 2007. For more information see the discussion under current issues.

**September 17 - City Council Committee Meetings: Rules Committee (9:00 am) and Land Use & Housing (2:00 pm)**

Details: See City website for details.

**September 17 - SDCERS Audit Committee (10:00 am)**

Details: See SDCERS website for meeting information.

**September 18 - SDCERS Business & Governance Committee (8:30 am) and Investment Committee Meeting (1:30 pm)**

Details: See the SDCERS website for meeting information. - [www.sdcers.org](http://www.sdcers.org)

**September 19 - SDCERS Full Board Meeting, (8:30 am)**

Details: See the SDCERS website for agenda and meeting information.

**September 22 - City Council Fire Committee (9:00 am)**

**September 22/23 - Regular City Council Meetings: (2:00 pm Monday, 10:00 am Tuesday)**

Details: See City website for meeting information.

**July 23 - City Council Committees: Budget Committee (9:00am) and Public Safety & Neighborhood Services (2:00 pm)**

Details: See City website for meeting information.

**September 29/30 - Legislative Recess (No Council meetings)**

**CURRENT ISSUES**

**The Waterfall**

IT=S FINALLY OVER! After 18 long months, on September 2, 2008 the City Council approved a second reading of >Version A= of the amendment to the Waterfall ordinance. For those of you who are not familiar with the background and issues, read on.

The waterfall issue was about a proposed amendment to the ordinance governing payment of the 13<sup>th</sup> Check, Corbett Settlement (for pre-July 2000 retirees) and the Supplemental COLA. The original amendment was introduced by the City Attorney in March, 2007, to strip language referring to >Surplus Undistributed Earnings= (nicknamed the Waterfall) from the municipal code. However, the amendment as written would have also deleted the authority by SDCERS to pay benefits. Without this specific authority in the municipal code, the benefits could not be paid, according to IRS regulations.

On June 5, 2007, after several continuances, the City Council heard the issue. CSDREA members, SDCERS legal counsel and others spoke in opposition to the ordinance unless substitute language to protect these benefits was included. The Council agreed and sent the ordinance back to the City Attorney, with instructions to return in 30 days with a revised ordinance to protect existing benefits. However, over ten months passed without a response from the City Attorney.

In the interim, a different version of the amendment (now called Version A) was drafted by a cooperative effort between the SDCERS legal counsel and the Independent Budget Analyst. This version also deleted the concept and wording of >Surplus Undistributed Earnings= but provided an alternate method to calculate and pay the benefits, to conform with IRS requirements.

In April, 2008, Council President Scott Peters unilaterally restarted the process, by scheduling a City Council hearing to decide between two versions of the ordinance: Version A, drafted by the SDCERS attorney, the Independent Budget Analyst, and Version B, the City Attorney's original, unchanged ordinance.

Although the hearing was set for April 29, 2008, there were five continuances and several changes to each version of the proposed ordinance. Finally, on July 21, 2008 the City Council approved Version A - first reading. CSDREA spoke at the hearing in support of Version A, which adheres to the Court settlement. On September 2, 2008, the Council approved the second reading. End of story (we hope).

### **Purchase of Service**

In August, 2007 the SDCERS Board received a letter from their actuary, Cheiron, stating that the cost for purchase of service between 1997 and late 2003 had been set too low, resulting in a \$146 million shortfall. The Board considered options to correct the shortfall, including additional charges to those who had purchased service credits, or reducing benefits.

The Board held two public hearings for retirees and employees to voice their opinions. After the second hearing, on November 16, the SDCERS Board voted **not** to require any additional payments or changes in benefits.

On November 20, 2007 the City Attorney filed a lawsuit against SDCERS on this issue, seeking to compel SDCERS to take action to correct the alleged shortfall. The case was assigned to Judge William Nevitt. SDCERS filed a motion to strike the lawsuit because the City Council had not approved it, and on February 21, Judge Nevitt issued a written Tentative Ruling which granted the SDCERS motion.

However, at the court hearing on February 22, Judge Nevitt withdrew the tentative ruling, and instead directed both sides to prepare a brief on changes in the City Charter since its inception (1930's), which sets forth the authority for the City Attorney to initiate lawsuits.

That issue has still not been resolved. However, the City Attorney received permission from Judge Nevitt to file a new/revised writ of mandate. The revised writ was filed on May 1, 2008 and a copy has only recently been made available.

Except for a few minor word changes, the revised writ is almost the same as the original as to the allegations against SDCERS. However there is **one major change: the amended writ excludes all persons who retired prior to November 16, 2007** B when the SDCERS Board voted not to pursue further action on this issue. A court hearing on this amended writ is scheduled for Tuesday, September 16 at 9:00 am, Department 64, Hall of Justice, 330 W. Broadway. (**Note:** Court dates frequently change, so check with the home page of this website for last minute information.

## **CITY AND SDCERS MEETING INFORMATION**

### **City Council & Committee Meetings**

The City Council meets regularly on Mondays (2:00 pm) and Tuesdays (10:00am) in the City Council Chambers, 12<sup>th</sup> Floor, City Administration Building, 202 C Street, San Diego 92101. Council Committees meet on Wednesdays at either 9:00 am or 2:00 pm.

Agendas are available 72 hours before the meetings in the City Clerk's office, or on the City website - [www.sandiego.gov](http://www.sandiego.gov) - by clicking on City Council.

### **SDCERS Committee and Board Meetings**

*All SDCERS meetings are held in the SDCERS Boardroom, Fourth Floor, 401 West A Street, San Diego 92101 (validated parking under the building).*

*Agendas for the various committee and Board meetings are posted on the SDCERS website - [www.sdcers.com](http://www.sdcers.com) - 72 hours in advance.*