

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**MARCH 20, 2012**

A special meeting of the Santa Monica City Council was called to order by Mayor Bloom at 5:35 p.m., on Tuesday, March 20, 2012, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Richard Bloom  
Mayor Pro Tem Gleam Davis  
Councilmember Robert T. Holbrook  
Councilmember Kevin McKeown  
Councilmember Pam O'Connor  
Councilmember Terry O'Day (arrived at 6:46 p.m.)  
Councilmember Bobby Shriver (arrived at 6:10 p.m.)

Also Present: City Manager Rod Gould  
City Attorney Marsha Jones Moutrie  
City Clerk Maria M. Stewart

**CONVENE/PLEDGE**

On order of Mayor, the City Council convened at 5:35 p.m., with Councilmembers O'Day and Shriver absent. Jessica Cusick, Cultural Affairs Manager, led the assemblage in the Pledge of Allegiance.

**CLOSED SESSIONS**

Member of the public Darryl Bristol commented on Item 1-B.

*Councilmember Shriver arrived at 6:10 p.m.*

On order of the Mayor, the City Council recessed at 5:39 p.m., to consider closed sessions and returned at 6:32 p.m., with Councilmember O'Day absent, to report the following:

1-A: **Conference with Legal Counsel – Existing Litigation: Harriet P. Epstein and Stanley H. Epstein v. City of Santa Monica; ACS State and Local Solutions Inc. and Sheri E. Ross, Los Angeles Superior Court Case Number BS 132415.**

The City Attorney advised she was asked to clarify the terms of Settlement No. 9551 (CCS) that was approved on February 28, 2012, as follows: A total payment of \$77,500 to be made to settle the case; the Epsteins will receive \$12,500 to be paid by ACS and the Epsteins' attorneys will receive \$65,000 to be paid by the City.

**1-B: Conference with Legal Counsel – Existing Litigation: Adams v. City of Santa Monica, United States District Court Case Number CV 10-05942 DMG.**

The City Attorney advised this Personnel matter was heard and recommended the following settlement: A payment by the City in the amount of \$200,000, and in return, Plaintiff will leave employment with the City and waive all claims against the City.

Motion by Mayor Pro Tem Davis, seconded by Councilmember Holbrook, to approve Settlement No. 9555 (CCS). The motion was approved by the following vote:

- AYES: Councilmembers Shriver, O'Connor, Holbrook, McKeown, Mayor Pro Tem Davis, Mayor Bloom
- NOES: None
- ABSENT: Councilmember O'Day

**1-C: Conference with Legal Counsel – Existing Litigation: Rivas; Garcia v. City of Santa Monica, Los Angeles Superior Court Case Number BC 451679.**

The City Attorney advised this matter was heard and recommended a settlement in the amount of \$24,000, with \$12,000 to be paid to each of the two plaintiffs.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to approve Settlement No. 9556 (CCS). The motion was approved by the following vote:

- AYES: Councilmembers Shriver, O'Connor, Holbrook, McKeown, Mayor Pro Tem Davis, Mayor Bloom
- NOES: None
- ABSENT: Councilmember O'Day

**1-D: Conference with Legal Counsel – Anticipated Litigation: Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9 (b) - 1 case: 710 Wilshire Boulevard**

The City Attorney advised this matter was heard and no reportable action was taken.

**CONSENT CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Councilmember Shriver was excused at 6:40 p.m.

Members of the public Joy Fullmer, Michael Toney and Jerry Rubin commented on various Consent Calendar items.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to approve the Consent Calendar, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers McKeown, Holbrook, O'Connor, Mayor Pro Tem Davis, Mayor Bloom

NOES: None

ABSENT: Councilmembers O'Day, Shriver

**MINUTES**

3-A: **The minutes** of the January 24 and February 14, 2012, City Council meetings were approved as submitted.

**ITEM WITHDRAWN**

3-B: **Item withdrawn**

**TRAFFIC MGMT. SYSTEM**

3-C: **Advance Traffic Management System, Phase 5 Project Design** – recommendation to authorize the City Manager to negotiate and execute Contract No. 9557 (CCS) with RBF Consulting in the amount of \$175,000, to provide project design services for the preparation of plans, specifications, and estimates for the installation of the communication infrastructure for the Advance Traffic Management System, Phase 5; and authorize any necessary changes, was approved.

**FARMERS MARKET RULES AND FEES**

3-D: **Farmers Market Rules and Business License Fees** – recommendation that the City Council amend the Farmers Market Rules, Regulations, and Policy Guide to clarify language regarding violations, due process, penalties and appeals by Farmers Market participants; and adopt Resolution No. 10662 (CCS) entitled: "A RESOLUTION OF THE CITY OF SANT MONICA WAIVING PAST DUE BUSINESS LICENSE TAXES, PENALTIES AND PROCESSING FEES FOR ALL PAST FISCAL YEARS," was approved.

**2322 MICHIGAN**

3-E: **2322 Michigan Avenue Property Acquisition** – recommendation to authorize the City Manager to negotiate and execute a Purchase and Sale Agreement No. 9558 (CCS) and other related documents, to acquire the 12,223 square foot property located at 2322 Michigan Avenue, for \$2.2M plus associated transaction costs; and appropriate the budget increases, was approved.

**HISTORICAL  
RESOURCE ANALYSIS**

**3-F: Modification agreement to provide Historical Resource Analysis (PCR Services Corporation)** – recommendation to authorize the City Manager to negotiate and execute a modification to Professional Services Agreement 9225(CCS) with PCR Services Corporation, in the amount of \$75,000 for a contract total of \$232,950, to provide professional services in the field of historic preservation, was approved.

**PARKING STRUCTURE 6**

**3-G: Construction Management Services for Parking Structure 6** – recommendation to authorize the City Manager to negotiate and execute Contract No. 9559 (CCS) with Kitchell, in an amount not to exceed \$1,099,648 for construction management services for the demolition of Parking Structure 6, was approved.

**PIER VISIONING  
PROCESS**

**3-H: Contract for Pier Visioning Process** – recommendation to authorize the City Manager to negotiate and execute a professional services Agreement No. 9560 (CCS) with Moore Iacofano Goltsman, Inc. (MIG), in the amount of \$106,020 to design, facilitate and manage the Santa Monica Pier Visioning Process, was approved.

**CITY CLERK  
RECRUITMENT**

**3-I: Executive recruitment services for Records and Election Services (City Clerk) Director** – recommendation to authorize the City Manager to negotiate and execute a professional services Agreement No. 9561 (CCS) with Alliance Resource Consulting LLC., in the amount of \$28,500, to provide executive recruitment services in the search for a new Director of Records and Election Services (City Clerk), was approved.

**ORDINANCES:  
710 WILSHIRE – DA**

*Councilmember Shriver  
returned at 6:44 p.m.*

*Councilmember O'Day  
arrived at 6:46 p.m.*

**7-A: Introduction and first reading of and ordinance for Development Agreement 07-006 to allow a 285-room hotel that includes the retention and adaptive reuse of a City Landmark office building and 15,600 square foot of ground-floor retail/restaurant space at 710 Wilshire Blvd; adopt Resolution No. 10663 (CCS) entitled: "A RESOLUTION OF THE CITY OF SANTA MONICA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT ON THE MIXED-USE PROJECT"; and, adopt Resolution No. 10664 (CCS) entitled: "A RESOLUTION OF THE CITY OF SANTA MONICA MAKING FINDINGS NECESSARY TO APPROVE THE MIXED-USE PROJECT ADOPTING A STATEMENT OF OVERRIDING CONSIDERATION, AND MITIGATION MONITORING PLAN,"** was presented.

Ken Kutcher, representing Developer, presented the project and spoke in support of the proposed development agreement.

The following members of the public spoke generally in support of the project, but mainly in support of a living wage of \$15.00 for hotel employees: Harry Keiley, Vivian Rothstein, Alison Bart, Genise Schnitman, Lynn Greenberg, Abby Arnold, Catherine Gentile, Edith Mendez, Oscar de la Torre, Maria Loya, Joe Newbin, Jim Dahlgren, Francis Engler, Rita Lowenthal, Mike Gallen, David Pettit, Derek Smith, Reverend Jim Conn, Edith Garcia, Rachel Torres, Alex Gomez, Jerry Rubin, Valerie Griffin, Frank Gruber, Reverend Janet McKeithen, Lupe Stephenson, Zina Josephs, Tony Vasquez, Bruria Finkel, Fernando, and Jackie Martin.

The following members of the public spoke in support of the recommendation: Lauren Rosen, Ron Davis, Mike Grunning, Tom Neary, Tom Clays, Louisa Fish, and Travis Gemoets.

Member of the public Ellen Hannan spoke in opposition to the project and the potential additional traffic impacts. Member of the public Denise Barton spoke in opposition to the project and in support of a living wage.

Ken Kutcher, representing the Developer, provided a rebuttal to public comment received.

Considerable discussion ensued on the merits of the project, the merits of the proposed development agreement and on the comments and concerns expressed by members of the public, including but not limited to the expressed living wage desired.

**RECESS**

On order of the Mayor, the City Council recessed at 8:58 p.m., and returned at 9:10 p.m., with all members present.

Motion by Councilmember Holbrook, seconded by Councilmember O'Connor, to adopt Resolution No. 10663 (CCS) certifying the EIR, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Shriver, O'Connor, Holbrook, O'Day,  
McKeown, Mayor Pro Tem Davis, Mayor Bloom  
NOES: None  
ABSENT: None

Motion by Councilmember Holbrook, seconded by Councilmember O'Connor, to adopt Resolution No. 10664 (CCS) adopting findings, a statement of overriding considerations, and a mitigation monitoring plan, and amended by the minor revisions made by staff, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Shriver, O'Connor, Holbrook, O'Day,  
McKeown, Mayor Pro Tem Davis, Mayor Bloom  
NOES: None  
ABSENT: None

Motion by Councilmember Holbrook, seconded by Councilmember O'Connor, to introduce the ordinance approving the development agreement.

Discussion ensued on the merits of the motion including but not limited to: including a higher minimum wage of up to \$15 per hour, a local hiring preference, a local public art preference, the impact of having or not having a severability clause in the agreement, and the comments made by members of the public.

Substitute motion made by Councilmember O'Day, seconded by Mayor Pro Tem Davis, to introduce the ordinance approving the development agreement, amending the agreement to provide a \$14.97 minimum wage without distinction of whether employee is tipped or not, leaving the severability clause in the language as is, and to give a preference to local public art.

Sr. Deputy City Attorney Barry Rosenbaum clarified that the living wage provision, which may last longer than the development agreement is to be added to the conditions of approval for the project.

The substitute motion failed by the following vote:

AYES: Councilmembers O'Day, McKeown, Mayor Pro Tem Davis  
NOES: Councilmembers Shriver, O'Connor, Holbrook  
ABSTAIN: Mayor Bloom  
ABSENT: None

Substitute motion by Councilmember McKeown, to introduce the ordinance for first reading with a \$14.97 hourly wage rate, with an enhanced local hiring goal, extending the free bus passes to 6 months, and increasing the number of minimum parking spaces required. Motion died for lack of a second.

Substitute motion by Councilmember Shriver, seconded by Mayor Bloom, to introduce ordinance for first reading with a \$13.54 hourly wage without benefits, \$12.29 with benefits; with the tipped-employee distinction (if tipped, not covered by minimum wage); including a preference for the developer to use existing art budget to purchase local art; changing the required minimum number of parking spaces to 290; including a goal for local hiring for the construction and for the permanent operation of the

project; and, including a local internship provision with the internship to go to Santa Monica residents. The substitute motion failed by the following vote:

AYES: Councilmembers O'Connor, Shriver, Mayor Bloom  
NOES: Councilmembers McKeown, O'Day, Holbrook,  
Mayor Pro Tem Davis  
ABSENT: None

The main motion, amended to include the increase to parking, the hiring and internship preferences, and the local art preference contained in the previous motions, and approved by the maker and seconder of the motion, failed by the following vote:

AYES: Councilmembers Holbrook, O'Connor, Mayor Bloom  
NOES: Councilmember McKeown, O'Day, Shriver,  
Mayor Pro Tem Davis  
ABSENT: None

Motion by Councilmember Holbrook, seconded by Mayor Bloom, to introduce the ordinance with an hourly wage of \$12.54 without benefits and \$11.29 with benefits, including the increase to parking, the hiring and internship preferences, and the local art preference contained in the previous motions. The motion was approved by the following vote:

AYES: Councilmembers Shriver, O'Connor, Holbrook,  
Mayor Bloom  
NOES: Councilmembers O'Day, McKeown, Mayor Pro Tem Davis  
ABSENT: None

Councilmember McKeown requested the record to show that his "no" vote reflects an extreme dismay that after broad public support for a living wage and discussion of the developer's abilities to provide a living wage, the Council majority has created low wage jobs that further institutionalize the working poor in Santa Monica.

**STAFF ITEMS:**  
***CHAIN REACTION***  
**SCULPTURE**

8-A: **Consideration of Chain Reaction Sculpture by Paul Conrad** – recommendation to approve the removal of the sculpture Chain Reaction by Paul Conrad after six months if private fundraising for repair and restoration is not successful; authorize staff to complete all necessary testing; and appropriate the budget increases, was presented.

Members of the public Mike Meyers, Ed Horowitz, Kit Dreyfuss, James Flury, Sara Hodson, Kay Conrad, Dave Conrad, Brian English, Jerry Rubin, Louisa Fish, Bruria Finkel and Roger Genser spoke in support of efforts to restore the sculpture.

Motion by Councilmember O'Connor, seconded by Councilmember Shriver, to approve recommendation amended to set the date of November 15<sup>th</sup> as the date when staff will return with a recommendation regarding funding, restoration, and/or de-acquisitioning. The motion was approved by the following vote:

AYES: Councilmembers McKeown, O'Day, Holbrook, O'Connor, Shriver, Mayor Pro Tem Davis, Mayor Bloom  
NOES: None  
ABSENT: None

**BERGAMOT ART CENTER**

*Councilmember O'Day was excused at 11:42 p.m.*

*Councilmember Holbrook was excused at 12:00 a.m.*

**8-B: Concept and Policy Direction for Bergamot Art Center** – recommendation to review and comment on Bergamot Station Art Center preferred concept; and, direct staff to prepare and release a Request for Qualifications (RFQ) for a long-term master lessee/development team at the City-owned Bergamot Station property, was presented.

The following members of the public spoke generally in support of the project and expressed ideas, suggestions and concerns: Mike Meyers, Walt Meyer, Elsa Longhauser, Peter Gelles, Jan Belson, Denise Barton, Leigh Curran, David Burton and Howard Robinson.

Motion by Mayor Pro Tem Davis, seconded by Councilmember McKeown, to approve recommendation amended to include in the list of qualifications a preference to have someone on the team who has experience with working in Santa Monica and is familiar with the City's "quirks" (characteristics). The motion was approved by the following vote:

AYES: Councilmembers O'Connor, McKeown, Mayor Pro Tem Davis, Mayor Bloom  
NOES: Councilmember Shriver  
ABSENT: Councilmembers O'Day, Holbrook

**BOARDS/COMMISSIONS:  
RESIGNATION**

**13-A: Recommendation to accept David Schaffer's resignation from the Building and Safety Commission and authorize the City Clerk to publish the vacancy**, was presented.

Motion by Mayor Pro Tem Davis, seconded by Councilmember O'Connor, to accept resignation with regrets. The motion was unanimously approved by voice vote, with Councilmembers O'Day and Holbrook absent.

**RESOLUTIONS:  
COUNCIL TRAVEL FUNDS**

**13-B: Request of Mayor Bloom to authorize the use of City Council travel funds for the purpose of Mayor Pro Tem Davis attending the Business Civic Leadership Center 2012 National Conference, in Atlanta, Georgia, representing the City as a finalist to receive the Siemens Sustainable Community Award**, was presented.



Member of the public Denise Barton spoke in opposition to the request.

Motion by Councilmember O'Connor, seconded by Mayor Bloom, to approve request. The motion was unanimously approved by voice vote, with Councilmembers O'Day and Holbrook absent.

**WRITTEN REQUESTS:**  
**DISCLOSE ACT**

**13-C: Request of Councilmember McKeown that the Council authorize City of Santa Monica support for the California DISCLOSE Act, AB 1648 (Brownley), which would require enhanced public information regarding the true funding of political messages including slate cards, mass mailings, and broadcast advertising; and that our support be conveyed to legislators and the Governor in hopes of speedy enactment,** was presented.

Members of the public Valerie Griffin, Denise Barton and Craig Preston spoke generally in support of the request.

Motion by Councilmember McKeown, seconded by Mayor Bloom, to approve request. The motion was unanimously approved by voice vote, with Councilmembers O'Day and Holbrook absent.

**COUNCIL ITEMS:**  
**HIGH SCHOOL**  
**SYMPHONY**  
**ORCHESTRA TOUR**

**13-D: Request of Mayor Bloom and Mayor Pro Tem Davis that the Council allocate \$15,000 of Council discretionary funds to the Santa Monica High School Symphony Orchestra to support the group's April 2012 musical tour of Washington, D.C. The tour provides rich educational experiences and showcases Santa Monica's music program. Students will perform at a variety of venues, attend concerts, and participate in learning experiences. At the request of the Santa Monica High School Orchestra Parents Association, funds would be directed to the Association's non-profit umbrella organization, Santa Monica Arts Parents Association, and be allocated to SMAPA – Samohi Orchestras,** was presented.

There was no one present for public comment.

Motion by Councilmember O'Connor, seconded by Mayor Bloom, to approve request. The motion was approved by the following vote:

AYES: Councilmembers McKeown, O'Connor, Shriver,  
Mayor Pro Tem Davis, Mayor Bloom  
NOES: None  
ABSENT: Councilmembers O'Day, Holbrook

**SUCCESSOR AGENCY**  
**OVERSIGHT BOARD**

**13-E: Request of Mayor Bloom that Council waive fees for use of Council Chambers for meetings of the Santa Monica Oversight Board,** was presented.

There was no one present for public comment.

Motion by Councilmember Shriver, seconded by Councilmember O'Connor, to approve request. The motion was unanimously approved by voice vote, with Councilmembers O'Day and Holbrook absent.

**PUBLIC INPUT:**

On order of the Mayor, the City Council meeting was adjourned 12:48 a.m. memory of Peter Bergman and the children killed in Toulouse and Afghanistan.

ATTEST:



Maria M. Stewart  
City Clerk

APPROVED:



Richard Bloom  
Mayor