

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

MAY 14, 2013

A regular meeting of the Santa Monica City Council was called to order by Mayor O'Connor at 5:34 p.m., on Tuesday, May 14, 2013, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Pam O'Connor
Mayor Pro Tem Terry O'Day (*arrived at 6:45 p.m.*)
Councilmember Glean Davis
Councilmember Robert T. Holbrook
Councilmember Kevin McKeown
Councilmember Tony Vazquez (*arrived at 8:08 p.m.*)
Councilmember Ted Winterer

Also Present: City Manager Rod Gould
City Attorney Marsha Jones Moutrie
City Clerk Sarah P. Gorman

CONVENE/PLEDGE

On order of the Mayor, the City Council convened at 5:34 p.m., with all members present, except Mayor Pro Tem O'Day and Councilmember Vazquez. Councilmember Davis led the assemblage in the Pledge of Allegiance.

CLOSED SESSIONS:

Member of the public Denise Barton commented on Item 1-A.

On order of the Mayor, the City Council recessed at 5:36 pm to consider closed sessions and returned at 6:40 pm, with all members present, excepting Mayor Pro Tem O'Day and Councilmember Vazquez, to report the following:

1-A: Conference with Labor Negotiator.

City Negotiator: Donna Peter, Director of Human Resources
Bargaining Units: Administrative Team Associates (ATA)
Management Team Associates (MTA)
Supervisory Team Associates (STA)

City Attorney Marsha Moutrie reported that this item was heard with no reportable action taken.

**1-B: Conference with Legal Counsel – Anticipated Litigation:
Anticipate significant exposure to litigation pursuant to Government
Code Section 54956.9 (d)(2) – 2 Cases - 1) Claim of Danny Galvan &
Sandra Ramirez – Claim Number 12-1050 2) 2009 La Mesa**

In the claim of Danny Galvan and Sandra Ramirez, City Attorney Marsha Moutrie recommended Settlement No. 9478 (CCS) in the amount of \$15,000 for a brain injury suffered by a high school student in a baseball game with a police officer and Settlement No. 9479 (CCS) in the amount of \$10,000 to claimant Ramirez, mother of claimant Galvan.

Motion by Councilmember McKeown, seconded by Councilmember Davis, to approve the proposed settlement. The motion was approved by the following vote:

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

In the dispute with the owners of the property 2009 La Mesa, a historic home in an R-1 residential neighborhood, the proposal and recommendation from City Attorney Marsha Moutrie is to settle the dispute on the following terms: The city will final the building permit if the owners complete all the required work; the owner has agreed to remove the couch from the roof; the owner has agreed to either remove the pool equipment from its present location or obtain a variance to leave it in its present location; further, the owner has acknowledged in writing that since the property is located in an R-1 zone no commercial business can be operated at the property including no commercial recording studio; and finally, the owner agreed to indemnify the city if there is a legal challenge related to the finaling of the permit.

Motion by Councilmember Davis, seconded by Councilmember Winterer, to approve the proposed settlement. The motion was approved by the following vote:

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

**1-C: Conference with Legal Counsel – Existing Litigation –
Litigation has been initiated formally pursuant to Government Code
Section 54956.9 (d)(1) – City of Santa Monica et al. v. California
Department of Finance et al., Sacramento Superior Court Case
Number 34-2013-80001383**

City Attorney Marsha Moutrie reported that this item was heard with no reportable action taken.

**SPECIAL AGENDA
ITEMS:**

2-A: Mayor O'Connor issued a proclamation declaring May 2013 as *Mental Health Awareness Month in the City of Santa Monica.*

Tom Peters of the Disabilities Commission accepted the proclamation.

2-B: Mayor O'Connor issued a proclamation declaring May 2013 as *Older Americans Month in the City of Santa Monica.*

Barry Seid and Nel Bullard Steele from the Commission for the Senior Community accepted the proclamation.

CONSENT CALENDAR:

Mayor Pro Tem O'Day arrived at 6:45 pm.

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

Member of the public Jerry Rubin spoke regarding various Consent Calendar items.

Motion by Councilmember Winterer, seconded by Councilmember McKeown, 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, Winterer, Holbrook, Davis, Mayor Pro Tem O'Day, Mayor O'Connor

NOES: None

ABSENT: Councilmember Vazquez

MINUTES

3-A: The **minutes** of the March 12, 2013, City Council meeting were approved as submitted.

**MULTI-HAZARD
FUNCTIONAL
EMERGENCY PLAN**

3-B: **Update to the Santa Monica Multi Hazard Functional Emergency Plan** – recommendation that City Council approve the update to the City of Santa Monica Multi-hazard Functional Emergency Plan, was approved.

**“ANY LINE, ANY TIME”
UNLIMITED RIDE
TRANSIT PROGRAM**

3-C: **Big Blue Bus Unlimited Ride Transit Program with Santa Monica College** – recommendation to authorize the City Manager to negotiate and execute Agreement No. 9735(CCS) to renew the “Any Line, Any Time” unlimited ride transit program between the Big Blue Bus and Santa Monica College in the amount of \$1,317,040 for transit services provided during FY 2013-14, was approved.

TAX AND TAX AUDIT SERVICES

3-D: Parking Facilities Tax and Business License Tax Audit Services – recommendation to authorize the City Manager to negotiate and execute two-year professional services Agreement No. 9736 (CCS) with MuniServices, in an amount not to exceed \$221,262 for parking facilities tax and business license tax audit services, was approved.

PAVING AND SIDEWALK REPAIR

3-E: Award Contracts for Annual Paving and Sidewalk Repair Project – recommendation to authorize the City Manager to negotiate and execute Contract No. 9737 (CCS) with Toro Enterprises, Inc. in an amount not to exceed \$2,404,836 for Annual Paving and Sidewalk Repair Project; and Contract No. 9738 (CCS) with Civil Source, Inc. in an amount not to exceed \$254,054 for construction management and inspection services for the Annual Paving and Sidewalk Repair Project; appropriate the budget changes; and authorize necessary changes, was approved.

UNIVERSALLY ACCESSIBLE PLAYGROUND

3-F: Contract Modification for Construction Services for the Universally Accessible Playground Project – recommendation to authorize the City Manager to negotiate and execute a first modification to Construction Contract No. 9644 (CCS), with Micon Construction, Inc. in the amount of \$102,762 to provide additional construction services for the Universally Accessible Playground, resulting in an amended contract with a new total amount not to exceed \$1,101,243 over a one-year period; and authorize necessary changes, was approved.

FORD PARTS

3-G: Award Bid for the Purchase and Delivery of Ford Parts – recommendation to award Bid No. F4023a to Buerge Ford, Inc., in the amount of \$45,000 for the purchase and delivery of Ford Original Equipment Manufacturer (OEM) parts, with two one-year renewal options, for a total amount not to exceed \$135,000 over a three-year period, was approved.

POLICE MOTORCYCLES

3-H: Award Bid for Purchase of Nine Police Motorcycles – recommendation to award Bid No. F4049 to Hollister Honda, in the amount of \$234,433 for the purchase and delivery of nine police motorcycles, was approved.

INLINE STORM DRAIN RUNOFF INFILTRATION

3-I: Award Construction Contract for the Inline Storm Drain Runoff Infiltration Pilot Project – recommendation to authorize the City Manager to negotiate and execute Contract No. 9739 (CCS) with Blois Construction, Inc., in an amount not to exceed \$182,070 for the Inline Storm Drain Runoff Infiltration Pilot Project; and authorize necessary changes, was approved.

VEHICLE FILTERS AND PARTS

3-J: Reject Bids for the Purchase and Delivery of Vehicle Filters and Miscellaneous Parts – recommendation to reject all bids received on

February 4, 2013 for the purchase and delivery of vehicle filters and miscellaneous parts; and direct staff to modify and reissue a bid in order to obtain the best bidder for vehicle filters and miscellaneous parts, was approved.

**ANIMAL CONTROL
UNIT VEHICLES**

3-K: Reject Bids for the Purchase of Three Animal Control Unit Vehicles – recommendation to reject all bids received on February 15, 2013 for the purchase and delivery of three new vehicles for the Police Department’s Animal Control Unit; and direct staff to reissue a bid for new animal control vehicles after a needs evaluation is completed, was approved.

**STUDY SESSION:
SUSTAINABLE WATER
MASTER PLAN**

4-A: Sustainable Water Master Plan Status Update – recommendation to direct staff to proceed with the Sustainable Water Master Plan (SWMP) and fully develop Option 1; review and comment on SBx7-7 water use goal of 123 gallons per capita per day (GPCD) and direct staff to change the next Urban Water Management Plan (UWMP) SBx7-7 water use goal from 123 GPCD to 141 GPCD at the UWMP 2015 update; and direct staff to proceed with the water and wastewater rate study, was introduced.

Members of the public Judy Abdo, Caryn Mandelbaum, Tracy Quinn, Andy Lipkis, and Conner Everts spoke regarding the item.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem O’Day, to move forth with staff recommendation Option 1 directing staff to proceed with the Sustainable Water Master Plan (SWMP) and fully develop Option 1, with creativity and collaboration and with rigorous analysis, to approve staff recommendation Option 3 directing staff to proceed with the water and wastewater rate study, and to pause on Option 2 leaving the GPCD at 123 for the time being pending receiving more information. The motion was approved by the following vote:

AYES: Councilmembers Davis, Holbrook, Winterer, McKeown,
Mayor Pro Tem O’Day, Mayor O’Connor
NOES: None
ABSENT: Councilmember Vazquez

**ORDINANCES:
1318 2nd STREET**

*Councilmember Vazquez
arrived at 8:08 pm.*

7-A: Introduction and first reading of an ordinance adopting Development Agreement 12DEV-001 to allow a new 4-story mixed-use development project consisting of 53 residential units and 6,664 Square Feet of ground floor commercial space at 1318 2nd Street, was presented.

Dale Goldsmith, David Hibbert, John Zinner, Glen Boldt, and Steven Fifield, representing the applicant, spoke regarding the project and

answered questions from Council.

Member of the public Carol Lemlein spoke in support of the community benefits arising from the recommended action.

Members of the public Denise Barton, Sue Himmelrich, Mark Lipman spoke in opposition to the recommended action.

Member of the public Jerry Rubin spoke in favor of the recommended action with the developer's proposed changes.

Considerable discussion ensued on topics including community benefits, natural light, parking, and private open space.

Motion by Mayor Pro Tem O'Day, seconded by Councilmember Holbrook, to introduce the ordinance for first reading, reading by title only and waiving further reading thereof, approving the staff recommendation with the amendments offered by the developer to include the additional affordable housing units at the mix that was proposed by the developer; not requiring LEED certification but use of money towards improvements; inclusion of additional photovoltaic solar panels; and exemption from the in lieu parking fee.

Councilmember Winterer made a substitute motion, seconded by Councilmember Vazquez, to continue this item to a subsequent meeting.

Councilmember Winterer re-stated the substitute motion to continue this item and return for consideration in a month to address the points discussed by Council. The points are to trade off the parking in lieu fee for an affordable housing component that mirrors what the Planning Commission recommended; to trade off the LEED Platinum Certification for installation of additional photovoltaic solar panels; and, to make minor changes to language in the Transportation Demand Management. The substitute motion failed by the following vote:

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

Motion to amend main motion by Councilmember Winterer, to include in the initial leasing a 60 to 90 days marketing leasing strategy for workers in the Downtown Santa Monica area first before reaching beyond the borders of Downtown Santa Monica. The motion was accepted as friendly to the maker and seconder.

Barry Rosenbaum, Senior Land Use Attorney, stated the proposed amendments to the Ordinance adopting the Development Agreement.

1. Recommendation to replace existing language under section 2.6.2(b) with the proposed language in the developers May 14, 2013 letter, excluding the final sentence. The proposed recommended language is “Prior to issuance of final certificate of occupancy for the project the developer shall provide to the City certification from the LEED professional confirming that the project has achieved sustainable design status.”
2. Regarding the affordable units, the recommendation is that the language of the form that appears in the development agreement be maintained which demarcates those units which are required as part of the Affordable Housing Production Program (AHPP) and those units that are considered community benefits. The language would be revised in terms of the unit mix and the affordability as proposed by the developers, but would retain the form that is in the development agreement, agreed that the definitions would be replaced as recommended. Other places in the development agreement where it refers to the staff proposed number of affordable units, such as Section 2.2, would be changed to reflect this proposal and any other provisions in the development agreement that reflect the old provision would be modified.
3. Regarding marketing, the recommendation for the proposed language under section 2.6.2(h)(3)(b) is “Developers shall market these units exclusively to downtown employers and their employees for a period of 90 days when these units are initially offered for rent.” Also, as vacancies occur priority would be given to applicants that work in the downtown area.
4. Recommendation to double the number of rooftop photovoltaic solar panels.
5. Correction to the ordinance for 1st reading. Under the provision which references the California Environmental Quality Act (CEQA), section 21159 should be changed to 21159.24.

The main motion, as amended, was approved by the following vote:

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

NOES: Councilmembers Vazquez, Winterer, McKeown

ABSENT: None

Councilmember McKeown stated, for the record, that he voted no and preferred the substitute motion because the decision tonight was based on information not available to the Council or the public until after the meeting had begun and that he felt any decision made tonight was therefore inherently rushed and not given the thoughtful responsive consideration that he thinks the complex trade-offs deserve. He believes they could have negotiated better for the community.

Councilmember Winterer stated, for the record, that his "no" vote is because he felt they could have negotiated for more affordable units and more photovoltaic panels.

STAFF ITEMS:
COLORADO
ESPLANADE AND CIVIC
CENTER SPECIFIC PLAN

8-A: Colorado Esplanade Final Design and Civic Center Specific Plan (CCSP) Amendment – recommendation to approve the final design for the full Colorado Esplanade as proposed, direct staff to prepare a bid package, and solicit bids for the reduced footprint core project, was presented.

Members of the public Jerry Rubin, Paula Larmore spoke generally in support of the recommended action.

Members of the public Denise Barton, Michael Feinstein and Linda Piera-Avila spoke in opposition to the recommended action.

Motion by Councilmember McKeown, seconded by Councilmember Vazquez, to approve the staff recommendation with an amendment to have the Gateway Triangle be more of a public gathering and people watching area and less of a constrained garden.

Motion to amend by Councilmember Winterer, that the tree selection not be changed without coming to council. The motion was accepted as friendly to the maker and seconder. The motion, as amended was approved by the following vote:

AYES: Councilmembers McKeown, Winterer, Holbrook, Davis,
Vazquez, Mayor Pro Tem O'Day, Mayor O'Connor

NOES: None

ABSENT: None

**CONTINUE WITH
REMAINING AGENDA
ITEMS PAST 11:00 P.M.**

Motion by Councilmember McKeown, seconded by Councilmember Winterer, to continue with the remaining items on the agenda, past 11:00 p.m. The motion was approved by voice vote, with Mayor O'Connor absent.

**MOVE TO AMEND
CAMPAIGN**

*Mayor O'Connor was
excused at 11:23 p.m.*

8-B: Resolution No. 10745 (CCS) to support the Move to Amend Campaign – recommendation to adopt **Resolution No. 10745 (CCS) entitled: “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA TO SUPPORT THE MOVE TO AMEND CAMPAIGN’S CALL FOR AN AMENDMENT TO THE U.S. CONSTITUTION TO ABOLISH CORPORATE PERSONHOOD”**, was presented.

Members of the public Michele Sutter, Juliet Jimenez, Cris Gutierrez, Linda Piera-Avila, Aubrey Dondick, Jerry Rubin, Mary Beth Fielder, Stephen Bass, Michael Feinstein, Steve Duron, Charles Fredricks, Anjali Kronheim, and Joe Faris spoke in support of the recommended action.

Motion by Councilmember McKeown, seconded by Councilmember Winterer, to adopt **Resolution No. 10745 (CCS)**, supporting the Move to Amend Campaign, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Vazquez, Holbrook, Winterer, McKeown,
Mayor Pro Tem O'Day
NOES: Councilmembers Davis
ABSENT: Mayor O'Connor

**RESOLUTIONS:
PREFERENTIAL
PARKING ZONE E**

*Councilmember Davis was
excused at 12:04 a.m.*

11-A: Amendment and Expansion of Preferential Parking Zone E – recommendation to adopt **Resolution No. 10746 (CCS) entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING AND EXPANDING PREFERENTIAL PARKING ZONE E AND AMENDING RESOLUTION 9344 “PREFERENTIAL PARKING ZONES” CCS BY REPLACING EXHIBIT A”**, was presented.

Councilmember Davis recused herself from discussion and action to be taken on this matter and left the dais because her residence is within 500 feet of the proposed decision.

Member of the public Reid Shane spoke in support of the resolution.

Motion by Councilmember Winterer, seconded by Councilmember Vazquez, to adopt **Resolution No. 10746 (CCS)**, amending and expanding Preferential Parking Zone E, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

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

**PREFERENTIAL
PARKING ZONE T**

*Councilmember Davis
returned at 12:21 a.m.*

11-B: **Amendment of Preferential Parking Zone T** – recommendation to adopt **Resolution No. 10747 (CCS) entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING PREFERENTIAL PARKING ZONE T AND AMENDING RESOLUTION 9344 "PREFERENTIAL PARKING ZONES" CCS BY REPLACING EXHIBIT A"**, was presented.

*Councilmember Holbrook
was excused at 12:23 a.m.*

Members of the public Marcia Zimmer and Michael Tarbet spoke in support of the resolution.

Motion by Councilmember Davis, seconded by Councilmember McKeown, to adopt Resolution No. 10747 (CCS), amending Preferential Parking Zone T, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

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

**COUNCIL ITEMS:
RESIGNATION**

13-A: **Recommendation to accept Autumn Peebles' resignation from the Commission on the Status of Women and authorize the City Clerk to publish the vacancy**, was presented.

There was no one present for public comment.

Motion by Councilmember Winterer, seconded by Councilmember Vazquez, to approve the recommendation with regrets. The motion was unanimously approved by voice vote, with Councilmember Holbrook and Mayor O'Connor absent.

**COMMERCIAL
PROPERTY TAX
REFORM**

13-B: **Request of Councilmembers Davis, Holbrook, and McKeown that the Council support commercial property tax reform that will require commercial properties to be reassessed regularly, while maintaining residential property owners' protections under Prop 13; and direct that our position be communicated to our lobbyist, our state legislators, and Governor Brown**, was presented.

Members of the public Steve Duron and Cindy Henderson spoke in support of the recommended action.

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

Council provided staff direction to find out the last time the Water Gardens, the Yahoo Center, and the Arboretum were assessed.

4TH OF JULY PARADE

13-C: Request of Councilmember Winterer that the Council allocate \$10,650 of Council discretionary funds to the Ocean Park Association's Fourth of July Parade account as a grant to offset City fees for this annual event, was presented.

There was no one present for public comment.

Motion by Councilmember Winterer, seconded by Councilmember McKeown, to approve the request in the amount of \$7,763.71, with a ten percent contingency of \$8,540.00. The motion was approved by the following vote:

AYES: Councilmembers McKeown, Winterer, Davis, Vazquez,
Mayor Pro Tem O'Day
NOES: None
ABSENT: Councilmember Holbrook and Mayor O'Connor


PUBLIC INPUT:

There was no one present for public comment.

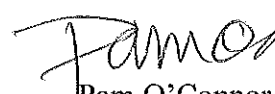
ADJOURNMENT

On order of the Mayor, the City Council meeting was adjourned at 12:50 a.m. in memory of Donna Lee Andrews.

ATTEST:


Sarah P. Gorman
City Clerk

APPROVED:


Pam O'Connor
Mayor

