

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

JANUARY 25, 2005

A regular meeting of the Santa Monica City Council was called to order by Mayor O'Connor at 5:52 p.m., on Tuesday, January 25, 2005, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Pam O'Connor
Mayor Pro Tem Herb Katz
Councilmember Richard Bloom
Councilmember Ken Genser
Councilmember Kevin McKeown
Councilmember Bobby Shriver

Absent: Councilmember Robert T. Holbrook

Also Present: City Manager Susan McCarthy
City Attorney Marsha Jones Moutrie
City Clerk Maria M. Stewart

CONVENE/PLEDGE On order of the Mayor, the City Council convened at 5:52 p.m., with Councilmember Holbrook absent. Councilmember Bloom led the assemblage in the Pledge of Allegiance.

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

On order of the Mayor, Item 1-A was removed from the Consent Calendar and continued to February 8, 2005, for a possible correction, as noted by Councilmember McKeown.

Motion by Mayor Pro Tem Katz, seconded by Councilmember Bloom, to approve all items on the Consent Calendar as presented except Item 1-A, reading resolutions and ordinances by title only and waiving further reading

thereof. The motion was approved by the following vote:

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

MINUTES

1-A: **Approval of minutes** of the December 14, 2004, City Council meeting.

On order of the Mayor, this item was continued to February 8, 2005, for a possible correction.

WATER EFFICIENCY REBATES

1-B: **Regional Rebate Program for Water Efficient Devices** – recommendation to authorize the City Manager to negotiate and execute Contract No. 8441 (CCS) with the Metropolitan Water District of Southern California for the Commercial Industrial and Institutional Regional Rebate Program to provide rebates to businesses that install specified water efficiency devices, was approved.

OBSOLETE FIRE TURNOUT SUIT

1-C: **Donation of obsolete Fire Turnout Suit** – Resolution No. 10014 (CCS) entitled: “A RESOLUTION OF THE CITY OF SANTA MONICA DECLARING A FIRE TURNOUT SUIT TO BE SURPLUS CITY PROPERTY AND AUTHORIZING THE DONATION OF THE SUIT TO LOCAL 1109 IAFF,” was adopted.

SPECIAL JOINT MEETING

On order of the Mayor, the regular City Council meeting recessed at 6:09 p.m., and reconvened to a joint meeting with the Redevelopment Agency with Councilmember Holbrook absent.

1-D: **Contract for demolition of rear portion of 1657 Ocean Avenue** - recommendation that City Council authorize the City Manager to negotiate and execute Contract No. 8442 (CCS) with Gonzalez Construction Company, in the amount of \$149,996, for the removal of the rear portion of the structure; and recommendation that the City Council and Redevelopment Agency authorize the City Manager and the Executive Director to execute Cooperation Agreement No. 8443 (CCS) between the two entities for payment of the costs associated with the removal work, was presented.

Motion by Mayor Pro Tem Katz, seconded by Councilmember Bloom, to authorize the City Manager to negotiate and execute Contract No. 8442

(CCS). The motion was approved by the following vote:

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

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Katz,
to authorize the City Manager to execute Cooperation Agreement No. 8443
(CCS). The motion was approved by the following vote:

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

**RECESS OF SPECIAL
JOINT MEETING**

On order of the Mayor, the special joint meeting with the Redevelopment Agency recessed at 6:14 p.m., the City Council convened to the regular meeting and then recessed to consider closed sessions, with Councilmember Holbrook absent.

CLOSED SESSIONS:

On order of the Mayor, the City Council reconvened 7:09 p.m., with Councilmember Holbrook absent, to report the following action taken:

2-A: Conference with Legal Counsel – Existing Litigation: Larry Verbit v. City of Santa Monica, Case No. SC 078 812.

The City Attorney reported this case was not heard.

2-B: Conference with Legal Counsel – Existing Litigation: William Ewing, et al., v. City of Santa Monica, Case No. YC 046 458.

Motion by Mayor O'Connor, seconded by Mayor Pro Tem Katz, to approve settlement in the amount of \$500,000. The motion was approved by the following vote:

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

2-C: Conference with Legal Counsel - Existing Litigation: City of Santa Monica v. Baron & Budd, P.C., Case No. BS 315 186.

The City Attorney reported this case was not heard.

2-D: Conference with Legal Counsel - Existing Litigation: Amy and John Feldman v. City of Santa Monica, Case No. CV 04-1152 SVW (CWx).

The City Attorney reported this case was heard and no reportable action was taken.

2-E: Conference with Legal Counsel – Existing Litigation: Jean Prosser v. City of Santa Monica, Case No. SC 077 183.

Motion by Mayor Pro Tem O'Connor, seconded by Councilmember Genser, to approve settlement in the amount of \$125,000, payable to the suicide victim's mother. The motion was approved by the following vote:

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

2-F: Conference with Legal Counsel – Anticipated Litigation. Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9(b): four potential cases, including three disputes related to real property located at 1236 25th Street, 1267 Pacific Coast Highway, and 1007 Pier Street.

Motion by Councilmember Bloom, seconded by Councilmember Genser, to settle personnel matter related to City employee Joel Schwartz, approving \$103,122.25 for the purchase of five years of service credit, 18-months of Cobra benefits, and other long-term disability payments; Mr. Schwartz and the City will release any claims against one another; Mr. Schwartz will conclude his service to City; the discrimination complaint filed by Mr. Schwartz will be investigated and upon its conclusion, the results will be reported to Mr. Schwartz. The motion was approved by the following vote:

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

Motion by Mayor O'Connor, seconded by Councilmember Bloom, to approve settlement relative to a 1236 25th Street proposed development of a 3-unit project as follows: Applicant was improperly advised he could file an application on August 26, 2004 and still be subject to prior Ordinance No. 2042(CCS), when in effect new Ordinance No. 2131 became effective on that date; City agrees to process the project in accordance with prior Ordinance No. 2042 (CCS). The motion was approved by the following vote:

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

The City Attorney reported the remaining two cases were heard and no reportable action was taken.

Mayor Pro Tem Katz was excused at 7:15 p.m.

2-G: Conference with Legal Counsel – Existing Litigation: Colorado Creative Studios, LLC v. City of Santa Monica, Case No. BS 092 727.

Mayor Pro Tem Katz advised he had a conflict of interest with this matter and excused himself from participating.

Motion by Councilmember Bloom, seconded by Mayor O'Connor, to approve Settlement No. 8445 (CCS) as follows: Colorado Creative Studios agrees to dismiss case with prejudice within 120 days; the City will schedule a public hearing at a regular Council meeting to review the proposed project and consider if a development agreement would be appropriate and if so, what general negotiating points would be addressed; and, the City to give applicant 30-days' written notice of public hearing. The motion was approved by the following vote:

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

ORDINANCES:
DISPLAY OF
MERCHANDISE

7-A: Second reading and adoption of Interim Ordinance No. 2147 (CCS) entitled: "AN ORDINANCE OF THE CITY OF SANTA MONICA EXTENDING THE INITIAL INTERIM ORDINANCE AUTHORIZING THE PLACEMENT OF FURNITURE, PORTABLE LANDSCAPING AND CIGARETTE DISPOSAL RECEPTACLES WITHIN THE PUBLIC

*Mayor Pro Tem Katz
returned at 7:17 p.m.*

RIGHT-OF-WAY AND DISPLAY OF MERCHANDISE ON PRIVATE PROPERTY,” was adopted.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Katz, to adopt the ordinance, reading by title and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Genser, Shriver, McKeown, Bloom, Mayor Pro Tem Katz, Mayor O’Connor
NOES: None
ABSENT: Councilmember Holbrook

**RENTAL UNITS
WITHOUT PERMITS**

7-B: Introduction and first reading of an interim ordinance extending the initial interim ordinance waiving certain development standards for rental units which were built or created without permits and registered with the Rent Control Board prior to April 22, 2003, was presented.

There was no one present for public comment.

Motion by Mayor Pro Tem Katz, seconded by Mayor O’Connor, to introduce the ordinance for first reading, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Genser, Shriver, McKeown, Bloom, Mayor Pro Tem Katz, Mayor O’Connor
NOES: None
ABSENT: Councilmember Holbrook

ALCOHOL CUP’S

7-C: Introduction and first reading of an interim ordinance extending an interim ordinance clarifying that business establishments with alcohol CUP’s must obtain new alcohol CUP’s if the establishments cease operating for a period in excess of one year, except that, for premises in the CM District, the time period shall be six months, was presented.

There was no one present for public comment.

Motion by Mayor Pro Tem McKeown, seconded by Councilmember Bloom, to introduce the ordinance for first reading, reading by title only and waiving

further reading thereof. The motion was approved by the following vote:

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

**CORRECTION OF
ORDINANCE**

7-D: **Ordinance No. 2148 (CCS) entitled:** "AN ORDINANCE OF THE CITY OF SANTA MONICA AMENDING MUNICIPAL CODE SECTION 9.04.20.28.020 TO CORRECT THE INADVERTENT DELETION OF RECENT AMENDMENTS TO THIS SECTION THROUGH THE ADOPTION OF ORDINANCE NO. 2139 (CCS), AND DECLARING THE PRESENCE OF AN EMERGENCY," was presented.

There was no one present for public comment.

Motion by Councilmember McKeown, seconded by Mayor O'Connor, to introduce and adopt the emergency ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

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

STAFF ITEMS:
SANTA MONICA
PLACE; CIVIC CENTER
SPECIFIC PLAN

On order of the Mayor, the City Council convened to a continued joint meeting with the Redevelopment Agency at 9:40 p.m., with Councilmember Holbrook absent.

8-A: **Proposed Development Agreement for Santa Monica Place; consideration of Civic Center Specific Plan; resolution of intention to consider amending the Civic Center Specific Plan Update and Land Use and Circulation Element** – recommendation that the City Council give direction to staff on proposed development agreement for Santa Monica Place; give direction on timing of Council consideration of adoption of the Draft Civic Center Specific Plan and related actions; adopt Resolution No. 10015 (CCS) entitled: "A RESOLUTION OF INTENTION OF THE CITY OF SANTA MONICA TO CONSIDER THE CIVIC CENTER SPECIFIC PLAN UPDATE AND ASSOCIATED AMENDMENT OF THE LAND USE AND CIRCULATION ELEMENT"; and that the City Council and the Redevelopment Agency set a joint public hearing to consider amendment of

the Downtown Redevelopment Plan, was presented.

The following members of the public provided comments, ideas, suggestions and expressed concerns on various aspects of the project: Joey Fullmer, Kathleen Rawson, Barbara Tenzer, Janet Morris, Bill Tucker, Vivian Benjamin, Joe Natoli, Robert Resnick, Chris Josephs, Barbara Brown, Jill Chapin, Paul Rosenstein, Jacob Samuel, Zina Josephs, Emmalie Hodgins, Jay Johnson, Darrell Clarke, Victor Fresco, Robyn Dunbar, Arthur Harris, Nancy Campeau, Roger Genser, Michael Feinstein, Maria Loya, Oscar de la Torre, Tom Cleys, Denny Zane, Genise Schnithman, and Carissa Drucker.

Motion by Mayor Pro Tem Katz, seconded by Councilmember Bloom, that the City enter into a Development Agreement with Macerich in a public/private concept; that staff be thoroughly involved in monitoring public hearings; that the City hire a consultant for economic study and facilitator to be paid by developer; that, as development progresses, the mix of uses can be judged with staff, public and Macerich; that staff report back to Council every three months on progress; that it be an overall comprehensive plan encompassing the Promenade and the Civic Center keeping in mind a human pedestrian scale; that the negotiating parameters on page 7 and 8 of the staff report be considered, including: truly public space, functionality as a transit gateway, appropriate amount of housing with significant affordability, and economic egalitarianism; and that the project is to be substantially expedited. The motion was approved by the following vote:

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

Motion by Councilmember Genser, seconded by Councilmember McKeown, to adopt resolution of intention, amended to delete the area north of Colorado. The motion failed by the following vote:

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

Motion by Councilmember Bloom, seconded by Mayor Pro Tem Katz, to adopt resolution as presented, reading by title only and waiving further

reading thereof. The motion was approved by the following vote:

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

Councilmember Genser stated, for the record, that he voted in opposition because it's inappropriate for the City to approve a plan that would call for 12-story towers at Santa Monica Place.

Councilmember Shriver stated that he would like the record to reflect that Councilmember Genser's statement had nothing to do with his vote for the motion. That the 12-story towers issue was not in front of Council for consideration, and that it was not a fair comment.

Mayor Pro Tem Katz stated that Councilmember Genser's comment was a totally unfair comment.

Councilmember McKeown stated, for the record, that he voted in opposition because he does not believe the City should risk the delaying of production of needed affordable housing.

Planning Director Suzanne Frick notified Council that the Civic Center Working Group that is being reconvened for this project does not have a representative from the Planning Commission.

Motion by Councilmember Bloom, seconded by Mayor Pro Tem Katz, to offer the Planning Commission the opportunity to designate one member to the Civic Center Working Group and expand the working group by one. The motion was unanimously approved by voice vote, with Councilmember Holbrook absent.

Motion by Mayor Pro Tem Katz, seconded by Mayor O'Connor, to set a joint public hearing to consider an amendment to the Downtown Redevelopment Plan.

Substitute motion by Councilmember Bloom, seconded by Councilmember McKeown, to table the motion until the action is necessary. The motion was unanimously approved by voice vote, with Councilmember Holbrook absent.

ADJOURNMENT OF SPECIAL JOINT MEETING

On order of the Mayor, the special joint meeting was adjourned, and the regular City Council meeting was reconvened at 11:10 p.m., with Councilmember Holbrook absent.

MID-YEAR BUDGET

8-B: Mid-Year 2004-05 Budget Review – recommendation to approve the proposed budget changes; approve proposed position and classification changes; adopt resolution establishing various classifications and salary rates; and provide direction to staff for development of the FY 2005/06 and 2006/07 budgets and work plans, including community priorities.

On order of the Mayor, this matter was continued to February 8, 2005, as a 5-item.

COUNCIL ITEMS:

On order of the Mayor, Items 13-A to 13-F to be heard out of order.

13-A: Annual and special vacancy appointments to the following boards and commissions:

SENIOR COMMUNITY COMMISSION

Commission for the Senior Community - one special vacancy for a term ending June 30, 2007.

On order of the Mayor this matter was continued to February 8, 2005.

PERSONNEL BOARD

Personnel Board - one special vacancy for a term ending June 30, 2006.

On order of the Mayor this matter was continued to February 8, 2005.

PRC

Pier Restoration Corporation - one annual vacancy for a term ending November 11, 2008; and one special vacancy for a term ending November 8, 2005.

On order of the Mayor, the floor was opened for nominations.

Councilmember Genser nominated Joel Brand. There being no other nominations, Mr. Brand was appointed by acclamation, with Councilmember Holbrook absent.

On order of the Mayor, the special vacancy was continued to February 8, 2005.

ACCESSIBILITY APPEALS BOARD

13-B: Appointment to one special vacancy on the Accessibility Appeals Board for a term ending June 30, 2005.

On order of the Mayor, this matter was continued to February 8, 2005.

ARB

13-C: Appointment to one special vacancy on the Architectural Review Board for a term ending June 30, 2005.

On order of the Mayor, the floor was opened for nominations.

Mayor Pro Tem Katz nominated Lynn Robb. There being no other nominations, Ms. Robb was appointed by acclamation, with Councilmember Holbrook absent.

ARTS COMMISSION

13-D: Appointment to one special vacancy on the Arts Commission for a term ending June 30, 2006.

On order of the Mayor, the floor was opened for nominations.

Councilmember McKeown nominated Matthew Swanlund. There being no other nominations, Mr. Swanlund was appointed by acclamation, with Councilmember Holbrook absent.

DISABILITIES COMMISSION

13-E: Appointment to one special vacancy on the Disabilities Commission for a term ending June 30, 2007.

On order of the Mayor, this matter was continued to February 8, 2005.

RESIGNATION

13-F: Acceptance of Amanda Sher's letter of resignation from the Commission on the Status of Women, and authorization for City Clerk to publish vacancy.

Motion by Mayor O'Connor, seconded by Mayor Pro Tem Katz, to accept letter with regrets, and authorize publication. The motion was unanimously approved by voice vote, with Councilmember Holbrook absent.

COMMUNICATIONS: LEAFLETS & FLIERS

12-A: Request of Jill Chapin to address Council regarding issuing citations to advertisers that distribute fliers and leaflets upon residential property, was presented.

Motion by Mayor Pro Tem Katz, seconded by Councilmember Shriver, to direct staff to analyze the request. The motion was unanimously approved by voice vote, with Councilmember Holbrook absent.

RESTRAINING ORDER

12-B: Request of B.A. Gray to address Council regarding response from City Attorney's Office related to restraining order issued against Mr. Gray by the City, was presented.

*Councilmember Shriver
was excused at 11:37 p.m.*

On order of the Mayor, the information was received and filed.

101 BROADWAY

*Councilmember Genser was
excused at 11:39 p.m.*

12-C: Request of Elizabeth Peterson, from the Elizabeth Peterson Group, to address Council requesting to review design of a retractable awning as it conforms to outdoor dining standards and to allow the awning to remain as per originally issued by Permit No. C11945 on June 15, 2004, related to the restaurant at 101 Broadway Avenue, was presented.

Councilmember Genser advised he had a conflict of interest in this matter and was excused.

On order of the Mayor, the information was received and filed.

**PUBLIC SCHOOL
STUDY**

*Councilmember Genser
returned at 11:48 p.m.*

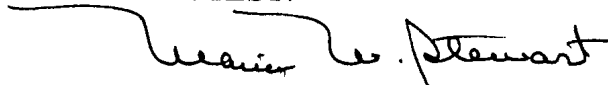
13-G: Request of Mayor O'Connor and Councilmember Bloom that the City co-sponsor, and that they be authorized to participate in, a community presentation of the results of the recently released RAND Corporation study "California's K -12 Public Schools - How Are They Doing?" which addresses the decline in student performance and State of California support to education during the post-Proposition 13 period, was presented.

Motion by Mayor O'Connor, seconded by Mayor Pro Tem Katz, to approve request. The motion was approved by voice vote, with Councilmembers Shriver and Holbrook absent.

ADJOURNMENT:

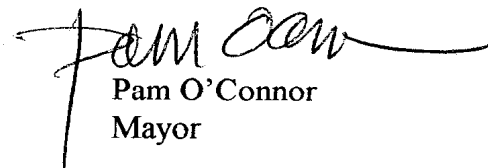
On order of the Mayor, the City Council meeting was adjourned at 11:55 p.m., to February 8, 2005, in memory of Al Kolker, Community Activist, and Dr. Neil Schmidt, former School District Superintendent.

ATTEST:



Maria M. Stewart
City Clerk

APPROVED:



Pam O'Connor
Mayor