

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

OCTOBER 11, 2005

A regular meeting of the Santa Monica City Council was called to order by Mayor O'Connor at 5:50 p.m., on Tuesday, October 11, 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 Robert T. Holbrook
Councilmember Kevin McKeown
Councilmember Bobby Shriver

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 5:50 p.m., with Councilmembers Shriver and Holbrook absent. Councilmember Genser 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.

The following members of the public spoke in opposition to Item 1-E: Richard DeAndrea, Pro Se, Joy Fullmer, Sarah Rifaat, Paul Borraccia, Martin Kelemen, Bernadette Scully, Jerry Rubin, John Levine, Clifford Stern, Michelle Bellin, Ellen Baker, Freida Dubin and Bruce Campbell.

Councilmember Shriver arrived at 6:29 p.m.

The following members of the public spoke in support of Item 1-E: Paul Rosenstein, Steve Tarzynski, David Nelson, Howard Pollick, Maritza Cabezas, Tim Collins and Louise Jaffe.

The following members of the public spoke in opposition to Item 1-C: David Hagen, Emily Levine, Puck Leeser, Lissy Jarvik, Carol Rehwald, Sunshine Sun, Paul Sczudlo, and John Joyce.

Councilmember Holbrook arrived at 6:49 p.m.

Member of the public Joe Natoli discussed issues related to the minutes and to Item 1-C.

At the request of Mayor Pro Tem Katz, Items 1-B and 1-C were removed from the Consent Calendar. At the request of Councilmember Genser, Item 1-E was removed from the Consent Calendar.

Motion by Mayor Pro Tem Katz, seconded by Councilmember Genser, to approve all items on the Consent Calendar as presented except Items 1-B, 1-C and 1-E, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

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

MINUTES

1-A: **The minutes** of the September 13, 2005, City Council meeting were approved as submitted.

1035 19TH STREET

1-D: **Resolution No. 10067 (CCS) entitled:** "A RESOLUTION OF THE CITY OF SANTA MONICA APPROVING A FINAL SUBDIVISION TRACT MAP NO. 062160 TO SUBDIVIDE A PROPERTY FOR A 5-UNIT CONDOMINIUM PROJECT AT 1035 19TH STREET," was adopted.

UTU - MOU

1-F: **Resolution No. 10068 (CCS) entitled:** A RESOLUTION OF THE CITY OF SANTA MONICA AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE UNITED TRANSPORTATION UNION, LOCAL 1785," was adopted.

PALSSU - MOU

1-G: **Resolution No. 10069 (CCS) entitled:** "A RESOLUTION OF THE CITY OF SANTA MONICA AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE PUBLIC ATTORNEY'S LEGAL SUPPORT STAFF UNION," was adopted.

EEP - MOU

1-H: **Resolution No. 10070 (CCS) entitled:** "A RESOLUTION OF THE CITY OF SANTA MONICA AMENDING THE EXECUTIVE PAY PLAN," was adopted.

**WATER MAIN
REPLACEMENT**

1-B: **Annual Water Main Replacement Project** - recommendation to authorize the City Manager to negotiate and execute Contract No. 8515 (CCS) with Majich Brothers, in the amount of \$3,546,895, for construction of the project; and Contract No.8316 (CCS) with Black & Veatch, in the amount of \$395,000, for construction management and inspection services, was presented.

Mayor Pro Tem Katz advised he removed this item from the Consent Calendar because he wanted to ask why the construction management and inspection services contract has a greater than 10% contingency. Staff answered questions of Mayor Pro Tem Katz.

Motion by Mayor Pro Tem Katz, seconded by Councilmember Genser, to approve staff recommendation with the contingency not to exceed 10%. The motion was approved by the following vote:

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

**YALE STREET
IMPROVEMENT**

1-C: **Yale Street Improvement Project** - recommendation to authorize the City Manager to negotiate and execute Contract No. 8517 (CCS) with RBF Consulting, in the amount of \$90,000, to provide design services for the project, was presented.

Mayor Pro Tem Katz advised he removed this item from the Consent Calendar because he had questions as to why there was a contingency for a design services contract, and questions to the potential traffic problems expressed by members of the public. Staff replied to questions from Mayor Pro Tem Katz and Councilmembers related to the contingency and to traffic impacts.

Motion by Councilmember Genser, seconded by Councilmember McKeown, to approve staff recommendation, amended to delete the contingency on the contract. The motion was approved by the following vote:

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

Motion by Councilmember McKeown, seconded by Councilmember Genser, to direct staff to prioritize data gathering in the adjacent streets to prepare for consideration of appropriate mitigations if the traffic from Yale Street does divert; and, provide for the possibility that these other streets, in order to deal with existing conditions, may wish to do the same thing that Yale has done. The motion was approved by voice vote with Mayor Pro Tem Katz voting in opposition.

FLUORIDATION - WELL NO. 1 1-E: **Fluoridation contract for Santa Monica Well #1** – recommendation to authorize the City Manager to negotiate and execute Contract No. 8518 (CCS) to Pascal and Ludwig Constructors, in the amount of \$423,869, for the construction of the Santa Monica Well No. 1 Fluoridation Project, was presented.

Councilmember Genser advised that he removed this item from the Consent Calendar to ask questions regarding the present and future costs of the project, the probabilities of obtaining grants for future funding of other City wells, and future cost to the City.

Staff replied to questions from Councilmembers and provided information related to costs and grant funds available for Well No. 1, and costs and funding needed in the future for the rest of the wells in the City.

Motion by Councilmember Bloom, seconded by Councilmember Holbrook, to approve staff recommendation. The motion was approved by the following vote:

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

**REQUEST TO
CONSOLIDATE ITEMS**

Councilmember Genser, seconded by Councilmember McKeown, to hear Items 7-A And 13-A concurrently, after return from closed sessions. The motion was unanimously approved by voice vote, with all members present.

CLOSED SESSIONS:

On order of the Mayor, the City Council recessed at 7:34 p.m., to discuss closed sessions and returned at 8:38 p.m. with all members present. Action taken on closed sessions was reported at the end of the meeting.

SPECIAL ITEMS:

4-A: **Opportunity for members of the public to share thoughts about the desirable skills, abilities and professional experience to be sought in a City Manager, was presented.**

Members of the public Ted Winterer, Zina Josephs, Dennis Zane, Brian Hutchings, M. Ross, and Jerry Rubin provided their opinions and suggestions for skills and abilities desirable in a City Manager.

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

COUNCIL ITEMS:

ORDINANCES:

**AFFORDABLE HOUSING
PRODUCTION**

7-A: **Possible reconsideration of action taken on July 26, 2005, regarding introduction and first reading of an ordinance amending the Affordable Housing Production Ordinance (Chapter 9.56) to modify the calculation formula and adjustment and payment timing of the affordable housing fee, to modify the affordable housing definitions and to establish a mechanism to adjust or waive the requirements of Chapter 9.56; and Resolution No. 10071 (CCS) entitled: "A RESOLUTION OF THE CITY OF SANTA MONICA REVISING THE AFFORDABLE HOUSING UNIT BASE FEE FOR NEW MARKET-RATE MULTIFAMILY DEVELOPMENT," was presented.**

**REQUEST FOR
RECONSIDERATION**

13-A: **Request of Councilmember Genser that the Council vote to reconsider action taken on Item 7-A at the July 26, 2005, Council meeting related to affordable housing fees, and if reconsideration is approved, that Council vote on Item 7-A, was presented.**

Motion by Councilmember Genser, seconded by Councilmember McKeown, to approve request. The motion was approved by voice vote with Councilmember Holbrook and Mayor Pro Tem Katz voting in opposition.

Member of the public Joey Fullmer expressed various concerns. Member of the public Chris Harding provided suggestions and comments on the proposal. Members of the public Denny Zane, Zelia Mollick, Mr. Tarbet and Genise Schnitman spoke in support of the proposal. Member of the public Mark Shepherd spoke in opposition to high fees.

Motion by Councilmember McKeown, seconded by Councilmember Genser, to introduce the ordinance for first reading, reading by title only and waiving further reading thereof, amend to reflect the suggestion of the City Attorney, to change on page 22 of the ordinance, subsection (d), by adding to the end of the sentence "but no earlier than the time of building permit issuance."

Also on page 26, Section 5, the effective date will be changed from May 30, 2005 to the following: “. . . after the effective date of the ordinance.” The motion was approved by the following vote:

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

Motion by Councilmember McKeown, seconded by Councilmember Genser, to adopt the resolution, reading by title only and waiving further reading thereof, amended to change the effective date of the fees to the date the ordinance goes into effect. The motion was approved by the following vote:

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

SUNSET PARK - NORTH OF WILSHIRE

7-B: Introduction and first reading of an interim ordinance modifying, extending, and adjusting the interim modifications to the development standards for parcels in the R-1 districts located in the Sunset Park and North of Wilshire Neighborhoods, including adding an administrative review process for developments on sloping parcels and modifying standards related to balconies and covered porches in the front yard setback, was presented.

Mayor Pro Tem Katz was excused at 10:08 p.m.

Mayor Pro Tem Katz advised that he had considered whether he had a conflict of interest in this matter because he was currently designing plans for a home in Sunset Park. He concluded that he did not have a conflict of interest, but due to possible appearance of conflict of interest, requested to be excused.

Member of the public Zina Josephs expressed various views and concerns regarding the proposal.

Motion by Councilmember Genser, seconded by Councilmember McKeown, to introduce the ordinance for first reading, reading by title only and waiving further reading thereof, including the technical change recommended by staff regarding balconies, and including the same current process for hillside lots

as contained in Ordinance 2160 (CCS). The motion was approved by the following vote:

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

**SEXUALLY-ORIENTED
BUSINESSES**

*Mayor Pro Tem Katz
returned at 10:22 p.m.*

7-C: Introduction and first reading of an ordinance amending Chapter 9.44 of the Municipal Code relating to sexually-oriented businesses, including but not limited to, sexually-oriented business definitions, location and spacing requirements, application processing and conditions of approval, signage restrictions, amortization, judicial review, and restrictions on sale and transfer, was presented.

Members of the public Eric Gabster and Nina Fresco spoke in support of the proposal.

Motion by Councilmember McKeown, seconded by Councilmember Genser, to introduce ordinance for first reading, reading by title only and waiving further reading thereof, and amended to reduce the amount of merchandise that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas from 30% to 20%, and the amendments recommended by the City Attorney as follows: On page 12, Section A, after the word "novelties," delete the remainder of the statement and change to "which are distinguished or characterized by an emphasis upon the depiction, simulation, or acting out of." In addition, on page 21, subsection (L)(1) change the word "merchandise" to "adult oriented merchandise," and strike the language following "merchandise." Language in Subsections (L)(2) and (L) (4) to change in the same manner.

Substitute motion by Mayor Pro Tem Katz, seconded by Councilmember Shriver, to introduce the ordinance as presented, reading by title only and waiving further reading thereof and with the technical changes provided by the City Attorney. The substitute motion was approved by the following vote:

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

Councilmember McKeown stated for the record that he voted in opposition because he felt Council should have attempted the lower merchandise threshold; however, to indicate his concern about the secondary crime impacts on residential neighborhoods and his support to have an effective ordinance in place, wished to change his “no” vote to a “yes.”

Councilmember Genser requested to change his “no” vote to a “yes” vote.

The ordinance was introduced by the final revised vote as follows:

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

STAFF ITEMS:

8-A: Proposals for updating the City's massage regulations and request for direction, was presented.

Member of the public Eric Gabster spoke in support of the proposals.

Motion by Councilmember Genser, seconded by Mayor Pro Tem Katz, to direct the City Attorney to prepare an ordinance with the suggested proposals and return as quickly as possible. The motion was unanimously approved by voice vote, with all members present.

**2ND AND 4TH STREETS -
LANDSCAPE
IMPROVEMENT**

8-B: Schematic design elements for the 2nd and 4th Streets Pedestrian and Streetscape Improvements Project - recommendation to conceptually approve the proposed schematic design elements for the project; authorize the City Manager to negotiate and execute an amendment to Contract 8353 (CCS) with ZGF, in the amount of \$39,700, for the design of scope enhancements; and authorize staff to proceed with design development and preparation of construction drawings, was presented.

*Councilmember Holbrook
was excused at 11:00 p.m.*

The following members of the public commented on various aspects of the proposal including keeping existing trees and concerns about traffic impacts, and provided suggestions and ideas: Joe Natoli, Nina Fresco, Jerry Rubin, Arthur Harris, and Ellen Brennan.

Motion by Councilmember Genser, seconded by Councilmember Bloom, to accept staff recommendation, with the additional tree up-lighting, with the direction to search for funds for the lighting.

Motion to amend by Councilmember McKeown to amend the motion to retain the existing trees. The motion died for lack of a second.

Motion to amend by Councilmember Shriver, to direct staff to explore some alternatives for funding including a possible assessment to the improvement district. The motion was accepted as friendly.

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

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

Councilmember McKeown stated, for the record, that he voted in opposition because he prefers not to spend \$700,000 to cut down healthy trees.

**CONVENTION &
VISITORS BUREAU**

*Mayor Pro Tem Katz was
excused at 11:30 p.m.*

8-C: Composition of the Convention and Visitor's Bureau Board of Directors.

On order of the Mayor, this matter was continued to a future meeting.

**SPECIAL JOINT
MEETING - CANCELLED
RELOCATION
ASSISTANCE**

The Mayor announced that the scheduled joint meeting with the Redevelopment Agency was being cancelled due to the items under consideration being withdrawn by staff.

8-D: Amended Relocation Assistance Rules and Regulations - recommendation that the City Council and the Redevelopment Agency adopt respective resolutions adopting amended Rules and Regulations governing implementation of the California Relocation Assistance and Real Property Acquisition Law.

On order of the Mayor, and at the request of staff, this matter was withdrawn.

**RELOCATION APPEALS
BOARD**

8-E: Establishment of Relocation Appeals Board for the Redevelopment Agency - recommendation that City Council adopt a resolution approving the establishment of a Relocation Appeals Board and the assignment of Board Members; and that the Redevelopment Agency receive and file the report.

**END OF SCHEDULED
JOINT MEETING**

On order of the Mayor, and at the request of staff, this matter was withdrawn.

**2411/2423 CENTINELA -
RELOCATION PLAN**

8-F: Approval of relocation plan for proposed 2411 and 2423 Centinela Avenue Project.

On order of the Mayor, and at the request of staff, this matter was withdrawn.

RECESS

On order of the Mayor, the regular City Council meeting recessed at 11:35 p.m., to special meeting of the Redevelopment Agency, and reconvened at 11:39 p.m., with Councilmember Holbrook and Mayor Pro Tem Katz absent.

CODE ENFORCEMENT

8-H: FY 2005-2006 Code Enforcement Program and Priorities - recommendation to hold discussion and give direction to staff regarding priorities and allocation of Code Compliance resources.

On order of the Mayor, this matter was continued to a future meeting.

**PUBLIC HEARINGS:
MULTIFAMILY
HOUSING REVENUE
BONDS**

9-A: Public Hearing and adoption of Resolution No. 10072 (CCS) entitled: "A RESOLUTION OF THE CITY OF SANTA MONICA APPROVING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY," was presented.

There was no one present for public comment.

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

AYES: Councilmembers Bloom, McKeown, Shriver, Genser, Mayor O'Connor

NOES: None

ABSENT: Councilmember Holbrook, Mayor Pro Tem Katz

**WRITTEN REQUESTS:
VENDING PROGRAM**

12-A: Request of Doron Meidan to address Council regarding the cart vending program on the Third Street Promenade and requesting various changes to the program, was presented.

The following members of the public spoke in support of the request: Halil Parlar, Daniel Ganon, Javier Cernas, Maya Liberman, Aneeta Sagar, Morgan Diolo, Tracy Green, Jerry Rubin, Bob Deffendall, Jerry Pennington, Ellen Brennan, Joe Natoli, Stewart Lemle and Arthur Harris.

The following members of the public spoke in support of the new program:
Ross Provenzano, Debra Lahti.

Discussion ensued relative to issues raised by the public including but not limited to the high cost of initial fees, lack of consideration for existing cart vendors, and possible retaliation by new operator for individuals speaking up during a Council meeting.

Motion by Councilmember McKeown, seconded by Councilmember Genser to direct staff to do what is necessary to allow existing operation, with carts to remain in operation for the maximum amount of time possible, and finding storage space for the carts. 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

Motion by Councilmember Genser, seconded by Councilmember McKeown, to direct staff to investigate allegations of retaliation by new operator for public speech; any options Council may have to assure fairness in the selection of operators and the fees charged; provide possible remedies to resolve the matter; if possible provide a 6-month pro forma for a couple of carts; and to provide information on the rate of turnover for the operator. The motion was unanimously approved by voice vote, with Councilmember Holbrook and Mayor Pro Tem Katz absent.

SENIOR COMMUNITY-COMMISSION

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

On order of the Mayor, this matter was continued to a future meeting.

STATUS OF WOMEN - COMMISSION

13-C: Appointment to one special vacancy on the Commission on the Status of Women, for a term ending June 30, 2008.

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

Mayor O'Connor nominated Amanda Nevers. There being no other nominations, Ms. Nevers was appointed by acclamation with Councilmembers Holbrook and Mayor Pro Tem Katz absent.

**DOMESTIC PARTNERS -
BENEFITS**

*Councilmember Shriver was
excused at 1:05 a.m.*

13-D: Request of Councilmember McKeown to direct staff to prepare an ordinance requiring City grantees and contractors to offer employee benefits to registered domestic partners, consistent with the City's own practice and Chapter 4.60 of the Municipal Code; and to report on how such benefits might be protected by local law against state initiatives being circulated for the March 2006 election, was presented.

There was no one present for public comment.

Councilmember McKeown, seconded by Councilmember Bloom, to approve request. The motion was unanimously approved by voice vote, with Councilmembers Shriver, Holbrook, and Mayor Pro Tem Katz absent.

**BAYOU LA BATRE,
ALABAMA**

13-E Request of Mayor O'Connor and Councilmember Holbrook that staff update Council and the community on opportunities to aid Bayou La Batre, AL., a gulf community that has been devastated by Hurricane Katrina, and authorize staff to loan or donate needed equipment and supplies on a timely basis for the purpose of restoring municipal services, was presented.

There was no one present for public comment.

Discussion ensued relative to equipment and resources that may be available to assist Bayou Le Batre, including used vehicles and equipment that may be scheduled for replacement or to be auctioned.

Motion by Mayor O'Connor, seconded by Councilmember McKeown, to approve the loan of equipment and vehicles including several pick-up trucks, cranes, utility vehicles, street sweepers, a skip loader, a dump truck, a riding lawn mower, and six chain saws. The motion was unanimously approved by voice vote, with Councilmembers Shriver, Holbrook and Mayor Pro Tem Katz absent.

**BAY RESTORATION
COMMISSION**

13-F: Request of Mayor O'Connor to nominate Councilmember Richard Bloom to continue to serve on the Santa Monica Bay Restoration Commission Governing Board, to be the designated voting representative for Santa Monica and authorize staff to assist in his election to the Board, was presented.

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

CLOSED SESSIONS:

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

ACTION: Heard. No reportable action taken.

2-B: Conference with Legal Counsel - Existing Litigation: Russell Barnard v. City of Santa Monica, Case No. BC 281 367.

ACTION: Not heard.

2-C: Conference with Legal Counsel - Existing Litigation: First National Bank v. Baird and City of Santa Monica, et al., Case No. 02CV610.

ACTION: There being only four Councilmembers present, and one Councilmember having a conflict of interest in this case, the City Attorney advised action would be taken on this case at the next Council meeting.

2-D: Conference with Legal Counsel - Existing Litigation: Morley Construction Company v. URS Corporation, et al., Case No. SC 080 605.

ACTION: Heard. No reportable action taken.

2-E: Conference with Legal Counsel - Existing Litigation: Matthew Kalan v. City of Santa Monica, Case No. SC 081 116.

ACTION: Not heard.

2-F: Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9(b): one case, including a dispute related to real property located at 1522 6th Street.

ACTION: Not heard.

2-G: Conference with Labor Negotiator.
City Negotiator: Karen Bancroft, Director of Human Resources
Bargaining Units: Public Attorney's Union (PAU).

ACTION: Not heard.

**2-H: Conference with Labor Negotiator to discuss compensation.
Unrepresented Employee: City Clerk**

ACTION: Not heard.

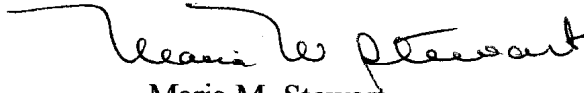
PUBLIC INPUT:

Members of the public Pro Se, Brian Hutchings and B.A. Gray discussed various concerns.

ADJOURNMENT:

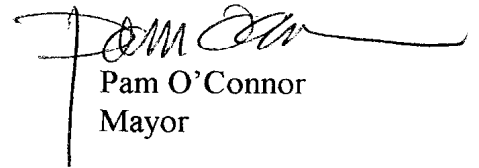
On order of the Mayor, the City Council meeting was adjourned at 1:26 a.m., to October 25, 2005, in memory of Ralph Hedges, Liz Roberson, and City employee Natalie Moorings.

ATTEST:



Maria M. Stewart
City Clerk

APPROVED:



Pam O'Connor
Mayor