

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**September 12, 2006**

A regular meeting of the Santa Monica City Council was called to order by Mayor Holbrook at 5:53 p.m., on Tuesday, September 12, 2006, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Robert T. Holbrook  
Mayor Pro Tem Bobby Shriver (Arrived at 8:13 p.m.)  
Councilmember Richard Bloom  
Councilmember Ken Genser  
Councilmember Herb Katz  
Councilmember Kevin McKeown  
Councilmember Pam O'Connor (Arrived at 6:01 p.m.)

Also Present: City Manager P. Lamont Ewell  
City Attorney Marsha Jones Moutrie  
Acting City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE** On order of the Mayor, the City Council convened at 5:53 p.m., with Mayor Pro Tem Shriver and Councilmember O'Connor absent. Mayor Holbrook 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.

Members of the public Joy Fullmer, Joe Natoli and Jerry Rubin provided input on various Consent Calendar items.

At the request of Councilmember McKeown, Items 1-C, 1-E and 1-H were removed from the Consent Calendar.

Motion by Councilmember Katz, seconded by Councilmember McKeown, to approve all items on the Consent Calendar as presented except Items 1-C, 1-E and 1-H, reading resolutions by title only and waiving further reading thereof.

The motion was approved by the following vote:

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

**MINUTES**

1-A: **The minutes** of June 27, July 3, and July 11, 2006, City Council meetings were approved as submitted.

**BICYCLE AND  
PEDESTRIAN PATH**

1-B: **Contract for Exposition Corridor Bicycle and Pedestrian Path** - recommendation to authorize the City Manager to negotiate and execute Agreement No. 8628 (CCS) with Crain & Associates, in the amount of \$537,000, for design, bid preparation and construction monitoring of the Exposition Corridor Bicycle and Pedestrian Path, was approved.

**AQUARIUM  
RE-ROOFING PROJECT**

1-D: **Heal the Bay Aquarium re-roofing project** – recommendation to authorize the City Manager to award Contract No. 8630 (CCS) to John S. Meek Company, Inc., in the amount of \$212,840, for the re-roofing project; and, authorize the City Manager to negotiate and execute reimbursement Agreement No.8631(CCS), with Heal the Bay in the amount of \$78,808, was approved.

**YALE STREET  
IMPROVEMENT  
PROJECT**

1-F: **Yale Street improvement project** – recommendation to award a construction Contract No. 8633 (CCS) to Griffith Company, in the amount of \$969,662 for the Yale Street Improvement Project, was approved.

**COMMUNITY ENERGY  
INDEPENDENCE  
INITIATIVE  
DEMONSTRATION  
PROJECT**

1-G: **Community Energy Independence Initiative Demonstration Project** – recommendation to authorize the City Manager to negotiate and execute Agreement No. 8634 (CCS), with EcoMotion, in the amount of \$494,975, to provide project development and implementation services for the Community Energy Independence Initiative Demonstration Project, was approved

**WATER  
INFRASTRUCTURE  
GRANT**

1-I: **Water infrastructure Reliability Project** - recommendation to accept U.S. Environmental Protection Agency Grant Funds in the amount of \$529,900 for the project; and authorize the necessary budget appropriations, as proposed in the report, was approved.

**GANG INTERVENTION**

1-C: **Gang intervention program grant funds** - recommendation that the City Council accept Agreement No. 8629 (CCS) with U.S. Department of Justice, for grant funds in the amount of \$246,807, over a three-year period for a focused gang intervention program, *Night Bridges*, at Virginia Avenue Park; authorize the City Manager to execute necessary agreements; and appropriate funds and make necessary budget changes, was presented.

*Councilmember O'Connor arrived at 6:01 p.m.*

Councilmember McKeown advised that he removed this item from the Consent Calendar to question what the community involvement will be in the decision-making process. Staff answered questions of Councilmembers.

Motion by Councilmember McKeown, seconded by Councilmember Genser, to approve staff recommendation with the understanding that there will be intense community involvement. The motion was approved by the following vote:

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

**WOODLAWN  
CEMETERY  
LANDSCAPING**

1-E: **Woodlawn Cemetery landscaping services** - recommendation to authorize the City Manager to negotiate and execute Contract No. 8632 (CCS) with Valley Crest Landscape Maintenance, in the amount of \$221,796, for grounds maintenance at Woodlawn Cemetery, was presented.

Councilmember McKeown advised that he removed this item from the Consent Calendar out of concern over the outsourcing of services, and to ask the reason and the duration of the outsourcing. Staff responded to questions from Councilmembers.

Motion by Councilmember McKeown, seconded by Councilmember Katz, to approved staff recommendation. The motion was approved by the following vote:

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

**REVIEW SOLID WASTE SERVICES**

**1-H: Operations, financial, and rate review of Solid Waste Services** - recommendation to authorize the City Manager to negotiate and execute a second amendment to Contract No. 8524 (CCS) with Gershman, Brickner and Bratton, in the amount of \$240,000 for review of solid waste services, was presented.

Councilmember McKeown advised that he removed this item from the Consent Calendar to make sure that the wording in this contract will clarify the discrepancies between the initial analysis and the revised analysis presented on July 11, 2006. Staff responded to questions from Councilmembers.

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

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

**SPECIAL AGENDA ITEMS**

**4-A: Commendation to Little League California District 25 Girls Minor League "Angels" Softball Team – Tournament of Champions winners.**

Mayor Holbrook recognized the participants and coaches in this activity and conveyed Council's support and encouragement for future endeavors.

**CLOSED SESSIONS**

Public member Joe Natoli spoke on various closed session items.

On order of Mayor Holbrook, the City Council recessed at 6:16 p.m., to consider closed sessions and returned at 7:46 p.m., with Mayor Pro Tem Shriver absent, to report the following:

**2-A: Conference with real property negotiator:  
Property: 120 Colorado Avenue  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Felcor Hotel Asset Company LLC**

ACTION: Not heard.

**2-B: Conference with real property negotiator:  
Property: 1632-36 5<sup>th</sup> Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Jandy, LLC**

ACTION: Not heard.

**2-C: Conference with real property negotiator:  
Property: 1640 5<sup>th</sup> Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Martin H. Waldman, et. al.**

ACTION: Not heard.

**2-D: Conference with real property negotiator:  
Property: 1301-33 4<sup>th</sup> Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Virginia Tegner Spurgin  
Investments Company**

ACTION: Not heard.

**2-E: Conference with real property negotiator:  
Property: 1415-27 5<sup>th</sup> Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Mark S. Romney**

ACTION: Not heard.

**2-F: Conference with real property negotiator:  
Property: 1437 5<sup>th</sup> Street  
City Negotiator: Miriam Mack**

**Under negotiation: Interest in Real Property  
Owner of Record: PRU/JSM Trino**

ACTION: Not heard.

**2-G: Conference with real property negotiator:  
Property: 1334 5<sup>th</sup> Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Sunnyside Group, et. al.**

ACTION: Not heard.

**2-H: Conference with real property negotiator:  
Property: 1338-42 5<sup>th</sup> Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Bryan Family Trust**

ACTION: Not heard.

**2-I: Conference with real property negotiator:  
Property: 1324 5<sup>th</sup> Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Taking 5<sup>th</sup> LLC/HILD**

ACTION: Not heard.

**2-J: Conference with real property negotiator:  
Property: 2715 Exposition Boulevard/1800 Stewart  
Street  
City Negotiator: Miriam Mack  
Under negotiation: Interest in Real Property  
Owner of Record: Richlar Partnership Lease**

ACTION: Not heard.

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

ACTION: Heard. No reportable action taken.

**2-L: Conference with Legal Counsel - Existing Litigation: City adv. Shell Oil Company (arbitration regarding compliance with settlement agreement in City of Santa Monica v. Shell Oil Co., Case No. 01CC4331).**

ACTION: Heard. No reportable action taken.

**2-M: Conference with Legal Counsel - Existing Litigation: Abraham Supino v. City of Santa Monica, Case No. SC 080 283 and related cases (Farmer's Market Litigation) (Claim of Evanston Insurance).**

Motion by Councilmember O'Connor, seconded by Mayor Holbrook, to approve settlement to split the claimed amount, the city to pay \$113,538.13 and Bayside would bear the remainder of the attorney's cost. The amount the city is paying to be applied to the city's self-insured retention.

AYES: Councilmembers Bloom, Katz, McKeown, O'Connor,

Genser, Mayor Holbrook

NOES: None

ABSENT: Mayor Pro Tem Shriver

**2-N: Conference with Legal Counsel - Existing Litigation: Palisades Beach Property Owners Association, Inc. v. City of Santa Monica, Case No. BS 103 819.**

Councilmember Katz advised he has a conflict of interest in this matter and requested to be excused.

*Councilmember Katz was excused at 7:59 p.m.*

Motion by Councilmember McKeown, seconded by Councilmember Bloom, to approve a settlement agreement as follows:

1. The City shall enter into and abide by separate agreements with the Annenberg Foundation and the California Department of Parks and Recreation, that provide that certain specified operating conditions will be in place for at least 10 years and others for at least 7½ years.
2. The City shall include the specified conditions in the Coastal Commission permit request and advocate for the inclusion of the conditions in the Coastal permit.

3. The parties shall jointly use their best efforts to obtain Caltrans' approval of a traffic signal at 415 PCH.
4. The settlement agreement is contingent on the City Council adopting a resolution expressing its intent that certain specified operating conditions will be in place for at least 10 years and others for at least 7½ years.
5. Once the City has adopted the resolution and entered into the agreement with the Foundation, the plaintiffs Palisades Beach Road Property Owners Association and Jonathan Ornstein shall dismiss their lawsuit with prejudice, shall provide covenants not to sue and will release the City from all liability in connection with the project. The Association and Ornstein reserve their right to seek enforcement of the Settlement Agreement terms and operating conditions.
6. Each party shall bear their own costs and attorneys' fees.

The motion was approved by the following vote:

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

**2-O: Conference with Legal Counsel - Existing Litigation:  
Fifth/Arizona Investors, LLC v. City of Santa Monica, 2<sup>nd</sup>  
 Civ. No. B188512.**

ACTION: Heard. No action reportable taken.

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

Motion by Councilmember Katz, seconded by Councilmember O'Connor, to approve a settlement as follows: The City to waive its cost and dismiss its appeal in exchange for Mr. Barnard

dismissing his appeal and the city will receive approximately \$175,000 reimbursement in fees from the insurer.

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

**2-Q: Anticipated Litigation: Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9(b): one matter involving real property at 161 Ocean Park Boulevard; one matter involving a challenge to Ordinance Number 2191 (CCS) (affordable housing requirements); Claim of Stephanie Barbanell regarding Seaview Terrace; Claim of R. Demetriou regarding Woodlawn Cemetery; and Claims of reimbursement for parking citation overpayments.**

ACTION: Heard. No reportable action taken.

**ORDINANCES:**

**LIBRARY GENERAL OBLIGATION BONDS**

*Councilmember Katz returned at 8:01 p.m.*

7-A: Introduction and adoption Ordinance No. 2204 (CCS) entitled: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA SETTING THE 2006/07 TAX RATE FOR THE LIBRARY GENERAL OBLIGATION BONDS," was presented.

There was no one present for public comment.

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

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

On order of the Mayor and at the request of staff, Item 7-C to be heard before Item 7-B.

**MODIFYING DEVELOPMENT STANDARDS IN THE R1**

**7-C: Introduction and first reading of an ordinance modifying the development standards and review processes in the R1 Sunset Park and north of Wilshire neighborhoods**

**SUNSET AND NORTH OF  
WILSHIRE  
NEIGHBORHOODS**

**including, but not limited to, standards and review related to setbacks, stepbacks, maximum parcel coverage, second floor parcel coverage, garages and garage doors, architectural projections, balconies and porches, and architectural review of specified structures and clarifying the second floor parcel coverage standard as it applies in these and in the North of Montana neighborhoods. The City Council may also consider extending these or similar modifications to the R1 District located north of Pico Boulevard and south of Exposition Boulevard, was presented.**

*Mayor Pro Tem Shriver  
arrived at 8:13 p.m.*

There was no one present for public comment.

Motion by Councilmember McKeown, seconded by Councilmember Genser, to introduce the ordinance for first reading and amend the staff recommendation to include the Planning Commission's additions to change the 12.5 foot grade change to 8 percent over the length of a property.

Substitute motion by Councilmember Katz, seconded by Councilmember Genser, to accept staff's recommendation and leave the grade difference at 12.5 feet and not change it to the 8 percent suggested.

The substitute motion was approved by the following vote:

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

Councilmember McKeown stated for the record, that he voted "no" because the appropriate exercise of discretion is an important part of what the city should be doing for neighbors and neighborhoods of our city and that this as adopted doesn't allow for that discretion in a small but important number of cases, particularly in Sunset Park.

**AMENDING ARTICLE 9**

**7-B: Introduction and first reading of an ordinance amending Article 9 of the Municipal Code to modify project design and property development standards for specified uses in certain residential, commercial and industrial districts in the city including, but not limited to, standards related to permitted building heights, exceptions to the height limit, unit density, parcel coverage, floor area and architectural design**

**review criteria. The City Council may also consider modifications related to other administrative and discretionary review procedures and possible changes to the City's Affordable Housing Production Program, was presented.**

Members of the public Joy Fullmer, Hank Koning, David Hibbert, Tom Larmore, John Bohn, Dwight Flowers, Chris Harding and Ken Kutcher spoke in opposition to the proposed ordinance.

Members of the public Dennis Zane, Zina Josphehs, Jacob Samuel, Jeanne Dodson, Diana Gordon, Arthur Harris, Genise Schnitman, Joan Ling, and Jan Williamson spoke in favor of the proposed ordinance with suggested changes and amendments.

Motion by Councilmember McKeown, seconded by Councilmember Genser, to approve staff recommendation with the Planning Commission's recommendations.

Amendment motion by Councilmember Katz, seconded by Councilmember O'Connor, to maintain building heights as they are letting the projection of mechanical elevators and stairs stay as they are and that the LEEDs be a preferred element to any project.

The proposed amendment was withdrawn by Councilmember Katz.

Amendment motion by Councilmember O'Connor, seconded by Councilmember Katz, that projects that have LEED's gold or platinum certification be considered "preferred projects" and receive a preferred permit.

The motion was approved by the following vote:

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

Councilmember McKeown stated for the record, that his "no" vote on the amendment reflects his concern that it gives too much incentive to high end condos replacing affordable and other desirable housing.

Amendment motion by Councilmember Bloom, seconded by Councilmember Katz, that market rate apartments that are LEED silver certified have preferred status.

Discussion ensued on the merits of the project and the motions considered. It was the consensus of Council to continue this matter to allow ample time for discussion.

Motion by Councilmember Genser, seconded by Councilmember O'Connor, to continue this item September 26, 2006 and hold a second reading at an adjourned meeting on October 3, 2006.

The motion was unanimously approved by voice vote, with all members present.

**SPECIAL JOINT MEETING WITH THE REDEVELOPMENT AGENCY:**

On order of the Mayor, the regular meeting of the City Council was recessed and a special joint meeting with the Redevelopment Agency was convened at 11:54 p.m., with all members present.

**VILLAGE HOUSING IN THE CIVIC CENTER**

8-A: **Village Housing in Civic Center** – recommendation that Council support flexibility in the design of the Village component of the Civic Center Specific Plan by allowing some building heights up to 65 feet, to allow modifications to building setback and step back requirements and to allow reconfigured public open spaces, was presented.

There was no one present for public comment.

Motion by Councilmember Katz, seconded by Councilmember Bloom, to approve staff recommendation.

The motion was approved by the following vote:

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

**ADJOURNMENT OF SPECIAL JOINT MEETING**

On order of the Mayor, the special joint meeting with the Redevelopment Agency was adjourned at 12:05 a.m., and the regular City Council meeting reconvened, with all members

present.

**SOCIAL SERVICES  
COMMISSION**

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

*Councilmember Bloom,  
excused at 12:00 a.m.*

On order of the Mayor, this matter was continued to September 26, 2006.

**ANNUAL  
APPOINTMENTS**

13-B: Annual appointments to the following boards and commissions:

Board/Commission	No. of Appts.	Term Ending
Bayside District Corporation	1	06/30/2010
Commission for the Senior Community	2	06/30/2010
Commission on the Status of Women	1	06/30/2010
Convention & Visitors Bureau	1	06/30/2010
Recreation & Parks Commission	1	06/30/2020

On order of the Mayor, this matter was continued to September 26, 2006.

**RESCIND ARTS  
COMMISSION  
APPOINTMENT**

**13-C: Recommendation to rescind the July 11, 2006, appointment of Jacob Samuel to the Arts Commission; and, consider new appointment to the vacancy on the Commission with a term ending June 30, 2010.**

There was no one present for public comment.

Motion by Mayor Pro Tem Shriver, seconded by Councilmember Genser, to rescind the appointment and continue the vacancy to September 26, 2006. The motion was unanimously approved by voice vote, with Councilmember Bloom absent.

**OPPOSE AB 2449**

**13-D: Request of Councilmember McKeown that in order to preserve Santa Monica's local jurisdictional power to responsibly monitor and control the use of environmentally damaging products, the Council oppose the Governor's signing of AB 2449 as amended, which usurps local control over regulating plastic carry-out bags, was presented.**

There was no one present for public comment.

Motion by Councilmember McKeown, seconded by

Councilmember Katz, to approve recommendation. The motion was unanimously approved by voice vote, with Councilmember Bloom absent.

**TOBACCO TAX  
ACT OF 2006**

**13-E: Request of Councilmember Bloom that the City Council adopt the proposed resolution in support Proposition 86, the Tobacco Tax Act of 2006 which if passed by voters in November 2006 would raise the state's tobacco tax by an additional \$2.60/pack to reduce smoking, especially among children, and fund critical health care priorities, thereby reducing the healthcare cost burden on state and local governments; and reduce tobacco use, was presented.**

On order of the Mayor, this matter was continued to September 26, 2006.

**UPDATE ZONING  
ORDINANCE**

**13-F: Request of Mayor Holbrook and Councilmember Katz that Council direct staff to prepare an ordinance amending the Santa Monica Zoning Code to increase minimum required lot sizes and dimensions on neighborhood streets of the R1 District, North of Montana, that have historically contained larger lot sizes, including direction to prepare the ordinance in advance of the comprehensive update to the Zoning Ordinance, was presented.**

Member of the public Ivo Stoka spoke in support of the request.

Motion by Mayor Holbrook, seconded by Mayor Pro Tem Shriver, to approve the request. The motion was unanimously approved by voice vote, with Councilmember Bloom absent.

**PUBLIC INPUT:**

Members of the public Brian Canning, Trisha Roth and Melvin Klein discussed various issues and concerns.

**ADJOURNMENT:**

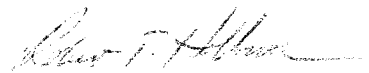
On order of the Mayor, the City Council meeting was adjourned at 12:27 a.m. to September 26, 2006, in memory of Phillip Whiting, Gerald Condon, Deforrest "Moe" Most, and Danny Mejia.

ATTEST:



Denise Anderson-Warren  
Acting City Clerk

APPROVED:



Robert T. Holbrook  
Mayor