

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

FEBRUARY 13, 2007

A regular meeting of the Santa Monica City Council was called to order by Mayor Bloom at 5:49 p.m., on Tuesday, February 13, 2007, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Richard Bloom
Councilmember Ken Genser
Councilmember Robert T. Holbrook
Councilmember Kevin McKeown
Councilmember Pam O'Connor (arrived at 6:25 p.m.)
Councilmember Bobby Shriver (arrived at 6:30 p.m.)
Absent: Mayor Pro Tem Herb Katz

Also Present: City Manager P. Lamont Ewell
City Attorney Marsha Jones Moutrie
City Clerk Maria M. Stewart

CONVENE/PLEDGE On order of the Mayor, the City Council convened at 5:49 p.m., with Mayor Pro Tem Katz and Councilmembers O'Connor and Shriver absent. Big Blue Bus employee Paul Casey 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 Joey Fullmer, Anoosh Askari, Joe Natoli and Randy Walberger expressed their views on various Consent Calendar items.

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

Motion by Councilmember Holbrook, seconded by Councilmember Genser, to approve all items on the Consent Calendar as presented except Items 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 McKeown, Genser, Holbrook, Mayor

Bloom
NOES: None
ABSENT: Councilmembers Shriver, O'Connor, Mayor Pro Tem
Katz

MINUTES

1-A: **The minutes** of the January 6, January 9, and January 23, 2007, City Council meetings were approved as submitted.

DARK FIBER LEASE

1-B: **Dark Fiber Lease Agreement** - recommendation to authorize the City Manager to negotiate and execute Agreement No. 8678 (CCS) with SoHoNet, at the proposed rates, for lease of dark fiber rack space; and to execute agreements with other interested parties should those opportunities arise, was approved

UNLEADED GASOLINE

1-D: **Purchase of unleaded gasoline** - recommendation to award purchase orders to SC Fuels, in an annual estimated amount of \$693,000, to supply and deliver premium and regular unleaded gasoline for the Fleet Management Division, Fire Department and Big Blue Bus, was approved.

1433 4TH ST. LEASE

1-E: **Lease of space at 1433 4th Street** - recommendation to authorize the City Manager to negotiate and execute Lease Agreement No. 8680 (CCS) with Folke Investments, LLC, for use of office space for the Cultural Affairs Division, was presented.

Councilmember Genser advised he removed this item from the Consent Calendar to ask for clarification to public comments made by Mr. Natoli regarding a "shell game." Staff responded to questions related to the ownership and the property management of the building.

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

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

On order of the Mayor, Item 1-C to be considered after closed sessions.

CLOSED SESSIONS:
Councilmember O'Connor

On order of the Mayor, the City Council recessed at 6:08 p.m., to consider closed sessions and returned at 7:14 p.m., with Mayor Pro Tem

arrived at 6:25 p.m.

Katz absent to report the following:

*Councilmember Shriver
arrived at 6:30 p.m.*

**2-A: Public Employee Evaluations.
Title of Employees: City Manager, City Attorney, City Clerk**

ACTION: Not Heard.

**2-B Conference with Real Property Negotiators:
Property: 430 Arizona, 1324 5th St. and 1320 5th St.
City Negotiators: Miriam Mack, Allan Kotin
Under Negotiation: Interest in Real Property
Owner of Record: Fifth/Arizona Investors, LLC**

ACTION: Heard. No reportable action taken.

**2-C: Conference with Real Property Negotiators:
Property: 1301-1333 4th Street
City Negotiator: Miriam Mack, Allan Kotin
Under Negotiation: Interest in Real Property
Owner of Record: Virginia Tegner Spurgin Investment**

ACTION: Heard. No reportable action taken.

*Councilmember O'Connor
was excused at 7:14 p.m.*

**2-D: Conference with Legal Counsel - Existing Litigation: Bautil
Hadjian Torab v. City of Santa Monica, Case No. SC 085 339.**

ACTION: Not Heard.

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

ACTION: Not Heard.

**2-F: 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).**

ACTION: Not Heard.

**2-G: Conference with Legal Counsel - Existing Litigation: Dewane
Pruitt v. City of Santa Monica, Case No. SC 086114.**

Motion by Councilmember Genser, seconded by Councilmember
Holbrook, to approve Settlement Agreement No. 8681 (CCS); a binding

arbitration settlement in the amount of \$200,000. The motion was approved by the following vote:

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

2-H: Conference with Legal Counsel - Existing Litigation: City of Santa Monica v. Prestige Parking, Inc., etc., et al., Case No. SC 092156.

ACTION: Heard. No reportable action taken.

2-I: Conference with Legal Counsel - Existing Litigation: City of Santa Monica v. City of Los Angeles (Playa Vista), Case No. 2d Civ. No. B189630.

ACTION: Not Heard.

2-J: Anticipated Litigation: Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9(b): Three matters: one involving a dispute at real property located at 161 Ocean Park Boulevard, one involving 939 San Vicente Boulevard, and one involving Village Trailer Park.

ACTION: Village Trailer Park matter heard. No reportable action taken.

2-K: Conference with Legal Counsel - Existing Litigation: Stella Dehbibi & Kamyar Kamran v. City of Santa Monica, Case No. SC 086426.

Motion by Councilmember Holbrook, seconded by Mayor Bloom, to approve Settlement Agreement No. 8682 (CCS) for \$86,000 to plaintiff, and \$60,000 to co-plaintiff Kamran. The motion was approved by the following vote:

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

2-L: 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).

ACTION: Heard. No reportable action taken.

2-M: **Conference with Legal Counsel - Existing Litigation: Oscar Saenz v. City of Santa Monica, Case No. SC 088 218.**

ACTION: Not Heard.

**MOUNTAINVIEW
MOBILE HOME PARK**

1-C: **Mountain View Mobilehome Park Building Improvements** - recommendation to authorize the City Manager to negotiate and execute Contract No. 8679 (CCS) with Gonzales Construction, in the amount of \$139,715, for various repairs to the Mobilehome Park community building, was presented.

Councilmember Genser advised that he removed this item from the Consent Calendar to ask staff to reply to public comments made by Mr. Askari related to the alleged absence of Gonzales Construction from a mandatory walk-through. Staff advised that Gonzalez Construction representative(s) were present during the walk through.

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

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

**STUDY SESSION:
YOUTH VIOLENCE/**

COMMUNITY POLICING

3-A: **Update on Youth Violence and Community Policing.**

Members of the public Joey Fullmer, Joe Natoli and Jerry Rubin spoke in support of Community Policing.

*Councilmember O'Connor
returned at 7:20 p.m.*

A report and update was provided by Police Chief Jackman. On order of the Mayor, the information was received and filed.

**ORDINANCES:
SECTION 9.32.170**

7-A: **Second reading and adoption of Ordinance No. 2218 (CCS) entitled: "AN ORDINANCE OF THE CITY OF SANTA MONICA AMENDING CODE SECTION 9.32.170 TO CORRECT THE INADVERTENT DELETION OF A RECENT AMENDMENT TO**

THIS SECTION THROUGH THE ADOPTION OF ORDINANCE NO. 2207 (CCS),” was presented.

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

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

**FENCES, WALLS,
HEDGES**

7-B: Introduction and first reading of an interim ordinance extending and amending the modifications to fence, wall and hedge standards, including changes to the hedge definition, allowable hedge heights, defined front yard area, front yard ornamental structures, front yard safety guardrails, and terraced walls; grandparenting existing nonconforming hedges, fences and walls, and establishing administrative and discretionary height modification procedures; consideration of administrative appeal process and fees; recommendation to direct staff to prepare a revised interim ordinance based on the proposed recommendations; and supplemental report, was presented.

The following members of the public spoke generally in support of the ordinance and in support of grandparenting of hedges: Maria Martinelly, Gita Kammann, Dale Manolakas-Shults, Jerry Rubin, Jerry Bass, Stephanie Barbanell, Britt Allcroft, Aaron Mendelsohn, Leah Mendelsohn, Russ Johnstone, Meyera Robbins, Jan Ludwinski, Renee Ellis, Ronald Cunningham, Jacob Samuel, Ken Scopp, Fred Hollander, Kendall Smith, Crystal Burke, Ruth Kerman, Dona Colombier, Emily Colombier, Bob Karas, Elena Occhipinoti, Mira Muller, Daniel Bleiberg, and Peter Brodende.

The following members of the public spoke generally against grandparenting of all hedges and provided various suggestions and ideas: Baldev Devgan, Manju Devgan, Robert A. Freeman, Tsvia Weinstein, Ken Ziff, Lewis Perkins, Ann Greenspun, Monika Bialas, William Conkle, Virginia Kohfeld, James Kohfeld, Perry Clennon and Susan Beauchene.

Motion by Councilmember Genser, seconded by Councilmember McKeown, to introduce the ordinance reading by title only and waiving further reading thereof, amended to extend to September 30th, clarifying

that the ordinance doesn't prevent any state permitted action and does not eliminate rights under state law; and give direction to staff to return with revisions discussed as quickly as possible.

Sr. Land Use Attorney Barry Rosenbaum advised that a new Section 6 would be added to the ordinance and would read: "Nothing in this ordinance shall preclude any individual from seeking any other remedies, penalties or procedures as provided by law.". The motion, as amended, was approved by the following vote:

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

Motion by Councilmember Genser, seconded by Councilmember O'Connor, to direct staff to explore options for requiring registration of grandparented hedges that are not currently registered; include in revised ordinance a standard for the depth of hedges that are eligible for unlimited height adjacent to an alley; include standards for maintenance of hedges and explore whether something beyond requiring only trimming to the property line should be included; clarify objection criteria and consider whether to include in the standards for determining meeting standards of proof, whether a record of prior complaints should be considered; return with standards for key lots and reverse corner lots. The motion was approved by the following vote:

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

Councilmember Shriver stated, for the record, that he voted in opposition because he is not in favor of any dilution of the significant showing that is required in the prior law and is consistent with fairness and is represented in burden and standards.

Motion by Councilmember McKeown, seconded by Councilmember Genser, to direct staff to investigate and report on the enforcement issues raised by members of the public via an information report. The motion was unanimously approved by voice vote, with Mayor Pro Tem Katz absent.

Motion by Councilmember McKeown, that on existing appeals the fee be

waived. The motion died for lack of a second.

STAFF ITEMS:
TEMPORARY OFFICE BUILDING

8-A: Temporary Office Building east of City Hall - recommendation to direct staff to proceed with steps necessary to develop a temporary office building east of City Hall and provide any initial design direction; and authorize the City Manager to negotiate and execute an agreement with Natoma Architects, in the amount of \$885,500, for design services for the building and tenant improvements, was presented.

Member of the public Jerry Rubin discussed various aspects of the project and the process.

Discussion ensued regarding the merits of the project, the need for a public process for the project, costs, funding options, and the merits of a temporary versus a permanent building.

Motion by Councilmember Shriver, seconded by Councilmember O'Connor, to direct staff to return with a smaller contract for a public outreach process. The motion was approved by voice vote, with Councilmembers Genser and McKeown in opposition, and Mayor Pro Tem Katz absent.

PUBLIC SAFETY STORAGE FACILITY

8-B: Public Safety Storage Facility Building - recommendation to approve the project location for a Public Safety Storage Facility south of Fire Station No. 5, on the Municipal Airport property; approve recommended proposed schematic design; and direct staff to proceed with a request for bid process and return with a recommendation for a design/build contract.

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

SPECIAL JOINT MEETING:
1338 42ND STREET

SPECIAL JOINT MEETING WITH THE REDEVELOPMENT AGENCY:

On order of the Mayor, the regular City Council meeting recessed at 11:24 p.m., and reconvened to a joint meeting with the Redevelopment Agency with Mayor Pro Tem Katz absent.

8-C: Proposed acquisition of 1338-42 5th Street - recommendation that City Council authorize the City Manager to execute a Letter of Intent to acquire the property located at 1338-42 5th Street, and to negotiate and

execute Purchase and Sale Agreement No. 8683 (CCS) and other related documents; adopt Resolution No. 10197 (CCS) entitled: "A RESOLUTION OF THE CITY OF SANTA MONICA FINDING THE USE OF FUNDS FOR ACQUISITION OF THE PROPERTY IS OF BENEFIT TO THE EARTHQUAKE RECOVERY REDEVELOPMENT PROJECT AREA"; authorize the City Manager to execute Cooperation Agreement No. 8684 (CCS) with the Redevelopment Agency to acquire the property. Recommendation that the Redevelopment Agency adopt Resolution No. (499 (RAS) entitled: "A RESOLUTION OF THE REDEVELOPMENT AGENCY FINDING THE USE OF FUNDS FOR ACQUISITION OF THE PROPERTY IS OF BENEFIT TO THE EARTHQUAKE RECOVERY REDEVELOPMENT PROJECT AREA"; authorize the Executive Director to execute Cooperation Agreement No. 8684 (RAS) with the City to acquire the property, was presented.

There was no one present for public comment.

Motion by Councilmember O'Connor, seconded by Councilmember Genser, to authorize the City Manager to execute a Letter of Intent to acquire the property located at 1338-42 5th Street, and to negotiate and execute Purchase and Sale Agreement No. 8683 (CCS) and other related documents; adopt Resolution No. 10197 (CCS) reading by title only and waiving further reading thereof, and authorize the City Manager to execute Cooperation Agreement No. 8684 (CCS). The motion was approved by the following vote:

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

Motion by Agency Member O'Connor, seconded by Agency Member Genser, adopt Resolution No. (499 (RAS), reading by title only and waiving further reading thereof, and authorize the Executive Director to execute Cooperation Agreement No. 8684 (RAS) with the City to acquire the property. The motion was approved by the following vote:

AYES: Agency Members Holbrook, Shriver, Genser, O'Connor, McKeown, Chair Bloom
NOES: None
ABSENT: Chair Pro Tem Katz

ADJOURNMENT OF

On order of the Mayor, the Special Joint Meeting was adjourned at 11:28

SPECIAL MEETING

p.m., and the regular City Council meeting was reconvened with Mayor Pro Tem Katz absent.

WRITTEN REQUESTS:
CANNABIS DISPENSARY

12-A: Request of Nathan Hamilton to be allowed to open a non-profit medical cannabis dispensary on Main Street in the City of Santa Monica, was presented.

Councilmember O'Connor was excused at 11:35 p.m.

Members of the public Chris Fusco and Mike Feinstein spoke in support of the request.

Member of the public Jenna Linnekens spoke in opposition of the request.

Motion by Councilmember Shriver, seconded by Mayor Bloom, to direct staff to return with information regarding regulations, legality, zoning, enforcement issues and other pertinent information. The motion was approved by voice vote with Councilmember Holbrook voting in opposition, and Mayor Pro Tem Katz and Councilmember O'Connor absent.

COUNCIL ITEMS:
LIAISONS TO BOARDS AND COMMISSIONS

13-A: Appointment of Councilmember Liaisons to Boards and Commissions.

On order of the Mayor, this matter was continued to February 27, 2007.

AGENDA MANAGEMENT

13-B. Request of Mayor Bloom and Mayor Pro Tempore Katz to continue discussion related to agenda management that began at the January 6, 2007, Council Workshop, including length and frequency of meetings and effectiveness of information provided to the Council.

On order of the Mayor, this matter was continued to February 27, 2007.

CONTINGENCY FUNDS

13-C: Request of Mayor Bloom and Mayor Pro Tempore Katz to continue discussion related to uses of Council contingency from the January 6, 2007 Council Workshop.

On order of the Mayor, this matter was continued to February 27, 2007.

PUBLIC INPUT:

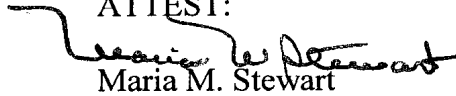
Members of the public Mel Klein, Diana Feinstein, Marlene Gomez, Jenna Linnekens, and Esther Schiller addressed Council on various subjects.

ADJOURNMENT:

On order of the Mayor, the City Council meeting was adjourned at 11:51


p.m.

ATTEST:



Maria M. Stewart
City Clerk

APPROVED:



Richard Bloom
Mayor