

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

OCTOBER 28, 2008

A regular meeting of the Santa Monica City Council was called to order by Mayor Katz at 5:59 p.m., on Tuesday, October 28, 2008, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Herb Katz
Mayor Pro Tem Richard Bloom (arrived at 6:03 p.m.)
Councilmember Ken Genser (arrived at 6:03 p.m.)
Councilmember Robert T. Holbrook
Councilmember Kevin McKeown
Councilmember Pam O'Connor
Councilmember Bobby Shriver (arrived at 6:11 p.m.)

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 5:59 p.m., with Councilmembers Genser, Shriver, and Mayor Pro Tem Bloom absent. Lucy Dyke, Transportation Planning Manager, 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.

Member of the public Joey Fullmer commented on various Consent Calendar items.

Motion by Councilmember McKeown, seconded by Councilmember O'Connor, to approve all items on the Consent Calendar as presented, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

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

MINUTES

1-A: **The minutes** of the October 14, 2008, City Council meeting were approved as submitted.

**MILLS ACT
CONTRACTS**

*Councilmember Genser and
Mayor Pro Tem Bloom
arrived at 6:03 p.m.*

1-B: **Mills Act Contracts – 2617 3rd Street and 2101 La Mesa Drive** – recommendation to adopt Resolution Nos. 10351 and 10352 (CCS) entitled: “A RESOLUTION OF THE CITY OF SANTA MONICA AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE HISTORIC PROPERTY PRESERVATION AGREEMENT No. 8996 (CCS) BETWEEN THE CITY OF SANTA MONICA AND THE PROPERTY OWNERS OF ONE CONTRIBUTING STRUCTURE TO THE THIRD STREET NEIGHBORHOOD HISTORIC DISTRICT AT 2617 THIRD STREET,” and “A RESOLUTION OF THE CITY OF SANTA MONICA AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE HISTORIC PROPERTY PRESERVATION AGREEMENT No. 8997 (CCS) BETWEEN THE CITY OF SANTA MONICA AND THE PROPERTY OWNERS OF ONE DESIGNATED CITY LANDMARK AT 2101 LA MESA DRIVE,” was approved.

**HISTORIC RESOURCES
ANALYSIS**

1-C: **Historic Resources Analysis Contract Amendment** – recommendation to authorize the City Manager to approve an amendment to Contract 8912 (CCS) with PCR Services Corporation, in the amount of \$85,921.70 for a new total amount not to exceed \$204,921.70, to provide historic resources analysis for the City Planning Division, was approved.

125 PACIFIC STREET

1-D: **Resolution No. 10353 (CCS) entitled:** “A RESOLUTION OF THE CITY OF SANTA MONICA APPROVING FINAL TRACT MAP NO. 062922 FOR A NINE-UNIT CONDOMINIUM PROJECT AT 125 PACIFIC STREET,” was adopted.

860 THIRD STREET

1-E: **Statement of Official Action denying appeal of the Planning Commission’s approval of a Tentative Map for construction of a condominium project at 860 Third Street,** was approved.

858 THIRD STREET

1-F: **Statement of Official Action denying appeal of the Planning Commission’s approval of a Tentative Map for construction of a condominium project at 858 Third Street,** was approved.

**MOTOR OIL AND
TRANSMISSION FLUID**

1-G: **Award of bid for Motor Oil and Transmission Fluid** – recommendation to award Bid No. 2950 to Rosemead Oil Products, Inc., in the amount of \$336,000 annually, to provide motor oil and transmission fluid to the Big Blue Bus Department and the Fleet Management Division, was approved.

ANNENBERG COMMUNITY BEACH HOUSE

1-H: **Interpretive Elements for the Annenberg Community Beach House** - recommendation to authorize the City Manager to negotiate and execute Agreement No. 8998 (CCS) in the amount of \$300,000, with Second Story, for development and fabrication of interpretive elements and displays at the Community Beach House, was approved.

PAY-BY-SPACE MACHINES

Councilmember Shriver arrived at 6:11 p.m.

1-I: **Purchase Order for Pay-By-Space Machines in Beach Parking Lots** – recommendation to award purchase order to Digital Payment Technologies, in the amount of \$240,000, to supply and install replacement of pay machines, related parts and accessories at the beach parking facilities, was approved.

CLOSED SESSIONS:

On order of the Mayor, the City Council recessed at 6:12 p.m., to consider closed sessions and reconvened at 7:37 p.m., to report the following action taken:

2-A: **Conference with Legal Counsel – Existing Litigation: In the Matter of Compliance with Federal Obligations by the City of Santa Monica, California, FAA Docket No. 16-02-08.**

ACTION: Heard. No reportable action taken.

2-B: **Conference with Legal Counsel – Existing Litigation: United States of America and Peters v. City of Santa Monica, USDC, Case No. CV08-02695 CW(Ex).**

ACTION: Heard. No reportable action taken.

2-C: **Conference with Legal Counsel – Existing Litigation: Smiley v. City of Santa Monica, Case No. BC394492.**

ACTION: Heard. No reportable action taken.

2-D: **Conference with Legal Counsel – Existing Litigation: Larry Gulihur v. City of Santa Monica, Superior Court Case Number SC 095055.**

ACTION: Not Heard.

2-E: **Anticipated Litigation: Anticipate significant exposure to litigation Pursuant to Government Code Section 54956.9(b): 161 Ocean Park Boulevard.**

ACTION: Heard. No reportable action taken.

2-F: Anticipated Litigation: Anticipate significant exposure to litigation Pursuant to Government Code Section 54956.9(b): 2300 Wilshire.

ACTION: Heard. No reportable action taken.

2-G: Conference with Legal Counsel – Existing Litigation – NMBroadway Studios, LLC v. City of Santa Monica, Case No. BS 110077; Lincoln Studios, LLC v. City of Santa Monica, Case No. BS 110078; Nebraska Studios, LLC v of Santa Monica, Case No. BS 110079.

ACTION: Not Heard.

2-H: Initiation of litigation pursuant to subdivision (c) of Section 54956.9: one case.

ACTION: Not Heard.

**CONTINUED ITEMS:
DONATION TO SAMOHI
CHORAL GROUP**

On order of the Mayor, Items 5-A and 13-F to be heard concurrently.

5-A: Request of Mayor Katz and Mayor Pro Tempore Bloom that Council make a \$15,000 donation on behalf of the City to Santa Monica High School to support the Choral's Spring European Tour in April 2009, was presented.

13-F: Request of Councilmember McKeown that Council make a \$15,000 donation on behalf of the City to the Santa Monica High School Choral Parents Association, which is a sub-division of the Santa Monica High School Band Parents Association (a California non-profit corporation, separate from the school district), to support the Choral Spring European Tour in April 2009, was presented.

Motion by Mayor Pro Tem Bloom, seconded by Councilmember Genser, to approve request using language listed as Item 13-F. The motion was approved by the following vote:

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

**ORDINANCES:
HEDGES, FENCES,
WALLS**

7-A: **Second reading and adoption of Ordinance No. 2276 (CCS) entitled:** "AN ORDINANCE OF THE CITY OF SANTA MONICA MODIFYING THE MUNICIPAL CODE TO MODIFY FENCE, WALL, AND HEDGE STANDARDS, TO GRANDPARENT EXISTING NON-CONFORMING FENCES, WALLS AND HEDGES THAT HAVE BEEN PROPERLY REGISTERED; TO CLARIFY/ESTABLISH CRITERIA FOR THE REPAIR AND REPLACEMENT OF REGISTERED NONCONFORMING FENCES, WALLS AND HEDGES; TO ESTABLISH ADMINISTRATIVE AND DISCRETIONARY HEIGHT MODIFICATION PROCEDURES; TO REQUIRE THE MAINTENANCE OF HEDGES; AND TO SPECIFY A SELF-HELP REMEDY FOR OVERHANGING HEDGES," was presented.

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

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

**TOBACCO PRODUCTS
IN PHARMACIES;
SMOKING IN COMMON
AREAS OF MULTI-RESI-
DENTIAL; TOBACCO
RETAILER LICENSING
PROGRAM**

7-B: **Resolution No. 10354 (CCS) entitled:** "A RESOLUTION OF THE CITY OF SANTA MONICA SUPPORTING LOCAL AND STATEWIDE LAWS THAT PROHIBIT THE SALE AND PROMOTION OF TOBACCO PRODUCTS IN PHARMACIES AND DRUGSTORES IN CALIFORNIA; AND URGING ALL LOCAL PHARMACIES AND DRUGSTORES NOT TO SELL OR PROMOTE TOBACCO PRODUCTS"; **and introduction and first reading of an ordinance amending Chapter 4.44 of the Municipal Code on smoking to prohibit smoking in common areas of multi-unit residential properties; and adding Chapter 4.45 to the Municipal Code to create a tobacco retailer licensing program**, were presented.

Motion by Councilmember Genser, seconded by Mayor Pro Tem Bloom, to trifurcate Item 7-B into the following subjects: Tobacco products in pharmacies; smoking in common areas of multi-residential properties; and, creation of a tobacco retailer licensing program. The motion was approved by the following vote:

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

Members of the public Monty Messex, Alisha Lopez and Roulan Eivazzedah spoke in support of creating a tobacco retailer licensing program.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Bloom, to introduce and hold first reading of the portion of the ordinance adding Chapter 4.45 to the Municipal Code to create a tobacco retailer licensing program, amended to add at the end of subsection 4.45.040(a) the phrase “enforcement and education,” and add a new subsection 4.45.050(c) to read as follows: “Every licence issued under this chapter shall be conditioned upon compliance with all applicable signage and advertising regulations,” and renumbering subsequent subsections. The motion was approved by the following vote:

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

Members of the public Jerry Rubin and Brian Hutchings spoke in support of adopting the proposed resolution supporting laws that prohibit the sale and promotion of tobacco products in pharmacies and drugstores in California.

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

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

The following members of the public spoke in support of prohibiting smoking in common areas of multi-unit residential properties: Trisha Roth, Joey Fullmer, Esther Schiller, Marlene Gomez, Jay Singer, Beth Miller, Charity Colbert, Richard Groff, Robert Tur, Franca Paganucci, Marcia Stein, Billie Beach, Marla Mattenson, Phillip Paley, Myra Morris, Regina Harcourt, Steven Gallegos, Bill Dawson, and Willow Evans.

Jennifer Kennedy and Joel Koury, Rent Control Board Members, and members of the public Bill Dawson and Marty Shapiro spoke in opposition to the prohibition of smoking in common areas.

Motion by Councilmember Shriver, seconded by Councilmember Holbrook, to introduce the remainder of the ordinance amending Chapter 4.44 of the Municipal Code on smoking to prohibit smoking in common areas of multi-unit residential properties.

Discussion ensued regarding the merits of the ordinance, the comments made by members of the public and the need to address related issues including but not limited to: the need to reduce or eliminate chances of evictions while balancing ways to enforce compliance; require some sort of signage; include notification by landlord to tenants, and an affirmative effort by landlord to seriously implement ordinance, though landlord is not required to enforce it; supplement the ordinance with more education; include available mediation services; encourage neighbors to talk to each other; seriously tackle educational need; and ensure that resources are available to help neighbors solve problems.

After considerable discussion, the maker and seconder of the ordinance withdrew the motion.

It was the consensus of Council to direct staff to review the above issues and return with a new ordinance addressing the same, as well as to brief Council on the Calabasas ordinance.

STAFF ITEMS:
MEASURE V
COMMITTEE

Councilmember Holbrook was excused at 11:05 p.m.

8-A: Appointments to Measure V Oversight Committee - recommendation to appoint at least three members to the Oversight Committee. (Continued from October 14, 2008)

There was no one present for public comment.

Motion by Mayor Pro Tem Bloom, seconded by Councilmember Shriver, to appoint Mark Gold, Mark Peacor, and Susan Bracey. The motion was approved by acclamation, with Councilmember Holbrook absent.

TRANSPORTATION
IMPACT FEE

8-B: Report on Transportation Impact Fee - recommendation to review information presented and direct staff as needed.

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

COUNCIL ITEMS:
APPOINTMENTS

13-A: Annual Appointments to Boards and Commissions for terms ending June 30, 2008.

Board/Commission	No. of Appts.	Term Ending
Architectural Review Board	1	6/30/2012
Arts Commission	1	6/30/2012

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

13-B: Appointment to two unscheduled vacancies on the Commission on the Status of Women for terms ending June 30, 2011

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

13-C: Appointment to one unscheduled vacancy on the Social Services Commission for a term ending June 30, 2012.

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

L.A. REGIONAL COLLABORATIVE

13-D: Request of Councilmember Pam O'Connor and Mayor Pro Tem Richard Bloom that the City of Santa Monica sign the Los Angeles Regional Collaborative for Climate Action & Sustainability Charter and instruct the City Manager to support and participate in this worthwhile effort and, further, that the City of Santa Monica encourage other local jurisdictions and key stakeholders throughout Los Angeles County to formally participate in this Collaborative.

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

ECONOMIC UPDATE

13-E: Request of Mayor Pro Tem Bloom and Mayor Katz that the City Manager present the City Council and community with an update on economic matters of concern to the City of Santa Monica, including analysis of short and long term economic trends and their impact on the City's economy, recent Federal legislation to address the banking and credit industries and the recently adopted State budget.

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

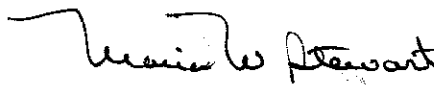
PUBLIC INPUT:

Members of the public Pro Se, M. Ross, Art Casillas, Brian Hutchings, and George Winters commented on various local issues.

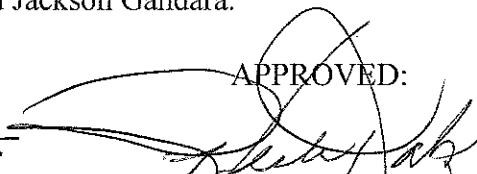
ADJOURNMENT:

On order of the Mayor, the City Council meeting was adjourned at 11:23 p.m., in memory of Griff Lysle Hoerner, Veteran Mubarak Rashid, Patricia Faure, and Edward Jackson Gandara.

ATTEST:


Maria M. Stewart
City Clerk

APPROVED:


Herb Katz
Mayor