

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

JUNE 30, 2009

A special meeting of the Santa Monica City Council was called to order by Mayor Genser at 5:55 p.m., on Tuesday, June 30, 2009, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Ken Genser
Mayor Pro Tem Pam O'Connor (arrived at 6:21 p.m.)
Councilmember Richard Bloom
Councilmember Gleam Davis
Councilmember Robert T. Holbrook

Absent: Councilmember Kevin McKeown
Councilmember Bobby Shriver

Also Present: City Manager P. Lamont Ewell
City Attorney Marsha Jones Moutrie
Assistant City Clerk Beth Sanchez

CONVENE/PLEDGE On order of the Mayor, the City Council convened at 5:53 p.m., with Mayor Pro Tem O'Connor, Councilmember McKeown, and Councilmember Shriver absent. Mr. Barry Seid 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 and Pro Se commented on various Consent Calendar items.

Motion by Councilmember Holbrook, seconded by Councilmember Davis, 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 Davis, Holbrook, Bloom, Mayor Genser
NOES: None
ABSENT: Councilmembers McKeown, Shriver, Mayor Pro Tem O'Connor

DARK FIBER LEASE

1-A: **Dark Fiber Lease** – recommendation to authorize the City Manager to negotiate and execute Contract No. 9081 (CCS) with Abovenet Communications Inc., for the lease of dark fiber in an amount not to exceed \$302,700.00 over a five year term, was approved.

CREDIT CARD PROCESSING SERVICES

1-B: **Credit Card Processing Services** - recommendation to authorize the City Manager to reinstate Contract No. 9082 (CCS) with Transfirst, LLC, to provide credit card payment processing services to the City for payments by members of the public to the City for fees and services and to extend the term of the contract to December 31, 2009, was approved.

LOBBYING SERVICES

1-C: **Federal representative and lobbying services** – recommendation to authorize the City Manager to execute a modification to Contract No. 8942 (CCS) with The Ferguson Group, LLC, in the amount of \$389,350, to extend the contract term from one year to five years, was approved.

LABOR AND EMPLOYMENT LAW

1-D: **Legal services for assistance with labor and employment law** – recommendation to authorize the City Manager to negotiate and execute retainer Agreement No. 9083 (CCS) with Atkinson, Adelson, Loya, Ruud & Romo Law Firm, in the amount of \$100,000; and Agreement No. 9084 (CCS) with Liebert Cassidy Whitmore, in the amount of \$140,000, for assistance with workplace investigations, labor and employment law, both for FY 2009-2010, was approved.

EXECUTIVE PAY PLAN

1-E: **Resolution No. 10414 (CCS) entitled: “A RESOLUTION OF THE CITY OF SANTA MONICA AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE EXECUTIVE PAY PLAN”**, was adopted.

**REDEVELOPMENT AGENCY
PARKING STRUCTURES 1 AND 6**

On order of the Mayor, the regular City Council meeting recessed to a joint meeting with the Redevelopment Agency at 6:00 p.m., with Councilmembers McKeown and Shriver, and Mayor Pro Tem O’Connor absent.

1-F: **Design-Build Contract for Parking Structures 1 and 6** – recommendation that the City Council/Redevelopment Agency authorize the City Manager/Executive Director to negotiate and execute design-build Contract No. 9085 (CCS/RAS) for preconstruction services with Morley Construction Company for the demolition and rebuilding of Parking Structures 1 and 6 in an amount not to exceed \$195,000, was presented.

There was no one present for public comment.

Motion by Council/Agency Member Bloom, seconded by Mayor/Chair Genser to approve recommendation. The motion was approved by the following vote:

AYES: Council / Agency Members Davis, Holbrook, Bloom,
Mayor / Chair Genser
NOES: None
ABSENT: Council / Agency Members McKeown, Shriver, Mayor
Pro Tem / Chair Pro Tem O'Connor

ADJOURNMENT

On order of the Mayor, the special joint meeting with the Redevelopment Agency was adjourned at 6:01 p.m., and the regular Council meeting was reconvened with Councilmembers McKeown and Shriver, and Mayor Pro Tem O'Connor absent.

CLOSED SESSIONS:

*Mayor Pro Tem O'Connor
arrived at 6:21 p.m.*

Member of the public Pro Se commented on various Closed Session items.

On order of the Mayor, the City Council recessed at 6:18 p.m., to consider closed sessions and reconvened at 7:45 p.m., with Councilmembers McKeown and Shriver absent, to report the following:

2-A: Anticipated Litigation: Initiation of Litigation pursuant to Section 54956.9c (California Regional Water Quality Control Board, Clean Up and Abatement Order No. R4-2008-0034, Former Gillette Paper Mate facility, 1681 26th Street, Santa Monica, CA.)

ACTION: Heard. No reportable action taken.

2-B: Conference with Legal Counsel – Anticipated Litigation: Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9 (b) (1): two cases.

ACTION: Heard. No reportable action taken.

2-C: Conference with real property negotiator (Govt. Code section 54956.8):

Property: (3 parcels seaward of the 1921 Mean High Tide Line and adjacent to 850 Palisades Beach Road

City negotiator: Andy Agle

Negotiating parties: City and Jonathan Club

Under negotiation: Lease pricing and terms

ACTION: Heard. No reportable action taken.

2-D: Conference with Legal Counsel – Anticipated Litigation: Initiation of litigation pursuant to Section 54956.9c (initiation of 1 case to collect transient occupancy taxes owing from on-line booking companies; retention of counsel).

The City Attorney advised that Paul Kiesel and Russell Budd were retained as outside legal counsel to represent the City in the above case.

2-E: Conference with Legal Counsel – Anticipated Litigation: Initiation of litigation pursuant to Government Code Section 54956.9[c].: regarding the vacant property at 521 Marine.

ACTION: Heard. No reportable action taken.

2-F: Conference with Legal Counsel – Existing Litigation: Oshiro v. City of Santa Monica, Case No. CV 08-07035 SJO.

ACTION: Heard. No reportable action taken.

2-G: Conference with Legal Counsel: Anticipated Litigation: Claim of Young Shim Son v. City of Santa Monica, Claim No. 09-7034.

The City Attorney advised that this was a claim for damages as a result of a sewer back up.

Motion by Mayor Pro Tem O'Connor, seconded by Councilmember Davis to settle the claim in the amount of \$41,310.73. The motion was approved by the following vote:

AYES: Councilmembers Bloom, Holbrook, Davis, Mayor Pro Tem O'Connor, Mayor Genser

NOES: None

ABSENT: Councilmembers Shriver, McKeown

**ORDINANCES:
SOLAR ENERGY
SYSTEMS**

7-A: Introduction and first reading an ordinance amending Santa Monica Municipal Code Sections 9.04.10.02.220, 9.04.10.02.030, 9.04.10.02.070, 9.04.10.02.140, and 9.04.10.02.180 pertaining to Solar Energy Systems Design Standards and related provisions to facilitate the installation of Solar Energy Systems, was presented.

The following members of the public spoke generally in support of the Ordinance with the deletion of the paragraph related to the installation of

solar collector panels in the location that is the least visible from abutting streets directly facing the subject property: Nancy Whang, Alexandra Kravetz, Mary Luevano Angie Brooks, Janet M. Gagnon, Herb Mendelsohn, Ted Bavin, Jerry Rubin, Michael Lewis, Mark Smith, Zoe Starr, Jesse Raynes, Will Wright, and Jesse Bornstein. Member of the public Zina Josephs spoke in support of the Ordinance.

Members of the public Joey Fullmer, Evelyn Salem and Ariyan Parvaresh spoke on various solar issues.

Motion by Mayor Genser, seconded by Councilmember Bloom to introduce ordinance for first reading.

Motion to amend by Council O'Connor to provide general direction to staff to include the Green House Gas Goals in the Land Use Plan Update, staff to develop guidelines and periodically update them to adapt to new technology as it evolves, that there will be some analysis of the success or lack of success of this Ordinance with a report back to Council, Architectural Review Board, Environmental Task Force, and the Planning Commission, with the opportunity for public discussion, within one year of adoption of the Ordinance. The motion was accepted as friendly by the maker and seconder.

The motion was approved by the following vote:

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

**TAXICAB
MORATORIUM**

7-B: Introduction and first reading of ordinance amending Chapter 6.48 of Article VI of the Municipal Code relating to vehicles for hire; adding Chapter 6.49 to establish taxicab franchises; and amending Sections 6.04.110, 6.04.160, 6.04.170, 6.04.220, 6.08.210, 6.12.010, and 6.14.080 regarding taxicabs, was presented.

The following members of the public spoke in support of the proposed taxicab franchise ordinance, including support of senior discounts, and support of the Green Taxi Program: Rose Kaufman, Grace Cheng Braun, Barry Seid, M. Ross, Tom Drischler, Martin Shatakhyam, Don Alexander, Jelena Maslovavic, and William Rouse.

The following members of the public spoke in support of the proposed taxicab franchise ordinance with various changes including, but not limited to, provide for different meter rates than the Los Angeles' rate, remove the

requirement that criteria for franchise proposals include consideration of driver infractions, include a local preference for Santa Monica businesses, and decrease the amount required for franchise and taxi payments: Kevin Aghayau, Fuad Saneh, Kyle Downs, Wendy Radwan, Steven Taylor, Ayman Radwan, and Melese Adamu.

The following members of the public spoke in support of taxicab regulations, including but not limited to medallion systems, but in opposition to the taxicab franchise as presented: Sentayehn G. Silassci, Betty Hung, and David Shapiro.

Motion by Councilmember Bloom, seconded by Councilmember Davis, to introduce ordinance, amended to include: adding the local preference criteria for the competitive Request for Proposals (RFP) process; the depth of the discount offered to seniors and persons with mobility impairments; that every successful bidder accept credit cards; that health and other benefits provided to employees be part of the consideration when evaluating franchisees; include in Section 6.49.060(b) a prohibition against using a name or identification in an advertisement used by another taxicab franchisee in such a manner as to be misleading or to tend to confuse or defraud the public; include wording in Section 6.49.040(b) to specify particularly safety violations by the driver; to address special regulations to limit access to the Pier in the implementing rules and regulations; and, include training of drivers in local programs as part of the bid criteria.

In order to meet the goals expressed during the discussion, the City Attorney proposed the following language to the Ordinance: Amend Section 6.49.040(b): “record of violations by the bidder or bidder’s drivers of federal, state or local law, and rules and regulations relating to taxicab operations, particularly safety violations; extra services available to the public, including discounts for seniors and those with disabilities; and benefits available to drivers and employees. Additionally, there shall be a preference for local bidders.” Add the words “training and” to read “driver training and qualifications;”; and, add Subsection (c) to Section 6.49.060 which reads: “No person who drives or operates a taxicab shall use a name that imitates a name used by another person who drives or operates a taxicab in such a manner as to be misleading or tend to confuse or defraud the public.”

The maker and seconder of the motion incorporated the City Attorney’s proposed language into the motion.

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

AYES: Councilmembers Bloom, Hobrook, Davis, Mayor Pro Tem O’Connor, Mayor Genser

NOES: None
ABSENT: Councilmembers Shriver, McKeown

STAFF ITEMS:
**SUSTAINABLE CITY
PLAN**

8-A: Sustainable City Plan Implementation Plan-Phase 2 Developed by the Sustainable City Task Force – recommendation to: adopt the Sustainable City Plan Implementation Plan- Phase 2 developed by the Sustainable City Task Force; and adopt the Task Force’s recommendation to create a Sustainability Working group and direct staff to identify sustainability liaisons within appropriate Boards and Commissions, was presented.

Members of the public Joey Fullmer, Catherine Eldridge, and Zina Josephs expressed their concerns with the proposed plan.

On order of the Mayor, and with consensus of Council, staff was directed to comprehensively review the current structure of the Task Force on the Environment, and the Sustainability Task Force, to return with options for a structure for Council discussion, and that the resulting body’s activities would be covered and subject to the Brown Act.

Motion by Mayor Pro Tem O’Connor, seconded by Bloom, to adopt the Sustainable City Plan Implementation Plan - Phase 2. The motion was approved by the following vote:

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

COUNCIL ITEMS:
RESIGNATION

13-A: Recommendation to accept Frederick Dewey’s resignation from the Arts Commission and authorize the City Clerk to publish the vacancy.

Motion by Mayor Genser, seconded by Mayor Pro Tem O’Connor, to accept resignation with regret and authorize the Clerk to publish the vacancy. The motion was unanimously approved by voice vote, with Councilmembers Shriver and McKeown absent.

**RESCIND
APPOINTMENT**

13-B: Request to rescind appointment made on June 23, 2009, to the Disabilities Commission due to the recent death of Commissioner Samuel Genensky.

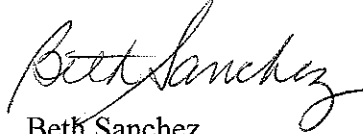
Motion by Mayor Genser, seconded by Mayor Pro Tem O’Connor, to rescind appointment with great regret and sadness. The motion was

unanimously approved by voice vote, with Councilmembers Shriver and McKeown absent.

ADJOURNMENT:

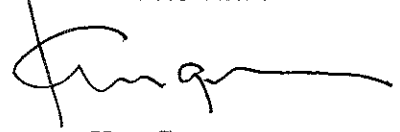
On order of the Mayor, the City Council meeting was adjourned at 11:18 p.m. to July 14, 2009, in memory of Samuel Genensky, Carl Stephen Tarquino, and Sylvia Levin.

ATTEST:



Beth Sanchez
Assistant City Clerk

APPROVED:



Ken Genser
Mayor