

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

OCTOBER 27, 2009

A regular meeting of the Santa Monica City Council was called to order by Mayor Genser at 5:53 p.m., on Tuesday, October 27, 2009, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Ken Genser
Mayor Pro Tem Pam O'Connor (arrived at 6:20 p.m.)
Councilmember Richard Bloom
Councilmember Gleam Davis
Councilmember Robert T. Holbrook
Councilmember Kevin McKeown
Councilmember Bobby Shriver (arrived at 7:00 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 5:53 p.m., with Councilmember Shriver and Mayor Pro Tem O'Connor absent. Councilmember McKeown 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.

At the request of Councilmember Davis, Item 1-H was removed from the Consent Calendar

Motion by Councilmember McKeown, seconded by Councilmember Davis, to approve all items on the Consent Calendar as presented except Item 1-H, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers McKeown, Davis, Holbrook, Bloom,

Mayor Genser
NOES: None
ABSENT: Councilmember Shriver, Mayor Pro Tem O'Connor

MINUTES

1-A: The **minutes** of the October 13, 2009, regular City Council meeting were approved as submitted.

GRANT FUNDS

1-B: **State Homeland Security Grant Funds** – recommendation to authorize the City Manager to execute grant Agreement Nos. 9133 (CCS) and 9134 (CCS), to accept no match FY2008 State Homeland Security Grant Program and 2008 Urban Area Security Initiative grant funds; authorize proposed appropriation of funds; and establish revenue accounts for receipt reimbursements, was approved.

**MILLS ACT
CONTRACTS**

1-C: **Mills Act Contracts at 514 Palisades Avenue, 2219 Ocean Avenue, 405 Palisades Avenue, 236 Adelaide Drive and 3018 Third Street; and, an amendment to an existing Mills Act Contract at 2612 Third Street** – recommendation to adopt Resolution Nos. 10430 (CCS) through 10435 (CCS) authorizing the City Manager to negotiate and execute Historic Property Preservation Agreement Nos. 9135 (CCS) through 9139 (CCS) (Mills Act Contracts) between the City of Santa Monica and the property owners of four designated City Landmarks at 514 Palisades Avenue, 2219 Ocean Avenue, 405 Palisades Avenue and 236 Adelaide Drive, one Structure of Merit at 3018 Third Street and an amendment to an existing Mills Act Contract No. 8173 (CCS) for a Contributing Structure in the Third Street Neighborhood Historic District located at 2617 Third Street, was approved.

TEMPORARY SERVICES

1-D: **Staffing Services with Temporary Staffing Agencies** – recommendation to authorize the Finance Department's Purchasing Section to issue purchase orders for staffing services with temporary staffing agencies, was approved.

**TRAFFIC MANAGE-
MENT SYSTEM**

1-E: **Advanced Traffic Management System Project** - recommendation to authorize the City Manager to negotiate and execute Contract No. 9140 (CCS) with Iteris, Inc. for an amount not to exceed \$320,000, to provide project design services for the preparation of plans, specifications and estimates for the installation of the communication infrastructure for the Advanced Traffic Management System, Phases 4a and 4b (ATMS-4ab), was approved.

SANTA MONICA

1-F: **Stimulus funded Santa Monica Boulevard Resurfacing Phase**

**BOULEVARD
RESURFACING**

2 – recommendation to authorize the City Manager to negotiate and execute Contract No. 9141 (CCS) with All American Asphalt, in the amount of \$613,307; construction management Agreement No. 9142 (CCS) with Tetra Tech in the amount of \$61,000; and authorize budget changes to establish budget in revenue account and appropriate funding in capital project expenditure account, was approved.

**CITY HALL RETROFIT
PROJECT**

1-G: **City Hall Seismic Retrofit and Jail Tenant Improvement and New Data Center Projects** – recommendation to authorize the City Manager to negotiate and execute: Contract No. 9143 (CCS) with West Valley Investment Group, Inc., in the amount of \$3,834,325, for the City Hall Seismic Retrofit and Jail Tenant Improvement (TI); a ninth modification to Contract No. 8529 (CCS) with Black and Veatch for the City Hall Seismic Retrofit Project in the amount of \$580,429 for a revised contract total of \$2,783,048; a seventh modification to Contract No. 8725 (CCS) with Black and Veatch for the HVAC Replacement Project for \$55,938 for a revised contract total of \$461,453; and Design/Build Contract No. 9144 (CCS) with Data Specialties, Inc., in the amount of \$727,504 for the new City Hall Data Center, was approved.

**SALE OF STATE
PROPERTY TAX**

1-I: **Sale of City's FY2009-10 Property Tax Receivable from the State** – recommendation to adopt Resolution No. 10436 (CCS) entitled "A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF PURCHASE AND SALE AGREEMENT NO. 9145 (CCS) AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH," was approved.

COUNSEL SERVICES

1-J: **Bond Counsel Services** – recommendation to authorize the City Manager to negotiate and execute Agreement No. 9146 (CCS) with Stradling, Yocca, Carlson, and Rauth, in the amount of \$80,000 for a total of \$150,000, for legal services related to the issuance of debt financing by the City, was approved.

INSURANCE PREMIUMS

1-K: **Annual Premiums to Prudential Insurance Company of America for Employee Insurances** - recommendation to approve payment of annual premiums for the City's group life and long-term disability insurance plan with Prudential Insurance Company of America was, approved.

1012 2ND STREET

1-H: **Statement of Official Action taken for appeals related to**

property located at 1012 2nd Street – recommendation to approve Statement of Official Action denying Appeals 09APP-004, 09APP-005, and 09APP-006 and upholding the decision of the Planning Commission to approve Variance and Vesting Tentative Parcel Map to allow the construction of a four-unit condominium project at 1012 Second Street, was presented.

Councilmember Davis advised that she removed this item from the Consent Calendar in order to abstain from the vote because she heard this matter while sitting on the Planning Commission.

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

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

CLOSED SESSIONS:

*Mayor Pro Tem O'Connor
arrived at 6:20 p.m.*

*Councilmember Shriver
arrived at 7:00 p.m.*

Member of the public Denise Barton commented on various litigation cases.

On order of the Mayor, the City Council recessed at 6:12 p.m., to consider closed sessions and returned at 7:39 p.m., to report the following action taken:

**2-A: Public Employee Appointment.
Title: City Manager**

ACTION: Heard. No reportable action taken.

2-B: Anticipated Litigation: Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9 (b)(1): Makai Restaurant, 101 Broadway, Case Number BS-09COM0078 (Administrative Proceeding).

ACTION: Not Heard.

2-C: 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, the former Gillette Paper Mate facility, 1681 26th Street, Santa Monica, CA.

ACTION: Not Heard.

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

ACTION: Not Heard.

**ORDINANCES:
DRIVEWAYS;
HAZARDOUS
OBSTRUCTIONS**

7-A: Second reading and adoption of Ordinance No. 2298 (CCS) entitled, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SECTIONS 9.04.10.02.090, 9.04.10.08.070, 9.04.10.08.100, AND 9.04.10.08.190 OF THE SANTA MONICA MUNICIPAL CODE RELATED TO THE NUMBER AND TYPE OF DRIVEWAYS REQUIRED FOR PARKING LOTS AND STRUCTURES WITH MORE THAN 40 SPACES, HAZARDOUS VISUAL OBSTRUCTION MITIGATIONS, ALLOWABLE NUMBER OF PARKING MANEUVERS, PARKING ACCESS IN ALL DISTRICTS, AND GARAGE DOOR WIDTH IN THE FRONT ONE-HALF OF PARCELS,” was presented.

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

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

**DEVELOPMENT
STANDARDS**

7-B: Introduction and first reading of an interim ordinance extending the interim ordinance that modifies property development standards in the OP-4 Ocean Park High Multiple Residential District relating to sideyard setback and open space requirements until November 10, 2011, was presented.

Member of the public Brian Hutchings commented on the proposed ordinance.

Motion by Councilmember Holbrook, seconded by Councilmember Davis, to introduce ordinance for first reading, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

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

CAT DECLAWING BAN 7-C: Introduction and first reading of an ordinance adding section 4.04.275 to the Santa Monica Municipal Code banning onychectomy and flexor tenonectomy (declawing) procedures, was presented.

The following members of the public spoke in support of the proposed ordinance: Joey Fullmer, Melvin Ross, Jim Jensvold, Bill Dyer, Jenny Rubin, Erika Willhite, Taimie Bryant, Leah Allers, Amanda Cunningham, Brandy Ferdig, Cheryl Couch, Willow Evans, Dr. Armaiti May, Abby Elliott, Jennifer Conrad, Jackson Galaxy, Dr. Jean Hofve, Dr. Annie Harvillis, Dr. Ken Jones, Christi Metropole, Dr. Nada Khalaf, Ruth Olafsdottir, David Harvillis, Cindy Valdes, David Marroquin, and Jack Walter.

The following members of the public spoke in opposition of the proposed ordinance: Mark Nunez, Dave Weissman, Ed Boks, and Dr. Peter Weinstein.

Considerable discussion ensued on the merits of the ordinance and on the comments made by members of the public.

Motion by Councilmember McKeown, seconded by Councilmember Davis, to introduce the ordinance amended to reflect City Attorney's suggestion of adding the phrase "or condemned" to one of the "whereas" clauses in the ordinance to read: "Whereas, at least twenty-one European countries have concluded that declawing cats is inhumane and have therefore banned or condemned the procedure," reading by title only and waiving further reading thereof.

Motion to amend by Councilmember Bloom, seconded by Councilmember Shriver, to add to the ordinance two additional provisions: allow declawing procedures in order to prevent the abandonment, relinquishment, or euthanasia of a cat, only after the

veterinarian provides counseling regarding non-surgical alternatives; and no licensed medical professional shall offer declawing as part of a promotional or discounted service, alone or in conjunction with any other surgical, medical or non-medical procedure. The motion to amend failed by the following vote:

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

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

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

Councilmember Bloom stated, for the record, that the no vote should not be interpreted as supporting the unnecessary declawing of cats and that he believed the motion passed will lead to the unnecessary deaths of cats through relinquishment and euthanasia and that was why he opposed it.

STAFF ITEMS:
EXPOSITION LIGHT
RAIL PHASE 2

8-A: Exposition Light Rail Phase 2 Maintenance Facility Update – recommendation to authorize the City Manager to further explore and mitigate the effects of the proposed Exposition Light Rail maintenance facility including the proposed alternative concept hybrid maintenance facility site; request the Exposition Construction Authority (Expo) work with the City to ensure that any environmental impacts associated with the hybrid concept are fully mitigated; to work with Expo and other agencies on layout and financial issues associated with the newly proposed hybrid alternative; to analyze options and work with Expo to meet applicable relocation needs for SMC; work with SMC on the identification of property on Airport residual land as replacement parking; and to work with Expo to develop any necessary agreements regarding the hybrid site if adopted by the Expo Board, and adjust the final budget for the Expo Phase 2 project as appropriate, was presented.

The following members of the public spoke in opposition to the proposed project: John Chubbaro, Catherine Eldrige, Christel Anderson, Ruth Sarnoff, Gregg Heacock, Sarah Devine Ponthier, Maria Loya, Nina Path, Eleanor Path, Chris McLeod, Zina Josephs, Marcia Zimmer, Michael Tarbet, and Brian Hutchings.

The following members of the public spoke in favor of the proposed project: Jerry Rubin and Darrell Clarke.

Considerable discussion ensued on the proposed location for the facility and mitigation effects, the comments from members of the public, and the City's position given the shifting of plans of including a paint/body shop in the facility by the Expo Board.

Motion by Mayor Genser, seconded by Councilmember Davis, to approve recommendation with direction to staff to: do independent review of CEQA options and report back to Council; to work diligently to ensure that a paint and body shop will not be located on the site; work to have a process that allows meaningful community input into the design of the yard prior to the matter being considered by the Expo Board; to understand or get a recommendation from Expo Staff to its Board what standards of mitigation will be designed in terms of noise, light, and glare so Council and the public can assess effectiveness of mitigations before the matter is considered by the Expo Board; to clarify the expenditure from the City and provide information to compare the difference in uses to evaluate the impact on the neighborhood and determine if the expenditure is worthwhile; to provide a comparison of the original plan's impacts compared to the hybrid site and possible mitigation measures; ensure that the Expo Authority is committing sufficient resources to mitigate impacts to the neighborhood; and direct staff to analyze CEQA needs due to the changes. In addition, legal staff to do an analysis as soon as possible and return to Council on what additional CEQA efforts are needed, if any, given the changes/additions to the plan so that Council may discuss whether to take a position with the Expo Board on the result of the analysis. The motion was unanimously approved by voice vote with all members present.

**MOTION TO CONTINUE
PAST 11:00 P.M.**

Motion by Mayor Genser, seconded by Councilmember Davis, to continue with the agenda. The motion was approved by voice vote with Councilmembers Shriver and Holbrook voting in opposition.

**STOREFRONT BICYCLE
CENTER**

*Councilmember Bloom was
excused at 12:11 a.m.*

*Councilmember Shriver was
excused at 12:12 a.m.*

8-B: Grant Transfer for Downtown Storefront Bicycle Center - recommendation to direct staff to request approval from Metro to apply grant funds awarded for a Downtown Storefront Bicycle Center in Parking Structure 2 to a comparable facility in Santa Monica Place Parking Structures 7 and 8, was presented.

There was no one present for public comment.

Councilmember Holbrook was excused at 12:14 a.m.

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

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

1654 19TH STREET

Councilmember Holbrook returned at 12:16 a.m.

8-C: Acquisition of property at 1654 19th Street – recommendation to authorize the City Manager to exercise the purchase option of Lease No. 8947 (CCS) between the City and Guntram and Liane Ossa Trust for the property located at 1654 19th Street and to negotiate and execute the purchase documents relating to the acquisition of the property for \$3.2 million, plus closing costs; and to appropriate \$350,000 as proposed, was presented.

There was no one present for public comment.

Motion by Mayor Pro Tem O'Connor, seconded by Councilmember McKeown, to approve recommendation. The motion was approved by the following vote:

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

WRITTEN COMMUNICATIONS: ZONING VARIANCE

Councilmember Holbrook was excused at 12:40 a.m.

12-A: Request of Judith Cooper Eton that Council grant a zoning variance or a conditional use permit to operate an herbal and holistic medicine pharmacy, was presented by Judith Cooper Eton.

Members of the public Barry Eton, Harriet Simon and Brian Hutchings spoke in support of the request.

After discussion, on order of the Mayor, the information was received and filed.

13-A: Annual Appointments to Boards and Commissions.

Board/Commission	No. of Appts.	Terms Ending
Accessibility Appeals Board	2	06/30/2013
Personnel Board	1	06/30/2014

On order of the Mayor, the floor was opened for nominations to the Accessibility Appeals Board.

Mayor Genser nominated Michael Allen Hansel. There being no other nominations, Mr. Hansel was appointed by acclamation, with Councilmembers Holbrook, Shriver and Bloom absent.

On order of the Mayor, the second vacancy was continued to the next meeting.

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

Councilmember McKeown nominated Eve Brosnahan. There being no other nominations, Ms. Brosnahan was appointed by acclamation, with Councilmembers Holbrook, Shriver and Bloom absent.

**UNSCHEDULED
VACANCY**

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

Member of the public, and applicant Gregg Heacock, spoke in support of being nominated.

Councilmember McKeown nominated Anthony Yannatta. There being no other nominations, Mr. Yannatta was appointed by acclamation, with Councilmembers Holbrook, Shriver and Bloom absent.

**URBAN FOREST TASK
FORCE APPOINTMENT**

13-C: Recommendation to rescind previous appointment to the Urban Forest Master Plan Task Force and make new appointment to vacancy.

Member of the public Brian Hutchings commented on the Task Force charges.

Motion by Mayor Pro Tem O'Connor, seconded by Mayor Genser, to rescind nomination of Angie Coyier. The motion was unanimously approved by voice vote, with Councilmembers Holbrook, Shriver and Bloom absent.

Mayor Pro Tem O'Connor nominated Tom Cleys.

Mayor Genser nominated Brian Varnum.

On a call for the vote neither nominee was appointed:

Cleys: Mayor Pro Tem O'Connor, Councilmember Davis
Varnum: Councilmember McKeown, Mayor Genser

Mayor Genser and Councilmember McKeown requested to change their votes in favor of Mr. Cleys thereby unanimously appointing Mr. Cleys to the vacancy with Councilmembers Holbrook, Shriver and Bloom absent.

A DAY WITHOUT A BAG 13-D: Request of Councilmember McKeown, on behalf of Heal the Bay, that the Council adopt Resolution No. 10437 (CCS) entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA RECOGNIZING THE THIRD THURSDAY OF DECEMBER 2009 AS A DAY WITHOUT A BAG THROUGHOUT THE CITY OF SANTA MONICA," was presented.

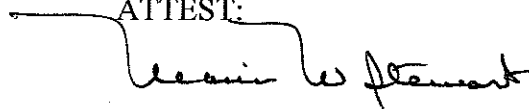
Motion by Councilmember McKeown, seconded by Councilmember Davis, to adopt resolution, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

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

ADJOURNMENT:

On order of the Mayor, the City Council meeting was adjourned at 12:50 a.m. in memory of Vera Marlene Willis.

ATTEST:



Maria M. Stewart
City Clerk

APPROVED:



Ken Genser
Mayor