

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**OCTOBER 10, 2017**

A regular meeting of the Santa Monica City Council was called to order by Mayor Winterer at 5:33 pm, on Tuesday, October 10, 2017, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Ted Winterer  
Mayor Pro Tem Glean Davis  
Councilmember Sue Himmelrich  
Councilmember Kevin McKeown  
Councilmember Terry O'Day  
Councilmember Tony Vazquez

Absent: Councilmember Pam O'Connor

Also Present: City Manager Rick Cole  
City Attorney Lane Dilg  
City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE**

On order of the Mayor, the City Council convened at 5:33 p.m., with all members present except Councilmember O'Connor. Assistant City Manager Katie Lichtig led the assemblage in the Pledge of Allegiance.

**EMERGENCY ITEM**

The City Attorney advised Council to consider adding an additional item to Closed Session titled Kate Scott and James Bibinski vs. City Council for the City of Santa Monica, U.S. District Court Case No. 177329, where the Judge has issued multiple orders in the last 72 hours, including one today, and requested that this item be added to the agenda, which would require a two-thirds vote.

Councilmember McKeown stated for the record clarification that this matter came up too late to be placed on the agenda in the usual timeframe, and therefore under State law, Council can take a vote to add this to the agenda.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to add Kate Scott and James Bibinski vs. City Council for the City of Santa Monica to Closed Session items.

The motion was approved by the following vote:

AYES: Councilmembers O'Day, Himmelrich, Vazquez, McKeown,  
Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: Councilmember O'Connor

## CLOSED SESSIONS

There was no one present for public comment on closed sessions.

On order of the Mayor, the City Council recessed at 5:36 p.m., to consider closed sessions and returned at 6:50 p.m., with Councilmember O'Connor absent, to report the following:

### **1.A. Conference with Labor Negotiator-City Negotiator: Donna C. Peter, Director of Human Resources-Bargaining Unit: SMART-TD**

The City Attorney advised this matter was heard with no reportable action taken.

### **1.B. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Young v. City of Santa Monica, Los Angeles Superior Court Case Number BC 616 060**

The City Attorney advised Ms. Young filed civil litigation after she fell on the sidewalk in front of 716 25<sup>th</sup> Street. She sustained injuries that she has stated have impacted her ability to perform life activities. Following two mediations, recommendation for a settlement in the amount of \$350,000.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to approve Settlement Agreement No. 10564 (CCS), in the amount of \$350,000. The motion was approved by the following vote:

AYES: Councilmembers McKeown, Vazquez, Himmelrich, O'Day,  
Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: Councilmember O'Connor

### **1.C. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Segal v. City of Santa Monica, Los Angeles Superior Court Case Number BC 599 607**

The City Attorney advised Ms. Segal filed civil litigation after falling on the sidewalk in front of 843 4<sup>th</sup> Street and sustaining injuries that she has stated have impacted her ability to return to work. Following mediation, recommendation for a settlement in the amount of \$120,000.

Motion by Mayor Pro Tem Davis, seconded by Councilmember O'Day, to approve Settlement Agreement No. 10565 (CCS), in the amount of \$120,000. The motion was approved by the following vote:

AYES: Councilmembers O'Day, Himmelrich, Vazquez, McKeown,  
Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: Councilmember O'Connor

**1.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Airbnb, Inc. and Homeaway.com, Inc. v. City of Santa Monica, United States District Court, Central District of California, Western Division, Case Numbers 2:16-cv-6645, 2:16-cv-6641.**

The City Attorney advised this matter was heard with no reportable action taken.

**1.E. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Atwood v. City of Santa Monica et al, United States District Court, Central District of California, Western Division, Case Numbers 2:16-cv-04114-PA-AGR**

The City Attorney advised this matter was not heard.

**1.F. Conference with Legal Counsel – Anticipated Litigation – Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): 1 case**

The City Attorney advised this matter was heard with no reportable action taken.

**1.G. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Masterpiece Cakeshop, Ltd., et al, Petitioners v. Colorado Civil Rights Commission, et al., U. S. Supreme Court No. 16-111**

The City Attorney advised this matter was heard with no reportable action taken.

**1.H. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code**

**Section 54956.9(d)(1): Pico Neighborhood Association, Maria Loya and Advocates for Malibu Public Schools v. City of Santa Monica, Los Angeles Superior Court Case Number BC 616 804**

The City Attorney advised this matter was heard with no reportable action taken.

**1.I. Conference with Legal Counsel – Potential Litigation: Consideration of whether to initiate litigation pursuant to Government Code Section 54956.9 (d)(4) – 1 case**

The City Attorney advised they are proposing that the City enter a settlement agreement with HUB Parking related to a dispute arising out of the City's Parking Access and Revenue Control System on the following terms:

- HUB will remit payment in the amount of a \$75,000 cash settlement;
- HUB will, at no cost to the City, remove existing parking PARCS and work amicably with the City to ensure minimal disruption to City parking services;
- Parties will release each other from all claims arising out of performance under the disputed agreement.

The proposed agreement has a total estimated value to the City of \$572,000.

Motion by Councilmember Himmelrich, seconded by Councilmember Vazquez, to approve Settlement Agreement No. 10566 (CCS), with HUB Parking, in accordance to the agreed terms. The motion was approved by the following vote:

AYES: Councilmembers O'Day, Himmelrich, Vazquez, McKeown,  
Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: Councilmember O'Connor

**1.J Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Kate Scott and James Bibinski v. City Council of the City of Santa Monica, U.S. District Court Case No. 177329.**

The City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA  
ITEMS:**

**2.A. Proclamation declaring October Disability Employment Awareness Month, was presented.**

Member of the public Denise Barton commented on this item.

**2.B. City Manager's Report: Building Disaster Resilience in Our Workforce and Community - FY 17-19 Office of Emergency Management disaster preparedness and resilience projects and activities,** was presented.

**REPORT ON COUNCIL TRAVEL**

There was nothing to report on Council travel.

**CONSENT CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Members of the public Macrina Garcia, Gloria Garcia, and Margarita Reynosa commented on Consent Calendar items.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to approve the Consent Calendar, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers McKeown, Vazquez, Himmelrich, O'Day, Mayor Pro Tem Davis, Mayor Winterer
- NOES: None
- ABSENT: Councilmember O'Connor

**WATER FEATURE SERVICES**

**3.A. Contractual Services Agreement for Water Feature and Pond Maintenance Services and Repairs,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award Bid #4276 to California Waters, LLC, a California-based company, for water feature and pond maintenance services and repairs for the Public Landscaping Division;
2. Authorize the City Manager to negotiate and execute Agreement No. 10558 (CCS) with California Waters, LLC in an amount not to exceed \$287,004 for one year, with four additional one-year renewal options (including 4% increases for years 2 and 3, a 5% increase for year 4, and a 6% increase for year 5), for a total amount not to exceed \$1,567,358 over a five-year period, with future year funding contingent on Council budget approval.
- 3.

**FARE RESTRUCTURE**

**3.B. Big Blue Bus Fare Restructure,** was approved.

**Recommended Action**

Staff recommends that Council adopt the proposed fare adjustments as follows: decrease the TAP stored value single ride fare from \$1.25 to \$1.10, introduce a new \$500 annual unlimited ride pass, and create new standardized pricing for employer provided fare media (Blue to Business).

**PALISADES PARK**

**3.C. Contractual Services Agreement for Palisades Park Palm Tree Planting**, was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award Bid #4264 to B & B Nurseries, Inc., DBA The Landscape Center, a California-based company, to furnish and deliver labor and materials for palm tree supply, planting and aftercare at Palisades Park as required the by Public Landscape Division;
2. Authorize the City Manager to negotiate and execute Agreement No. 10559 (CCS) with B & B Nurseries, Inc., in an amount not to exceed \$243,427 (includes a 10% contingency) for one year.

**AIRPORT ROOF**

**3.D. Construction Contract for Airport Roof Acrylic Application**, was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award Bid #SP2515 to Best Contracting Services, Inc., a California-based company, to provide roofing repairs to facilities located at the Santa Monica Airport;
2. Authorize the City Manager to negotiate and execute Contract No. 10560 (CCS) with Best Contracting Services, Inc. in an amount not to exceed \$1,960,123 (including a 10% contingency) over a 90-day period;
3. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority.

**ANNENBERG  
COMMUNITY BEACH  
HOUSE**

**3.E. Grant from the Annenberg Foundation for the Annenberg Community Beach House**, was approved and adopted.

**Recommended Action**

Staff recommends that the City Council:

1. Adopt attached **Resolution No. 11079 (CCS) entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AUTHORIZING THE CITY COUNCIL OF THE CITY OF SANTA MONICA TO ENTER INTO A GRANT AGREEMENT WITH THE ANNENBERG FOUNDATION FOR AWARD OF \$100,000 TO SUPPORT THE ANNENBERG COMMUNITY BEACH HOUSE"**.

2. Authorize the City Manager to execute all necessary documents to accept the grant.
3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

## **BIG BLUE BUS**

### **3.F. Approval of Big Blue Bus Fuel & Wash Upgrade Project Design Modification 3, was approved.**

#### **Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a third modification to agreement #10019 (CCS) in the amount of \$73,420 (including a 10% contingency) with RNL Interplan, Inc., a California-based company, for additional design services to replace the methane gas-detection systems at two locations in the Big Blue Bus Campus. This will result in an amended agreement with a new total amount not to exceed \$303,121, with future year funding contingent on Council budget approval.

## **PRE-EMPLOYMENT TESTING**

### **3.G. Expansion of the Pre-Employment Physical Program to Include Functional Capacity Evaluation Testing, was approved.**

#### **Recommended Action**

Staff recommends that the City Council:

1. Award RFP #112 to Integrated Injury Management Services, Inc., a California-based company, for functional evaluation testing services for City employees; and
2. Authorize the City Manager to negotiate and execute Agreement No. 10561 (CCS) with Integrated Injury Management Services, Inc. for five years in an amount not to exceed \$350,000, with future year funding contingent on Council budget approval.

## **MEXICAN CONSULATE**

### **3.H. Authorize the City Manager to negotiate and execute an operating agreement with the Mexican Consulate Plaza Comunitares, was approved.**

#### **Recommended Action**

Staff recommends that the City Council authorizes the City Manager to negotiate and execute Memorandum of Understanding No. 10562 (CCS) with the Consulate General of Mexico in Los Angeles to establish terms and conditions under which the City will collaborate with the Consulate General of Mexico in Los Angeles, the Institute for Mexicans Abroad (SRE) and the National Institute for Adult Education (INEA) on establishing Plaza Comunitaria program at the Santa Monica Public Library, Pico Branch.

## **TRAFFIC**

### **3.I. Accept California Office of Traffic Safety Grant for the**

**ENFORCEMENT**

**Selective Traffic Enforcement Program**, was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the City Manager to accept a grant award in the amount of \$300,000 from the California Office of Traffic Safety for the Selective Traffic Enforcement Program.
2. Authorize the City Manager to execute all necessary documents to accept the grant and all grant renewals.
3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**ANIMAL SHELTER**

**3.J. Consideration of five persons nominated by City staff to serve as the first nonprofit Board of Directors for the Friends of Santa Monica Animal Shelter**, was approved.

**Recommended Action**

Approve five persons nominated by City staff to serve as the first nonprofit Board of Directors for the Friends of Santa Monica Animal Shelter to initially serve two or three-year terms.

**SERVICES CONTRACT**

**3.K. Second Modification to Cabling Design and Installation Services Contract**, was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute Contract No. 10563 (CCS) in the amount of \$175,000 with Intelinet, Inc., a California based company, for citywide structured cabling design and installation services. This will result in a 5 year amended contract with a new total amount not to exceed \$350,000, with future year funding contingent on Council budget approval.

**SOFTWARE LICENSES**

**3.L. First Modification to Microsoft Enterprise Agreement for Software Licenses**, was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a first modification to agreement #9975 (CCS) in the amount of \$1,390,000 with Insight Public Sector, an Illinois-based company for the purchase of Microsoft software licenses, software license upgrades, and license tracking services. This will result in a five year amended agreement with a new total amount not to exceed \$3,402,250 with future year funding contingent on Council budget approval.

**POLICE DEPARTMENT**

**3.M. Donation of Two Horses Retiring from Police Department Mounted Unit**, was approved.



**Recommended Action**

Staff recommends that the City Council approve the donation of two horses to Karen Schaffner, Teresa Foote, and Jodie Sailor as individuals. Through this donation, the City would be retiring these two horses and providing them with a good home whereupon the horses would receive proper care and housing.

**MINUTES**

**3.N. Minutes for the City Council - Regular and Special Joint Meeting - Aug 8, 2017 5:30 PM, were approved.**

**MINUTES**

**3.O. Minutes for the City Council - Regular Meeting - Sep 12, 2017 5:30 PM, were approved.**

**ORDINANCES:  
MEDICINAL CANNABIS**

**7.A. Introduction and First Reading of an Ordinance Amending Article VI of the Santa Monica Municipal Code Establishing a Selection and Permitting Process for Medicinal Cannabis Retailers and Medicinal Cannabis Light Manufacturing, while continuing to prohibit commercial non-medicinal cannabis uses; Introduction and First Reading of an Interim Zoning Ordinance making necessary interim changes to the Zoning Ordinance to authorize Medicinal Cannabis Retailers and Medicinal Cannabis Light Manufacturing within certain zoning districts; and Adoption of Fee Resolution No. 11080 (CCS) entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ESTABLISHING PERMIT FEES FOR MEDICINAL CANNABIS LIGHT MANUFACTURER AND MEDICINAL CANNABIS RETAILER," was presented.**

**Recommended Action**

Staff recommends that the City Council:

- 1) Introduce for first reading the attached ordinance (Attachment A) amending the Santa Monica Municipal Code adding:
  - a. Chapter 6.200 Commercial Cannabis, in order to establish general regulations and definitions for commercial cannabis activities;
  - b. Chapter 6.201 Medicinal Cannabis Retailer, in order to establish a regulatory permit for medicinal cannabis retailing;
  - c. Chapter 6.202 Medicinal Cannabis Light Industry Manufacturer, in order to establish a regulatory permit for medicinal cannabis light manufacturing;
  - d. Chapter 6.210 Adult Use Cannabis, prohibiting commercial adult cannabis non-medicinal use activities; and
- 2) Introduce for first reading the attached Interim Zoning Ordinance (Attachment B) updating the definition of "Medical Marijuana Dispensaries" to conform with state law and setting forth interim development standards for light medicinal cannabis manufacturing;

and

- 3) Adopt the attached Resolution (Attachment C) establishing Medicinal Cannabis Retail Permit fee; and
- 4) Direct staff to examine options for a ballot measure to create new business license tax classifications and rates for cannabis related businesses.

Members of the public Denise Barton, Sam Bowden, Courtney Freeman, Christopher Castillo, Christopher Hope, Sean Donahue, Jerry Rubin, Jude Belanger, Susan Marks, Shawn Azizzadeh, and Andrew Hoyer, spoke on the recommended action.

Questions asked and answered of staff included: what is defined as volatile substances; in the light manufacturing district, is the 600 feet restriction required; are light manufacturers exempt from the sales tax or is it only the medicinal retailers; with respect to the 600 foot zone, has there been any mapping done to see if there is an area for a retail location; what happens if a day care or school opens within the restricted area after; who will be the members on the evaluation team; will Council be able to add a ballot measure to increase taxes for cannabis businesses; pre-emptive state regulations, does the city have the ability to create it's own laws in order to keep this an adult facility; under what circumstances can taxes be charged on medicinal marijuana; with two classes of users (those with a county card vs. those who do not), how much of a burden is this going to be to the city to keep track of who do and do not pay taxes; are there any restrictions to keep patients from coming to a second floor location to buy cannabis; how much cost recovery can the city do; can an objective criteria be included with a residency requirement for the selection process; and, clarification on AB133 state law.

Considerable discussion ensued on topics including, but not limited to, putting off adult use marijuana sales until there has been a complete public process to address this issue, and, for truly medicinal uses, people should not be punished with extra taxation for those uses.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to introduce and hold first reading of the ordinance reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers McKeown, Vazquez, Himmelrich, O'Day,  
Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: Councilmember O'Connor

Motion by Councilmember Vazquez, seconded by Mayor Pro Tem Davis, to introduce for first reading the attached Interim Zoning Ordinance updating the definition of “Medical Marijuana Dispensaries” to conform with state law and setting forth interim development standards for light medicinal cannabis manufacturing. The motion was approved by the following vote:

AYES: Councilmembers O’Day, Himmelrich, Vazquez, McKeown,  
Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: Councilmember O’Connor

Motion by Councilmember Himmelrich, seconded by Councilmember Vazquez, to adopt Resolution No. 11080 (CCS) establishing Medicinal Cannabis Retail Permit fee. The motion was approved by the following vote:

AYES: Councilmembers McKeown, Vazquez, Himmelrich, O’Day,  
Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: Councilmember O’Connor

Motion by Councilmember McKeown, seconded by Councilmember Vazquez, to direct staff to examine options for a ballot measure to create new business license tax classifications and rates for cannabis related businesses. The motion was unanimously approved by voice vote, with Councilmember O’Connor absent.

**COUNCILMEMBER  
DISCUSSION ITEMS:  
COMMISSION ON THE  
STATUS OF WOMEN**

**13.A. Recommendation to accept Nicole Phillis' resignation from the Commission on the Status of Women and authorize the City Clerk to publish the vacancy,** was presented.

There were no members of the public present for this item.

Motion by Mayor Pro Tem Davis, seconded by Councilmember Himmelrich, to accept the resignation with regret.

The motion was approved by a unanimous voice vote, with Councilmember O’Connor absent.

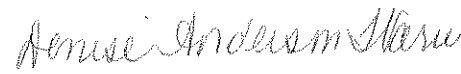
**PUBLIC INPUT:**  
*Councilmember O’Day  
was excused at 8:32 p.m.*

Members of the public Brian Victor, Art Casillas, Denise Barton, Karen Batel, and Andrew Hoyer commented on various local issues.

**ADJOURNMENT**

On order of the Mayor, the City Council meeting was adjourned at 8:42 p.m.

ATTEST:



Denise Anderson-Warren  
City Clerk

APPROVED:



Ted Winterer  
Mayor