

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**JANUARY 23, 2018**

A regular meeting of the Santa Monica City Council was called to order by Mayor Winterer at 5:31 p.m., on Tuesday, January 23, 2018, 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 Pam O'Connor (*arrived at 5:45 p.m.*)  
Councilmember Terry O'Day (*arrived at 6:25 p.m.*)  
Councilmember Tony Vazquez

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 5:31 p.m., with all members present except Councilmembers O'Day and O'Connor. Councilmember McKeown led the assemblage in the Pledge of Allegiance.

**CLOSED SESSIONS**

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

*Councilmember O'Connor  
arrived at 5:45 p.m.*

On order of the Mayor, the City Council recessed at 5:33 p.m., to consider closed sessions and returned at 6:34 p.m., with all members present, to report the following:

*Councilmember O'Day  
arrived at 6:25 p.m.*

**1.A. Conference with Real Property Negotiator**

**Property:** 808 26th Street  
**City Negotiator:** Andy Agle, Dir., Housing & Economic Dev.  
**Under Negotiation:** Price and Terms  
**Owner of Record:** City of Santa Monica

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

**1.B. Conference with Real Property Negotiator**  
**Property:** 2701 Barnard Way  
**City Negotiator:** Andy Agle, Dir., Housing & Economic Dev  
**Under Negotiation:** Terms of Access  
**Owner of Record:** City of Santa Monica

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

**1.C. Conference with Legal Counsel – Anticipated Litigation – Request to enter into a lawsuit as an amicus curiae, pursuant to § 54956.9: City of Los Angeles v. Sessions, U.S. District Court, Central District of California, Case No. 17-cv-7215**

City Attorney reported that this is a request to enter an amicus curiae in the City of Los Angeles versus Sessions and U.S. District Court. The City of Los Angeles has filed a lawsuit against Jefferson Sessions in his capacity as the Attorney General. The lawsuit relates to the community-oriented Policing services grant program, and alleges that the Attorney General is violating the separation of powers by attempting to change the terms of the program to use it as a vehicle to require state and local governments to participate in the enforcement of Federal, civil immigration policies. The County of Los Angeles has asked the City of Santa Monica to join an amicus brief supporting the City of Los Angeles' position.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to approve the city joining the amicus brief with the City of Los Angeles. The motion was approved by the following vote:

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

**1.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Pico Neighborhood Association and Maria Loya v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 616804**

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): Cardier v. City of Santa Monica, Los Angeles**

**Section 54956.9(d)(1): Cardier v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 578779**

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

**REPORT ON COUNCIL TRAVEL**

Councilmember O'Connor reported that she traveled to Monterey, CA to attend the California Transit Association Board meeting. She is a member of the board, representing the Big Blue Bus. The board met to discuss policy and strategy for this coming year in terms of following Federal and State legislation, as to how it affects transit and transportation funding.

**CONSENT CALENDAR:**

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

Members of the public Ann Thanawalla (time donated by Myla Resor), Nikki Kolhoff, and Ann Bowman commented on various Consent Calendar items.

Motion by Councilmember O'Connor, seconded by Councilmember McKeown, 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, O'Connor, Mayor Pro Tem Davis, Mayor Winterer  
NOES: None  
ABSENT: None

**MINUTES**

**3.A. Approval of Minutes for the City Council - Regular Meeting - Nov 14, 2017**, were approved with revisions renumbering Closed Session items correctly.

**MINUTES**

**3.B. Approval of Minutes for the City Council - Regular and Special Joint Meeting - Dec 12, 2017**, were approved.

**WATER INFRASTRUCTURE**

**3.C. Award Construction Contracts for Water Infrastructure Improvement Project**, were approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award Bid #SP2429 to Sully-Miller Contracting Company, a California-based company, for construction services for the Water Infrastructure Reliability Improvement Project, an Environmental Protection Agency (EPA) grant-funded project (Grant No. XP-00T79601 and XP-96945401);

2. Authorize the City Manager to negotiate and execute Contract No. 10608 (CCS) with Sully-Miller Contracting Company in an amount not to exceed \$2,785,300 (including a 15% contingency);
3. Award RFP #2429 to Wildan Engineering, a California-based company, for construction management and inspection services;
4. Authorize the City Manager to negotiate and execute Agreement No. 10609 (CCS) with Wildan Engineering in an amount not to exceed \$219,791 (including a 10% contingency);
5. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority.

**AIRPORT REAL ESTATE  
MANAGEMENT**

**3.D. Approval of Fourth Modification to Agreement with Aeroplex Group Partners, LLC. for Santa Monica Airport Commercial Real Estate Management, was approved.**

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a fourth modification to Professional Services Agreement No. 10262 (CCS) in the amount of \$50,325 with Aeroplex Group Partners, LLC (“Aeroplex”), a California-based corporation. The modification will eliminate provisions for Aeroplex to provide minor repairs and maintenance of City-owned properties (reducing the contract by \$180,675) and add services for additional commercial leasing, property management and consulting services for the Santa Monica Airport (increasing the contract by \$231,000, including a 10% contingency). This will result in a three-year amended agreement, expiring on June 30, 2018, for a new total amount not to exceed \$1,328,340.

**RUNWAY PAVEMENT  
REMOVAL AND  
REPURPOSING**

**3.E. Award Contract for Engineering Design Service for Runway Pavement Removal and Repurposing, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP# 2533 to AECOM, a California-based company, to provide engineering design services for excess runway, taxiway and infield pavement removal and repurposing at Santa Monica Airport (SMO);
2. Authorize the City Manager to negotiate and execute Agreement No. 10610 (CCS) with AECOM, in an amount not to exceed \$267,575 (including a \$24,325 contingency), with an allowance of \$25,811 for optional Airport Geographic Information System (AGIS) work, for a total amount not to exceed \$293,386 over a one-year period.
3. Authorize the budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**CIVIC CENTER  
MULTIPURPOSE  
SPORTS FIELD**

**3.F. Agreement Modification No. 2 to Provide Schematic and Construction Documents, Bidding and Construction Administration Services for the Civic Center Multipurpose Sports Field Project**, was approved.

**Recommended Action**

1. Staff recommends that the City Council authorize the City Manager to negotiate and execute a second modification to agreement #10553 (CCS) in the amount of \$364,859 (including a 10% contingency) with RJM Design Group, Inc., a California-based company, for the preparation of construction documents, bidding and negotiation, and construction administration services required to complete the design for the Civic Center Multipurpose Sports Field Project. This would result in an amended agreement with a new total amount not to exceed \$534,997.
2. Authorize budget changes as outlined in the Financial Impacts and Budget Actions section of this report.

**SANTA MONICA PUBLIC  
LIBRARY**

**3.G. Recommendation to Remove Santa Monica Public Library Fines for Youth (0-18 years)**, was approved.

**Recommended Action**

Staff recommends that City Council approve the proposed change in Library policy to remove fines for youth (ages 0 to 18) and eliminate outstanding fines previously accrued for these cardholders estimated to be \$50,300 (inclusive of current Library records). The removal of fines will ensure access to the wealth of information, learning and cultural exploration available to them at Santa Monica Public Library with a Library card, further supporting literacy and success in school from an early age.

**MEMORIAL PARK**

**3.H. Award of Design Agreement for the Memorial Park Feasibility Study and Master Plan**, was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP #SP2509 to AHBE Landscape Architects, a California-based company, for the feasibility study and master plan design of the Memorial Park Redevelopment and Expansion Project; and
2. Authorize the City Manager to negotiate and execute Agreement No 10611 (CCS) with AHBE Landscape Architects, in an amount not to exceed \$326,706 (including a 10% contingency).

**PEDESTRIAN AND  
BICYCLE  
IMPROVEMENTS**

**3.I. Contract Approval for Design Services for Stewart Street and Pennsylvania Avenue Pedestrian and Bicycle Improvements**, was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP #133 to KOA Corporation, a California based company, to provide engineering and design services for the Stewart Street and Pennsylvania Avenue Improvements Project.
2. Authorize the City Manager to negotiate and execute professional services Agreement No. 10612 (CCS) with KOA Corporation in an amount not to exceed \$315,000 (including a 15% contingency) for an initial two-year term and a one-year renewal option.

**WATER AND  
WASTEWATER  
CONSULTING SERVICES**

**3.J. Approval of Agreement for Water and Wastewater Consulting Services for SCADA Systems Integration and Support**, was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP# 125 to Vertech Industrial Systems, LLC, a California-based company for professional services to conduct a comprehensive survey of the City's Supervisory Control and Data Acquisition (SCADA) system for water and wastewater facilities, development of a SCADA Master Plan, development and implementation of SCADA Standards, and consulting services on future water and wastewater related capital improvement projects.
2. Authorize the City Manager to negotiate and execute Agreement No. 10613 (CCS) with Vertech Industrial Systems, LLC, in an amount not to exceed \$560,750 (including \$50,977 in contingency) over a five-year period with future year funding contingent on Council budget approval.

**PERFORMANCE  
PORTAL**

**3.K. Modification to Software License Agreement for Performance Portal**, was approved.

**Recommended Action**

Staff recommends that Council:

1. Amend the existing contract (#10452) between the City and Socrata, Inc. (#360108);
2. Authorize the City Manager to negotiate and execute a contract amendment with Socrata, Inc. in an amount not to exceed \$56,000; and
3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**ADMIN. PROCEEDINGS:**  
**2953 DELAWARE**  
**AVENUE**

**6.A. Appeal 17ENT-0186 of the Planning Commission's approval of Conditional Use Permit 17ENT-0075, Variance 17ENT-0147, and Fence/Wall Modification 17ENT-0148 permitting the establishment of a Child Care and Early Education Facility for up to 20 children at 2953 Delaware Avenue, was presented.**

**Recommended Action**

Staff recommends that the City Council deny the appeal and uphold the Planning Commission's approval by taking the following actions:

1. Approve Conditional Use Permit 17ENT-0075
2. Approve Variance 17ENT-0147
3. Approve Fence Modification 17ENT-0148
4. Adopt the Statement of Official Action, pursuant to the draft findings and conditions.

Ex-Parte Communication

Councilmember Himmelrich reported that she met with the appellant a month ago concerning their argument. Since then, she spoke with the applicant's attorney about her objections to the project. She spoke with various members of the community, and read emails sent to Council.

Councilmember Vazquez reported that he met and spoke with both parties and toured the site. He had conversations with the residents on Delaware, and conversations at different events.

Councilmember McKeown reported that he was contacted by a former Santa Monica resident, also contacted by both applicant and appellant, and heard from the appellant directly, in person at a public meeting of the Neighborhood Council, but did not meet with them privately. He read and received all of the emails that were sent to Council; had a lengthy discussion with Zina Josephs from Neighbors of Sunset Park about the process for a possible delay back in December, and in-person handlebar examination of the neighborhood.

Mayor Pro Tem Davis reported that she met with members of the neighborhood, did not meet with the applicant or anyone representing the appellant, and she walked and drove through the neighborhood at various times.

Councilmember O'Day reported that he met with two representative of the appellants, and spoke with the applicant's attorney Mr. Kutcher, drove past the property, ran into one of the board members for the applicant at Rite Aid over the weekend.

Councilmember O'Connor reported that she did not meet with anyone about it, but had driven through the neighborhood.

Mayor Winterer reported that he met on November 30<sup>th</sup> at 11 am with appellants' husband and some of their neighbors at the appellant's home, listened to their concerns, and walked the project site and the neighborhood. On January 18<sup>th</sup> at 11 am, he had a phone call with the applicant's attorney, he raised some concerns about the indemnity bond as a hardship, and the Mayor asked about possible conditions to limit weekday and evening events with parents, after the normal school operation hours. On January 19<sup>th</sup>, he received email from the applicant forwarding four letters of support, and received all of the correspondence received as part of the public record.

Members of the public Jennifer Polhemus, Cris McLeud, Ann Thanawalla, Nikki Kolhoff, Lisa Medina, Michael Jimenez, Kevin Pontier, Sarah Devin (time donated by Jennifer Kim), Christine Parra (time donated by Elizabeth Lerer), Jose Parra, Shiri U Abdoh-Smith, Jennifer Shubert, Olga Cueva, Rodrigo Luis, Louise Mainville, Robert Sturman, Nathan Gary, Brian O'Neil (time donated by r. Hartmann), Marco Marin (time donated by Sue Kazwko Takahashi), Ellen Hannan, Elizabeth Van Denburgh, Stuart Holmes, Wendy Kobayashi-Lovely, Zina Josephs, Leiman Chan (time donated by Sharon Dobeck), Denise Barton, Art Casillas, Ahmad Sadeghi, Ann Hoover, Dr. Berenice Onofre-Vazquez, Stacy Dalgleish, Ellen Brennan, Elena Faler, Christine Walker, Andrew Hoyer, Oscar de la Torre, Pete Donald, and Richard Orton spoke generally in support of the appeal.

Members of the public Arlene Henry (time donated by Karen Youssefi), Pat Nolan, Betsy Hiteshew, Rosita Chilin, Anne Sadeghpour, LaShawn Moore, Sheila Banani, Sean Youssefi, Ana Maria Jara, Kristina Lizarra, Jerry Rubin, Diane Lofti, Rocio Garcia, Johanna Brown, Meghan Monorey, Shari Davis, Ben Swett, Sofia Ramirez, Irma Carranza, Elva Serrano, Apolinar Garcia, Judy Abdo, and Pauline Mc Peak spoke generally in opposition of the appeal.

Questions asked and answered included: are there any assurances in the CUP that there is only one shift a day; is it correct that 30% of the children will receive some type of financial aid, and 30% low-low income, and is this requirement part of the conditional use permit; does the five foot fence begin above grade; are any of the other local preschools above 12 children in that neighborhood; and, is there a way to add some of the project descriptions to the conditions such as the maximum enrollment, limiting events and/or after hour meetings.

Considerable discussion ensued on topics including, but not limited to: whether or not the city's zoning ordinance complies with the Health and



the fence height to 4 feet; the need for the variances, loading space and parking, specifics and limitations regarding events; opening with a smaller number of students the first year, then expanding the second year to 20 students; and, the benefits of having Child Care and Early Education facilities in R1 neighborhoods.

Motion by Councilmember O'Day, seconded by Councilmember O'Connor, to deny the appeal and uphold the Planning Commission's approval of the CUP with revisions to Remove the language from the "Request," include revisions to Conditions: #1- to change the enrollment of 12 children ages 4-6, and after 12 consecutive months, increase to no more than 20, and to limit parent meetings to one weekday meeting per month to end by 7:30 p.m., with all persons vacating the site by 8:00 p.m.; #5-adding Other than activities described in Condition No. 1, no other special events are authorized; #6 - remove the word Organized; #9-added the word maximum and remove the word some (transparency); and; added new conditions: #18 - annual compliance report that is required, #19 - Good neighbor agreement, requiring quarterly meetings, #20 - rewritten to address the enrollment breakdown by thirds, #21 - a plan requiring city approval before operations begin, explaining how childcare spaces will be marketed to lower and moderate income households, #22 - 1/3 of the children enrolled shall be residents in the 90404 zip code, with preferences, and #23 - consulting with Connections for Children to offer childcare for families on the waitlist(s).

Councilmember Vazquez proposed a friendly amendment to change the condition to begin with 12 students the first year, then add six students the second year, then a maximum of 20 students the third year. The motion was not considered friendly by the maker.

The motion was approved by the following vote:

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

Motion by Councilmember O'Day, seconded by Mayor Pro Tem Davis, to approve Variance 17ENT-147 for the parking space in the front yard. The motion was approved by the following vote:

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

Motion by Councilmember O'Day, seconded by Mayor Pro Tem Davis, to approve Variance 17ENT-148 for the fence modification. The motion was approved by the following vote:

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

Motion by Councilmember O'Day, seconded by Councilmember O'Connor, to adopt the Statement of Official Action, as amended. The motion was approved by the following vote:

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

**ORDINANCES:**  
**ZONING**

*Councilmember O'Day was excused at 12:06 a.m.*

**7.A. Introduction for First Reading of an Interim Ordinance Establishing Interim Development Standards in the R1 Zoning District Pending Adoption of Permanent Revisions to the R1 Development Standards,** was presented.

**Recommended Action**

Staff recommends that the City Council introduce for first reading an interim ordinance establishing interim development standards in the R1 zoning district.

Members of the public Bob Posek, Nancy Coleman, Katherine Dreyfuss, Danilo Bach, Zina Joseph, James Hartung, Alice Ann Grusin, and, Shawn Landres spoke generally in support to the recommended action.

Members of the public Horace Hertz (time donated by Madeline Hertz), Tony Russo, Steven Sumers, Jeffrey Stroll (time donated by Sharon Stroll), Ron Rosen, Kristin Ford, Jason Ungar, Bob Posek, Pearam Emayan, Michael Kemp, Matt Grude, David Bruce, Craig Shimahara, Lorraine Shimahara, Jeffrey Harlan, Peter Schechter, Jeff Silberman, and Andrew gross spoke generally in opposition to the recommended action.

Questions asked and answered of staff included: how long is the interim ordinance valid, and what happens after the 60 day interim process expires; what does the language mean "application deemed complete after January 23, 2018"; how do you handle those who begin the permit process under the interim ordinance, and things change when the permanent ordinance passes; will people actually submit plans during the interim ordinance, when there is so much speculation; do accessory dwelling units have to be

when there is so much speculation; do accessory dwelling units have to be detached from the main structure and have an independent kitchen and bathroom; where are the replacement projects for demolition projects; people expressed concerns about restricting second story buildings, is there a way to just restrict two story buildings, but not one-story; in fairness to people who have already started the process, is there a possibility to allow flexibility in the interim ordinance for those people; if the date gets pushed out, are there developers who could push their projects through; how do you create incentives for remodel, if the threshold is adjusted in the future to a higher percentage, would that incentivize remodels; what areas of the city that should be included or excluded; balconies and terraces, and limit the second story outdoor space; parcel coverage and encroachment on adjacent houses; maximum building height leave it as is, and reduce it to 28 feet in North of Montana; exempting attached accessory dwelling units; will we be able to get the most architectural flexibility with the sliding scale; what's being proposed is an interim ordinance for 60 days, and could an Interim Zoning Ordinance (IZO) be proposed to address some of the concerns addressed; can the city create a rule that differentiates between developers and residential homeowners.

Considerable discussion ensued on topics including, but not limited to: there is no real public input therefore this is not a fair process to move forward; push back the applicable date to accommodate those who are very close to having a complete application; and, concerns about excluding detached accessory dwelling units.

Motion by Councilmember Himmelrich, seconded by Councilmember McKeown, to introduce and hold first reading to approve the recommended action with: an adjustment to the height of 28 feet; the maximum coverage of 50 percent parcel coverage on a sliding scale: with no more than 20 percent on the second floor; a maximum of 400 feet of the second story balconies not counted towards parcel coverage; with a 30-day grace period from Jan. 24, 2018, with an application deemed complete; that accessory dwelling units will be excluded provided they are either accessory structures detached from the main house, or accessory dwelling units attached to the main house, but with their own separate entrance; and, that the stepback requirement be adjusted to read simply for the second story.

The City Attorney staff provided further clarification that in the proposed ordinance, there is another date which has to do with previously approved other entitlements, if there is a planning entitlement issued, then Council direction will move that date back to February 23, 2018 as well.

The motion was approved by the following vote:

AYES: Councilmembers McKeown, Vazquez, Himmelrich,

Mayor Pro Tem Davis, Mayor Winterer  
NOES: Councilmember O'Connor  
ABSENT: Councilmember O'Day

Councilmember O'Connor stated for the record her no vote was because of the lack of public process, and that this is a moratorium without making the findings for a moratorium.

**PUBLIC INPUT:**

Members of the public Debi Mitchell, Jonathan Foster, and Denise Barton commented on various local issues.

*Councilmember O'Connor  
excused at 2:47 a.m.*

**ADJOURNMENT**

On order of the Mayor, the City Council meeting was adjourned at 2:59 a.m. in memory of Joe Frank, Scott Carrey, Ed Moses and Moe Stavnezer.

ATTEST:



Denise Anderson-Warren  
City Clerk

APPROVED:



Ted Winterer  
Mayor