

CITY OF SANTA MONICA

CITY COUNCIL MINUTES

MARCH 27, 2018

A regular meeting of the Santa Monica City Council was called to order by Mayor Winterer at 6:46 p.m., on Tuesday, March 27, 2018, at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Ted Winterer
Mayor Pro Tem Glean Davis
Councilmember Kevin McKeown
Councilmember Pam O'Connor

Absent: Councilmember Sue Himmelrich
Councilmember Terry O'Day
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 6:46 p.m., with all members present except Councilmembers Himmelrich, Vazquez, and O'Day. Councilmember McKeown led the assemblage in the Pledge of Allegiance.

CLOSED SESSIONS

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

On order of the Mayor, the City Council recessed at 6:49 p.m., to consider closed sessions and returned at 8:25 p.m., with Councilmembers O'Day, Vazquez and Himmelrich absent, to report the following:

1.A. Conference Involving a Joint Powers Agency Pursuant to Government Code Section 54956.96: Los Angeles Community Choice Energy (dba Clean Power Alliance of Southern California). Local Agency Representative: Councilmember Kevin McKeown. Conference with Legal Counsel – Anticipated Litigation - Anticipate significant exposure to litigation pursuant to Government Code Section 54956.9(d) (one case).

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): Homeaway.com, Inc., and AirBNB, Inc. v. City of Santa Monica, United States District Court, Central District of California, Case Nos. 2:16-cv-6641-ODW-AFM, 2:16-cv-6645-ODW-AFM

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

1.C. Conference with Legal Counsel- Existing Litigation – Litigation has been initiated formally pursuant to Government 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.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Section 54956.9(d)(1): Jaworski v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 640021

The City Attorney advised this is an injury sustained from a fall on a cutout carved near Palisades Park. The City Attorney's Office recommended a settlement in the amount of \$35,000.

Motion by Mayor Pro Tem Davis, seconded by Councilmember O'Connor, to approve Settlement No. 10645 (CCS) in the amount of \$35,000. The motion was approved by the following vote:

AYES: Councilmembers McKeown, O'Connor,
Mayor Pro Tem Davis, Mayor Winterer

NOES: None

ABSENT: Councilmembers Vazquez, Himmelrich, O'Day

1.E. Meeting with Chief Labor Negotiator - Donna C. Peter, Director of Human Resources: PALSSU

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

1.F. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Lecip, Inc. v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 620795

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): Zanders v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 592885

The City Attorney advised this is an injury matter where Mr. Zander fell from his three-wheel scooter on the Big Blue Bus, resulting in injuries. The City Attorney's Office recommended a settlement in the amount of 45,000.

Motion by Councilmember McKeown , seconded by Mayor Pro Tem Davis, to approve Settlement No. 10646 (CCS) in the amount of \$45,000.
The motion was approved by the following vote:

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

1.H. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54946.9(d)(1): Cardier v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 578779

The City Attorney provided clarification for the record on Settlement No. 10642 (CCS) amount paid by the city. The City would pay approximately \$780,000, with the balance covered by insurance. The \$780,000 did not include litigation expenses already incurred by the City. As a result, clarification for the record, the total amount for which the city is responsible, including the litigation expenses that were already incurred is \$1 million, with the balance to be covered by the city's first layer of excess coverage.

1.I. Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Hawaii v. Trump, U. S. Supreme Court, Case No.16-1540 (request for Amicus support)

The City Attorney advised that the city has been asked to join the Amicus Brief before the U.S. Supreme Court. This is regarding the Travel Ban which restricts travel from eight countries.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to join the Amicus Brief titled Hawaii v. Trump. The motion was approved by voice vote, with Councilmembers Himmelrich, O'Day, and Vazquez absent.

**AGENDA
MANAGEMENT**

On the order of the Mayor, due to some quorum challenges with three Councilmembers absent, some items will have to be pulled and continued to a future meeting. The Mayor announced that Items 3.D., 8.A. and 13.A. will be continued to the next meeting. Also, Items 2.A and 2.B. were heard out of order.

**SPECIAL AGENDA
ITEMS:**

2.A. City Manager's Report: Seismic Retrofit Update, was presented.

2.B. Proclamation recognizing March 2018 as Red Cross Month in the City of Santa Monica, was presented by the Mayor.

**REPORT ON COUNCIL
TRAVEL**

Councilmember McKeown attending the National League of Cities Conference in Washington, D.C. where the focus was on infrastructure, other sessions included preemption of local control. The second conference he attended was the Building Livable Communities Conference of the Local Government Commission in Yosemite where the topics discussed included social equity in smart growth, affordable housing, and, decarbonize by electrifying and going to renewable electricity.

Mayor Pro Tem Davis also went to Yosemite and learned a great deal.

Councilmember O'Connor, also attended the National League of Cities Conference in Washington, D.C. where the topics included: roads and bridges, transit, transit technology, ports and aviation, the future of transportation in this country, and, infrastructure. She was also in Washington, D.C for the California Transit Association where they discussed transit needs in California, and the City of Santa Monica hosted a meeting. She also attended the Mayors Innovation Project in Denver, where the future of transit was discussed (Reimagining Public Transit).

Mayor Winterer reported that he also attended the Conference in Yosemite.

CONSENT CALENDAR:

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

The City Clerk read into the record corrections on the minutes for January 23, 2018, on Page 10 the correction to the motion by Councilmember O'Day and the second by Councilmember O'Connor, and on the February 13, 2018 minutes, there were minor corrections made that were included in the packet.

Members of the public Carl Lisberger, Denise Barton, Michael Feinstein, and Andrew Hoyer commented on various Consent Calendar items.

At the request of Councilmember McKeown, Item and 3.J. was removed from the Consent Calendar.

Motion by Councilmember McKeown, seconded by Councilmember O'Connor, to approve the Consent Calendar except for Items 3.D and 3.J., including the corrections to the minutes, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

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

FIRE STATION NO. 1

3.A. Award Contract for Fire Station No. 1 Construction Services, was approved.

Recommended Action

Staff recommends that the City Council:

1. Award Bid #2235 to Bernards Bros., Inc., a California -based corporation, for the construction of Fire Station No. 1.
2. Authorize the City Manager to negotiate and execute Contract No. 10643 (CCS) with Bernards Bros., Inc., in an amount not to exceed \$26,525,000, and authorize an additional \$2,652,500 for contingency (10%) for a total of \$29,177,500.
3. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority.

AUDIT SUBCOMMITTEE

3.B. Amendment to Resolution No. 11103 (CCS) Adopting Rules of Conduct for the Audit Subcommittee, was approved.

Recommended Action

Staff recommends that the City Council adopt the attached resolution modifying the Audit Subcommittee Rules of Conduct.

CITY YARDS

3.C. Reject All Bids for the City Yards Ecodistrict Project, was approved.

Recommended Action

Staff recommends that the City Council:

1. Reject all bids for Request for Proposals (RFP) #SP2396 for establishing an Ecodistrict and communication and outreach services for the City Yards Modernization Project.
2. Direct staff to reissue a bid in order to obtain the best bidder for communication and outreach services for the City Yards Modernization Project.

PIER CONSTRUCTION

3.D. Award Construction Contract for Pier Hoist & Crane and Catwalk Repair, was continued to April 10, 2018.

Recommended Action

Staff recommends that the City Council:

1. Award Bid #SP2528 to John S. Meek Company, Inc., a California-based company, for the Pier Hoist & Crane and Catwalk Repair Project;
2. Authorize the City Manager to negotiate and execute a contract with John S. Meek Company, Inc., in an amount not to exceed \$500,000 (including a 11% contingency);
3. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority.

FIRE STATION NO. 1

3.E. Award of Contract to Deborah Aschheim for Percent-For-Art Project for Fire Station #1, was approved.

Recommend Actions

Staff recommends that the City Council:

1. Award Deborah Aschheim, a California-based artist, the fabrication of the artwork to be installed at Fire Station No. 1;
2. Authorize the City Manager to negotiate and execute Agreement No. 10644 (CCS) with Deborah Aschheim, in an amount not to exceed \$160,000.

RECRUITMENT SERVICES

3.F. Authorization to execute a contract modification with the Hawkins Company, was approved.

Recommended Action

Staff recommends that the City Council authorize the City Manager to negotiate and execute a second modification to agreement #10473 (CCS) in the amount of \$68,000 with The Hawkins Company, a California-based company, for executive recruitment services. This will result in a three

year amended agreement with a new total amount not to exceed \$208,000, with future year funding contingent on Council budget approval.

2512 7TH STREET

3.G. Resolution No. 11104 (CCS) entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ACCEPTING AND APPROVING THE FINAL SUBDIVISION MAP FOR PARCEL NO. 72808 TO SUBDIVIDE A PROPERTY AT 2512 7TH STREET”, was approved.

Recommended Action

Staff recommends that the City Council adopt the attached Resolution (Attachment A) approving Final Parcel Map No. 72808 for a condominium project located at 2512 7th Street.

212 BAY STREET

3.H. Resolution No. 11105 (CCS) entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ACCEPTING AND APPROVING THE FINAL SUBDIVISION MAP FOR PARCEL NO. 73829 TO SUBDIVIDE A PROPERTY AT 212 BAY STREET”, was approved.

Recommended Action

Staff recommends that the City Council adopt the attached Resolution (Attachment A) approving Final Parcel Map No. 73829 for a condominium project located at 212 Bay Street.

LABOR COMPLIANCE

3.I. Second Modification to Gafcon Contract for Citywide Prevailing Wage and Labor Compliance, was approved.

Recommended Action

Staff recommends that the City Council authorize the City Manager to negotiate and execute a second modification to Contract No. 10435, in the amount of \$600,000 for three years with two additional one-year renewal options with Gafcon, Inc., a California-based company, to provide citywide State and Federal labor compliance and certified payroll monitoring on an as-needed basis. This will result in a five-year amended agreement with a new total amount not to exceed \$900,000, with future year funding contingent on Council budget approval.

MINUTES

3.K. Approval of minutes of the January 23, 2018 5:30 PM, City Council Meeting, were approved, with changes.

MINUTES

3.L. Approval of minutes of the February 13, 2018 5:30 PM, City Council Meeting, were approved, with changes.

MINUTES

3.M. Approval of minutes of February 27, 2018 4:30 PM, City Council Meeting, were approved.

COUNCIL RULES

3.J. Modification of City Council Rules of Order, was approved.

Recommended Action

Staff recommends that the City Council adopt attached **Resolution No. 11106 (CCS) entitled**, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING THE RULES OF ORDER AND PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS AND REPEALING RESOLUTION NUMBER 10928 (CCS)". This new procedure will take affect beginning with the April 10, 2018 meeting.

Councilmember McKeown pulled this item for clarification on what the intent is regarding members of the public using the projector scanner, and if that is considered as part of the electronic media referenced in the staff report.

Questions asked and answered of staff included: why treat 14 items differently than other items, and why are they being excluded from making presentations; is there an easier way to project pictures brought in during the meeting; would it be possible to allow Board and Commission members to be treated as staff, giving them the 4:30 pm deadline; and, the Monday noon is too short, but instead change the deadline to noon on the meeting day.

Motion by Councilmember O'Connor, seconded by Councilmember McKeown, to approve the recommendation changing the deadline to noon on the meeting day.

Councilmember McKeown, proposed a friendly amendment to direct staff to further investigate a way that an overhead projector can be made accessible to the public, and that members of the public should be allowed to present on 14 items. The motion was considered friendly by the maker.

Mayor Pro Tem Davis, proposed a friendly amendment that official city board and commissioners be treated as staff for the deadlines imposed by the resolution. So that any member of a recognized board or commission would have until 4:30 pm on the day of the meeting to submit their electronic presentation. This would only be in a case when it is in the purview of the board or commission. The motion was considered friendly by the maker and seconder.

The City Attorney read the changes to the resolution for the record in Rules 5(h) and 15(i) to include that all electronic presentation materials,

adding intended for use at a City Council meeting, including PowerPoint presentations, videos, audios, electronic images, and electronic portable document formats (pdfs), but excluding any hard copy document projected by the overhead projector; must be received by the City Clerk no later than 12:00 p.m. on the day of a City Council meeting, and adding for clarity, this rule shall not apply to a current member of a board or commission speaking on a matter within the purview of the board or commission on which the member sits;

The motion, with amendments were approved by the following vote:

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

ORDINANCES:
CIVIL SERVICE RULES

7.A. Second Reading and Adoption of Ordinance No. 2571 (CCS) entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING CHAPTER 2.04 OF THE SANTA MONICA MUNICIPAL CODE RELATING TO CIVIL SERVICE RULES AND REGULATIONS," was presented.

Recommended Action

Staff recommends that City Council adopt the attached ordinance amending Chapter 2.04 of the Santa Monica Municipal Code relating to Civil Service Rules and Regulations.

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

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

ZONING CHANGES

7.B. Introduction for First Reading of an Interim Ordinance Extending Interim Zoning Ordinance 2569 (CCS) for Interim Changes to 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 (Attachment A) extending interim development standards in the R1 zoning district.

Members of the public Zina Josephs, Aliceann Grusin, Danilo Bach, Kit Dreyfuss, and Andrew Hoyer spoke on the recommended action.

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, O'Connor,
Mayor Pro Tem Davis, Mayor Winterer

NOES: None

ABSENT: Councilmembers O'Day, Himmelrich, Vazquez

STAFF
ADMINISTRATIVE
ITEMS:

SMMUSD AGREEMENTS

8.A. Master Facility Use Agreements with the Santa Monica-Malibu Unified School District, was continued to the April 10, 2018 meeting.

Recommended Action

Staff recommends that the City Council authorize the City Manager to negotiate and execute Master Facilities Use Agreement combining the two tax measures (YY and GS) into a single agreement (Measure YY/GS Facilities Agreement) including related supplemental terms and conditions with the Santa Monica-Malibu Unified School District with an initial term ending June 30, 2028.

AIRPORT PARK

8.B. Resolution Nos. 11107 (CCS) and 11108 (CCS) Certifying the California Environmental Quality Act (CEQA) Environmental Impact Report (EIR) for the Airport Park Expansion Project and Project Approval, was presented.

Recommended Action

Staff recommends that the City Council adopt a resolution (Attachment A) certifying the California Environmental Quality Act (CEQA) Environmental Impact Report (EIR) for the Airport Park Expansion project, and a resolution (Attachment B) adopting the Statement of Overriding Considerations and Mitigation Monitoring Program to approve the project.

Member of the public Denise Barton spoke on the recommended action.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to adopt Resolution No. 11107 (CCS) certifying the California Environmental Quality Act (CEQA) Environmental Impact Report (EIR) for the Airport Park Expansion project. The motion was approved by the following vote:

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

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, to adopt Resolution No. 11108 (CCS) the Statement of Overriding Considerations and Mitigation Monitoring Program to approve the project.

The motion was approved by the following vote:

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

ELECTION LAWS

8.C. Potential Enhancements and Improvements to Local Election Laws and Enforcement Mechanisms, was presented.

Recommended Action

Staff recommends that the City Council review and comment on potential enhancements and improvements to local election laws and enforcement mechanisms.

Members of the public Jerry Rubin and Denise Barton, spoke on the recommended action.

Considerable discussion ensued on topics including, but not limited to: whether the FPPC is the best option to enforce our local laws, and what that process would involve, or if they have adequate staff to investigate; revisit public financing of campaigns before the next election; pursuing an agreement with other City Attorney's office would help whenever there was a potential appearance of impropriety or a possible conflict of interest within the City Attorney's office;

Councilmember McKeown recommended selecting Options 3, to adopt a resolution that authorizes the City Clerk and City Attorney to request that the FPPC communicate and coordinate with the County District Attorney's Office and the Criminal Division of the City Attorney's Office, direct staff to pursue, and to look at Public financing option, and Option 4, to establish a reciprocal agreement with some other City Attorney's offices in the region.

Mayor Winterer proposed to give broad direction to the City Clerk's office to look at ways to communicate the current status of our election laws to the community during this election season.

Motion by Councilmember McKeown, seconded by Mayor Pro Tem Davis, direct staff to pursue coordination with the FPPC, so that when there is an investigation underway we're notified and we can then begin parallel enforcement of our local law, and establish some relationship with reciprocity with another City Attorney's office so that when there is any appearance or perception of a conflict of interest, we have the option of going to another Attorney's office for assistance, and direct the City Clerk's office to pursue education of our election laws to the community during this election season.

The motion was approved by voice vote with Councilmembers O'Day, Himmelrich, and Vazquez absent.

Motion by Mayor Winterer, seconded by Councilmember McKeown, to give direct staff to come back after the Election to discuss public financing, contribution limits, and other options.

The motion was approved by voice vote, with Councilmembers Vazquez, O'Day, and Himmelrich absent.

**COUNCILMEMBER
DISCUSSION ITEMS:
LIBRARY BOARD**

13.A. Appointment to one unscheduled vacancy on the Santa Monica Library Board for a term ending 06/30/2018, was continued to the April 10, 2018 meeting.

ELECTRIFICATION

13.B. Request of Mayor Winterer, Mayor Pro Tem Davis, and Councilmember McKeown that Council direct staff to pursue decarbonization and protect public health and safety by exploring transition from open-flame technologies for heating and cooking into electrification, requiring new construction to use 100% renewable-sourced electricity, was presented.

Members of the public Sarah Willforg, Diane Forte, and Mike Harriel spoke on the recommended action.

Motion by Councilmember McKeown , seconded by Mayor Pro Tem Davis, to approve the recommendation. The motion was approved by voice vote, with Councilmembers O'Day, Vazquez, and Himmelrich absent.

PUBLIC INPUT:

Members of the public Denise Barton, Dhun May, and Art Casillas commented on various local issues.

ADJOURNMENT

On order of the Mayor, the City Council meeting was adjourned at 10:42 p.m. in memory of Elaine Gottesman, and the 50th anniversary of the assassination of the Rev. Dr. Martin Luther King, Jr.

ATTEST:

APPROVED:



Denise Anderson-Warren
City Clerk



Ted Winterer
Mayor

