

CITY OF PASADENA  
City Council Minutes  
July 27, 2009 – 5:30 P.M.  
City Hall Council Chamber

REGULAR MEETING

**OPENING:**

Mayor Bogaard called the regular meeting to order at 5:57 p.m.  
(Absent: Councilmembers Haderlein, Madison)

On order of the Mayor, the regular meeting recessed at 5:57 p.m., to discuss the following closed sessions:

**CITY COUNCIL CONFERENCE WITH LEGAL COUNSEL to discuss pending litigation pursuant to Government Code Section 54956.9(a)**

**Case Name: Henderson v. City of Pasadena**

**Case No.: Los Angeles Superior Court Case No. BC394228**

The above closed session item was discussed, with no reportable action at this time.

Councilmember Holden was excused at 6:18 p.m.

**CITY COUNCIL CONFERENCE WITH LEGAL COUNSEL REGARDING CONSIDERATION OF INITIATION OF LITIGATION pursuant to Government Code Section 54956.9(c): One potential case**

The above closed session item was not discussed.

On order of the Mayor, the regular meeting reconvened at 6:30 p.m. The Pledge of Allegiance was led by Councilmember Robinson.

**ROLL CALL:**

Councilmembers:

Mayor Bill Bogaard  
Vice Mayor Victor Gordo  
Councilmember Steve Haderlein (Absent)  
Councilmember Chris Holden (Returned at 6:33 p.m.)  
Councilmember Steve Madison (Arrived at 7:25 p.m.)  
Councilmember Margaret McAustin  
Councilmember Jacque Robinson  
Councilmember Terry Tornek

Staff:

City Manager Michael J. Beck  
City Attorney Michele Beal Bagneris  
City Clerk Mark Jomsky

**CEREMONIAL MATTERS**

Councilmember Holden returned at 6:33 p.m.

The City Clerk administered the oath of office to Linda Schultz as Accessibility and Disability Commissioner.

**PUBLIC COMMENT ON  
MATTERS NOT ON THE  
AGENDA**

Virginia Hoge, Pasadena resident, expressed concerns regarding comments she had received on her blog regarding her criticism of the media and various persons.

Michael Markowsky, Pasadena resident, presented Council with copies of the book he authored (Arts in Store – Rethinking the relationship between Art And Business), noted that this book resulted from an individual artist grant he had received from a City grant program in support of the arts, and announced that his art is currently on exhibit at the Armory Center for the Arts.

Nancy Nelson, Pasadena resident, commented on past legal actions related to the City's handbills ordinance, asked for an investigation of the City Attorney's role in these matters, and submitted an informational letter titled, "Free. Open to the Public. All are Welcome", about the Community Dialogue series of forums that are focused on green ecology.

**CONSENT CALENDAR**

**AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CALIFORNIA UTILITIES EMERGENCY ASSOCIATION TO PROVIDE FOR DISASTER RESPONSE AND MUTUAL ASSISTANCE FOR THE WATER AND POWER DEPARTMENT**

**Recommendation of City Manager:** Authorize the City Manager to enter into a California Utilities Emergency Association Mutual Assistance Agreement (Agreement) with members of the California Utilities Emergency Association (CUEA), to provide for disaster response and mutual assistance for the Water and Power Department (Department). (Agreement No. 19,993)

**CONTRACT AWARD TO REPUBLIC ITS, INC., FOR THE REPLACEMENT OF VEHICLE AND PEDESTRIAN HEADS CITYWIDE, FOR AN AMOUNT NOT TO EXCEED \$1,300,000**

**Recommendation of City Manager:**

(1) Acknowledge the project to be categorically exempt under Section 21084 of the California Environmental Quality Act (CEQA) in accordance with Article 19, Section 15301 (Class 1), subsection (c) of the Resources Agency of California Guidelines (minor alterations involving negligible expansion of use beyond that previously existing), pursuant to the findings of the Secretary of the Resources Agency; and

(2) Accept the bid dated June 1, 2009, submitted by Republic ITS, Inc., in response to the Specifications for the Replacement of Vehicle and Pedestrian Heads Citywide, reject all other bids received, and authorize the City Manager to enter into such contract as is required, for an amount not to exceed \$1,300,000. (Contract No. 19,994)

**APPROVAL OF AN AMENDMENT TO THE EMPLOYMENT CONTRACT WITH CITY CLERK MARK JOMSKY**

**Recommendation of Mayor:** It is recommended that the City Council approve the Amendment to Contract No. 19,710, the Employment Agreement between the City of Pasadena and City Clerk Mark Jomsky, effective July 20, 2009. (Agreement Amendment No. 19,710-1)

MINUTES APPROVED

June 22, 2009  
June 29, 2009  
July 6, 2009

CLAIMS RECEIVED AND FILED

Claim No. 10,914	Ernest H. MacMillan, Attorney for Patricia De Sourdis	\$	Not Stated
Claim No. 10,915	State Farm Insurance Companies, Subrogee for Leila Crawford		4,289.02
Claim No. 10,916	AT&T		483.47
Claim No. 10,917	Gerald L. Marcus, Attorney for Sharon Lynn Hill		Not Stated

It was moved by Vice Mayor Gordo, seconded by Councilmember Robinson, to approve all items on the Consent Calendar. (Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison)

**RECOMMENDATIONS FROM OFFICERS AND DEPARTMENTS**

**DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE TO INCREASE THE ELECTRIC UTILITY ASSISTANCE PROGRAM BASIC BENEFIT, DESCRIBED IN PASADENA MUNICIPAL CODE SECTIONS 13.04.040(F) AND 13.04.045(F), FROM \$5.00 PER MONTH TO \$7.50 PER MONTH**

**Recommendation of City Manager:** Direct the City Attorney to prepare an ordinance to increase the Electric Utility Assistance Program (EUAP) basic benefit, described in Pasadena Municipal Code (PMC) Sections 13.04.040(F) and 13.04.045(F), from \$5.00 per month to \$7.50 per month.

Councilmember McAustin, Chair of the Municipal Services Committee, introduced the agenda item, and stressed the need to continue to focus on efficiency programs.

Eric Klinkner, Assistant General Manager/Power Supply, summarized the agenda report as part of a PowerPoint presentation.

It was moved by Councilmember McAustin, seconded by Councilmember Robinson, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison)

**ADOPTION OF A RESOLUTION OF INTENT AND FIRST READING OF AN UNCODIFIED ORDINANCE TO AMEND THE CONTRACT BETWEEN THE CITY OF PASADENA AND THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO IMPLEMENT THE PRE-RETIREMENT OPTIONAL SETTLEMENT 2 DEATH BENEFIT (GOVERNMENT CODE SECTION 21548) AND THE FOURTH LEVEL OF 1959 SURVIVOR BENEFITS (GOVERNMENT CODE SECTION 21574) FOR LOCAL POLICE MEMBERS**

**Recommendation of City Manager:**

(1) Adopt a Resolution of Intent to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City Council of the City of Pasadena to implement the Pre-Retirement Optional Settlement 2 Death Benefit (Government Code Section 21548) and the Fourth Level of 1959 Survivor Benefits (Government Code Section 21574) for local police members; and

(2) Introduce and conduct the first reading of an Uncodified Ordinance of the City of Pasadena amending the Contract between the City of Pasadena and the Board of Administration of the California Public Employees' Retirement System to provide the Pre-Retirement Optional Settlement 2 Death Benefit (Government Code Section 21548) and the Fourth Level of 1959 Survivor Benefits (Government Code Section 21574) for local police members. (Resolution No. 8964; Contract Amendment No. 2693-21)

Karyn Ezell, Director of Human Resources Department, reviewed the agenda report as part of a PowerPoint presentation, and responded to questions.

Andy Green, Director of Finance Department, clarified the costs of the proposed benefits.

Councilmember McAustin stressed the need for staff to provide Council with the numbers on the full financial impact and future liabilities to be incurred by the City when benefits are discussed during future personnel negotiations.

It was moved by Councilmember Holden, seconded by Vice Mayor Gordo, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison)

**ORDINANCE – FIRST READING**

**Conduct first reading of "AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA AMENDING THE CONTRACT BETWEEN THE CITY OF PASADENA AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE RETIREMENT BENEFIT ENHANCEMENTS TO LOCAL POLICE EMPLOYEES"**

The above ordinance was offered for first reading by Councilmember Holden:

AYES: Councilmembers Holden, McAustin, Robinson, Tornek, Vice Mayor Gordo, Mayor Bogaard

NOES: None

ABSENT: Councilmembers Haderlein, Madison

**RECOMMENDATIONS FROM OFFICERS AND DEPARTMENTS**

**RESIGNATION OF GREGORY HUGHES FROM THE CODE ENFORCEMENT COMMISSION (District 7 Nomination)**

**APPOINTMENT OF KEN FARLEY TO THE ENVIRONMENTAL ADVISORY COMMISSION (District 7 Nomination)**

**APPOINTMENT OF PAUL SECORD TO THE HISTORIC PRESERVATION COMMISSION (At Large/District 6 Nomination)**

It was moved by Councilmember McAustin, seconded by Councilmember Tornek, to accept the above resignation with regrets and to approve the above appointments. (Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison)

**ORDINANCE – FIRST READING**

**Conduct first reading of “AN ORDINANCE OF THE CITY OF PASADENA REPEALING CHAPTER 9.44 OF THE PASADENA MUNICIPAL CODE (DISTRIBUTION OF UNSOLICITED WRITTEN MATERIAL) AND ADOPTING A NEW CHAPTER 9.44 (HANDBILLS)”**

Councilmember McAustin, member of the Public Safety Committee, provided a brief history of the Committee’s review of this matter.

The City Attorney summarized the report, and responded to questions regarding the legal defensibility of the proposed new handbill regulations.

Councilmember Madison arrived at 7:25 p.m.

Vice Mayor Gordo expressed concerns regarding the need to control unsolicited materials; and asked that staff, through the Public Safety Committee, continue to explore ways to resolve this issue.

Nancy Nelson, Pasadena resident, spoke in support of repealing the handbill ordinance.

Following discussion, it was moved by Councilmember Madison, seconded by Vice Mayor Gordo, to direct the City Attorney to return with an ordinance repealing the existing handbill regulations in Chapter 9.44 of the Pasadena Municipal Code. (Motion unanimously carried) (Absent: Councilmember Haderlein)

## **PUBLIC HEARING**

### **PUBLIC HEARING: ZONING CODE AMENDMENT: AN AMENDMENT TO CHAPTER 17.71 (NONCONFORMING USES, STRUCTURES, AND LOTS) OF THE CITY'S ZONING CODE (TITLE 17)**

**Recommendation of City Manager:** It is recommended that the Council, after a public hearing:

(1) Acknowledge that the proposed Zoning Code amendment, to clarify the definition of the termination by discontinuance, does not have the potential for causing a significant effect on the environment and thus, under the California Environmental Quality Act's (CEQA) General Exemption, is exempt from further environmental assessment;

(2) Find that the adoption of these proposed Zoning Code amendments related to Nonconforming Uses, Structures, and Lots is consistent with the goals, objectives and policies of the General Plan and the purposes of the Pasadena Municipal Code, Title 17 (Zoning Code), as outlined in the body of the agenda report;

(3) Approve an amendment to the Zoning Code removing any references to "intent" as it relates to termination by discontinuance; and

(4) Approve the first reading of the ordinance that implements these recommendations as described in the agenda report.

**Recommendation of Planning Commission:** The Planning Commission, at the July 8, 2009 Public Hearing, recommended approval of these amendments with one modification that is to require that the property owner have the burden of proof to show that the use has not been discontinued for more than 12 months. This change is incorporated in the proposed ordinance.

## **ORDINANCE – FIRST READING**

### **Conduct first reading of "AN ORDINANCE OF THE CITY OF PASADENA AMENDING SECTION 17.71.060(B) OF THE PASADENA MUNICIPAL CODE RELATING TO TERMINATION OF NONCONFORMING USES"**

The above public hearing and ordinance for first reading were discussed concurrently.

The Mayor opened the public hearing.

The City Clerk reported the notice of public hearing was published on July 13, 2009 in the Pasadena Star-News and on July 16 and 23, 2009 in the Pasadena Journal; and no correspondence was received.

Richard Bruckner, Director of Planning and Development Department, summarized the agenda item and responded to questions.

Vice Mayor Gordo expressed his concerns regarding a Board of Zoning Appeals' decision on their determination of the timing of the 12-month period for the termination of discontinuance of nonconforming uses.

It was moved by Councilmember Holden, seconded by Councilmember Tornek, to close the public hearing. (Motion unanimously carried) (Absent: Councilmember Haderlein)

It was moved by Councilmember Holden, seconded by Councilmember Tornek, to approve the City Manager's recommendation. (Motion unanimously carried) (Absent: Councilmember Haderlein)

The above ordinance was offered for first reading by Councilmember Holden:

AYES: Councilmembers Holden, Madison, McAustin, Robinson, Tornek, Vice Mayor Gordo, Mayor Bogaard

NOES: None

ABSENT: Councilmember Haderlein

## PUBLIC HEARING

### **CONTINUED PUBLIC HEARING: APPEAL OF CODE ENFORCEMENT COMMISSION PANEL ORDER REGARDING SUPER LIQUOR - 125 EAST ORANGE GROVE BOULEVARD**

**Recommendation of City Manager:** It is recommended that the City Council:

- (1) Conduct a public hearing; and
- (2) Following the public hearing, confirm the action of Panel No. 3 of the Code Enforcement Commission to impose Conditions 1 through 20 found in Attachment 1 of the agenda report.

The Mayor announced now was the time for the continued public hearing.

The City Clerk reported the notice of public hearing was published on June 29, 2009 and was re-published on July 13, 2009 in the Pasadena Star-News, and was published on July 2 and 9, 2009 and re-published on July 16 and 23, 2009 in the Pasadena Journal; 21 copies of the notice were posted on June 25, 2009, and re-posted on July 9, 2009; 60 copies of the notice were mailed on June 25, 2009, and re-mailed on July 9, 2009; and 1 letter in support of the appellant was received.

Richard Bruckner, Director of Planning and Development Department, introduced the agenda item and responded to questions.

Jon Pollard, Code Compliance Manager, reviewed the agenda report as part of a PowerPoint presentation, distributed a copy of the appeal application, and responded to questions.

Police Lieutenant Tom Pederson provided a brief history of the monitoring of calls for service generated by Super Liquor, and the objectionable activities that occurred at the location/business; and responded to questions.

The City Attorney clarified the use of the City's Deemed Approved Ordinance and the City's authority in regulating this business, and responded to questions.

Theresa Fuentes, Assistant City Attorney, discussed the City's legal ability to regulate this matter by imposing the Conditions.

The following persons spoke in opposition to the Conditions (Attachment 1 of the agenda report) and/or spoke in support of Super Liquor:

Nathan Freeman, Figueroa Media Group (FMG) (appellants' representative), submitted various letters/petitions in support of Super Liquor's appeal.  
Dante Charleston, FMG (appellants' representative), submitted various photos of the store.  
Latreese Crockett, Pasadena resident

The following persons spoke in support of the Conditions (Attachment 1 of the agenda report) and/or in opposition to Super Liquor:

Peter Alexandre, Pasadena resident  
Michael Chill, Pasadena resident  
Marcia Sola, Pasadena resident  
Roland Sprewell, Pasadena resident  
Gretchen Bailey, submitted recent photos of trash in the area.  
Heidi Sprewell, Pasadena resident  
Carolina Gazzolo Clark, Day One Preventions Program Coordinator  
Nicole Bernard, Day One youth advocate  
James MacQuarrie, Pasadena resident

It was moved by Councilmember Madison, seconded by Vice Mayor Gordo, to close the public hearing. (Motion unanimously carried) (Absent: Councilmember Haderlein)

The City Clerk reported that the information (letters/petitions) previously submitted by Nathan Freeman to Councilmember Holden had been copied and distributed to Council.



Vice Mayor Gordo commended the neighbors for their work and patience in addressing this matter; and thanked the Police Department, City Attorney, and Code Enforcement staff for their work on this issue.

Councilmember Holden asked that staff provide an informational report to Council, within 6 months to a year, on the monitoring of the appellants' compliance with the Conditions.

Following discussion, it was moved by Councilmember Holden, seconded by Vice Mayor Gordo, to approve the City Manager's recommendation, with Condition No. 19 modified to limit the sale of alcohol to the hours between 9:00 a.m. to 6:00 p.m. Motion unanimously carried (Absent: Councilmember Haderlein)

**PUBLIC COMMENT**  
(Continued)

Frances Myers, Pasadena resident, expressed concerns regarding persons delivering unsolicited materials to residences; and recounted her experiences in being burglarized and having her cell phone hacked, and the alleged lack of cooperation from the Police Department in assisting with these matters.

**COUNCIL COMMENTS**

In response to Councilmember Madison's question, the City Attorney indicated that staff is preparing a memorandum to Council on a recent court ruling regarding wireless communications and its impacts on local regulations.

Councilmember Madison commended the Rose Bowl and staff for the successful international soccer match (Chelsea FC vs. AC Milan) held this past Tuesday (July 21).

The Mayor announced a second international soccer match (Galaxy vs. Barcelona) to be held at the Rose Bowl on August 1, 2009.

In response to Councilmember Robinson's question, the City Manager indicated that an update on the impacts of the State's adopted budget on the City was scheduled to occur at a meeting to be held in August or early September.

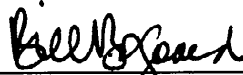
Councilmember Tornek reported to Council on the General Plan Update process and various activities planned by the General Plan Update Advisory Committee.

Councilmember Holden commented on Los Angeles County's efforts to pass an ordinance to divest the County's assets from Iran; and suggested staff gather information on the ordinance and provide a report to Council regarding a similar action that could be considered by the City.

The City Clerk announced a special meeting of the Legislative Policy Committee on July 29, 2009, to be held at 8:15 a.m. in the Fair Oaks Conference Room, City Hall (a change in the meeting location).

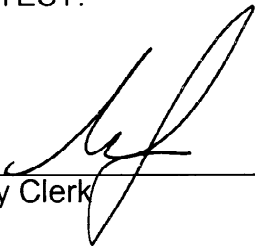
**ADJOURNMENT**

On order of the Mayor, the regular meeting of the City Council adjourned at 9:55 p.m.



\_\_\_\_\_  
Bill Bogaard, Mayor  
City of Pasadena

ATTEST:

  
\_\_\_\_\_  
City Clerk