

CITY OF PASADENA
City Council Minutes
January 25, 2010 – 5:30 P.M.
City Hall Council Chamber

REGULAR MEETING

OPENING:

Mayor Bogaard called the regular meeting to order at 5:45 p.m.
(Absent: Councilmember Madison)

On order of the Mayor, the regular meeting recessed at 5:45 p.m., to discuss the following closed sessions:

CITY COUNCIL CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION significant exposure to litigation pursuant to Government Code Section 54956.9(b): One potential case

CITY COUNCIL CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code Section 54957.6

**Agency Negotiator: Karyn Ezell
Employee Organization: Pasadena Management Association**

The above two closed session items were discussed, with no reportable action at this time.

On order of the Mayor, the regular meeting reconvened at 6:37 p.m. The Pledge of Allegiance was led by Councilmember Robinson.

ROLL CALL:

Councilmembers:

Mayor Bill Bogaard
Vice Mayor Victor Gordo
Councilmember Steve Haderlein
Councilmember Chris Holden
Councilmember Steve Madison (Absent)
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 reported on various activities held at Robinson Park on January 23, 2010, in celebration of the Phase I renovations and improvements that have been completed at the park.

The Mayor reported on the opening ceremony for the local area 2010 Census office located at 299 North Altadena Drive, Pasadena.

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

Murvyn King, Altadena resident, thanked the Pasadena Water and Power Department for their work during the past week's rainstorms, and expressed concerns regarding the City's handling of a lawsuit between the City and Jon Brookhart.

Rabbi Marvin Gross, Union Station Homeless Services (USHS) Chief Executive Officer, thanked the City for their support and ongoing partnership with Union Station in providing services to the homeless.

Jill Fosselman, USHS Board member, displayed a home made of Legos®, depicting one of Union Station's current fundraising projects.

Nancy Nelson, Pasadena resident, invited the community to an Eco-Community Dialogue program on green sporting events, with featured speaker Bruce Raynor, Athletes for a Fit Planet Chief Green Officer, to be held on February 24, 2010 in the Central Library; and submitted an informational flier on Laura Fox's "Divine Raw Vegan Food Prep Classes".

Rev. C. R. Tillman, speaking on behalf of Jon Brookhart, expressed Mr. Brookhart's concerns regarding the City Attorney's Office's handling of an issue involving Federal removal jurisdiction as it pertains to State jurisdiction; and submitted a copy of Jon Brookhart's memorandum to the City of Pasadena, City Attorney, and City Manager regarding Case No. BC 413887.

CONSENT CALENDAR

AUTHORIZE THE INCREASE OF PURCHASE ORDER CONTRACT NO. 44091 FOR PURCHASE AND INSTALLATION OF THREE PREFABRICATED BUILDINGS FOR ROBINSON PARK IN AN AMOUNT NOT TO EXCEED \$20,175

Recommendation:

(1) Find that the project was subject to adequate environmental review in the Initial Study approved, and the Negative Declaration adopted, by the City Council, November 4, 2002, for the Robinson Park Master Plan, and that there are no changed circumstances or new information which would require further environmental review; and

(2) Authorize the increase of Purchase Order No. 44091 to Design Space Modular Buildings, Inc. in an amount not to exceed \$20,175 for a new total of \$556,188.50, for the purchase of one prefabricated restroom building, one prefabricated restroom/concession building, and one prefabricated storage building for installation at Robinson Park, without competitive bidding, pursuant to City Charter, Section 1002(H), contracts with other governmental entities or their contractors for labor, material, supplies, or services.

CONTRACT AWARD TO HARDY & HARPER, INC., FOR THE RESURFACING OF STREETS AT VARIOUS LOCATIONS – 2009, FEDERAL ID NO. ESPL-5064(061) FOR AN AMOUNT NOT TO EXCEED \$4,721,900

Recommendation:

(1) Find that on May 27, 2009, the project proposed in the agenda report was found to be categorically exempt under the California Environmental Quality Act (CEQA) Guidelines in Section 15301(c), Existing Facilities, of the California Code of Regulations Title 14, Chapter 3. This exemption includes minor alterations involving negligible expansion of use beyond that previously existing, and there are no changed circumstances or new information which would require further environmental review; and

(2) Accept the bid dated December 23, 2009, submitted by Hardy & Harper, Inc., in response to the Project Specifications for the Resurfacing of Streets at Various Locations – 2009, Federal ID No. ESPL-5064(061), reject all other bids received, and authorize the City Manager to enter into such contract as is required for an amount not to exceed \$4,721,900. (Contract No. 20,209)

AUTHORIZATION TO INCREASE PURCHASE ORDER NO. 43443 WITH GENSLER BY \$28,000 TO A NEW NOT TO EXCEED AMOUNT OF \$128,000, FOR THE COMMUNITY OUTREACH PROGRAM FOR THE GENERAL PLAN UPDATE OF THE LAND USE AND MOBILITY ELEMENTS

Recommendation: Authorize the City Manager to increase Purchase Order No. 43443 with Gensler by \$28,000 to a new not to exceed amount of \$128,000, for the Community Outreach Program for the General Plan Update of the Land Use and Mobility Elements, due to an increase in the scope and services provided.

AUTHORIZATION TO ENTER INTO A CONTRACT WITH WLC ARCHITECTS, FOR PROFESSIONAL SERVICES TO COMPLETE A NEEDS ANALYSIS FOR SEVEN EXISTING CITY OF PASADENA FIRE STATIONS IN AN AMOUNT NOT TO EXCEED \$79,200

Recommendation:

(1) Find that the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Article 19, Section 15306 in accordance with Section 21084 of the Public Resources Code; and

(2) Authorize the City Manager to enter into a contract with WLC Architects, for professional services to conduct a needs analysis of seven existing City of Pasadena fire stations in an amount not to exceed \$79,200. (Contract No. 20,210)

MINUTES APPROVED

January 11, 2010
January 18, 2010

CLAIMS RECEIVED AND FILED

Claim No. 11,044	Arthur Lazzeri	\$	106.50
Claim No. 11,045	Jon Brookhart		25,500,000.00
Claim No. 11,046	Maria Mendez		Not stated
Claim No. 11,047	Z. Sondra Derderian, Esq., Attorney for Brenda Sziraki		25,000.00+
Claim No. 11,048	Jennifer Kent		2,552.04
Claim No. 11,049	Carol A. Baidas, Esq., Attorney for Richard L. Von, Jr.		25,000.00+
Claim No. 11,050	Andre Houlemard		54.82
Claim No. 11,051	Sheila Cowan		Not stated

PUBLIC HEARINGS SET

February 22, 2010, 7:30 p.m. – Adopt Zoning Code Amendments to Establish a Public Art Requirement in Northwest Pasadena and Revise the Related Private Development Public Art Program Guidelines

March 22, 2010, 7:30 p.m. – Public Hearing of the Pasadena Community Development Commission; Approval of the Public Housing Agency 2010 Annual Plan

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

REPORTS AND COMMENTS FROM COUNCIL COMMITTEES

2010 FEDERAL AND STATE LEGISLATIVE PLATFORMS

Recommendation: It is recommended that the City Council approve the Federal and State Legislative Platforms for 2010.

LEGISLATIVE POLICY COMMITTEE

The Mayor, Chair of the Legislative Policy Committee, introduced the agenda item.

Councilmember McAustin suggested the following change on Page 16, 2010 Federal Priorities – Part I, Women’s Issues section: 5) encourage strengthening of laws that ~~encourage~~ enforce equal pay without regard for gender.

Julie Gutierrez, Assistant City Manager, indicated that this change would be made in the priorities list.

The City Manager, Ms. Gutierrez, and Mark Yamarone, Transportation Administrator, responded to questions regarding the Federal appropriation requested by the City for the Transit Maintenance Facility project.

Councilmember Haderlein asked staff to provide an update on the project in 120 days (assessment of proposed sites and progress made in planning the project).

It was moved by Councilmember Robinson, seconded by Councilmember Haderlein, to approve the staff recommendation, with Page 16 of the 2010 Federal Priorities – Part I, Women’s Issues section amended to read: 5) encourage strengthening of laws that ~~encourage~~ enforce equal pay without regard for gender. (Motion unanimously carried) (Absent: Councilmember Madison)

LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT

Recommendation: It is recommended that the City Council adopt a resolution in support of the Local Taxpayer, Public Safety and Transportation Protection Act and its placement on the November 2010 Statewide Ballot. (Resolution No. 9004)

The Mayor summarized the agenda report.

Julie Gutierrez, Assistant City Manager, emphasized that this legislation was meant to protect cities from actions by the State to take funding meant for local governments.

It was moved by Councilmember McAustin, seconded by Councilmember Robinson, to approve the staff recommendation. (Motion unanimously carried) (Absent: Councilmember Madison)

ADVISORY BODIES MEMBERS IDENTIFICATION POLICY

Recommendation: It is recommended that the City Council adopt a policy whereby name tags are provided to appointees to City sponsored advisory bodies, as requested.

The Mayor introduced the agenda item.

Julie Gutierrez, Assistant City Manager, reviewed the agenda report and responded to questions.

It was moved by Councilmember Robinson, seconded by Councilmember Holden, to approve the staff recommendation. (Motion unanimously carried) (Absent: Councilmember Madison)

RECOMMENDATIONS FROM OFFICERS AND DEPARTMENTS

APPOINTMENT OF BARBARA REEVES NEAL TO THE CODE ENFORCEMENT COMMISSION (District 7 Nomination)

APPOINTMENT OF CHRISTOPHER HIDDLESON TO THE SOUTH LAKE PARKING PLACE COMMISSION (At Large/District 7 Nomination)

RESIGNATION OF RICHARD BRUCKNER FROM THE PASADENA CENTER OPERATING COMPANY BOARD (City Manager Nomination)

APPOINTMENT OF JULIE GUTIERREZ TO THE PASADENA CENTER OPERATING COMPANY BOARD (City Manager Nomination)

RESIGNATION OF LEON ROISMAN FROM THE SOUTH LAKE PARKING PLACE COMMISSION (At Large/District 7 Nomination)

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

INFORMATION ITEM

PLAN OF ISSUANCE REQUIREMENT AND GUIDELINES FOR RECOVERY ZONE BONDS

Recommendation: This report is for information only.

Andy Green, Director of Finance Department, introduced the agenda item, clarified that any proposed projects will be subject to Council approval in a separate action at a later date, and responded to questions.

Vic Erganian, City Treasurer, reviewed the agenda report as part of a PowerPoint presentation and responded to questions.

The City Manager responded to questions regarding the proposed bond funding for the Rose Bowl public improvement and renovation project.

Councilmember Tornek encouraged staff to promote the availability of these bonds to for-profit companies.

The following persons spoke in support of the bonds/proposed projects:

Sam Youneszadeh, SunEdison representative
Paul Little, Chamber of Commerce Chief Executive Officer and President

The Mayor suggested staff explore inclusion of a project that will provide bond funding of solar installations for nonprofit organizations.

On order of the Mayor, the report was received and filed.

PUBLIC HEARINGS

PUBLIC HEARING: CONSIDERATION OF SUPER LIQUOR'S REQUEST FOR RECONSIDERATION OF CONDITIONS OF OPERATION IMPOSED PURSUANT TO THE DEEMED APPROVED ORDINANCE

Recommendation: Staff recommends that the conditions of operation imposed on Super Liquor by the Code Enforcement Commission, as affirmed by the City Council on Super Liquor's appeal, not be modified as requested. However, clarifying language may be added to certain conditions by the City Council, as indicated in the body of the agenda report.

Councilmember Haderlein was excused at 7:39 p.m.

The Mayor opened the public hearing.

The City Clerk reported 30 copies of the notice of public hearing were posted on January 5, 2010; 100 copies of the notice were mailed on January 5, 2010; and 9 letters in support

of the request for modifications of the conditions of operation and 7 letters in opposition to the request for modifications were received.

The City Attorney introduced the agenda item, and outlined the parameters of the responsibilities of the private security guard required under Condition No. 9 and the removal of litter under Condition No. 10, and responded to questions.

Frank Rhemrev, Assistant City Attorney, reviewed the agenda report, discussed the development and implementation of the City's Deemed Approved Ordinance, and responded to questions.

The following persons spoke in support of the request for modifications of the conditions of operation:

Benjamin M. Reznik, Jeffer Mangels Butler & Marmaro LLP (legal counsel for Kum and Kun Jhae - Super Liquor owners), submitted a copy of the ABC Stipulation and Waiver for Prehearing Settlement document.
Kun Chin Jhae, Super Liquor owner (appellant)
Ben Nam Kung, Korean American Grocers Association of California (KAGRO) member
Charles Stepney, Pasadena resident
Eugene Williams, Pasadena resident
Francisco Hernandez, Super Liquor employee and Pasadena resident
Alberto Diaz, Pasadena resident

The following persons spoke in opposition to the request for modifications of the conditions of operation:

Doug Owens, Pasadena resident
Bob Kneisel, Pasadena resident
Michael Warner, Pasadena resident
Ann Tait, Pasadena Neighborhood Coalition representative
Elizabeth Finley, El Rio/Lake Neighborhood Association President speaking as an individual
Joe Feinblatt, Pasadena resident
Michael Chill, Pasadena resident
Tanya Lazar, Pasadena property owner
Gretchen Palmer, Pasadena resident, submitted letters from Matthew Katzenson/Antonio Aguilar and the Cooks in support of the existing conditions.
Michael Pistillo, Pasadena resident
James MacQuarrie, Pasadena resident
Blake Bailey, Pasadena resident
John Hutt, Pasadena resident
Terri MacQuarrie, Pasadena resident
Dale Trader, Pasadena resident
Michael O'Brien, Pasadena resident

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

Discussion followed on defining the Super Liquor business as a nuisance, information gathered by the Department of Alcoholic Beverage Control of the State of California (ABC) regarding the operation of Super Liquor, actions taken by the ABC in placing restrictions on a conditional license for Super Liquor, the 2009 ABC Stipulation and Waiver for Prehearing Settlement signed by an owner of Super Liquor, application of the Deemed Approved Ordinance to the Super Liquor situation, and possible modifications to the current conditions of operation.

The City Attorney clarified nuisance abatement procedures under the Pasadena Municipal Code, and discussed the legal implications of a possible legal challenge to the inclusion of "distilled spirits" in Condition No. 3.

Police Lieutenant Tom Pederson responded to questions regarding reports developed by the Pasadena Police Department involving Super Liquor.

Jon Pollard, Code Compliance Manager, responded to questions regarding code enforcement issues.

Vice Mayor Gordo suggested the following changes in the conditions of operation: grant the appellants' request to remove "distilled spirits" from Condition No. 3, modify Condition No. 9 to clarify the private security guard's responsibilities, and grant the appellants' request to modify Condition No. 10 to limit litter removal to within 100 feet of the premises. He also suggested that the City should communicate to the ABC its concerns regarding ABC's mild (in his opinion) disciplinary action against Super Liquor.

Councilmembers Tornek and Holden expressed concerns regarding the removal of "distilled spirits" from Condition No. 3.

Councilmember McAustin suggested adding a condition that would provide a review of the conditions of operation after 12 months of operation.

It was moved by Councilmember Holden, seconded by Vice Mayor Gordo, to re-open the public hearing for additional comment from appellant's legal counsel. (Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison)

Benjamin M. Reznik, legal counsel for appellants, expressed the appellants' willingness to comply with the conditions of operation, if Condition No. 19 is modified to reflect the sale of alcohol from 9:00 a.m. to 9:00 p.m.

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

Following discussion, it was moved by Vice Mayor Gordo, seconded by Councilmember Tornek, to approve the staff recommendation, amended as follows:

Condition No. 9 – Management shall employ a private security guard to patrol the business premises and the surrounding vicinity adjacent sidewalks, including the north side of Orange Grove Boulevard adjacent to the property, during all hours of business operation for a distance of 50 feet in each direction from the subject site to ensure that no littering, loitering, or consumption of alcohol occurs, and make prompt notification to the Pasadena Police Department of instances of loitering, the public consumption of alcohol, or other illegal activity.

Condition No. 10 – It shall be the responsibility of the business owner/operators of the business to remove identifiable litter from the premises and the public right of way (limited to the north side of East Orange Grove up to 100 feet from the premises) of the business from the public right-of-way within a 500 ft. radius of said business, and make prompt notification to the Pasadena Police Department of instances of loitering or the public consumption of alcohol.

Condition No. 21 – If requested by the appellant/business owner after 12 months, the Code Enforcement Commission shall review the Conditions of Operation imposed on Super Liquor to determine if the conditions should be revised.

(Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison)

Following additional discussion, it was moved by Vice Mayor Gordo, seconded by Councilmember Robinson, to modify Condition No. 3 to read: The sale or stocking of single containers of ~~distilled spirits~~, beer, malt beverages, and wine coolers in sizes of 12 oz. or less is prohibited, but may be sold in manufacturer pre-packaged multi-unit quantities:

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

NOES: Councilmembers Holden, Tornek

ABSENT: Councilmembers Haderlein, Madison

(Motion failed)

The Mayor referred to the appellant's assertion in this public hearing that facts set forth in investigative reports on file with the ABC can under no circumstances serve as a proper basis for conditions included by the Council in the CUP granted to Super Liquor. He stated, with due respect to the appellant's position, that he considers it entirely possible that such facts are a proper basis for the Council's action.

Vice Mayor Gordo thanked the neighbors for their participation in this process.

PUBLIC HEARING: AMENDMENT TO THE TREE PROTECTION ORDINANCE – PRIVATE TREE REMOVALS

Recommendation:

(1) Find that the proposed code amendments are categorically exempt from the California Environmental Quality Act (CEQA) under Section 15061, general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment;

(2) Find that the proposed amendments are in conformance with the goals, policies, and objectives of the General Plan and would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City;

(3) Approve the proposed amendments to the Tree Protection Ordinance (Title 8 and Title 17), as contained in the agenda report;

(4) Authorize the City Manager to draft administrative guidelines consistent with the provisions set forth in the agenda report; and

(5) Direct the City Attorney to draft an ordinance and return within 60 days, consistent with the provisions set forth in the agenda report.

Recommendation of Planning Commission: On November 11, 2009, the Planning Commission concurred with recommendations from the Design Commission and Urban Forestry Advisory Committee (UFAC) and recommended that the City Council approve staff's recommendations for revisions to the Tree Protection Ordinance (TPO). The Commission also proposed minor changes to the draft wording of the findings, and these changes are in the proposed amendments.

The Mayor opened the public hearing.

The City Clerk reported the notice of public hearing was published on January 11 and 18, 2010 in the Pasadena Star-News and on January 21, 2010 in the Pasadena Journal; and 2 letters in support of the proposed code amendments were received.

Richard Bruckner, Director of Planning and Development Department, introduced the agenda item and responded to questions regarding tree protection for large site developments.

Emily Stadnicki, Senior Planner, and Darya Barar, Program Coordinator, reviewed the agenda report as part of a PowerPoint presentation, and responded to questions.

No one appeared for public comment.

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

It was moved by Councilmember McAustin, seconded by Councilmember Holden, to approve the staff recommendation. (Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison)

The Mayor joined Councilmembers McAustin and Tornek in recognizing staff for the extensive work that went into the tree protection revision process.

The Council thanked Richard Bruckner for his years of service to the City and congratulated him on his new position with the County of Los Angeles.

Councilmember McAustin was excused at 11:07 p.m.

PUBLIC HEARING: APPEAL OF DECISION BY THE DESIGN COMMISSION REGARDING EVALUATION OF THE ARCHITECTURAL/HISTORIC SIGNIFICANCE OF 499, 501, 503 & 523 SOUTH ARROYO PARKWAY (PLN2009-00106)

Recommendation: It is recommended that the City Council, at the request of the appellant, continue the public hearing to February 22, 2010, at 7:30 p.m.

The Mayor noted that the appellant had requested the public hearing continuance.

It was moved by Councilmember Tornek, seconded by Councilmember Holden, to continue the public hearing to February 22, 2010 at 7:30 p.m. (Motion unanimously carried) (Absent: Councilmembers Haderlein, Madison, McAustin)

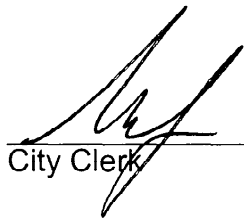
ADJOURNMENT

On order of the Mayor, the regular meeting of the City Council adjourned at 11:08 p.m.



Bill Bogaard, Mayor
City of Pasadena

ATTEST:



City Clerk