

CITY OF PASADENA
City Council Minutes
October 27, 2008 – 5:30 P.M.
City Hall Council Chamber

Teleconference Location:
Residence
580 West Howard Street
Pasadena, California

REGULAR MEETING

OPENING:

Mayor Bogaard called the regular meeting to order at 5:46 p.m. (Councilmember Robinson participated via teleconference beginning at 5:46 p.m.) (Absent: Councilmember Holden)

On order of the Mayor, the regular meeting recessed at 5:46 p.m., to discuss the following closed sessions:

**CITY COUNCIL CONFERENCE WITH LEGAL COUNSEL REGARDING PENDING LITIGATION pursuant to Government Code Section 54956.9(a)
Case Name: Hindman v. City of Pasadena, et al.
Case No.: BC369577**

**CITY COUNCIL CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code Section 54957.6
City Representatives: Karyn S. Ezell and Arthur Chavez
Employee Organization: Unrepresented Top, Middle and Professional Management Employees**

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 the City Manager.

ROLL CALL:

Councilmembers:

Mayor Bill Bogaard
Vice Mayor Steve Haderlein
Councilmember Victor Gordo
Councilmember Chris Holden (Absent)
Councilmember Steve Madison
Councilmember Margaret McAustin
Councilmember Jacque Robinson (Participated via teleconference beginning at 5:46 p.m.)
Councilmember Sidney F. Tyler

Staff:

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

CEREMONIAL MATTERS

The City Clerk administered the oaths of office to Gordon B. Hamilton as member of the Community Development Committee and Rhea Roberts as Old Pasadena Parking Meter Zone Advisory Commissioner.

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

No one appeared for public comment.

CONSENT CALENDAR

AUTHORIZATION OF SUBMITTAL OF GRANT APPLICATIONS AND ADOPTION OF RESOLUTIONS FOR THE URBAN STREAMS RESTORATION AND THE CALIFORNIA RIVER PARKWAYS GRANT PROGRAMS

Recommendation of City Manager:

- (1) Adopt a resolution authorizing an application for the Proposition 84, California River Parkways Grant Program/Urban Streams Restoration Grant Programs in the amount of \$1,262,950 to implement the Berkshire Creek Improvement Project in Hahamonga Watershed Park (CIP Project No. 77508, No. 77509); and
- (2) Adopt a resolution authorizing an application for the Proposition 84, California River Parkways Grant Program/Urban Streams Restoration Grant Programs in the amount of \$2,575,000 to implement the Upper Arroyo Seco Stream Sustainability Project (CIP Project No. 1040). (Resolution Nos. 8898, 8899, 8900, and 8901)

CONTRACT AWARD TO YAKAR FOR THE INSTALLATION OF STREET LIGHTING AND STREET TREES IN THE PASADENA PLAYHOUSE DISTRICT, PHASE II, FOR AN AMOUNT NOT TO EXCEED \$964,000

Recommendation of City Manager:

- (1) Accept the bid dated October 17, 2008, submitted by Yakar, in response to the Specifications for the Installation of Street Lighting and Street Trees in the Pasadena Playhouse District, Phase II, reject all other bids received, and authorize the City Manager to enter into such contract as is required for an amount not to exceed \$964,000; and
- (2) 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 authorize the City Manager to execute and the City Clerk to file a Notice of Exemption for the project with the Los Angeles County Clerk. (Contract No. 19,781)

**APPROVAL OF THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF PASADENA AND PASADENA
MANAGEMENT ASSOCIATION FOR THE TERM OF
APRIL 1, 2008 THROUGH MARCH 17, 2012**

Recommendation of City Manager: It is recommended that the City Council approve a successor Memorandum of Understanding between the City of Pasadena and the Pasadena Management Association (PMA) for a four-year term covering the period April 1, 2008 through March 17, 2012. (Agreement No. 19,782)

Scott Johnson, Pasadena resident, expressed concerns regarding the impacts of the Memorandum of Understanding (MOU) on the City's financial resources, and asked Council to reconsider the provisions in the MOU in light of the current economic environment.

The Mayor noted that Council had discussed the MOU terms in closed sessions over a period of months.

MINUTES APPROVED

October 13, 2008

**CLAIMS RECEIVED AND
FILED**

Claim No. 10,721	Esperanza Hernandez	\$ 6,179.94
Claim No. 10,722	Dommond Lonnie	76.41
Claim No. 10,723	Esurance, Inc.	Not Stated
Claim No. 10,724	John Andre Gougeon	1,338.51
Claim No. 10,725	The Madison Company	Not Stated

PUBLIC HEARING SET

November 17, 2008 at 7:30 p.m. - North Los Robles Zoning Overlay District

It was moved by Councilmember Gordo, seconded by Vice Mayor Haderlein, to approve all items on the Consent Calendar:

AYES: Councilmembers Gordo, Madison, McAustin, Robinson, Tyler, Vice Mayor Haderlein, Mayor Bogaard

NOES: None

ABSENT: Councilmember Holden

**REPORTS AND COMMENTS
FROM COUNCIL
COMMITTEES**

FINANCE COMMITTEE

PURCHASE OF EXCESS LIABILITY INSURANCE FROM EVEREST NATIONAL INSURANCE COMPANY AND ALLIED WORLD NATIONAL ASSURANCE COMPANY NOT TO EXCEED \$340,000

Recommendation of City Manager:

(1) Authorize the binding of coverage for the purchase of excess liability insurance with limits of (a) \$10,000,000 excess of a \$5,000,000 self-insured retention from Everest National Insurance Company, and (b) \$10,000,000 excess of \$15,000,000 from Allied World National Assurance Company, at a total annual premium not to exceed \$340,000.

Competitive bidding is not required pursuant to City Charter Section 1002(F), contracts for professional or unique services; (2) Authorize up to four subsequent annual renewals, without further City Council action, to bind coverage for the purchase of excess liability coverage provided the annual premium does not exceed \$400,000 for the same policy limits; and (3) Grant the proposed contract an exemption from the competitive selection process of the Competitive Bidding and Purchasing Ordinance pursuant to Pasadena Municipal Code Section 4.08.049(B), contracts for which the City's best interests are served.

Councilmember Tyler, Chair of the Finance Committee, reviewed the agenda report and responded to questions.

Steve Mermell, Acting Director of Finance Department, clarified the term length (including renewals) of the insurance.

It was moved by Councilmember Tyler, seconded by Vice Mayor Haderlein, to approve the City Manager's recommendation:

AYES: Councilmembers Gordo, Madison, McAustin, Robinson, Tyler, Vice Mayor Haderlein, Mayor Bogaard

NOES: None

ABSENT: Councilmember Holden

Councilmember Tyler reported on three internal audits that had been reviewed by the Audit Committee, indicated that a report had been presented to the Committee on performance audits of the Housing Department and Information Technology Services Division, and noted that the citywide audit was scheduled to be presented for review the first week of December 2008.

PASADENA CONFERENCE CENTER EXPANSION PROJECT UPDATE

Recommendation of Pasadena Center Operating Company:
This report is for informational purposes only.

Councilmember Madison was excused at 6:53 p.m.

The Mayor announced that the above item was being held at the request of the City Manager.

RECESS

On order of the Mayor, the regular meeting of the City Council recessed at 6:54 p.m. to the regular meeting of the Community Development Commission.

RECONVENED

On order of the Mayor the regular meeting of the City Council reconvened at 6:55 p.m. (Absent: Councilmembers Holden, Madison)

ORDINANCE – ADOPTED

Councilmember Madison returned at 6:57 p.m.

Adopt “AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA GRANTING ASSIGNMENT OF A NON-EXCLUSIVE SOLID WASTE FRANCHISE FROM LOONEY BINS, INC., TO USA WASTE OF CALIFORNIA, INC., DBA WASTE MANAGEMENT AND AMENDING ORDINANCE NO. 7087” (Introduced by Vice Mayor Haderlein) (Ordinance No. 7155)

The above ordinance was adopted by the following vote:

AYES: Councilmembers Gordo, Madison, McAustin, Robinson, Tyler, Vice Mayor Haderlein, Mayor Bogaard

NOES: None

ABSENT: Councilmember Holden

PRESENTATION

PRESENTATION BY ASSEMBLYMEMBER ANTHONY PORTANTINO REGARDING THE STATE OF THE STATE

Assemblymember Anthony Portantino updated Council on the delayed adoption of the State budget; and reviewed budget funding provided for roads, transportation, public safety programs, regional planning, housing and infill incentives, affordable housing, and transit-oriented development. He commented on competing philosophies in the legislature for addressing the projected budget shortfall and current structural budget deficit, the need for creation of a bipartisan relationship that can address budget issues and develop priorities, and his position that adequate funding support must be provided for education and foster care children. Assemblymember Portantino outlined his legislative work on statewide business partnerships for innovation and technology, high school/community college concurrent enrollment, a Black college student exchange program, and breast cancer insurance coverage. He noted that funding for urban parks would be available in 2010 and applications should be prepared by the City for this timeframe. He announced that the 2nd Annual Children's Health Fair will be held on November 21, 2008 at the Boys and Girls Club of Pasadena, and the 2nd Annual San Gabriel Valley HIV/AIDS Summit will be held on December 11, 2008 at the City of Hope.

Councilmember McAustin suggested the legislature take action to encourage or require each city to provide affordable housing, services for the homeless, and transitional housing/services for the homeless so that these housing and service needs/requirements are being met by neighboring communities on an equitable basis.

Assemblymember Portantino outlined a bill he had offered that would have provided rewards in the way of grants for cities that had completed a housing element and been proactive in creating affordable housing and a bill that would have provided

incentives for placing foster children into single family homes. He responded to questions regarding a proposed option that would allow the State to share in new monies created by extending the life of redevelopment agencies and the possibility of reinstating the vehicle license fee; expressed opposition to the State's use of current redevelopment monies to address State budget deficit issues; and discussed the need for the State to achieve structural reform of the budget, achieve a stable revenue source, and inform the public about the State's vision of the budget.

The Mayor thanked Assemblymember Portantino for his presentation and the information provided to the Council and public.

ORDINANCE – ADOPTED

Adopt “AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8 OF THE PASADENA MUNICIPAL CODE TO ADD NEW SECTIONS TO CHAPTER 8.78 TO PROHIBIT SMOKING IN OUTDOOR PUBLIC PLACES AND ADDITIONAL DEFINITIONS TO SECTION 8.78.040” (Introduced by Councilmember Gordo) (Ordinance No. 7156)

The following persons spoke in opposition to the ordinance:

Alexis Nassif, Holly Street Bar and Grill (Eden Garden) owner, asked for a variance to allow smoking in the restaurant's outdoor patio area, and submitted various informational materials.

Edward Moriarty, Eden Garden Bar and Grill owner
Don Smith, 35er owner

The following persons spoke in support of the ordinance:

Kenneth Peter, Glendora resident
Patricia Haight, Pasadena resident
Nancy Sagatelian, Pasadena Tobacco Prevention Coalition (PTPC) member
Paul Ramirez, Pasadena resident
David Wheatley, PTPC Chair
Steven Gallegos, American Lung Association of California Smoke-Free Advocacy and Program Manager

Discussion followed on options to accommodate smoking for outside restaurant patio areas, and possible financial impacts of smoking bans on various businesses.

In response to Councilmember Tyler's question, Dr. Takashi Wada, Director of Public Health Department, confirmed that adoption of the ordinance will result in the City receiving a B rating from the Centers for Disease Control and Prevention.

The above ordinance was adopted by the following vote:

AYES: Councilmembers Gordo, Madison, McAustin,
Robinson, Tyler, Vice Mayor Haderlein,
Mayor Bogaard

NOES: None

ABSENT: Councilmember Holden

The Mayor noted that an educational effort will now be launched to inform the public about the new regulations, with gradual enforcement of the ordinance to be used.

PUBLIC HEARINGS

Councilmember Madison recused himself at 7:55 p.m., due to a conflict of interest.

PUBLIC HEARING: FORMATION OF THE CITY OF PASADENA ANNANDALE CANYON OPEN SPACE BENEFIT ASSESSMENT DISTRICT

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

(1) Conduct a public hearing on the proposed establishment of an Open Space Benefit Assessment District, to levy an assessment thereon, and to issue Assessment District bonds to represent unpaid assessments.

It is further recommended that upon closing the public comment portion of the public hearing, that the City Council:

(2) Order the tabulation of all ballots received and not withdrawn, and request a report of the tabulation results as soon as possible.

(3) Adopt a resolution declaring the results of a property owner protest ballot proceeding for the Annandale Canyon Open Space Benefit Assessment District.

If no majority protest exists, it is further recommended that the City Council determine to delay commencement of cash collection period until a decision to purchase is made, and it is further recommended that the City Council adopt a resolution making certain findings, approving the Engineer's Report, approving the formation of the Annandale Canyon Open Space Benefit Assessment District, and approving and confirming the levy of assessments for said Assessment District. (Resolution Nos. 8902 and 8903)

The Mayor opened the public hearing.

The City Clerk reported the notice of public hearing was published on October 13, 2008 in the Pasadena Star-News; 643 copies of the notice and assessment ballots were mailed on September 11, 2008; and 1 letter in opposition to the Assessment District was received.

Fred Jones, Senior Project Manager, reviewed the agenda report; clarified that the staff recommendation did not include a direction to collect the assessment fees from the property owners and that, although additional funding from State and County grants had not materialized, funding was still being discussed with State officials; and responded to questions. He

introduced the following persons: Maryann Goodkind, Fulbright & Jaworski LLP, Bond Counsel retained by the City; and Scott Koppel and Lyn Gruber, Koppel & Gruber Public Finance, who prepared the Engineer's Report and tabulated the assessment ballots.

Julie Gutierrez, Assistant City Manager, clarified that the Finance Committee had previously discussed conceptually a \$1.5 million commitment to be made by the City for purchase of property in the proposed Assessment District, but that Council had not taken any formal action to approve such an allocation; and distributed a revised resolution (making certain findings, approving the Engineer's Report, approving the formation of the Annandale Canyon Open Space Benefit Assessment District, and approving and confirming the levy of assessments for said Assessment District) that will replace the resolution originally submitted with the agenda report. Ms. Gutierrez indicated that the City was continuing discussions with the City's legislative advocate and various representatives in seeking funds for the project from State and County grants.

The City Manager responded to questions regarding public parking spaces in the proposed Assessment District, proposed funding for the property purchase to create the District, and the identified shortfall in funding; and outlined options for Council action in moving forward with the creation of the Assessment District and identification of funding options for, and uses of, the property.

Maryann Goodkind, Bond Counsel, confirmed that the recommendation does not include a direction to begin the collection process for the assessment fees at this time and that the Assessment District may be cancelled at a later time, if the project does not go forward; and responded to questions regarding the Assessment District process.

Discussion followed on costs involved in purchasing the property in the proposed Assessment District, anticipated costs for improvements to the property, concerns regarding parking space needs and proposed locations for public parking spaces, and past vs. current appraised values for the property.

The following persons spoke in support of the formation of the Annandale Canyon Open Space Benefit Assessment District:

Tim Wendler, Santa Monica Mountains Conservancy Advisory Committee member, speaking as an individual
Nina Chomsky, Linda Vista/Annandale Association (LVAA) member
Jon Head, Annandale Canyon Estates (developer), speaking as an individual

Sharon Yonashiro, LVAA Past President, speaking as an individual

Bob Kneisel, Pasadena resident

Marian Quinn, Pasadena property owner with Michael Quinn at 654 Linda Vista Avenue, asked for clarification of the boundaries of the Assessment District to determine if their residence lies within the District, since their household had not received a ballot; and expressed support for creation of the District.

Lyn Gruber, Koppel & Gruber Public Finance, confirmed that the Quinn property was located outside of the boundaries of the Assessment District and not eligible to vote for the District.

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

By consensus and on order of the Mayor, the tabulation of all ballots received was ordered, with the tabulation to be conducted under the direction of the City Clerk's Office in Council Conference Room S246, and with an announcement of the results of the tabulation to be made as soon as possible.

Following tabulation of the assessment ballots, Mr. Jones reported the following results:

313 ballots were received

189 ballots (62.1%) cast in support of the proposed assessment – annual assessment fees of \$33,390

124 ballots (37.9%) in opposition to the proposed assessment – annual assessment fees of \$20,405

There is no majority protest.

Discussion followed on Recommendation No. 3 as state above, the timing of the creation of the Assessment District and the appeal process period of 30 days, possible renegotiation of the purchase price of the property, and concerns about funding the shortfall in the property purchase.

Councilmember McAustin asked staff to use the interim period (during which the cash-collection period is to be delayed and until a decision is reached on purchase of the property) to obtain a current appraisal of the property to be used in renegotiation of the purchase price of the property; to develop a list of funding sources (given the current economic climate) that would not include General Fund monies but could include Residential Impact Fees; to determine the use of the property and the means for public access (including parking needs); and to identify funding sources for the purchase of the property and necessary improvements for parking and access needs.

Councilmember Gordo asked staff to keep Council informed on continuing efforts to identify funding sources for the project.

It was moved by Councilmember Gordo, seconded by Councilmember Tyler, to approve Recommendation No. 3, as amended to include the directions to staff listed by Councilmember McAustin above:

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

NOES: None

ABSENT: Councilmembers Holden, Madison

RECESS/Joint MEETING

On order of the Mayor, the regular meeting of the City Council recessed at 8:41 p.m. to a joint meeting with the Community Development Commission. (Absent: Councilmembers Holden, Madison)

JOINT PUBLIC HEARING: DRAFT CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (2007-2008 PROGRAM YEAR) FOR PROJECTS FUNDED FROM COMMUNITY DEVELOPMENT BLOCK GRANT, EMERGENCY SHELTER GRANT, HOME INVESTMENT PARTNERSHIP ACT, AND HUMAN SERVICES ENDOWMENT FUND PROGRAMS; CDBG REQUEST FOR PROPOSALS FOR NON-PUBLIC SERVICES PROJECTS (2009-2010 PROGRAM YEAR)

Recommendation of City Manager/Chief Executive Officer:

It is recommended that the City Council/Community Development Commission, following the public hearing, take the following actions:

(1) Approve the submission to the U.S. Department of Housing and Urban Development ("HUD") of the Draft Consolidated Annual Performance and Evaluation Report ("CAPER") for the 2007-2008 Program Year for projects funded under the Community Development Block Grant ("CDBG"), Emergency Shelter Grant, HOME Investment Partnership Act, and Human Services Endowment Fund programs; and

(2) Authorize the issuance of the CDBG Request for Proposals for funding of Non-Public Services Projects for the 2009-2010 Program Year.

The Mayor opened the public hearing.

The City Clerk reported the notice of public hearing was published on October 9, 2008 in the Pasadena Journal; and no correspondence was received.

Stephanie DeWolfe, Acting Assistant City Manager, introduced the agenda item.

Jim Wong, Acting Director of Housing Department, summarized the agenda report, and responded to questions regarding the oversight process for the grant sub-recipients.

The City Manager differentiated between the staff oversight process for the sub-recipients' programs and the annual auditing process performed by the U.S. Department of Housing and Urban Development (HUD) on the City staff's oversight of the individual sub-recipients' programs and staff's overall management of the federal grant program. He noted that a financial audit and a management performance audit of the Housing Department will be conducted to determine if existing financial protocols and management operations are adequate, to ensure that federal regulations, appropriate financial standards, and management practices are being followed.

In response to Councilmember Tyler's questions, the City Manager indicated that data on the job training component of the City's Maintenance Assistance Services to Homeowners (MASH) program could be provided in his weekly letter to Council and as part of future annual Consolidated Annual Performance and Evaluation Report (CAPER) presentations.

Councilmember Tyler asked that information on the MASH program include the historical graduation rate data, the number of job placements in the past year, where the job placements were made, and a sense of where the placements have been successful and where they have failed.

In response to Councilmember McAustin's questions, Ms. DeWolfe indicated that a recent technical study of the Pasadena Development Corporation's (PDC) Small Business Assistance program conducted by the Urban Land Institute was being reviewed by staff, with a report and recommendations on the program to be provided to Council within 30-60 days.

The following persons thanked the City for the past and current grants that had been awarded to Outward Bound Adventures, Inc.:

Robert Sendrey, Outward Bound Associate Program Director
Martha McClellan-Morehouse, Outward Bound Deputy Executive Director

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

It was moved by Councilmember Gordo, seconded by Vice Mayor Haderlein, to approve the City Manager's/Chief Executive Officer's recommendations:

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

NOES: None

ABSENT: Councilmembers Holden, Madison

RECONVENED

On order of the Mayor, the joint meeting with the Community Development Commission adjourned at 8:58 p.m. and the regular meeting of the City Council reconvened at this time. (Absent: Councilmembers Holden, Madison)

INFORMATION ITEM

**SUMMARY OF CITY COUNCIL POSITIONS ON MEASURES
ON NOVEMBER 4, 2008 BALLOT**

Recommendation of City Manager: This report is for information only.

The Mayor summarized the agenda report.

By consensus and on order of the Mayor, the report was received and filed.

ANNOUNCEMENT

The City Clerk announced that although the General Election to be held on November 4, 2008 was being administered by the Los Angeles County Registrar-Recorder/County Clerk's Office, the City Clerk's Department would be available to respond to the public's questions about polling locations and sample ballots on November 4th.

COUNCIL COMMENTS

In response to Councilmember McAustin's questions, the City Manager indicated that staff was currently evaluating projected budget revenues and reconsidering the City's financial position as this relates to the State's current budget and projected deficit; and noted there would be a special meeting of the Finance Committee scheduled for November 11, 2008 to review the current City budget and proposed modifications to the budget, with an update to Council to be scheduled for a future meeting.

ADJOURNMENT

On order of the Mayor, the regular meeting of the City Council adjourned at 9:26 p.m.



Bill Bogaard, Mayor
City of Pasadena

ATTEST:



City Clerk