

CITY OF PASADENA  
City Council Minutes  
December 7, 2009 – 5:30 P.M.  
City Hall Council Chamber

REGULAR MEETING

**OPENING:**

Mayor Bogaard called the regular meeting to order at 5:49 p.m. (Absent: Councilmembers Holden, Madison, Vice Mayor Gordo)

On order of the Mayor, the regular meeting recessed at 5:49 p.m., to discuss the following closed session:

Councilmember Holden  
arrived at 5:56 p.m.

Councilmember Madison  
arrived at 6:09 p.m.

**CITY COUNCIL CONFERENCE WITH LABOR  
NEGOTIATORS pursuant to Government Code  
Section 54957.6**  
**Agency Negotiator: Karyn Ezell**  
**Employee Organization: Pasadena Management  
Association**

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

On order of the Mayor, the regular meeting reconvened at 6:33 p.m. The Pledge of Allegiance was led by Councilmember Holden.

**ROLL CALL:**

Councilmembers:

Mayor Bill Bogaard  
Vice Mayor Victor Gordo  
Councilmember Steve Haderlein  
Councilmember Chris Holden  
Councilmember Steve Madison  
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**

Karyn Ezell, Director of Human Resources Department, recognized the following City employees for their years of service to the City: Mary Walker for 35 years and Deborah Bailey for 45 years, who received commendations from the Mayor.

Gabriel Silva, Management Analyst, announced the recipients of the 2009 Outstanding Recycler Awards, in recognition of their efforts in recycling and preserving the environment.

The Mayor and Martin Pastucha, Director of Public Works Department, presented certificates and plaques to award recipients in the following categories:

Development of a Reduction, Reuse, or Recycling Program (Commercial Operation or Nonprofit Organization):

Sequoyah School – received by Josh Brody (Director), Renee Dake Wilson (parent), Harry Burke (student), and Isabel Arroyo (student)

Creative Reuse of Common Objects: Saint Philip the Apostle School – received by Lara Serventi (RRR Program Chair) and a group of students

Education Outreach that Inspires Environmental Stewardship: Waste Less Living – received by Christina Lenches Hinkel (Founder/Owner)

Outstanding Solid Waste Collection/Recycling Hauler Demonstrating Innovative Environmental Practices and Stewardship: Interior Removal Specialist, Inc. – received by Richard Ludt (Waste Management Administrator)

Overall Recycler of the Year for Outstanding Support and Commitment to Recycling: Art Center College of Design – received by Linda Estrada (Transportation Management and Sustainability Manager)

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

The following persons spoke in support of the 2010 Pasadena Marathon and the fundraising opportunities that are offered to nonprofit organizations through the Marathon event:

Ellen Simon, HEAR Center Executive Director  
Kristen Farley, Up and Moving Pasadena Program Coordinator  
Mercedes Auraju, Teen Futures Program Associate  
Israel Estrada, Pasadena Forward Board member, invited everyone to participate in the 2010 Pasadena Marathon to be held on February 21st.

The following persons expressed concerns regarding alleged human rights violations occurring in China:

Ann Lau, Visual Artists Guild representative  
Tony Gabriele, Amnesty International representative  
Ying Zhang, China Democracy Party representative  
Tao Jun, San Gabriel resident  
Mei Feng Li, San Gabriel resident

The Mayor announced that an event being sponsored by Sherry Simpson-Dean on behalf of the United Nations Association of Pasadena and based on the United Nations' 1948 adoption of the Universal Declaration of Human Rights will be held on December 10, 2009.

Catherine Hany, Pasadena Public Library staff member, announced the book selection of Gardens of Water by Alan Drew for the 2010 One City, One Story community reading program; and distributed copies of the book to the Council and City Manager.

## **CONSENT CALENDAR**

### **RESOLUTION AUTHORIZING SUBMITTAL OF FUNDING APPLICATION TO THE STATE OF CALIFORNIA, DEPARTMENT OF PUBLIC HEALTH FOR THE PROPOSITION 84 SECTION 75025 FUNDING PROGRAM (SUNSET PERCHLORATE TREATMENT FACILITY)**

#### **Recommendation of City Manager:**

(1) Find that the Sunset Reservoir Ion Exchange Project was subject to adequate environmental review in the mitigated negative declaration adopted by staff for the project on September 11, 2008, and that there are no changed circumstances or new information, which would trigger further environmental review; and

(2) Adopt a resolution required for the funding application to the State of California, Department of Public Health (DPH) for the Proposition 84 Section 75025 Funding Program. (Resolution No. 9001)

### **ADOPT A RESOLUTION TO AUTHORIZE THE PASADENA WATER AND POWER DEPARTMENT TO APPLY FOR A GRANT IN AN AMOUNT NOT TO EXCEED \$75,000 FROM THE STATE OF CALIFORNIA'S WATER RESOURCES CONTROL BOARD FOR A FACILITIES PLANNING STUDY FOR THE WATER RECYCLING PROGRAM**

#### **Recommendation of City Manager:**

(1) Find that the development of a facilities planning study is exempt from California Environmental Quality Act (CEQA) review, pursuant to State CEQA Guidelines Section 15262; and

(2) Adopt a resolution to authorize Pasadena Water and Power (PWP) to apply for a grant from the State of California, State Water Resources Control Board (SWRCB) in an amount not to exceed \$75,000, for a planning study for PWP's recycled water project. (Resolution No. 9002)

### **REJECTION OF BIDS FOR ELECTRICAL CONSTRUCTION AT CHESTER SUBSTATION FOR THE WATER AND POWER DEPARTMENT**

**Recommendation of City Manager:** Reject all bids received on September 22, 2009 in response to specifications LD-09-17 for electrical construction at Chester Substation for the Water and Power Department.

### **REJECTION OF ALL BIDS FOR THE PURCHASE OF LIGHT EMITTING DIODE (LED) TUBE LIGHTS FOR VARIOUS CITY FACILITIES**

**Recommendation of City Manager:** Reject all bids received on November 4, 2009, in response to specifications for light emitting diode (LED) tube lights at various City facilities, and authorize the City Manager to call for new bids.

### **MEMORANDUM OF UNDERSTANDING/LETTER OF AGREEMENT APPROVAL FOR EAST COLORADO BOULEVARD PEDESTRIAN ENHANCEMENTS**

#### **Recommendation of City Manager:**

(1) Find 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; and

(2) Approve the Memorandum of Understanding/Letter of Agreement (MOU/LOA) between the City and the Los Angeles County Metropolitan Transportation Authority for the East Colorado Boulevard Pedestrian Enhancements Project, Phase 1. (Agreement No. 20,153)

#### MINUTES APPROVED

November 16, 2009  
November 23, 2009  
November 30, 2009

#### CLAIMS RECEIVED AND FILED

Claim No. 10,995	Stephen Melli	\$ 2,552.60
Claim No. 10,996	Emigdio Casas	Not stated
Claim No. 10,997	State Farm Insurance Co., as subrogee for Lydia Lam	5,711.71
Claim No. 10,998	Gary Garboushian	573.55
Claim No. 10,999	Bernhard Mairinger	4,000.00
Claim No. 11,000	Lemuel Joyner	Not stated
Claim No. 11,001	Mercury Insurance, as subrogee for Tania Flores	4,947.91
Claim No. 11,002	Ernst L. Von Winckelmann	Not stated
Claim No. 11,003	Dona D. Davis	10,000.00
Claim No. 11,004	Sevan Simonian	340.00
Claim No. 11,005	Allstate Insurance Co., as subrogee for Ernst Von Winckelmann	7,539.74
Claim No. 11,006	Harry Frank Scolinos, Attorney for Olga Lavrova and Adam Freres	25,000.00+
Claim No. 11,007	Allstate Insurance Co., as subrogee for Suin Lee	4,323.36

It was moved by Councilmember Madison, seconded by Councilmember Haderlein, to approve all items on the Consent Calendar. (Motion unanimously carried) (Absent: None)

#### **RECOMMENDATIONS FROM OFFICERS AND DEPARTMENTS**

#### **RESIGNATION OF BONNIE KHANG FROM THE DESIGN COMMISSION (At Large/District 7 Nomination)**

It was moved by Councilmember McAustin, seconded by Councilmember Robinson, to accept the resignation with regrets. (Motion unanimously carried) (Absent: None)

**CONSIDERATION OF A MOTION TO RENEW THE MOTION TO APPROVE THE CITY MANAGER'S RECOMMENDATION PERTAINING TO THE CALL FOR REVIEW OF A DECISION BY THE DESIGN COMMISSION, MINOR CHANGES TO AN APPROVED PROJECT: SUBSTITUTE MATERIAL/FINISH ON CORNICE, 125 NORTH RAYMOND AVENUE (RAYMOND RENAISSANCE PROJECT) (Councilmember Robinson)**

The Mayor introduced the agenda item and responded to questions.

Councilmember Robinson stated that her reasons for asking for this consideration of a motion to renew the motion were based on her absence from the Council meeting of November 2, 2009, and that she was unable to participate in the discussion and deliberations on this important matter. She stated that she had reviewed the videotape of the public hearing and had viewed the Raymond Renaissance project at 125 North Raymond Avenue.

The City Attorney reviewed her memorandum to the City Council dated December 7, 2009; discussed the Pasadena Municipal Code (PMC) and City Charter provisions regarding the rules for the conduct of Council meetings and the legal basis for applying "Robert's Rules of Order" to this matter; and responded to questions.

Richard Bruckner, Director of Planning and Development Department, responded to questions regarding staff action to enforce the Design Commission's decision.

Vice Mayor Gordo expressed concerns regarding the lack of a time deadline for this type of action under "Robert's Rules of Order" and Council's jurisdiction involving matters that are not approved.

Discussion followed on issues involving the procedural means that may be followed regarding a Council decision that has not been approved, issues involving due process or fair procedure in such matters, determination of the finality of a Council action, and possible modification to the Council's rules for the conduct of its meetings.

Following discussion, it was moved by Councilmember Robinson, seconded by Councilmember Madison, to renew the motion to approve the City Manager's recommendation pertaining to the call for review of a decision by the Design Commission, minor changes to an approved project: substitute material/finish on cornice, 125 North Raymond Avenue (Raymond Renaissance Project):

AYES: Councilmembers Haderlein, Holden, Madison, Robinson

NOES: Councilmembers McAustin, Tornek, Vice Mayor Gordo, Mayor Bogaard

ABSENT: None

(Motion failed)

The City Attorney confirmed that the decision of the Design Commission stands. (Council Meeting of November 2, 2009: "Design Commission recommendation: Approve the request for changes to the previously approved design with the following condition: In lieu of the existing plaster finish, the applicant and

the applicant's architect or consultant shall propose a method to change the finish (e.g., paint in a solid color) – and this proposal to change the finish shall be reviewed and approved by a three-person subcommittee of the Design Commission. The Commission also indicated that this work may be delayed to accommodate construction loans and other financing issues.”)

Councilmember Madison was excused at 7:58 p.m.

Following brief discussion, the City Attorney cited information from “Robert’s Rules of Order” regarding a motion to reconsider; and indicated it was Council’s prerogative to modify the City’s rules for conducting a meeting.

The Mayor noted that he would provide Council with a copy of Resolution No. 5893, A Resolution of the Board of Directors of the City of Pasadena Establishing Rules for the Conduct of its Meetings, Proceedings, and Business, for informational purposes.

## **PUBLIC HEARING**

### **CONTINUED PUBLIC HEARING: CALL FOR REVIEW OF ZONING ADMINISTRATOR INTERPRETATION (ZA NO. 32), 217 SOUTH MICHIGAN AVENUE (EDDIE’S MARKET)** **Recommendation of City Manager:**

- (1) Acknowledge that this action is categorically exempt from the California Environmental Quality Act; and
- (2) Overturn the Board of Zoning Appeals decision and uphold the decision of the Zoning Administrator regarding Section 17.71.060(B) of the Zoning Code, that the nonconforming alcohol sales at 217 South Michigan Avenue (Eddie’s Market) has been discontinued for more than 12 months and cannot be reestablished.

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

The City Clerk reported that 32 copies of the notice of public hearing were posted on November 5, 2009; 412 copies of the notice were mailed on November 5, 2009; and no correspondence was received.

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

Councilmember Tornek noted that, in response to concerns expressed by Council at a prior public hearing on this matter, the City’s regulations had been amended to preclude the Board of Zoning Appeal’s decision (regarding the continuance of a nonconforming use) from being used to set a precedent in future similar cases, and that the applicant had signed an agreement to accept the Deemed Approved Ordinance and Conditions of Operation, as set forth in the agreement.

Scott Carlson, legal counsel for the applicant, spoke in opposition to the City Manager's recommendation, and in support of the Board of Zoning Appeals' decision to overturn the Zoning Administrator's decision; and asked that the applicant be allowed to move forward as set out in the applicant's signed agreement to accept the Deemed Approved Ordinance and Conditions of Operation.

The City Attorney confirmed that the decision of the Board of Zoning Appeals would not set a precedent for future matters involving any nonconforming use.

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

Following discussion, it was moved by Councilmember Tornek, seconded by Councilmember McAustin, to accept the applicant's agreement ("Acceptance of the Deemed Approved Ordinance and Conditions") as contained in the agenda report, and to direct staff to record the agreement, with the understanding that the agreement will run with the land. (Motion unanimously carried) (Absent: Councilmember Madison)

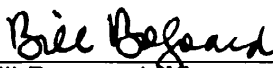
**PUBLIC COMMENT**  
(Continued)

James Peterson, Chapman Manor HOA Chair, expressed concerns regarding prior property damages and scaffolding permit issues related to the project being developed at 155 East Cordova Street, and the alleged lack of protections afforded the Chapman Manor HOA.

The City Manager indicated that staff would assess the situation at this site and contact Mr. Peterson regarding his concerns.

**ADJOURNMENT**

On order of the Mayor, the regular meeting of the City Council adjourned at 8:17 p.m., in memory of Edward E. Bignell, who directed a City/Pasadena Unified School District recreation program until 1970, which continues to serve as a model for City/school relations in regard to parks and recreation.

  
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Bill Bogaard, Mayor  
City of Pasadena

ATTEST:

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