

CITY OF PASADENA
City Council Minutes
January 5, 2015 – 5:00 P.M.
City Hall Council Chamber

SPECIAL MEETING

OPENING: Mayor Bogaard called the special meeting to order at 5:03 p.m.
(Absent: Councilmembers Gordo and Madison)

The Pledge of Allegiance was led by Mark Jomsky, City Clerk.

ROLL CALL:

Councilmembers:

Mayor Bill Bogaard
Vice Mayor Jacque Robinson
Councilmember Victor Gordo (Arrived at 5:14 p.m.)
Councilmember John J. Kennedy
Councilmember Steve Madison (Arrived at 5:53 p.m.)
Councilmember Gene Masuda
Councilmember Margaret McAustin
Councilmember Terry Tornek

Staff:

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

Councilmember Gordo
arrived at 5:14 p.m.

UNDERGROUND UTILITIES PROGRAM AUDIT DISCUSSION

The Mayor introduced the agenda item.

Michael Beck, City Manager, provided a detailed overview of the agenda report as part of a PowerPoint presentation, briefed the City Council and the community on the issue involving the misappropriation of public funds, which included a summary of the investigation and the timeline of events associated with the fraudulent activities/transactions, and highlighted the City's next steps as it relates to the on-going investigation, recovery methods, strengthening fiscal and operational management, and reinforcing accountability throughout the City. He also provided information on the current status of the Underground Utility Program, and responded to questions.

Siobhan Foster, Director of Public Works, provided a detailed review of the Public Works Department's Accountability Work Plan as part of a PowerPoint Presentation, and responded to questions.

Councilmember Tornek commented on the Department of Public Works Accountability Work Plan, and expressed concerns regarding its focus being on establishing new procedures as

Councilmember Madison arrived at 5:53 p.m.

oppose to focusing on accountability and consequences for individuals not following the existing procedures, and whether there are other areas of concerns relating to the matter.

Andrew Green, Director of Finance, provided a detailed review of the Finance Department's Accountability Work Plan as part of a PowerPoint Presentation, and responded to questions.

Councilmember Gordo commented on the issue of accountability as it relates to the matter, and stressed the importance for the City to be aggressive in its efforts of recovering the stolen funds, to be transparent in terms of what the City is doing to address the issue, including information related to the on-going investigations and the City's plan as to how the funds will be recovered.

The following individuals expressed strong concerns regarding the embezzlement, urged the City Council to conduct a thorough review of the facts and circumstances surrounding the misappropriation of public funds, and the need to hold accountable any employees that may have enabled or allowed the misappropriation to occur:

Genevieve Clavreul, Pasadena resident
Brian Weiss, Pasadena resident
Victor Riehl, Pasadena resident
Sheri Stevenson, Pasadena resident, submitted written material
Michelle White, Pasadena resident
Jonathan Edwards, Downtown Pasadena Neighborhood Association (DPNA) (and invited the community to DPNA's Mayoral Candidates Forum on January 14, 2015 at the Pasadena Presbyterian Church)
Sole Teramae, Pasadena resident
Nina Chomsky, Pasadena resident
Felicia Williams, Pasadena resident

In response to Ms. Clavreul, the City Manager noted that KPMG was not selected through a Request For Proposals (RFP) process, stating that the nature of a RFP would have raised awareness of what was potentially being investigated, which could have significantly compromised the criminal investigation. However, he did note that the City performed a background review on KPMG, and based on findings, selected the firm to undertake the audit as a result.

In addition, the following persons spoke on the need for oversight in both areas of Finance and the Pasadena Police Department:

Kris Ockershauser, American Civil Liberties Union (ACLU) and
Coalition for Increased Civilian Oversight of Pasadena Police
(CICOPP)
Dale Gronemeier, Eagle Rock, CA
Skip Hickambottom, National Association for the Advancement
of Colored People (NAACP)

Vice Mayor Robinson expressed disappointment as it relates to the embezzlement of the public funds, provided her comments on the issue and inquired about the City's auditing procedures and the frequency of such audits, including why the past audits overlooked years of fraudulent activities, and whether the Internal Auditor position is sufficient in managing internal auditing for the City.

The City Manager noted that there is an on-going internal personnel investigation that will identify and hold accountable all persons involved in the embezzlement of approximately \$6.4 million dollars in public funds. He also indicated audits of randomly selected funds occur on an annual basis and stated that staff is aggressively looking for other potential situations/issues as it relates to other funds. Additionally, he noted that staff is working to create additional training across the organization to produce employees with more general skills in an effort to eliminate "over-specialization".

In response to Vice Mayor Robinson, Robert Ridley, City Controller, reported on the number of reports received via the fraud hotline, noted that a more detailed report is forthcoming to the Finance/Audit Committee as it relates to the actual items that have been reported on the fraud hotline, and encouraged City employees and the public to utilize the two mechanisms created to report fraud anonymously: Fraud Hotline (626) 744-7448 or online at www.cityofpasadena.net.

Councilmember Masuda thanked the community for their input on the matter, expressed concerns regarding other funds that may have potentially been exposed to fraudulent activities, inquired about the steps being taken to prevent this from reoccurring in the future, and what recovery methods will be utilized to recuperate the embezzled funds. He also inquired about the total amount of Underground Utility Tax funds that have been collected and expended to date. In response, Mr. Beck indicated that staff will have to do additional research and report back to City Council with information as it relates to the total of amount collected and expended for the Underground Utility Fund.

In response to Councilmember Masuda, Michele Bagneris, City Attorney, noted that the City plans to seek restitution through criminal proceedings, and pursue civil remedies from the criminal defendants, including numerous potential defendants that may bear some liability and responsibility as it relates to the embezzlement, and stated that these efforts will be in addition to the City's insurance claim for the stolen funds.

Councilmember Madison thanked both the Mayor and the City Manager for publicly accepting responsibility on behalf of the City for the misappropriation of funds, but noted that the City Council as a whole bears some responsibility, specifically as it relates to the importance of being prudent stewards of public monies. He pointed out that there have been legitimate expenditures from the "Underground Utility" fund account. He also commented on the elimination of two Internal Auditor positions and whether or not these persons would have made the discovery sooner, and stated that an appropriate system of checks and balances would have prevented such a crime from being perpetrated, encouraged a review of any non-profit organizations receiving payments from the City, suggested that a special committee be formed to oversee the investigation, respectfully requested that no mayoral candidates be allowed to serve on the committee, and requested that staff agendize a closed session discussion regarding the personnel investigation and potential litigation issues.

Councilmember McAustin stressed the importance for the City to restore the public's trust, thanked KPMG, LLP, for their thorough work as it relates to the audit, expressed concerns regarding any single person being granted a significant level of authority that he/she can perpetrate such a crime, commented on the work plans presented by staff, stating that they highlight the weaknesses associated with the City's internal control system, specifically as it relates to basic accounting principles being violated. She suggested that the operational risk assessment audit process begin as soon as possible, that staff work to implement the Enterprise Resource Planning (ERP) system, as it relates to the Human Resources Module, prior to the targeted year of 2017, to assign a committee (possibly the Finance/Audit Committee) the task of conducting a regular periodic review/check to ensure compliance with established financial procedures/processes, explore ways to strengthen the Finance/Audit Committee's oversight of the City's finances, possibly by adding an outside auditor or person from the community, stated her support for Councilmember Madison's suggestion to appoint a special committee to oversee the investigation, and commented on the Underground Utility Fund reimbursement program, and recommended that, at the appropriate time, staff examine the program to gauge its effectiveness.

Councilmember Gordo stated his support for the formation of a special committee to oversee and advise the City Council on both the criminal and internal investigations. He also stated that future work performed as part of the Underground Utility Fund reimbursement program be verified by City staff as completed prior to the payment of any submitted invoice. He suggested that the City Council appoint a special task force of citizens to work with the City Manager to review all 131 funds, Department by Department, in an effort to identify potential internal control weaknesses, and to include other employee functions that may be problematic such as cash handling, Planning and Permitting, and inspections, and other areas identified by the City Manager, to ensure that the processes in place are adequate, and with staff to report back with information to the full City Council, through the Finance Committee. He also recommended that the special task force carry out the City's full risk assessment of every area of potential weakness, asked the City Manager to conduct an analysis of all the Departments and identify key vacant/eliminated positions that, if filled, could potentially address areas of weakness in any of the City processes, urged a more aggressive approach regarding fraud reporting mechanisms, and a discussion as to whether the approved Internal Auditor position in the City Manager's Office or an "Auditor General" position can provide an opportunity for individuals to privately report any fraud activities, inquired about whistleblower protections and incentives, and asked the City Attorney to look into whether the City can attach some incentives for reporting fraud through State or Federal law. Additionally, he expressed concerns regarding City contracts and the Request for Proposal (RFP) process, noting the importance for the City to have clear guidelines and controls as it relates to contracts and RFP's, and asked the City Manager to report back to the City Council with information regarding the matter.

In response to the Mayor, Councilmember Gordo clarified that his suggestion for the formation of a special task force of "outside professionals" to carry out the City's full risk assessment is in addition to Councilmember Madison's suggestion for a special committee to oversee the investigation.

Councilmember Kennedy also commented on the misappropriation of public funds, urged that a more broad investigation be conducted to ensure that this type of activity does not exist in other areas of the City's government, stating that all individuals involved will be held accountable, commented on the existing State Government statutes regarding whistleblowers and asked the City Attorney to report back to the City Council with information on how the statutes may relate to actions that the City Council may want to consider, and stated the City has to increase transparency to restore the confidence of the community. He also highlighted issues raised by

staff regarding inadequate underground vaults and asked the City Manager to address this issue in his weekly newsletter.

The Mayor, with the consensus of the City Council, highlighted the following steps the City intends to take as it relates to the matter:

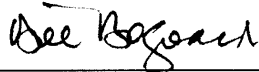
- Complete a personnel investigation within 60 days
- File civil action against responsible parties for recovery of assets and to pursue restitution
- Follow-up with insurance carrier regarding a theft claim - \$5 million limit
- Hire an internal auditor
- Expand training and policy review across the organization
- Implement KPMG's recommendations and the work plans developed by the Public Works and Finance Departments
- Review the KPMG recommendation for applicability throughout the City
- Reaffirm the City's values within our corporate culture
- Report back to the City Council in 60 days
- Accelerate a Citywide risk assessment
- Review the City's reporting process for alleged malfeasance – to strengthen beyond the fraud hotline
- Accelerate implementation of the Enterprise Resource Planning (ERP) system's Human Resources Module from the targeted date of 2017
- Appoint a special Council Committee for purposes of close monitoring/dialogue with the City Manager and staff regarding the misappropriation of public funds
- Retain special legal counsel (or appropriate persons) to work with the special committee to provide insight and support
- Retain an additional auditor to strengthen the Finance/Audit Committee (The Mayor suggested that the Internal Auditor dual reporting requirements to the City Manager and the Finance/Audit Committee)

In response to Councilmember McAustin, Councilmember Gordo further clarified that his suggestion is for a special task force of citizens to be formed to help guide the citywide risk assessment of every area of potential weakness, and that it be a public process that will allow individuals to participate, ensuring full transparency.

Following discussion, it was moved by Vice Mayor Robinson, seconded by Councilmember Masuda, to direct staff to proceed with the work plan outlined by the Mayor above. (Motion unanimously carried) (Absent: None)

ADJOURNMENT

On order of the Mayor, the special meeting of the City Council adjourned at 9:11 p.m.



Bill Bogaard, Mayor
City Council

ATTEST:



City Clerk