

CITY OF PASADENA
City Council Minutes
October 2, 2017 – 5:30 P.M.
City Hall Council Chamber

REGULAR MEETING

Teleconference Location:
Willard InterContinental
Business Center
1401 Pennsylvania Avenue NW
Washington DC 20004

OPENING:

Mayor Tornek called the regular meeting to order at 5:30 p.m.
(Absent: Councilmember Hampton)

On the order of the Mayor, the regular meeting recessed at 5:30 p.m., to discuss the following closed session:

CITY COUNCIL CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to Government Code Section 54956.8

Addresses of Properties: 391 South Orange Grove Boulevard, Pasadena; 835 South Raymond Avenue, Pasadena; 700 Seco Street, Pasadena; and 360 North Arroyo Boulevard, Pasadena

Agency Negotiator: Steve Mermell

Negotiating Party: Tournament of Roses Association, David Eads

Under Negotiation: Price and terms of payment

Councilmember Hampton
arrived at 6:21 p.m.

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

On the order of the Mayor, the regular meeting reconvened at 6:31 p.m. The pledge of allegiance was led by Councilmember Masuda.

ROLL CALL:

Councilmembers:

Mayor Terry Tornek
Vice Mayor John J. Kennedy
Councilmember Victor Gordo
Councilmember Tyron Hampton
Councilmember Steve Madison (participated via teleconference)
Councilmember Gene Masuda
Councilmember Margaret McAustin
Councilmember Andy Wilson

Staff:

City Manager Steve Mermell
City Attorney/City Prosecutor Michele Beal Bagneris
City Clerk Mark Jomsky

The Mayor expressed condolences and sympathy for all those affected by the horrific tragedy that occurred in Las Vegas, Nevada during the Route 91 Harvest music festival on October 1, 2017, and stated that the City Council will observe a moment of silent reflection prior to adjourning the City Council meeting.

CEREMONIAL MATTERS

The City Clerk administered the oath of office to Evan Kendal McCrary as Commissioner on the Status of Women.

The Mayor presented a proclamation to Tony Santilena, Human Services Commission Chair, and Elizabeth Luna, Human Services and Recreation Commissioner, declaring October 2017 as "Bullying Prevention Awareness Month." Mr. Santilena and Johnathan Liu, Chair of the Pasadena Youth Council, thanked the City Council for their support.

The Mayor also presented a proclamation to Ali Everett, Accessibility Issues Coordinator, and Jorge Lambrinos, Chair of the Accessibility and Disability Commission, declaring October 2017 as "Employment of Persons with Disabilities Awareness Month." Ms. Everett recognized the various employers in Pasadena that were honored by the Civitan Club for outstanding hiring practices and employing people with developmental disabilities.

PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Don Nollar, Civitan Club of Pasadena, spoke on the Civitan's new program aimed to increase employment opportunities for individuals with intellectual and developmental disabilities in the City. He encouraged the City to work with employment agencies and the Civitan Club to support additional employment opportunities and help honor and recognize employers who employ people with developmental disabilities.

Reverend Michael Burnes, Pasadena resident, expressed safety concerns with a City tree located in the public right-of-way in front of his home, affecting the sidewalk due to the root intrusions, and asked the City for assistance in removing the tree.

In response to public comment, City Manager Mermell, responded City staff will contact Mr. Burnes to provide information.

Timothy Sales, Heritage Housing Partners, provided information on their Affordable Homeownership Application Training event to be held on October 7, 2017 at the First AME Church, and November 4, 2017 at Villa Parke Community Center, and thanked the City Council for their support.

Vice Mayor Kennedy expressed concerns with the current number of applicants on the Heritage Housing Partners interest list and suggested that application training events be advertised as educational courses for first time home buyers.

Vanessa Tachiquin, Pasadena resident, spoke on her experience with her special needs child and suggested having special needs individuals wear identifiable bracelets for public safety providers and others to be aware of their special needs.

Carla Sameth, Pasadena Rose Poets, recited poetry.

Charles Hammel, Pasadena resident, expressed concerns and frustration on his experience with second-hand smoke, and asked the City for assistance with enforcing the City's ordinance pertaining to non-smoking in multi-family buildings.

In response to Councilmember Madison and the public comment, City Manager Mermell, stated that he would follow up with staff and contact Mr. Hammel, as well as keep Councilmember Madison updated on any developments.

Emanuel Najera, Pasadena resident, expressed concerns with the City trees on El Molino Avenue, due to the condition of the trees and City sidewalk damage being caused by tree roots.

In response to public and Councilmember Hampton's comments, City Manager Mermell stated that he will contact staff and follow up with Mr. Najera.

CONSENT CALENDAR

Item discussed separately

ADOPT A RESOLUTION FOR THE SUMMARY VACATION OF A PORTION OF LAND OF APPROXIMATELY 75 FEET LONG AND NINE FEET WIDE FRONTING PROPERTY AT 645 EAST WALNUT STREET ON EL MOLINO AVENUE FRONTAGE

MINUTES APPROVED

September 18, 2017
September 19, 2017

Claim No. 12,966	Jassim Law Trial Attorneys representing Michael Robert Budewitz	\$ 25,000.00+
Claim No. 12,967	Prescott W. Littlefield, Attorney for Eve Komesar	25,000.00+
Claim No. 12,968	Infinity Insurance as subrogee for Antonio Mejia	1,116.50
Claim No. 12,969	Geraldine M. Stumpus	685.00
Claim No. 12,970	Arthur W. Toga	415.48
Claim No. 12,971	Denzil Barnett	500.00

It was moved by Vice Mayor Kennedy, seconded by Councilmember Wilson, to approve all items on the Consent Calendar, with the exception of Item 1 (Adopt a Resolution for the Summary Vacation), which was discussed separately:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek
NOES: None
ABSENT: None
ABSTAIN: None

CONSENT ITEMS
DISCUSSED SEPARATELY

ADOPT A RESOLUTION FOR THE SUMMARY VACATION OF A PORTION OF LAND OF APPROXIMATELY 75 FEET LONG AND NINE FEET WIDE FRONTING PROPERTY AT 645 EAST WALNUT STREET ON EL MOLINO AVENUE FRONTAGE

Recommendation:

- (1) Adopt a resolution summarily vacating a portion of land of approximately 75 feet long and nine feet wide fronting the property at 645 East Walnut Street on El Molino Avenue frontage pursuant to Sections 8331, 8333, and 8334 of the California Streets and Highways Code; and
- (2) Certify the summary vacation to be categorically exempt from the California Environmental Quality Act (CEQA) in accordance with Title 14, Chapter 3, Section 15303 – New Construction or Conversion of Small Structures, and authorize the City Manager to execute and the City Clerk to file a Notice of Exemption for the summary vacation with the Los Angeles County Recorder's Office.

The Mayor spoke on the item and expressed concerns with the owner's proposed project, stating that the property would be better utilized as a public park, which would satisfy the need for open space in the Central District.

Vice Mayor Kennedy requested that staff provide a presentation on the item at a future City Council meeting; and expressed concerns with utilizing the City Council's eminent domain process, and asked staff to provide the criteria for exercising eminent domain authority by the City Council.

Michele Beal Bagneris, City Attorney/City Prosecutor, responded to questions regarding the City Council's eminent domain authority and process; and stated that an eminent domain discussion would be more appropriate as part of closed session.

The Mayor stated that a discussion should be agendized on the utilization of this parcel as a park if the site meets the necessary criteria and is worth consideration of acquisition for open space.

Steve Mermell, City Manager, informed the City Council that staff will agendize, at a future meeting, a discussion on efforts and challenges related to identifying park space in the City's Central District.

Councilmember Gordo requested that this item be tabled for a future City Council meeting; and agendize a discussion on open spaces in the Central District that includes all properties that may be able to accommodate a park. In addition, Mr. Gordo asked staff to provide a report on the City's eminent domain authority, including possible uses, including the property at 645 East Walnut Street, under closed session.

The following individuals spoke in favor of the portion of land fronting 645 East Walnut Street being used for a park:

Robert Gorksi, Pasadena resident
Emanuel Najera, Pasadena resident

Following discussion, it was moved by Councilmember Gordo, second by Vice Mayor Kennedy to table the item to a future City Council meeting for further discussion:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek
NOES: None
ABSENT: None
ABSTAIN: None

PUBLIC HEARINGS

PUBLIC HEARING: DESIGNATION OF THE HOUSE AT 95 TUSTIN ROAD AS A LANDMARK

Recommendation:

- (1) Find that the designation of a historic resource is categorically exempt from the California Environmental Quality Act (CEQA) (CEQA State Guidelines Section 15308: Class 8 – Actions by Regulatory Agencies for Protection of the Environment);
- (2) Find that the house at 95 Tustin Road meets landmark designation Criterion "C" in Pasadena Municipal Code (PMC) Section 17.62.040(C)(2)(c) because it embodies the distinctive characteristics of a locally significant property type, architectural style and period and represents the work of an architect whose work is of significance to the City. It is a locally significant example of a Mid-Century Modern style house designed by architect Harold Zook;
- (3) Adopt a resolution approving a Declaration of Landmark Designation for 95 Tustin Road, Pasadena, California;
- (4) Authorize the Mayor to execute the Declaration of Landmark Designation for 95 Tustin Road, Pasadena, California; and
- (5) Direct the City Clerk to record the declaration with the Los Angeles County Recorder. (Resolution No. 9599)

Recommendation of the Historic Preservation Commission: At its regular meeting of August 15, 2017, the Historic Preservation Commission recommended that the City Council approve the designation of 95 Tustin Road as a landmark under Criterion "C" of PMC Section 17.62.40.

The City Clerk opened the public hearing and reported 46 copies of the notice were mailed on September 14, 2017, and 12 copies of the notice were posted on September 18, 2017; no correspondence was received by the City Clerk's office regarding this item.

David Reyes, Director of Planning and Community Development, provided introductory comments, and Kevin Johnson, Senior Planner provided a PowerPoint presentation on the item; and responded to questions.

It was moved by Councilmember Madison, seconded by Councilmember Gordo, to close the public hearing:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek
NOES: None
ABSENT: None
ABSTAIN: None

Following a brief discussion, it was moved by Councilmember Madison, seconded by Councilmember Masuda, to approve the staff recommendation:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek
NOES: None
ABSENT: None
ABSTAIN: None

PUBLIC HEARING: DESIGNATION OF THE HOUSE AT 1500 NORMANDY DRIVE AS A HISTORIC MONUMENT

Recommendation:

- (1) Find that the designation of a historic resource is categorically exempt from the California Environmental Quality Act (CEQA) (CEQA State Guidelines Section 15308: Class 8 – Actions by Regulatory Agencies for Protection of the Environment);
- (2) Find that the Clark Blanchard Millikan House at 1500 Normandy Drive meets Historic Monument designation Criterion "B" and "C" in Pasadena Municipal Code (PMC) Section 17.62.040(B)(1)(b) and (c) because it is associated with the lives of persons who are significant in the history of the nation; is

exceptional in the embodiment of the distinctive characteristics of a historic resource property type, period and architectural style and is an exceptional representation of the work of an architect whose work is significant to the nation. The house is an exceptional example of a custom-designed Spanish Colonial Revival single-family residence designed by nationally significant architect Wallace Neff and is associated with the productive life of Clark Blanchard Millikan, a nationally significant figure in the field of aerospace research and development;

(3) Adopt a resolution approving a Declaration of Historic Monument Designation for 1500 Normandy Drive, Pasadena, California;

(4) Authorize the Mayor to execute the Declaration of Historic Monument Designation for 1500 Normandy Drive, Pasadena, California; and

(5) Direct the City Clerk to record the declaration with the Los Angeles County Recorder. (Resolution No. 9600)

Recommendation of the Historic Preservation Commission: At its regular meeting of August 15, 2017, the Historic Preservation Commission recommended that the City Council approve the designation of 1500 Normandy Drive as a Historic Monument under Criterion B and C of PMC Section 17.62.40.B.

The City Clerk opened the public hearing and reported 73 copies of the notice were mailed on September 14, 2017, and 19 copies of the notice were posted on September 18, 2017; no correspondence was received by the City Clerk's office regarding this item.

David Reyes, Director of Planning and Community Development, provided introductory comments, and Kevin Johnson, Senior Planner provided a PowerPoint presentation on the item; and responded to questions.

It was moved by Councilmember Madison, seconded by Councilmember Hampton, to close the public hearing:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek

NOES: None

ABSENT: None

ABSTAIN: None

It was moved by Councilmember Madison, seconded by Councilmember Masuda, to approve the staff recommendation:

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek
NOES: None
ABSENT: None
ABSTAIN: None

ORDINANCE – FIRST READING

Conduct first reading of “AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA GRANTING ASSIGNMENT OF A NON-EXCLUSIVE SOLID WASTE FRANCHISE FROM RECOLOGY LOS ANGELES TO ARACO ENTERPRISES, LLC., DBA ATHENS ENVIRONMENTAL SERVICES AND AMENDING ORDINANCE NO. 7306”

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

AYES: Councilmembers Gordo, Hampton, Madison, Masuda, McAustin, Wilson, Vice Mayor Kennedy, Mayor Tornek
NOES: None
ABSENT: None
ABSTAIN: None

In response to Vice Mayor Kennedy’s inquiry regarding information report on the City’s franchise system, City Manager Mermell and Ara Maloyan, Director of Public Works, responded that staff will present information on the item at a future Municipal Services Committee (MSC) meeting prior to the City Council; will check the record to ensure the information provided at previous City Council meetings regarding the item is consistent with the information provided today; and will attempt to accelerate the timeline. Carmen Rubio, Program Coordinator II, responded that the discussion on the City’s franchise system is scheduled for August 2018 at MSC.

PUBLIC HEARING (Continued)

PUBLIC HEARING: ZONING CODE AMENDMENT TO ADD REGULATIONS FOR SHORT-TERM RENTALS

Recommendation:

- (1) Acknowledge that the proposed Zoning Code Amendment is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378; and is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) (“General Rule”) and 15301 “Existing Facilities” (Class 1);
- (2) Adopt the Findings of Consistency with the General Plan in Attachment A of the agenda report;
- (3) Approve the proposed Zoning Code Amendment as contained in the agenda report; and

Councilmember Madison
recused himself 7:38 p.m. and
left the meeting.

(4) Direct the City Attorney to prepare an ordinance within 60 days amending Title 17 of the Pasadena Municipal Code (Zoning Code) as presented in the agenda report.

Councilmember Madison stated that he is recusing himself due to his law firm having previously represented Airbnb in a past lawsuit, and although he was not involved in the case, in the interest of caution will not participate on the discussion of the item.

The City Clerk opened the public hearing; reported that the public hearing notice was published in the Pasadena Star News on September 18, 2017, Pasadena Journal and Pasadena Weekly on September 21, 2017, and September 28, 2017; and that the City Clerk's Office received 3 letters in favor, 5 letters in opposition and 5 letters providing comments, which were distributed to the City Council and made part of the public hearing record.

David Reyes, Director of Planning and Community Development, provided introductory comments, and Perry Banner, Consulting Planner, and Ulrik Binzer, Founder and CEO of Host Compliance, LLC (City's consultant), provided PowerPoint presentations on the item; and responded to questions.

Arthi Varma, Principal Planner, responded to questions regarding the number of listings of short-term rentals in the Rose Bowl area.

Councilmember Hampton spoke in favor of a third party monitoring and enforcement of proposed regulations, and Pasadena residents having home-sharing options; and spoke on the need to collect Transient Occupancy Tax (TOT) fees on all short-term rentals.

Steve Mermell, City Manager, spoke on the City of Los Angeles' agreement with Airbnb prior to determining land-use regulations, and the City staff's decision to regulate short-term rentals prior to collecting TOT fees.

Councilmember Wilson spoke on the importance of occupancy numbers as opposed to the listing numbers to determine how busy the Short-Term Rental (STR) areas may be considered; and his preference that vacation rental owners reside in the City.

Matt Hawkesworth, Director of Finance, responded to questions regarding the City's collection process on TOT fees for short-term rentals.

In response to Vice Mayor Kennedy's concern regarding equal protection and zoning, Theresa Fuentes, Assistant City Attorney, responded that historically zoning treats areas of the City differently as necessary due to geography, density or other distinguishing factors, and that there is no equal protection raised when areas are treated differently for zoning purposes if based on such distinguishing factors.

Councilmember Gordo asked staff to determine and consider if the TOT fees related to the short-term rental market will participate with the Tourism Business Improvement District (TBID) assessment process, and whether STR regulations will require individuals to participate in TBID process. He also asked staff to consider regulating the STR platforms by requiring STR sites to provide records ensuring the proper collection of fees, which also could be applied to ridesharing platforms (i.e. Uber, Lyft).

The following individuals provided comments and/or suggestions on staff recommendations:

Eugene B Ruane, Pasadena resident
Nina Chomsky, Linda Vista-Annandale Association
Mandy Elian, residence not stated
Tim Lambert, Pasadena resident
Van Martin Rowe, Pasadena resident
Barry Storch, Pasadena resident
Dan Beal, West Pasadena Rental Association
Avram Gold, Pasadena resident
Sheena Tahilramani, Pasadena resident
Barbara Ziegler, Pasadena resident
Chris Ziegler, Pasadena resident
Lia Enkelis, Pasadena Home Sharing Network (presented a PowerPoint)
Phil Hosp, Madison Heights Neighborhood Association
Kathleen Cross, residence not stated
Mic Hansen, Pasadena resident
David Worrell, Pasadena resident
Mary Dee Romney, San Rafael Neighborhood Association (submitted documents)
Garry Margolis, Pasadena resident
John Choi, Airbnb
Ed Honowitz, Pasadena resident
Christine Kira Parser, Airbnb
Laura Olhasso, Pasadena-Foothills Association of Realtors
Alexander Arrow, MD, Pasadena resident
Neil Larson, Pasadena resident
Ernesto Najera, Pasadena resident
Ginger Berglund, Pasadena resident
Christian Rodgers, Pasadena resident
Bryant Matthews, residence not stated
Brian Wallace, Playhouse District Association
Lee Blaine, Pasadena resident
Jordan Vanaini, Pasadena resident
Angelique Encarnacion, Pasadena resident
Wendy Hill, residence not stated

Councilmember McAustin spoke on the lack of complaints she has received regarding STR's and the effective self-regulation (noting, she has received complaints regarding vacation rentals); and spoke in favor of regulating hosted STR activity in the City without a citywide cap; and in opposition to STR vacation rentals.

Councilmember Masuda expressed concerns with the enforcement aspect of the proposed regulations and the collection of TOT fees; and spoke in favor of protecting the neighborhoods, which he stated is not adequately accomplished in the staff recommendation.

Councilmember Wilson spoke in opposition to regulating STR vacation rentals at this time due to the lack of data, expressed concerns with setting a cap on the number of STR units in a determined area, recommended including in the proposed ordinance a mandate that STR platforms provide visibility in order to enforce proposed STR regulations that would essentially block any offenders from listing on a given platform, and spoke in favor of collecting TOT fees.

Vice Mayor Kennedy asked staff to clarify the term "party house" that is used in the agenda report to describe a STR rental used to entertain during the stay, with plain language to deter confusion; and expressed serious concerns with the proposed STR geographic restrictions.

Councilmember Gordo spoke on the need for STR regulation in the City, the lack of complaints he has received regarding STR in his district. Mr. Gordo requested that staff strengthen the ordinance making clear that the City prohibits any commercial activity (i.e. weddings, parties), include in the regulations egregious circumstances at a STR property that would result in the suspension and/or revocation of any STR permits allowing future rentals, not limit the determination of an egregious STR site to be made by the Pasadena Police Chief or the Pasadena Fire Chief, but rather allow the determination to be made administratively, and staff to consider regulating STR platforms as part of the City's adopted regulations, mandating that STR sites provide the data required to enforce the City's legislation; and expressed his preference that if STR vacation rentals are approved as a pilot program, that the issue return for review by the City Council in a couple of years.

The Mayor spoke on the need for neighborhood protection, however, stated that STR activities must be regulated rather than prohibited, which he viewed as impractical and unenforceable. He recommended a legal pathway that will capture revenue and ensure proper activities. The Mayor stated he believes there is an important distinction between hosted and un-hosted STR home-sharing, STR hosted stays should not be limited, and the STR un-

hosted stays should be limited to 90 days. He did not support a pilot program for STR vacation rentals, nor setting caps on the number of STR units within the Rose Bowl or any other defined specific area.

Following discussion, it was moved by Councilmember Gordo, seconded by Councilmember Hampton, to close the public hearing. (Motion unanimously carried) (Absent: Councilmember Madison)

It was moved by the Mayor, seconded by the Councilmember Gordo, to approve the staff recommendation amended as follows: direct staff to approve the proposed Zoning Code Amendment allowing for STR home-sharing hosted stays, STR un-hosted stays up to 90 days per annum, prohibit STR vacation rentals, and remove regulations setting a cap on STR's in any defined area of the City; acknowledge that in a multi-family circumstance both the owner's unit, and the other units located on the property be acceptable for STR hosted stay circumstance, provide detailed information on the enforcement aspect and notification process of STR activities; and direct staff to include the egregious situations where the suspension or revocation of a STR permit is detailed and identified, include clarity on the commercial use prohibition, and explore the City's ability to regulate STR platforms:

AYES: Councilmembers Gordo, Hampton, McAustin, Wilson,
Vice Mayor Kennedy, Mayor Tornek
NOES: Councilmember Masuda
ABSENT: Councilmember Madison
ABSTAIN: None

COUNCIL COMMENTS

Vice Mayor Kennedy reported on his trip to Sacramento to attend the 15th Anniversary California Firefighters Memorial Ceremony held on September 30, 2017.

ADJOURNMENT

On order of the Mayor, the regular meeting of the City Council adjourned at 10:41 p.m. in a moment of silent reflection for all those affected by the Route 91 Harvest music festival tragedy that occurred in Las Vegas, Nevada.

Terry Tornek, Mayor
City of Pasadena

ATTEST:

City Clerk