CITY OF BEVERLY HILLS
REGULAR CITY COUNCIL MEETING
MINUTES
August 7, 2012

The Regular City Council meeting was held in the Council Chambers at 7:00 pm.

A. ROLL CALL

Present: Councilmember Gold, Councilmember Bosse, Councilmember Brucker, Vice Mayor Mirisch, and Mayor Brien
Absent: None

B. PRESENTATIONS

1. NEW BUSINESS RECOGNITION - Beverly Hills Brownie Company

Mayor Brien, along with Councilmember Gold who is the Chair of the City's Small Business Task Force, presented a certificate of recognition to Bobbie Greenfield of the Beverly Hills Brownie Company and congratulated her on the recent opening of their flagship store in Beverly Hills.

Mayor Brien called for a minute of silence to honor the Israeli athletes and coaches who were massacred at the 1972 Munich Olympic Games.

C. ORAL COMMUNICATIONS

1. TELEPHONE CALL-IN (310.285.1020) (Members of the public are invited to place telephone calls to comment on issues that do not appear on the evening's agenda. The City Council will take up to three telephone calls per meeting. Comments on the evening's agenda must be made in person as the item comes before the City Council.)

None

2. AUDIENCE COMMENTS. Any person wishing to address the City Council on any matter not on the agenda may do so at this time. However, the State open meetings law (Government Code Section 54950 et seq.) prohibits the City Council from providing a detailed response or acting upon any item not contained on the agenda posted 72 hours before a regular meeting and 24 hours before a special meeting. If you wish to address the City Council at this time, please complete a speaker's card and give it to the City Clerk prior to the commencement of the meeting. Please use the microphone provided, clearly stating your name for the official record and courteously limiting your remarks to three (3) minutes so others may have the opportunity to speak as well.

1. Mary Levin Cutler

3. REPORT FROM THE CITY MANAGER * Electric Vehicle Charging Stations - Chad Lynn, Director of Parking Operations

Director of Parking Operations Chad Lynn presented a PowerPoint and spoke about the electric vehicle charging stations. He provided general information, showed a map of the local and regional stations, and spoke about interesting things to note such as charging vehicles, disabled access, connectivity activity, usage and occupancy.

Study Session Item 12 was taken up as directed by Council. Assistant City Attorney Lolly Enriquez reported that as a cost saving measure, the State has suspended certain provisions of the Brown Act, one of which is the noticing and posting of meeting agendas. The City has decided to continue to comply with all the provisions of the Brown Act despite the suspension in order to maintain transparency and open government.

4. CITY COUNCILMEMBER AND COMMITTEE REPORTS

Vice Mayor Mirisch thanked the Mayor for leading the City in a minute of silence. He spoke about Raoul Wallenberg, a Swedish diplomat who saved Jews from Nazi persecution. He asked the Mayor to adjourn the meeting in honor of Mr. Wallenberg's memory, and also asked to have a future Study Session item to discuss a way to memorialize his actions and forever link him to the City. He read a letter from Charles Levy pledging a contribution of $10,000 from the Marjorie Gilbert Trust to the City for a remembrance of Raoul Wallenberg's 100th birthday.

Mayor Brien noted a possible conflict between the September 11, 2012 City Council meeting and a memorial service being planned on the evening of September 11th. He directed the City Clerk to work with the City Manager to schedule the meeting around the event or to another date.

Mayor Brien reported on his Legislative Advocacy trip to Washington D.C. on July 30 - August 1, 2012 with City Manager Kolin and Police Chief Snowden. The trip aimed to raise awareness of and additional funding for a number of City programs and issues.

D. PUBLIC HEARING

TO SET:

None

TO CONSIDER:

This being the time and place set, a public hearing was held to consider:

1. RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM AND ADOPTING THE CMP LOCAL DEVELOPMENT REPORT IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 65089. Comment: Annual resolution and Local Development Report supporting compliance with the countywide CMP requirement.

The notice of the hearing was published as required by law and an affidavit to this effect is on file with the City Clerk.

The records and files of the Public Works and Transportation Department and the report of the Transportation Planner concerning this matter shall be entered into the record.

Transportation Planner Martha Eros presented a brief staff report and answered questions from the City Council.

Councilmember Bosse asked some clarification questions on the local development report pertaining to the traffic count report, and state gas tax and federal surface transportation fund.

MOVED by Councilmember Gold, seconded by Councilmember Bosse to adopt Resolution D-1 as follows:

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM AND ADOPTING THE CMP LOCAL DEVELOPMENT REPORT IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 65089.

Ayes: Councilmember Gold, Councilmember Bosse, Councilmember Brucker, Vice Mayor Mirisch, and Mayor Brien.
Noes: None.

CARRIED

ITEM D-1: ADOPTED RES# 12-R-12889

This being the time and place set, a public hearing was held to consider:

2. RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE COMPREHENSIVE SCHEDULE OF TAXES, FEES & CHARGES RELATED TO CERTAIN FEES PAID BY UTILITIES FOR THE FISCAL YEAR 2012/2013. Comment: This item was continued from the July 24 meeting to August 7. Staff recommends that the public hearing related to this item be continued to September 11, 2012.

ITEM D-2: BY ORDER OF THE CHAIR, WITH NO OBJECTIONS, HEARING IS CONTINUED TO THURSDAY, AUGUST 23, 2012.

This being the time and place set, a public hearing was held to consider:

3. A. AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING BEVERLY HILLS MUNICIPAL CODE SECTION 10-8-106 REGARDING TROUSDALE VIEW RESTORATION PERMIT PROCEDURES. First Reading - For Introduction.

B. CONSIDERATION OF AMENDMENTS TO BEVERLY HILLS MUNICIPAL CODE SECTION 10-3-2616 REGARDING DEVELOPMENT STANDARDS FOR WALLS, FENCES AND HEDGES IN THE TROUSDALE ESTATES AREA OF THE CITY. Comment: Consider amendments to the adopted ordinances regarding view restoration in Trousdale including the notice procedures for view restoration permit hearings and the definition of "hedge" for the purpose of regulating hedge heights.

The notice of the hearing was published as required by law and an affidavit to this effect is on file with the City Clerk.

The records and files of the Community Development Department and the report of the Principal Planner concerning this matter shall be entered into the record.

Principal Planner Michele McGrath presented the PowerPoint presentation and staff report. She noted the current program, outlined the amendment process, discussed the Trousdale fence and hedge ordinance, the Trousdale view restoration ordinance, and reviewed the proposed amendments.

Speaking:

1. Frieda Berlin
2. Karen Platt
3. Shahram Melamed
4. Dr. Armand Newman
5. Ebrahim Younesi

Council discussed the following items: facial challenge, cap to the view owner's litigation cost, definition of "obscure," CC&Rs (covenants codes and restrictions), and the administrative penalty process which was explained by Code Enforcement Manager Nestor Otazu.

Mayor Brien polled the Councilmembers' responses to the following five questions:

1. Change the noticing requirement for the view restoration process from all owners within 500 feet to only those affected by case in question: 5 yes
2. Defining a hedge that is currently 3 or more plants/trees to 2 or more plants/trees: 5 yes
3. 3 strikes within 2 years requiring removal of the hedge: 5 yes
4. City will pay for defending a facial challenge to the ordinance and the view owner will pay for a challenge to a specific view restoration permit decision: 4 yes, Mirisch-no
5. City will pay for the administrative penalty process cost and the view owner will pay prosecution cost: 4 yes, Mirisch-no

The City Attorney will review the definition of "hedge" as redefined by staff and bring back to Council. Council directed that the hedge/obscure definition and setting a cap to the view owner's litigation cost be brought to the Ad Hoc Committee for discussion. Council agreed to introduce and read the ordinance by title only and re-notice the second part of the item pertaining to fence and hedge, and bring back to a meeting at a later date as a new Public Hearing item to discuss amendments which include clarifications to Items 2-5 above and the two items assigned to the Ad Hoc Committee.

MOVED by Councilmember Bosse, seconded by Councilmember Brucker to introduce and read by title only Ordinance D-3 as follows:

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING BEVERLY HILLS MUNICIPAL CODE SECTION 10-8-106 REGARDING TROUSDALE VIEW RESTORATION PERMIT PROCEDURES

Ayes: Councilmember Gold, Councilmember Bosse, Councilmember Brucker, Vice Mayor Mirisch, and Mayor Brien.
Noes: None.

CARRIED

ITEM D-3: INTRODUCED AND READ BY TITLE ONLY; ADVANCE TO THE MEETING OF AUGUST 23, 2012 FOR ADOPTION

This being the time and place set, a public hearing was held to consider:

4. A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE MASTER PLAN OF STREETS, ALLEYS AND HIGHWAYS AND ORDERING THE CONDITIONAL VACATION OF A PORTION OF AN ALLEY LOCATED ADJACENT TO THE PROPERTY AT 121 SPALDING DRIVE, AND APPROVING AN ENCROACHMENT PERMIT TO ALLOW CERTAIN ABOVE- AND BELOW-GRADE IMPROVEMENTS WITHIN THE ALLEY RIGHT-OF-WAY. Comment: The applicant for a new commercial building located at 121 Spalding Drive proposes to realign and widen an existing east-west alley. The existing alley is 15' wide, and would be shifted south by 1', and widened to 20' in width. Additionally, the applicant proposes a subterranean encroachment beneath the alley for parking purposes, and an above-grade encroachment over the alley to construct a bridge that would connect the top floor of 121 Spalding Drive to the top floor of 9800 Wilshire Boulevard.

The notice of the hearing was published as required by law and an affidavit to this effect is on file with the City Clerk.

The records and files of the Community Development Department and the report of the Senior Planner concerning this matter shall be entered into the record.

Senior Planner Ryan Gohlich presented a PowerPoint and staff report. He spoke about the alley modification, the alley encroachments, review by the Planning Commission, and staff recommendation.

Speaking:

1. Tom Levyn
2. Hagy Belzberg

Councilmember Gold asked about the garage, bridge and garage security, and alley right of way. Vice Mayor Mirisch asked about the subterranean alley vacation and building design. Councilmember Bosse acknowledged Mr. Belzberg's "good neighbor" practice and the building architecture. Councilmember Brucker commented on the existing parking garage.

MOVED by Councilmember Bosse, seconded by Councilmember Brucker to adopt Resolution D-4 as follows:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS AMENDING THE MASTER PLAN OF STREETS, ALLEYS AND HIGHWAYS AND ORDERING THE CONDITIONAL VACATION OF A PORTION OF AN ALLEY LOCATED ADJACENT TO THE PROPERTY AT 121 SPALDING DRIVE, AND APPROVING AN ENCROACHMENT PERMIT TO ALLOW CERTAIN ABOVE- AND BELOW-GRADE IMPROVEMENTS WITHIN THE ALLEY RIGHT-OF-WAY

Ayes: Councilmember Gold, Councilmember Bosse, Councilmember Brucker, Vice Mayor Mirisch, and Mayor Brien.
Noes: None.

CARRIED

ITEM D-4: ADOPTED RES# 12-R-12890

This being the time and place set, a public hearing was held to consider:

5. AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTION 10-3-1618 B. OF THE MUNICIPAL CODE REGARDING PARKING RESTRICTIONS FOR EXERCISE CLUBS. First Reading - For Introduction. Comment: This ordinance allows exercise clubs located outside the business triangle to request a CUP for the joint use of parking facilities to satisfy code requirements. Currently, only exercise clubs inside the business triangle may request a CUP for the joint use of parking facilities.

The notice of the hearing was published as required by law and an affidavit to this effect is on file with the City Clerk.

The records and files of the Community Development Department and the report of the Senior Planner concerning this matter shall be entered into the record.

Senior Planner Ryan Gohlich presented the PowerPoint and staff report. He discussed the zone text amendment, proposed zone text amendment language, showed a map of the Business Triangle showing the area under discussion, and staff recommendation.

Speaking:

1. Steve Webb

Councilmember Gold asked how the number of 500 parking spaces was determined and the process used. Councilmember Brucker asked questions regarding valet, validated and paid parking. Vice Mayor Mirisch asked about the hours of operation, potential disturbance to the residential area, whether a notice was sent to residents, and ingress and egress. Councilmember Bosse questioned the number of parking spaces, impact to residents and the CUP.

MOVED by Councilmember Gold, seconded by Councilmember Brucker to introduce and read by title only Ordinance D-5 as follows:

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING SECTION 10-3-1618 B. OF THE MUNICIPAL CODE REGARDING PARKING RESTRICTIONS FOR EXERCISE CLUBS

Ayes: Councilmember Gold, Councilmember Bosse, Councilmember Brucker, Vice Mayor Mirisch, and Mayor Brien.
Noes: None.

CARRIED

ITEM D-5: INTRODUCED AND READ BY TITLE ONLY; ADVANCE TO THE MEETING OF AUGUST 23, 2012 FOR ADOPTION

E. CONTINUED AND NEW BUSINESS

1. AN ORDINANCE OF THE CITY OF BEVERLY HILLS AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF BEVERLY HILLS AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM. Second Reading - For Adoption. Comment: Second reading of an ordinance and adoption of an amendment to the contract between the City of Beverly Hills and CalPERS regarding the implementation of a second tier retirement benefit for newly hired Safety employees.

Assistant Director of Administrative Services Noel Marquis provided a brief staff report noting the change in CalPERS policy to adopt the ordinance under a second public hearing instead of as a consent calendar item.

Vice Mayor Mirisch questioned the authority of PERS to impose the policy and expressed concern that it will set a precedent. He asked staff to determine who in PERS has requested the change in policy.

MOVED by Councilmember Brucker, seconded by Councilmember Bosse to re-adopt Ordinance E-1 as follows:

Ayes: Councilmember Gold, Councilmember Bosse, Councilmember Brucker, Vice Mayor Mirisch, and Mayor Brien.
Noes: None.

CARRIED

ITEM E-1: RE-ADOPTED ORD# 12-O-2626

F. CITY COUNCIL CONSENT CALENDAR

MOVED by Councilmember Bosse, seconded by Councilmember to approve all items on the consent calendar

Minutes

1. CONSIDERATION BY THE CITY COUNCIL OF THE MINUTES of the Regular meeting of July 24, 2012.

Demands Paid

2. REVIEW OF BUDGETED DEMANDS PAID, report dated July 14 - July 27, 2012

3. PAYROLL DISBURSEMENT REPORT, report dated August 7, 2012.

Other Business

ORDINANCE OF THE CITY OF BEVERLY HILLS:

None

RESOLUTIONS APPROVING:

None

APPROVAL OF:

4. AGREEMENT WITH THE MAPLE COUNSELING CENTER FOR COUNSELING SERVICES AND EDUCATIONAL WORKSHOPS. Comment: Staff recommends the approval of the agreement with the City of Beverly Hills and The Maple Counseling Center to provide counseling services and educational workshops to City employees.

ITEM F-4: APPROVED AG# 361-12

5. THE AWARD OF A CONTRACT TO CASHEL CORPORATION, DBA INTEGRATED MEDIA SYSTEMS FOR THE AUDIO-VISUAL SYSTEMS FOR THE CHILDREN'S LIBRARY REMODEL; AND APPROVAL OF A PURCHASE ORDER IN THE AMOUNT OF $65,195.35 TO CASHEL CORPORATION, DBA INTEGRATED MEDIA SYSTEMS FOR THE WORK. Comment: Provides for audio-visual equipment related to the Children's Library remodel project.

ITEM F-5: APPROVED AG# 362-12

Vote on the Consent Calendar:

Ayes: Councilmember Gold, Councilmember Bosse, Councilmember Brucker, Vice Mayor Mirisch, and Mayor Brien.
Noes: None.

CARRIED

G. COMMISSION SYNOPSIS
NO ACTION TAKE ON "G" ITEMS

1. FINE ART COMMISSION - Regular Meeting of June 21, 2012
FINE ART COMMISSION - Special Meeting of July 19, 2012
FINE ART COMMISSION - Regular Meeting of July 19, 2012
HUMAN RELATIONS COMMISSION - Regular Meeting of July 19, 2012

H. OTHER BUSINESS

None

I. ADJOURNMENT

Mayor Brien adjourned the meeting at 10:04pm in honor of Raoul Wallenberg and thanked the Marjorie Gilbert Trust for their contribution.

PASSED, Approved and Adopted
this 23rd day of August, 2012

BYRON POPE, City Clerk

WILLIAM W. BRIEN, MD, MAYOR

This meeting was broadcast on live television, on City of Beverly Hills municipal government television access Channel BHTV10 Time Warner Cable.