

1 JOSEPH LAWRENCE (SBN 99039)  
Interim City Attorney  
2 joseph.lawrence@santamonica.gov  
KIRSTEN R. GALLER (SBN 227171)  
3 Deputy City Attorney  
kirsten.galler@santamonica.gov  
4 BRANDON D. WARD (SBN 259375)  
Deputy City Attorney  
5 brandon.ward@santamonica.gov  
6 1685 Main Street, Room 310  
Santa Monica, California 90401  
7 Telephone: (310) 458-8336  
8 Facsimile: (310) 395-6727

9 CAROL M. SILBERBERG (SBN 217658)  
ROBERT P. BERRY (SBN 220271)  
10 BERRY SILBERBERG STOKES PC  
csilberberg@berrysilberberg.com  
11 155 North Lake Avenue, Suite 800  
Pasadena, CA 91101  
12 Telephone: (213) 986-2688  
Facsimile: (213) 986-2677

13 Attorneys for Defendant  
14 CITY OF SANTA MONICA

*Exempt from filing fee pursuant to  
Government Code § 6103*

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **FOR THE COUNTY OF LOS ANGELES**

17 OSCAR DE LA TORRE and ELIAS SERNA,

CASE NO.: 21STCV08597

18 Plaintiffs,

Assigned to Hon. Richard L. Fruin

19 v.

**DECLARATION OF DENISE ANDERSON-  
WARREN IN SUPPORT OF DEFENDANT  
CITY OF SANTA MONICA'S  
20 OPPOSITION TO PLAINTIFFS' MOTION  
21 FOR SUMMARY JUDGMENT OR, IN THE  
22 ALTERNATIVE, FOR SUMMARY  
23 ADJUDICATION**

21 CITY OF SANTA MONICA,  
22 and DOES 1 through 10, inclusive

23 Defendants.

Date: May 6, 2022  
Time: 9:15 a.m.  
24 Dept.: 15

Action Filed: March 4, 2021  
25 Trial Date: June 13, 2022

1 I, Denise Anderson-Warren, declare as follows:

2 1. I am the City Clerk and Director of the Records and Election Services Department for  
3 the City of Santa Monica and have held those positions since February 2016. The following is within  
4 my own personal knowledge and if called and sworn as a witness, I could and would testify thereto. I  
5 make this declaration in support of the City of Santa Monica's Opposition to Plaintiffs' Motion for  
6 Summary Judgment or, in the Alternative, Motion for Summary Adjudication.

7 2. As the City Clerk and Director of Records and Election Services for the City of Santa  
8 Monica, my duties include directing, planning, coordinating, and supervising the activities of the  
9 department including management and preservation of official City public documents and records.  
10 As part of my work, I also coordinate and supervise the preparation of the City Council agenda and  
11 supporting staff reports for all City Council meetings, and I or a staff member in the Records and  
12 Election Services Department under my supervision attend all City Council meetings and prepare  
13 official minutes of those meetings near in time to those meetings occurring. Given my  
14 responsibilities, I act as the City of Santa Monica's custodian of records of all official City public  
15 documents and records, which include the agenda, supporting staff reports, resolutions, and  
16 ordinances, and meeting minutes prepared by the City Clerk for all City Council meetings. Acting as  
17 the City of Santa Monica's custodian of record for these documents are required duties of the City  
18 Clerk pursuant to Section 707 of the City's Charter.

19 3. I have reviewed all of the documents discussed below and verify them as true and  
20 correct copies of records kept in the Records and Election Services Department. Each of the  
21 documents described below are maintained in the City of Santa Monica's electronic document  
22 repository and kept as official City public documents and business records within the Records and  
23 Election Services Department. I understand that, with the exception of the last document, each of the  
24 documents described below have been produced by the City in this action and therefore bear a Bates  
25 number commencing with SM.

26 4. Attached as Exhibit A is a true and correct copy of the agenda packet, including the  
27 staff report, for the special meeting of the Santa Monica City Council on January 26, 2021 (Bates No.  
28 SM00014-047).

1           5.       Attached as Exhibit B is a true and correct copy of the minutes for the special meeting  
2 of the Santa Monica City Council on January 26, 2021 (Bates No. SM00057-059).

3           6.       Attached as Exhibit C is a true and correct copy of the agenda for the regular meeting  
4 of the Santa Monica City Council on January 26, 2021 (Bates No. SM00048-56).

5           7.       Attached as Exhibit D is a true and correct copy of the minutes for the regular meeting  
6 of the Santa Monica City Council on January 26, 2021 (Bates No. SM00001-013).

7           8.       Attached as Exhibit E is a true and correct copy of the written public comments on  
8 Item 8A of the special meeting of the Santa Monica City Council on January 26, 2021 (Bates No.  
9 SM00063-080).

10          9.       Attached as Exhibit F is a true and correct copy of the minutes for the regular meeting  
11 of the Santa Monica City Council on April 13, 2021 (Bates No. SM00142-151).

12          10.      Attached as Exhibit G is a true and correct copy of the minutes for the regular meeting  
13 of the Santa Monica City Council on April 27, 2021 (Bates No. SM00161-178).

14          11.      Attached as Exhibit H is a true and correct copy of the minutes for the regular meeting  
15 of the Santa Monica City Council on May 11, 2021 (Bates No. SM00189-202).

16          12.      Attached as Exhibit I is a true and correct copy of the minutes for the regular meeting  
17 of the Santa Monica City Council on June 5, 2021 (Bates No. SM00207-208).

18          13.      Attached as Exhibit J is a true and correct copy of the minutes for the regular meeting  
19 of the Santa Monica City Council on July 13, 2021 (Bates No. SM00248-259).

20          14.      Attached as Exhibit K is a true and correct copy of the minutes for the regular meeting  
21 of the Santa Monica City Council on August 24, 2021 (Bate No. SM00326-342).

22          15.      Attached as Exhibit L is a true and correct copy of the minutes for the regular meeting  
23 of the Santa Monica City Council on October 12, 2021 (Bates No. SM00352-366).

24          16.      Attached as Exhibit M is a true and correct copy of the minutes for the regular meeting  
25 of the Santa Monica City Council on November 9, 2021 (Bates No. SM00367-378).

26          17.      Attached as Exhibit N is a true and correct copy of the minutes for the regular meeting  
27 of the Santa Monica City Council on December 14, 2021 (Bates No. SM00455-467).

28

1            18.      Attached as Exhibit O is a true and correct copy of Resolution No 11172 (CCS), A  
2 Resolution of the City Council of the City of Santa Monica Amending the Rules or Order and  
3 Procedure for the Conduct of City Council Meetings and Repealing Resolution Number 11106 (CCS)  
4 (Bates No. SM00468-485).

5            19.      Attached as Exhibit P is a true and correct copy of Resolution No 11360 (CCS), A  
6 Resolution of the City Council of the City of Santa Monica Amending the Rules or Order and  
7 Procedure for the Conduct of City Council Meetings and Repealing Resolution Number 11172 (CCS)  
8 (Bates No. SM00486-504).

9            20.      Attached as Exhibit Q is a true and correct copy of the minutes for the regular meeting  
10 of the Santa Monica City Council on February 8, 2022.

11            I declare under penalty of perjury under the laws of the State of California that the foregoing  
12 is true and correct.

13            Executed this 9th day of March 2022, at Inglewood, California.

14  
15 

16 Denise Anderson-Warren  
Denise Anderson-Warren

**Index to Exhibits**

<b>Ex.</b>	<b>Title</b>	<b>Page No.</b>
A	Agenda packet, including the staff report, for the special meeting of the Santa Monica City Council on January 26, 2021 (Bates No. SM00014-047)	1
B	Minutes for the special meeting of the Santa Monica City Council on January 26, 2021 (Bates No. SM00057-059)	36
C	Agenda for the regular meeting of the Santa Monica City Council on January 26, 2021 (Bates No. SM00048-56)	40
D	Minutes for the regular meeting of the Santa Monica City Council on January 26, 2021 (Bates No. SM00001-013)	50
E	Written public comments on Item 8A of the special meeting of the Santa Monica City Council on January 26, 2021 (Bates No. SM00063-080)	64
F	Minutes for the regular meeting of the Santa Monica City Council on April 13, 2021 (Bates No. SM00142-151)	83
G	Minutes for the regular meeting of the Santa Monica City Council on April 27, 2021 (Bates No. SM00161-178)	94
H	Minutes for the regular meeting of the Santa Monica City Council on May 11, 2021 (Bates No. SM00189-202)	113
I	Minutes for the special meeting of the Santa Monica City Council on June 5, 2021 (Bates No. SM00207-208)	128
J	Minutes for the regular meeting of the Santa Monica City Council on July 13, 2021 (Bates No. SM00248-259)	131
K	Minutes for the regular meeting of the Santa Monica City Council on August 24, 2021 (Bate No. SM00326-342)	144
L	Minutes for the regular meeting of the Santa Monica City Council on October 12, 2021 (Bates No. SM00352-366)	162
M	Minutes for the regular meeting of the Santa Monica City Council on November 9, 2021 (Bates No. SM00367-378)	178
N	Minutes for the regular meeting of the Santa Monica City Council on December 14, 2021 (Bates No. SM00455-467)	191
O	Resolution No 11172 (CCS), A Resolution of the City Council of the City of Santa Monica Amending the Rules or Order and Procedure for the Conduct of City Council Meetings and Repealing Resolution Number 11106 (CCS) (Bates No. SM00468-485)	205

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>Ex.</b>	<b>Title</b>	<b>Page No.</b>
P	Resolution No 11360 (CCS), A Resolution of the City Council of the City of Santa Monica Amending the Rules or Order and Procedure for the Conduct of City Council Meetings and Repealing Resolution Number 11172 (CCS) (Bates No. SM00486-504)	224
Q	Minutes for the regular meeting of the Santa Monica City Council on February 8, 2022	244

# Exhibit A



# City of Santa Monica

## City Council Meeting

### AGENDA

SUE HIMMELRICH  
MAYOR

KEVIN MCKEOWN  
COUNCILMEMBER

KRISTIN MCCOWAN  
MAYOR PRO TEM

GLEAM DAVIS  
COUNCILMEMBER

PHIL BROCK  
COUNCILMEMBER

CHRISTINE PARRA  
COUNCILMEMBER

OSCAR DE LA TORRE  
COUNCILMEMBER

LANE DILG  
INTERIM CITY MANAGER

GEORGE CARDONA  
INTERIM CITY ATTORNEY

DENISE ANDERSON-WARREN  
CITY CLERK

### STANDARDS OF BEHAVIOR THAT PROMOTE CIVILITY AT ALL PUBLIC MEETINGS:

- Treat everyone courteously;
- Listen to others respectfully
- Exercise self-control
- Give open-minded consideration to all viewpoints;
- Focus on the issues and avoid personalizing debate;
- Embrace respectful disagreement and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions

Meetings are broadcast live on CityTV cable channel 16, on the internet at [www.smgov.net](http://www.smgov.net), and can be live streamed at <https://primetime.bluejeans.com/a2m/live-event/tzszchdr>. Cable television re-broadcasts air on Thursday and Saturday at 11:30 AM. The agenda will air on CityTV on Saturday and Sunday at 11:00 AM and 6:00 PM, and on Monday and Tuesday at 12:30 PM and 6:00 PM. To listen to the Council meeting through your telephone the Attendee Dial-In number is: 1 (415) 466-7000 - PIN 1048139 #.



**RULES OF ORDER FOR THE CONDUCT OF CITY COUNCIL MEETINGS**  
(Resolution No.11172 (CCS))

**WAYS TO PROVIDE PUBLIC COMMENT**

If you are interested in providing public comment at a City Council meeting, there are several ways to participate:

(1) Written public comment. In lieu of oral public comment, the public is strongly encouraged to submit written public comment on agenda items via email to [councilmtgitems@smgov.net](mailto:councilmtgitems@smgov.net). Written public comment submitted before 2:00 pm on the day of the meeting will be available for online viewing. Please note the agenda item number in the subject line of your written comments.

(2) Oral public comment. Additionally, effective January 26, 2021, and until COVID-19 restrictions are lifted, oral public comment on agenda items can be provided remotely in one of two ways:

(a) Video/Audio public comment via BlueJeans requires Pre-registration.

Remote video/audio public comment via BlueJeans requires pre-registration no later than one hour before the start of the meeting at [santamonica.gov/public-comment](http://santamonica.gov/public-comment). Pre-registrants must provide the following information: (1) their names as they will be displayed on the BlueJeans system; (2) the agenda item(s) on which they wish to comment; (3) how many minutes they want to speak on an item; and, (4) a valid e-mail address. Pre-registrants will receive a link via e-mail to access the remote meeting through BlueJeans as attendees, and should log in before the agenda item on which they want to speak is called. When the time for public comment on a particular agenda is reached, pre-registrants who are present as attendees will be called on and temporarily promoted to presenters to provide oral public comment. Pre-registrants providing oral comment in this way may appear on video. Donation of time and electronic presentation materials will not be permitted while meetings are conducted via teleconference.

(b) Telephone public comment requires no pre-registration. If you miss the pre-registration deadline but decide during the meeting that you want to provide public comment on a particular agenda item, or if you do not have access to internet service, you can call by phone at (310) 458-8423 when the caller queue opens for the agenda item on which you wish to comment. The caller queue for an agenda item will not open until just before the item is called and will then remain open until the first five public comments (from pre-registrants and/or other callers) are heard.

Oral public comment from any one individual is limited to a total of 6 minutes per City Council meeting, with a maximum of 2 minutes per agenda item; under some circumstances, Council may change the maximum to 1 minute per agenda item.

**ORDER OF BUSINESS** (may not be changed except by majority vote of the City Council.)

- |   |  |
|---|--|
| <ol style="list-style-type: none"><li>1. Closed Session.</li><li>2. Special Agenda Items (City Manager's Report Commendations, Presentations, etc.).</li><li>3. Consent Calendar (All items considered in one motion unless removed by a City Councilmember for discussion. Public comment shall be heard prior to City Council discussion).</li><li>4. Study Session.</li><li>5. Continued Items.</li><li>6. Administrative Proceedings.</li><li>7. Ordinances:<ul style="list-style-type: none"><li>• 1<sup>st</sup> Reading</li><li>• 2<sup>nd</sup> Reading</li></ul></li></ol> | <ol style="list-style-type: none"><li>8. Staff Administrative Item.</li><li>9. Public Hearings.</li><li>10. Reports of Boards and Commissions.</li><li>11. Resolutions.</li><li>12. Written Communications (other than Reports of Commission and Officers).</li><li>13. Councilmember Discussion Items.</li><li>14. Public Input (members of the public may address the City Council <b>only</b> on items not on the agenda, but within the subject matter jurisdiction of the City)</li></ol> |
|---|--|

Agendas and reports are accessible on the City's webpage at [smgov.net/council/agendas](http://smgov.net/council/agendas). They are also available at the City Clerk's Office and in alternate formats upon request. For a free email subscription to the City Council Agendas, please contact the City Clerk's Office at (310) 458-8211 or [clerk@smgov.net](mailto:clerk@smgov.net).

*Si desea comunicarse con alguien en español, llame a nuestra oficina al (310) 458-8211 y pida hablar con Esterlina Lugo.*



## AGENDAS

CITY OF SANTA MONICA

SPECIAL MEETING

VIA TELECONFERENCE PURSUANT TO

EXECUTIVE ORDER N-29-20 ISSUED BY,  
GOVERNOR GAVIN NEWSOM

TUESDAY, JANUARY 26, 2021

**MEETING BEGINS AT 4:00 PM**

Meeting can be viewed at: Streaming at <https://www.smgov.net/content.aspx?id=4292>

LIVE STREAM (Chrome Browser Recommended):

<https://primetime.bluejeans.com/a2m/live-event/tzszchdr>

### LIVE STREAM

<https://primetime.bluejeans.com/a2m/live-event/tzszchdr>

### AND DIAL-IN NUMBER

1 (415) 466-7000 (US), PIN 1048139 #

### WAYS TO PROVIDE REMOTE PUBLIC COMMENT:

Written public comment can be submitted via email to [councilmtgitems@smgov.net](mailto:councilmtgitems@smgov.net). Written comments received prior to 2:00 pm on the day of the meeting will be available online. Please note the agenda item number in the subject line of your written comments.

You can pre-register to speak no later than one hour before the start of the meeting at [santamonica.gov/public-comment](http://santamonica.gov/public-comment). You will need to provide: (1) your name as it will appear on the BlueJeans system (2) the agenda item(s) on which you wish to comment, and (3) how many minutes you want to speak on an item. Sign-in to the meeting as an Attendee, before the item on which you wish to speak is called. When the time comes for public comment on the agenda item(s) for which you have pre-registered, you will be called on and temporarily promoted to be a Presenter to provide oral public comment via video and/or audio. For video instructions on how to provide Video Public Comment, visit **YouTube** at: <https://youtu.be/NDinc-RLjC8>

If you have not pre-registered but decide you want to speak on a particular agenda item, please call (310) 458-8423 once the caller queue for the agenda item opens. Please note that the caller queue for each agenda item will not open until just before the item is called and will close after the first five public comments (from pre-registrants and/or other callers) are heard.

In an effort to reduce the risk of spreading Coronavirus (COVID-19), members of the City Council and City Staff will participate via teleconference. The meeting will be broadcast on CityTV Channel 16 and streaming on the City's website and YouTube channel as normal, but individuals may also join the teleconference via other methods listed above.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

(This is a special City Council meeting. Public comment is restricted to only items listed on the agenda.)

1. CLOSED SESSIONS

**No items**

(Please note that Agenda Items may be reordered during the Council meeting at the discretion of the City Council.)

2. SPECIAL AGENDA ITEMS

**No items**

3. CONSENT CALENDAR

(All items will be considered and approved in one motion unless removed by a Councilmember for discussion.)

**No items**

4. STUDY SESSION

**No items**

5. CONTINUED ITEMS

**No items**

6. ADMINISTRATIVE PROCEEDINGS

**No items**

7. ORDINANCES

(Public comment is permitted on ordinances for introduction and first reading. No public discussion is permitted on ordinances for second reading and adoption.)

**No items**

8. STAFF ADMINISTRATIVE ITEMS

**8.A. Pico Neighborhood Association and Maria Loya v. City of Santa Monica – Determination Regarding Common Law Conflict of Interest of Councilmember de la Torre**

**Recommended Action**

With respect to the pending litigation in *Pico Neighborhood Association and Maria Loya v. City of Santa Monica*, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal, Case No. B295935, California Supreme Court, Case No. S263972, in which one plaintiff is an association for which Councilmember de la Torre was, until November 2020, a board member, and the other plaintiff is Councilmember de la Torre's wife, staff recommends that Council determine that, in accordance with the principles set out in AG Opinion 07-807 (Jan. 14, 2009), Councilmember de la Torre has a common law conflict of interest and is therefore disqualified from participating in or attempting to influence discussions or decisions relating to this litigation.

**ADJOURNMENT**

Agendas and reports are accessible on the City's webpage at [www.smgov.net/council/agendas](http://www.smgov.net/council/agendas). They are also available at the City Clerk's Office and in alternate formats upon request. For a free email subscription to the City Council Agendas, please contact the City Clerk's Office at (310) 458-8211 or [clerk@smgov.net](mailto:clerk@smgov.net).

Members of the public unable to attend a meeting but wishing to comment on an item(s) listed on the agenda may submit written comments prior to the meeting by meeting by mailing them to: City Clerk, 1685 Main Street, Santa Monica, CA 90401 or to [councilmtgitems@smgov.net](mailto:councilmtgitems@smgov.net). Written comments received from the public by 2 PM on the day of the City Council meeting will be distributed to the City Council prior to the meeting and **posted online**.

City Hall and the Council Chamber are wheelchair accessible. If you require any special disability related accommodations (i.e. sign language interpreting, access to an amplified sound system, etc.), please contact the City Clerk's Office at (310) 458-8211 or TDD: (310) 917-6626 at least 3 days prior to the scheduled meeting.

*Si desea comunicarse con alguien en español, llame a nuestra oficina al (310) 458-8211 y pida hablar con Esterlina Lugo.*

Santa Monica Blue Bus Lines #2, #3, #5, #9 and the EXPO Line serve City Hall. Parking is available on Main Street, on Olympic Drive, and in the Civic Center Parking Structure (validation free).



## City Council Report

City Council Meeting: January 26, 2021  
Agenda Item: 8.A

To: Mayor and City Council  
From: George Cardona, Interim City Attorney, City Attorney's Office  
Subject: Pico Neighborhood Association and Maria Loya v. City of Santa Monica – Determination Regarding Common Law Conflict of Interest of Councilmember de la Torre

### Recommended Action

With respect to the pending litigation in *Pico Neighborhood Association and Maria Loya v. City of Santa Monica*, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal, Case No. B295935, California Supreme Court, Case No. S263972, in which one plaintiff is an association for which Councilmember de la Torre was, until November 2020, a board member, and the other plaintiff is Councilmember de la Torre's wife, staff recommends that Council determine that, in accordance with the principles set out in AG Opinion 07-807 (Jan. 14, 2009), Councilmember de la Torre has a common law conflict of interest and is therefore disqualified from participating in or attempting to influence discussions or decisions relating to this litigation.

### Discussion

#### A. The Litigation

In the election conducted on November 3, 2020, Oscar de la Torre was elected to serve as a member of the Santa Monica City Council. He took his oath and assumed his duties as a Councilmember on December 8, 2020. Prior to being elected to the City Council, Mr. de la Torre served as an elected member of the governing board of the Santa Monica-Malibu Unified School District ("SMMUSD") for approximately 18 years.

The City of Santa Monica ("City") is currently the defendant in pending litigation alleging that the City's use of an at-large election system to elect its City Council members violates the California Voting Rights Act.

The original complaint in the litigation was filed on April 12, 2016 by three plaintiffs: the Pico Neighborhood Association (“PNA”), Maria Loya (Councilmember de la Torre’s wife), and Advocates for Malibu Public Schools. The original complaint alleged that “the provision in the Santa Monica City Charter requiring at-large elections for the city council and the SMMUSD governing board, not only runs afoul of the CVRA [California Voting Rights Act], it also runs afoul of the Equal Protection Clause (Article I, Section 7) of the California Constitution, among other controlling laws.” The original complaint did not seek damages, but did seek an award of plaintiffs’ attorneys’ fees, costs, and litigation expenses.

A First Amended Complaint (“FAC”) was filed on February 23, 2017. The FAC was filed by two plaintiffs, PNA and Ms. Loya (collectively “Plaintiffs”). The FAC dropped the allegations regarding at-large elections for the SMMUSD governing board, and alleged only that “the provision in the Santa Monica City Charter requiring at-large elections for the city council, not only runs afoul of the CVRA, it also runs afoul of the Equal Protection Clause (Article I, Section 7) of the California Constitution, among other controlling laws.” The FAC did not seek damages, but did seek an award of Plaintiffs’ attorneys’ fees, costs, and litigation expenses. The litigation proceeded to trial, judgment, and appeal based on the allegations in the FAC.

During the litigation, Ms. Loya was deposed on May 15, 2018. She testified that she became involved with the PNA and became a board member in either 2002 or 2003, that she left PNA in 2010 for family and work reasons, and that she came back in 2013 and was elected again to be a board member. She testified that at the time of her deposition she was serving as PNA’s treasurer. Ms. Loya was called by Plaintiffs as a witness at trial and testified on August 2, 2018. She testified that Mr. de la Torre was the representative for the PNA in this case. As of January 22, 2020, PNA’s website lists Ms. Loya as a board member who serves as PNA’s communications officer.

(Attachment A)

During the litigation, Mr. de la Torre was deposed on May 9, 2018 in his individual capacity. Mr. de la Torre was deposed on May 10, 2018, as the person identified by PNA as most qualified to testify on behalf of PNA on specified topics,. At both

depositions, Mr. de la Torre was represented by Kevin Shenkman, one of the attorneys for Plaintiffs in the litigation. At the time of the depositions, Mr. de la Torre was the co-chair of PNA. He testified that he had been elected to that position in an election held the prior year and that he had previously held the position of chair of the PNA three to four years ago. Mr. de la Torre was also called by Plaintiffs as a witness at trial and testified on August 22 and 23, 2018. Mr. de la Torre testified that his mother and father were involved in the founding of PNA in 1979, and “we have a long history of family involvement in the [PNA].” He also testified that he remained the co-chair of PNA, that his wife, Ms. Loya, was a member of the PNA board, and that his niece, Griselda Garces de la Torre, was the agent for service of process of the PNA. During his recent City Council campaign and as of November 2020, Mr. de la Torre served as chair of the PNA board. Councilmember de la Torre has advised that following his election to the City Council, he resigned from his position as chair of the PNA board at a PNA board meeting conducted on or about November 19, 2020. As of January 22, 2020, PNA’s website identifies Councilmember de la Torre as “Santa Monica City Councilor since December 2020: previously a board member.”

Trial on the allegations in the FAC began August 1, 2018, and the presentation of evidence concluded on September 11, 2018. After extensive post-trial briefing, on February 13, 2019, the trial court issued judgment in favor of Plaintiffs on both of their causes of action.

Following issuance of the trial court’s judgment, Plaintiffs’ attorneys filed motions seeking approximately \$23 million in attorneys’ fees and costs. Pursuant to an agreement between the parties, the City’s response to the fee motion, and the hearings regarding costs and fees have been continued to follow the resolution of proceedings in the Court of Appeal and the California Supreme Court.

The City filed a notice of appeal from the judgment on February 22, 2019. After briefing, the Court of Appeal held oral argument on June 30, 2020.

On July 9, 2020, the Court of Appeal issued an opinion holding that the City did not violate either the CVRA or the Equal Protection Clause of the California Constitution. The Court of Appeal reversed the trial court's judgment, ordered the Plaintiffs to pay costs to the City, and directed the trial court to enter judgment for the City. Plaintiffs filed for rehearing, which the Court of Appeal denied on August 5, 2020.

On August 18, 2020, Plaintiffs filed a petition seeking review by the California Supreme Court. On October 21, 2020, the California Supreme Court granted review only on a limited question relating to Plaintiffs' claim under the CVRA: "What must a plaintiff prove in order to establish vote dilution under the California Voting Rights Act?" The California Supreme Court left intact the Court of Appeal's ruling in the City's favor on the Equal Protection claim.

Briefing in the California Supreme Court is ongoing. Plaintiffs' filed their opening brief on December 21, 2020. The City's answering brief is due March 22, 2021. No date has yet been set for oral argument before the California Supreme Court.

Were the California Supreme Court to affirm the holding of the Court of Appeal, the litigation would conclude; the City would not be required to make any change to the Charter-established at-large election system, and the City would not be required to pay any fees to the Plaintiffs' attorneys. Were the California Supreme Court to reverse the holding of the Court of Appeal, the City would anticipate a remand to the Court of Appeal for further review and to resolve the remaining issues relevant to Plaintiffs' CVRA claim that the Court of Appeal found unnecessary to reach because of the basis for its ruling. Were Plaintiffs ultimately to prevail in the litigation, the City would anticipate returning to the trial court for resolution of the pending motions in which the Plaintiffs seek payment by the City of the Plaintiffs' attorneys' fees and costs.

**B. The Common Law Conflict of Interest**

The City has sought formal advice from the California Fair Political Practices Commission ("FPPC") as to whether Councilmember de la Torre has a financial conflict of interest under Government Code Section 1090 (which would preclude the City from



entering into any contract relating to the litigation) or the Political Reform Act (which would require that Councilmember de la Torre recuse from participating in any decisions relating to the litigation). The City has not yet received advice on these issues from the FPPC. Should the FPPC determine that there is a financial conflict of interest, that would serve as a separate, independent basis for disqualifying Councilmember de la Torre.

Separate and apart from disqualifying financial interests within the meaning of Section 1090 or the Political Reform Act, the common law doctrine against conflicts of interest “prohibits officials from placing themselves in a position where their private, personal interests may conflict with their official duties.” *Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152, 1171 (1996), *quoting* 64 Ops. Cal. Atty Gen. 795, 797 (1981)

The FPPC does not provide advice on common law conflicts of interest. The City sought guidance from the California Attorney General on whether Councilmember de la Torre’s prior position as a board member and representative of PNA during the litigation or his wife’s continuing status as a plaintiff in the litigation poses a common law conflict of interest. The California Attorney General has declined to provide advice, indicating that their authority to issue legal opinions is controlled by Government Code Section 12519, which states that opinions shall be provided to “a city prosecuting attorney when requested, upon any question of law relating to criminal matters,” and that, as a result, because the current situation involves a matter of civil law, rather than criminal law, they are unable to provide the City with a legal opinion under the authority of their governing statute. Nevertheless, as a matter of general guidance and reference, the California Attorney General provided the City with a copy of a California Attorney General Opinion -- official citation 92 Ops. Cal. Atty. Gen. 19 (2009) (Cal. AG No. 07-807) -- that discusses the common law doctrine and its application in a particular case where the California Attorney General found that the prohibitions of Government Code Section 1090 and the Political Reform Act did not apply. A copy of this opinion is attached. (Attachment B)

The 2009 Attorney General Opinion found that a city redevelopment agency board member had a common law conflict of interest with respect to the agency's decision whether to enter into a loan agreement for commercial property improvement where the proposed recipient of the loan was a corporation solely owned by the adult son of the agency board member. The 2009 Attorney General Opinion determined that the agency board member had no disqualifying financial interests within the meaning of Section 1090 or the Political Reform Act. But, it noted, this did not preclude a finding of a common law conflict of interest because "the common law prohibition extends to noneconomic interests as well." Indeed, the common law doctrine has long been held to apply beyond financial interests, requiring more generally that a public officer "exercise the powers conferred on him with disinterested skill, zeal and diligence and primarily for the benefit of the public." *Noble v. City of Palo Alto*, 89 Cal. App. 47, 51 (1928); see also *Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152, 1170-71 (1996). As the 2009 Attorney General Opinion explained: "even if the agency board member cannot be said to have a statutory financial interest in her son's contract with the agency within the meaning of section 1090 or the Political Reform Act, it is difficult to imagine that the agency member has no private or personal interest in whether her son's business transactions are successful or not." Thus, it concluded, "In our view, the agency board member's status as the private contracting party's parent and co-tenant places her in a position where there may be at least a temptation to act for personal or private reasons rather than with 'disinterested skill, zeal, and diligence' in the public interest, thereby presenting a potential conflict." As a result, the Opinion held, "to avoid a conflict between her official and personal interests, the board member should abstain from any official action with regard to the proposed loan agreement and make no attempt to influence the discussions, negotiations, or vote concerning that agreement."

Just as it was "difficult to imagine that the agency member has no private or personal interest in whether her son's business transactions are successful or not," it seems difficult to imagine that Councilmember de la Torre has no private or personal interest in the outcome of the pending litigation where his wife remains a plaintiff in the litigation, his wife remains a board member of the other plaintiff in the litigation, and, until shortly before being sworn in as a councilmember, he was the chair of the board of the other

plaintiff in the litigation and served as that plaintiff's representative at deposition and trial. As a result, in accordance with the principles set out in the 2009 Attorney General Opinion, staff recommends that Council determine that Councilmember de la Torre has a common law conflict of interest and should therefore be disqualified from participating in or attempting to influence discussions or decisions relating to this litigation.

Pursuant to Council Rule 18, this determination should be made by Council vote of the councilmembers other than Councilmember de la Torre, who also has a personal conflict of interest in the determination whether he has a conflict of interest with respect to the litigation. Staff recommends, however, that Councilmember de la Torre be allowed to participate in the discussion as to whether he has a conflict of interest with respect to the litigation so that the Council can hear his explanation as to why he believes he does not have a conflict of interest. If Council determines that a common law conflict of interest exists and Councilmember de la Torre is, therefore, disqualified, then all subsequent discussions and actions relating to the litigation should be treated in the same way as if Councilmember de la Torre recused himself, that is, Councilmember de la Torre may not be present during any discussions or decisions related to the litigation.

**Prepared By:** Denise Anderson-Warren, City Clerk

**Approved** \_\_\_\_\_ **Forwarded to Council** \_\_\_\_\_

*George Cardona*  
George Cardona, Interim City Attorney 1/23/2021

*Lane Dilig*  
Lane Dilig, Interim City Manager 1/23/2021

**Attachments:**

- A. Attachment A--20210122.Board Members – PNA
- B. Attachment B--AG Opn. 07-807
- C. Responses from Oscar De la Torre Part 1
- D. Responses from Oscar De la Torre Part 2

# PNA

## Pico Neighborhood Association – Santa Monica, California

### Board Members

#### PNA Board

**Oscar De la Torre, Santa Monica City Councilor since December 2020: previously a board member.**

**Cris McLeod, Chair .** Cris is a resident of the Pico Neighborhood, 16 years long. Cris is the Secretary and Treasurer for the GSMOL Chapter here in Santa Monica and he is also the Secretary for the Home Owners association at Mountain View Mobile Home Park on Stewart St. He has been involved with the PNA as a member for 12 Years. He regularly speaks at City Council and is a strong advocate for low income residents, Cris is also a member of SMMR.

**Brian Oneal, Co-Chair and Secretary.** Brian is History Professor and community leader from the newly formed Gandara Park Neighborhood Association, more to come.

**Marco Marin, Director @ Large.** Is A long time Santa Monica Resident and board member. We will update his bio asap.

**Maria Loya, Communications Officer.** Maria has lived in the Pico Neighborhood for 18 years. She bring her experience as a community organizer and activist on issues related to the environment, development and education. Maria was recently re-elected as member of the Santa Monicans for Renter's Rights (SMRR) Steering Committee. She and her husband, Oscar de la Torre are raising two wonderful boys in the Pico Neighborhood.

**Berenice Onofre. Director @ Large,** A longtime resident of the Pico neighborhood, Berenice is proud to serve as a PNA Board member, Berenice also just earned her Doctorate in Education from CAL State La.

**Andrew Kalinowski, Director @ Large,** is a Santa Monica resident and our most recent board member. Is a Certified Public Accountant (CPA), is also a Certified Management Accountant (CMA), Andrew is also a Board Member of the Ferris Foundation which is a nonprofit fund for higher education and was the Former President and Board Member of the GRYP which is a young professional organization based in Michigan prior to his move to Santa Monica. Andrew is actively involved in Junior Achievement of SoCal and has volunteered with multiple nonprofit organizations where he assisted minority owned businesses in finance, operational improvements, business planning, legal, and tax planning.

**Gina de Baca, Director @ Large.** Gina has been a PNA Boardmember for more than 16 years. Gina is a life long resident of Santa Monica and has lived in the Pico Neighborhood for more than 24 years. She has been a long time advocate for youth and Pico Neighborhood families. She serves on the Santa Monica Early Childhood education task force, Edison PTA Board, member of Kuruvungna Spring Board of Directors and Founder of Cabeza de Vaca cultural school in Santa Monica.

**Mary Cornejo, Director @ Large.** Mary is a native to Santa Monica. She has lived her entire life in the Pico Neighborhood. Mary is a member of the Women of the Moose. She is also a member of St. Anne's Church Guadalupana group. She has been married for 32 plus years and raised 5 great kids in Santa Monica. Mary wants to work to engage Pico Neighborhood families in issues affecting our community.

**Jeff Blake, Director @ Large.** Jeff has been a Santa Monica resident since 2008 and a Pico Neighborhood resident since 2011 and a PNA Board member since 2017. Jeff hopes to use his background in Healthcare and community relations to support PNA's ongoing advocacy on behalf of the City's most vibrant community.

**Christhild Anderson, Director @ Large.** After getting married to her late husband (an American) in 1980, Christel lived permanently in Santa Monica and applied for her Green Card. Both her two children went to Edison Elementary School's Bilingual Program, where she and her husband and were very active board members of the PTA. After teaching Preschool as well as Kindergarten, and Elementary Special Ed. both in Germany and the USA, she continued with Graduate Social Work Training in both Countries and is registered with the California Board of Behavioral Sciences. She enjoys applying her Community Work Skills for the benefit of the PNA to help in preserving and creating a livable Santa Monica for all Generations.

**Catherine Eldridge, Parliamentarian.** Catherine, a PNA Boardmember for more than 8 years has lived in Santa Monica and the Pico Neighborhood for over 25 years. She is a tireless advocate for Village Trailer Park mobile home residents which is within the Pico Neighborhood. Catherine has been a long time advocate for affordable housing in Santa Monica through her participation in the Santa Monica for Renters' Rights (SMRR). She will continue to be a voice for Pico Neighborhood residents in City Hall.

[Blog at WordPress.com.](https://pnasantamonica.wordpress.com/board-members/)



CONCLUSION

The circumstance that the recipient of a proposed commercial property improvement loan from a city redevelopment agency would be a corporation solely owned by the adult, non-dependent son of an agency board member who also resides with the board member in the same rented apartment does not, by itself, preclude the agency from entering into an agreement to make that loan. However, to avoid a conflict between her official and personal interests, the board member should abstain from any official action with regard to the proposed loan agreement and make no attempt to influence the discussions, negotiations, or vote concerning that agreement.

ANALYSIS

We are informed that a city redevelopment agency is considering whether to enter into a loan agreement for commercial property improvement and that the recipient of the proposed loan is to be a corporation solely owned by the adult son of an agency board member. We are also told that, while the son resides with the board member in the same rented apartment, we may assume for purposes of this analysis that he is not dependent on the board member for support.<sup>1</sup> Given this context, we are asked whether the agency may enter into the proposed loan agreement without violating any conflict-of-interest laws. As relevant here, those laws consist of two statutory schemes, Government Code section 1090 and its related provisions and the Political Reform Act of 1974, as well as the common law doctrine against conflicts of interest. For the reasons that follow, we conclude that the given circumstances, by themselves, would not preclude the agency from entering into the proposed loan agreement, but that, to avoid a conflict between her official and personal interests, the board member should completely abstain from any official action with regard to the proposed loan agreement and make no attempt to influence the discussions, negotiations, or vote concerning that agreement.

Government Code section 1090

Our consideration of the question presented first requires that we undertake an analysis under Government Code section 1090,<sup>2</sup> which generally forbids the board of a public agency from entering into a contract in which one of its members has a personal

<sup>1</sup> In support of this assumption, we have been informed that the agency board member does not claim her son as a dependent for tax purposes.

<sup>2</sup> All further references to the Government Code are by section number only.

Attachment: Attachment B--AG Opn. 07-807 (4427 : PNA CVRA lawsuit Conflict of Interest)

financial interest.<sup>3</sup> In the words of the statute, “Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members . . . .”<sup>4</sup>

A city redevelopment agency is a public body,<sup>5</sup> and members of its governing board are thus public officials within the meaning of section 1090, which applies to virtually all members, officers, and employees of such agencies.<sup>6</sup> An agreement by a public agency to loan money is treated as a contract for purposes of section 1090.<sup>7</sup>

Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their public agencies.<sup>8</sup> Under section 1090, “the prohibited act is the making of a contract in which the official has a financial interest.”<sup>9</sup> Such an interest may be direct or indirect, but the “evil to be thwarted by section 1090 is easily identified: If a public official is pulled in one direction by his financial interest and in another direction by his official duties, his judgment cannot and should not be trusted, even if he attempts impartiality.”<sup>10</sup> A contract that violates section 1090 is void.<sup>11</sup>

With these principles in mind, we consider whether the familial relationship between the redevelopment agency board member and the member’s adult son will, by itself, render the proposed loan agreement between the agency and the member’s son’s corporation invalid under section 1090. We considered a similar question in 88 Ops.Cal.Atty.Gen. 222 (2005). At issue in that opinion was whether the adult son of a

<sup>3</sup> 89 Ops.Cal.Atty.Gen. 217, 218 (2006).

<sup>4</sup> Govt. Code § 1090.

<sup>5</sup> Health & Safety Code § 33100; *see* 88 Ops.Cal.Atty.Gen. 222 (2005).

<sup>6</sup> *See* 61 Ops.Cal.Atty.Gen. 243, 248-250 (1978) (applying § 1090 to members of a local redevelopment agency).

<sup>7</sup> *E.g.*, *Carson Redevelopment Agency v. Padilla*, 140 Cal. App. 4th 1323, 1329-1330 (2006).

<sup>8</sup> *Stigall v. Taft*, 58 Cal. 2d 565, 569 (1962).

<sup>9</sup> *People v. Honig*, 48 Cal. App. 4th 289, 333 (1996).

<sup>10</sup> *Carson Redevelopment Agency*, 140 Cal. App. 4th at 1330.

<sup>11</sup> *Thomson v. Call*, 38 Cal. 3d 633, 646 (1985).



redevelopment agency board member could acquire real property within the redevelopment zone without causing the member to violate Health and Safety Code section 33130(a), which prohibits agency officers and employees from acquiring “any interest in any property included within the project area within the community,” including “any indirect financial interest” in such property.<sup>12</sup> Because the statute under analysis did not further specify what constituted a prohibited “indirect financial interest,” we found it appropriate to consult other conflict-of-interest statutes, including section 1090, to determine whether the parent-adult child relationship between the agency member and his son would give rise to the member having a cognizable financial interest in the property his son sought to purchase.<sup>13</sup> Our review of analogous statutory schemes led us to conclude that no such prohibited interest would arise solely on account of the parent-adult child relationship.<sup>14</sup>

Here, where we are called upon to analyze section 1090 and its related provisions directly, rather than by comparison, the result is the same. For purposes of this analysis, we note that the Legislature has expressly defined certain “remote interests”<sup>15</sup> and “noninterests”<sup>16</sup> that do not come within section 1090’s general prohibition. If a “remote interest” is present, as defined in section 1090, the proposed contract may be made, but only if (1) the public official or board member in question discloses his or her financial interest in the contract to the public agency, (2) such interest is noted in the entity’s official records, and (3) the individual with the remote interest abstains from any participation in the making of the contract.<sup>17</sup> If a “noninterest” is present, as defined in section 1091.5, the contract may be made without the official’s abstention, and generally a noninterest does not require disclosure.<sup>18</sup> We have found that an examination of these statutory exceptions is useful in determining what would otherwise be viewed by the Legislature as constituting a proscribed “financial interest.”<sup>19</sup>

<sup>12</sup> 88 Ops.Cal.Atty.Gen. at 224.

<sup>13</sup> *Id.* at 224-225.

<sup>14</sup> *Id.*

<sup>15</sup> § 1091.

<sup>16</sup> § 1091.5.

<sup>17</sup> *See* 88 Ops.Cal.Atty.Gen. 106, 108 (2005); 83 Ops.Cal.Atty.Gen. 246, 248 (2000); *see also People v. Honig*, 48 Cal. App. 4th at 318-319.

<sup>18</sup> *City of Vernon v. Central Basin Mun. Water Dist.*, 69 Cal. App. 4th 508, 514-515 (1999); 84 Ops.Cal.Atty.Gen. 158, 159-160 (2001).

<sup>19</sup> 85 Ops.Cal.Atty.Gen. 34, 36-37 (2002); *see Honig*, 48 Cal. App. 4th at 289, 317.

In our 2005 opinion, we observed that, although the Legislature deems a parent to have a remote financial interest for purposes of section 1090 “in the earnings of his or her minor child for personal services,”<sup>20</sup> there is no similar determination that a parent has either a direct or indirect financial interest in the property or earnings of an adult child.<sup>21</sup> And we have previously found that the familial relationship between a county supervisor and his adult brother, in that instance an automobile dealer, would not result in a violation of section 1090 if the brother sold automobiles to the county. “Neither brother has any proprietary ‘interest’ in the financial attainments of the other; neither is entitled to any contribution or support from the other.”<sup>22</sup>

The situation here is analogous. A parent is not legally compelled to support an adult child absent special circumstances not present here, such as the child’s incapacity.<sup>23</sup> Conversely, an adult child has no legal duty to support a parent, unless the parent is “in need and unable to support himself or herself by work,”<sup>24</sup> a circumstance also not present here.

We are informed that the board member’s son’s corporation will receive the proceeds of the agency’s loan. There is no indication that the member will personally profit from this transaction. While the Legislature could have characterized the inherent “interest” that a self-supporting parent may be said to have in the financial attainments of an adult child as one that, by itself, amounts to a prohibited financial interest, it has not done so. Nor have we located any judicial determination that the parent-adult child relationship, in itself, creates a financial conflict of interest in situations of the sort considered here.<sup>25</sup> Thus, we conclude that the familial relationship between the board

<sup>20</sup> § 1091(b)(4).

<sup>21</sup> 88 Ops.Cal.Atty.Gen. at 225.

<sup>22</sup> 28 Ops.Cal.Atty.Gen. 168, 169 (1956).

<sup>23</sup> *In re Marriage of Chandler*, 60 Cal. App. 4th 124, 130 (1997); *In re Marriage of Lambe & Meehan*, 37 Cal. App. 4th 388, 391-392 (1995); see Fam. Code § 58.

<sup>24</sup> Fam. Code § 4400; see also *Chavez v. Carpenter*, 91 Cal. App. 4th 1433, 1445 & fn. 8 (2001) (noting statutory standard).

<sup>25</sup> An example of an indirect financial interest stemming from a parent-adult child transaction is found in *Moody v. Shuffleton*, 203 Cal. 100 (1928). There, a county supervisor sold his printing business to his son and took back a promissory note secured by a chattel mortgage on the business. Because the business helped to secure the value of the official’s mortgage, it was held that a conflict existed when printing contracts were awarded to the son. *Id.* at 103-104; see also *Thomson*, 38 Cal. 3d at 645. In that case, the public official had a financial interest in the transaction (that of a mortgage holder in a

member and her adult son does not invalidate the proposed loan agreement under section 1090.

For similar reasons, we believe that a housing arrangement in which a public official and his or her adult child live together in the same rented apartment does not necessarily give the parent a prohibited financial interest in the contractual dealings of the child for purposes of section 1090. Although by statute a landlord has a “remote interest” in his or her tenant’s official contracts and vice versa,<sup>26</sup> the same is not the case for individuals who share a rented apartment, and whose legal obligations to one another are different in kind from those owed between landlord and tenant. Thus, we conclude that section 1090 does not preclude the redevelopment agency from entering into the contract at issue due solely to the circumstance that an agency board member and her adult son share living space in a rented apartment.

Having so concluded, however, we caution that if there were other circumstances suggesting that the member had a financial interest in the proposed contract, those circumstances would need to be analyzed separately to determine whether an impermissible conflict existed.<sup>27</sup>

### The Political Reform Act

We next consider what effect, if any, the Political Reform Act of 1974<sup>28</sup> has on this question. The Political Reform Act generally prohibits public officials from participating in “governmental decisions” in which they have a financial interest.<sup>29</sup> Of potential relevance here, the Political Reform Act requires officials to abstain from participating in such a decision when it will have a material financial effect on a member of his or her “immediate family.”<sup>30</sup> The term “immediate family” includes only the official’s “spouse and dependent children.”<sup>31</sup> As stated earlier, we are assuming here that the board member’s adult son is not her dependent.

---

printing business seeking to contract with the county) that was separable from and not dependent on the parent-child relationship.

<sup>26</sup> § 1091(b)(5).

<sup>27</sup> *See, e.g.*, 88 Ops.Cal.Atty.Gen. at 225.

<sup>28</sup> §§ 87100 et seq.

<sup>29</sup> *See* § 87100; 88 Ops.Cal.Atty.Gen. 32, 33-34 (2005).

<sup>30</sup> § 87103.

<sup>31</sup> § 82029.

No other provision of the Political Reform Act purports to link a public official’s personal financial interests to those of an individual (other than the official’s spouse and/or dependent children) with whom he or she shares a rented residence. Therefore, we find that the Political Reform Act’s prohibitions are not triggered by the circumstance that the board member shares a rented residence with her adult son, whose corporation seeks to contract with the agency.

Common Law Doctrine against Conflicts of Interest

Having found no disqualifying financial interests within the meaning of section 1090 or the Political Reform Act, we now analyze the circumstances under the common law doctrine against conflicts of interest. The common law doctrine “prohibits public officials from placing themselves in a position where their private, personal interests may conflict with their official duties.”<sup>32</sup> While the focus of the statutes analyzed above is on actual or potential financial conflicts, the common law prohibition extends to noneconomic interests as well.<sup>33</sup> Thus, we have previously cautioned that, even where no conflict is found according to statutory prohibitions, special situations could still constitute a conflict under the common law doctrine.<sup>34</sup> While the common law may be abrogated by express statutory provisions,<sup>35</sup> the statutes we have considered thus far do not address the circumstances we have been asked to evaluate, nor are we aware of any other statutes that address those circumstances.

Here, even if the agency board member cannot be said to have a statutory financial interest in her son’s contract with the agency within the meaning of section 1090 or the Political Reform Act, it is difficult to imagine that the agency member has *no* private or personal interest in whether her son’s business transactions are successful or not. At the least, an appearance of impropriety or conflict would arise by the member’s participation in the negotiations and voting upon an agreement that, if executed, would presumably redound to her son’s financial benefit. As one court has said with regard to the common law doctrine and the need to strictly enforce it:

<sup>32</sup> *Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152, 1171 (1996), quoting 64 Ops.Cal.Atty.Gen. 795, 797 (1981); see also *Kunec v. Brea Redevelopment Agency*, 55 Cal. App. 4th 511, 519 (1997).

<sup>33</sup> *Clark*, 48 Cal. App. 4th at 1171 & fn. 18; 70 Ops.Cal.Atty.Gen. 45, 47 (1987); 64 Ops.Cal.Atty.Gen. at 797.

<sup>34</sup> See 53 Ops.Cal.Atty.Gen. 163, 165-167 (1970).

<sup>35</sup> 70 Ops.Cal.Atty.Gen. at 47; 67 Ops.Cal.Atty.Gen. 369, 381 (1984).

A public officer is impliedly bound to exercise the powers conferred on him with disinterested skill, zeal, and diligence and primarily for the benefit of the public. . . . [¶] . . . . [¶] Actual injury is not the principle the law proceeds on. Fidelity in the agent is what is aimed at, and as a means of securing it the law will not permit him to place himself in a position in which he may be tempted by his own private interests to disregard those of his principal. This doctrine is generally applicable to private agents and trustees, but to public officers it applies with greater force, and sound policy requires that there be no relaxation of its stringency in any case that comes within its reason. . . . <sup>36</sup>

In our view, the agency board member’s status as the private contracting party’s parent and co-tenant places her in a position where there may be at least a temptation to act for personal or private reasons rather than with “disinterested skill, zeal, and diligence” in the public interest, thereby presenting a potential conflict. In an earlier opinion, we advised that a common law conflict of interest may “usually be avoided by [the official’s] complete abstention from any official action” with respect to the transaction or any attempt to influence it.<sup>37</sup> Under these circumstances, we believe that the only way to be sure of avoiding the common law prohibition is for the board member to abstain from any official action with regard to the proposed loan agreement and make no attempt to influence the discussions, negotiations, or vote concerning that agreement.

---

<sup>36</sup> *Noble v. City of Palo Alto* 89 Cal. App. 47, 51 (1928) (citations omitted); see also *Clark*, 48 Cal. App. 4th at 1170-1171.

<sup>37</sup> See 70 Ops.Cal.Atty.Gen. at 47; 64 Ops.Cal.Atty.Gen. at 797; see *Clark*, 48 Cal. App. 4th at 1171 (conflicted official is disqualified from taking any part in the discussion and vote regarding the particular matter); Eugene McQuillin, *The Law of Municipal Corporations* vol. 4, § 13.35, 840-841 (3d ed. rev. 1992); 26 Ops.Cal.Atty.Gen. 5, 7 (1955).

Accordingly, we conclude that the circumstance that the recipient of a proposed commercial property improvement loan from a city redevelopment agency would be a corporation solely owned by the adult, non-dependent son of an agency board member who also resides with the board member in the same rented apartment does not, by itself, preclude the agency from entering into an agreement to make that loan. However, to avoid a conflict between her official and personal interests, the board member should abstain from any official action with regard to the proposed loan agreement and make no attempt to influence the discussions, negotiations, or vote concerning that agreement.

\*\*\*\*\*

Attachment: Attachment B--AG Opn. 07-807 (4427 : PNA CVRA lawsuit Conflict of Interest)

**LAW OFFICE OF DANIEL AMBROSE**



825 S Hill St., Suite 4801  
Los Angeles, CA 90014  
(248)808-3130

**EXECUTIVE SUMMARY**

Oscar de la Torre seeks an opinion as to "conflict of interest" allegations recently made against him, and the suggestion of a member of the Santa Monica City Council that he "recuse himself" as a result. The following analysis leads to the conclusion that the allegations do not constitute a legally prohibited conflict of interest, and thus no recusal is necessary or appropriate.

Moreover, Mr. de la Torre's campaign activity, advocacy for district elections in Santa Monica and more generally throughout California, testimony in court, and petitioning the courts in his former role as a board member of Pico Neighborhood Association, is all protected by the First Amendment and cannot itself create a conflict of interest.

**BACKGROUND**

**I. Factual Background**

Oscar de la Torre appears to have received enough votes in the November 2020 election to become a member of the Santa Monica City Council. Mr. de la Torre sought the same office in November 2016, but was defeated. In the course of his campaigns, Mr. de la Torre espoused his view that the City of Santa Monica should adopt district-based elections, in response to, for example, questions posed by a local newspaper. Like the other council candidates endorsed by Santa Monicans for Change – two of whom appear to have also been elected in 2020 – Mr. de la Torre has expressed his view that the City's expenditure of millions of dollars to fight against adopting district-based elections, and against minority voting rights, is foolish and destructive to the City.

Until recently, Mr. de la Torre served as a board member of the Pico Neighborhood Association. In April 2016, the Pico Neighborhood Association filed a lawsuit against the City of Santa Monica ("Voting Rights Lawsuit"), alleging that the City's at-large elections violate the California Voting Rights Act of 2001 and the Equal Protection Clause of the California Constitution. Mr. de la Torre's wife, Maria Loya, is also a named plaintiff in that case. That case went to trial in 2018, and the plaintiffs prevailed on both of their causes of action; in 2020 the Court of Appeals reversed; and in October 2020 the California Supreme Court granted the plaintiffs' petition for review, while also de-publishing the Court of Appeal's opinion. The case

SM00037  
Attachment: Responses from Oscar De la Torre Part 1 (4427 : PNA CVRA lawsuit Conflict of Interest)

is now pending before the California Supreme Court, with the plaintiffs' opening brief due in December.

The Voting Rights Lawsuit seeks only non-monetary relief – an injunction and declaration from the Court. Consistent with the requested relief, the Judgment entered by the Los Angeles Superior Court awards the plaintiffs injunctive and declaratory relief, but no monetary relief. While the plaintiffs' lawyers are likely entitled to recover their fees and costs, and they have already filed a motion to recover some of their fees and a memorandum of costs, the plaintiffs cannot share in those fees. Therefore, neither Mr. de la Torre nor his wife have any financial interest in the outcome of the Voting Rights Lawsuit.

Mr. de la Torre has advocated for district-based elections for several years, and has been involved with various civil rights and education groups that have similarly advocated for district-based elections. He could rightfully be described as a longtime activist, dating back even to his time as a student at Santa Monica High School.

## **II. Legal Background**

Public officials, including city council members, are prohibited from involvement in official decisions in which they have a conflict of interest. This prohibition is found in several places, including the Political Reform Act (PRA), section 1090 of the Government Code (Section 1090), and (arguably) the common law prohibition on conflicts of interest.

### **A. Political Reform Act**

The PRA's conflict of interest rules prohibit public officials from making, participating in making, or in any way attempting to use their official positions to influence governmental decisions in which they have economic interests. (Govt. Code, § 87100; Fair Political Practices Commission ["FPPC"] Regs., § 18700(b).) If a public official or employee has a prohibited conflict of interest in a decision, they must disqualify themselves from any involvement in the decision.

### **B. Government Code Section 1090**

Like the PRA, Section 1090 prohibits public officials and employees, acting in their official capacities, from making contracts in which they are financially interested. (88 Ops.Cal.Atty.Gen. 32 (2005).) As with the application of the PRA, an individual must have a financial interest in the contract in order to trigger Section 1090.

A contract made in violation of Section 1090 is void; however, Section 1090 does not require a public official to remove themselves from office where there may be a prohibited conflict of interest. (Govt. Code, §§ 1092-97 [remedies for violation of the prohibition].)

### **C. Common Law Prohibition on Conflicts of Interest**

In addition to the PRA and Section 1090, there is also a common law doctrine prohibiting conflicts of interest which "prohibits public officials from placing themselves in a position where



their private, personal interests may conflict with their official duties." (*Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152, 1171.)

It is debatable whether this common law doctrine is still viable in California; it may have been subsumed by the legislative enactments of the PRA and Section 1090. (See *BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1233 [declining to construe allegations of a public servant’s bias in a decision to constitute a conflict of interest at common law when the statutory laws already had been construed not to create a conflict of interest in that situation – “We continue to be cautious in finding common law conflicts of interest ... We reject the application of the doctrine in this case, assuming, arguendo, it exists.”].) The breadth of the PRA and Section 1090 suggest that the Legislature intended those statutes to occupy the entire field of conflicts of interest. Nonetheless, this Opinion assumes that the common law doctrine is still viable, and may be broader than the PRA and Section 1090. It should be noted though, that California courts have cautioned that the common law prohibition on conflicts of interest should be narrowly construed as the majority of the prohibitions it previously included have been incorporated and abrogated by the provisions of the PRA and Section 1090. (See *id.*; *All Towing Services LLC v. City of Orange* (2013) 220 Cal.App.4th 946, 958 [“Except where the law clearly provides rules for identification and rectification of what might be termed conflicts of interest, that is a legislative not a judicial function.”], citing *BreakZone Billiards*.)

**ANALYSIS**

As discussed below, Mr. de la Torre has no conflict of interest by serving on the Santa Monica City Council and taking part in the City Council’s decisions concerning the method of electing members to the city council and/or the Voting Rights Lawsuit.

**I. PRA and Section 1090**

The application of the PRA and Section 1090 here is quite simple, and should be disposed of quickly.

Both the PRA and Section 1090 prohibit only situations in which an elected official has a financial interest in the outcome of a government decision. Here, neither Mr. de la Torre nor his wife have any financial interest in the Voting Rights Lawsuit or any potential change to the City’s method of electing its City Council. Therefore, Mr. de la Torre has no conflict of interest under the PRA or Section 1090.

While it could be argued that Mr. de la Torre has an interest in the City adopting district elections because he may seek re-election and district-election campaigns are less expensive than at-large campaigns, that is not the sort of financial interest that is cognizable under the PRA and Section 1090. If that were considered a financial interest, no member of the Santa Monica City Council – indeed, no member of any governing board for any political subdivision – could take part in the decision on the method of electing members of that governing board. In enacting Government Code section 34886, the Legislature expressed its desire that city councils be permitted to efficiently adopt district elections without a vote of the electorate. Prohibiting city

SM00039  
Attachment: Responses from Oscar De la Torre Part 1 (4427 : PNA CVRA lawsuit Conflict of Interest)

council members from participating in the decision of whether to adopt district elections, would be inconsistent with the Legislature’s intent.

**II. Common Law Rule Against Conflicts of Interest**

Even if the common law rule against conflicts of interest is still viable in California, that rule would also not prohibit Mr. de la Torre from participating in the City Council’s decisions concerning the Voting Rights Lawsuit or any potential change to the City’s method of electing its City Council.

A conflict of interest under the common law rule exists where the personal interest of an elected official contradicts the interest of the political subdivision that official was elected to represent. However, that begs the question – what is the interest of the political subdivision? Mr. de la Torre and the other newly-elected councilmembers would say that it is in the best interests of the City for the City to adopt district-based elections and stop spending the City’s resources on fighting the Voting Rights Lawsuit. That interest is perfectly consistent with Mr. de la Torre’s stated non-financial interest, as he has expressed in his campaigns and over the past several years before he was elected to the Santa Monica City Council. While some of Mr. de la Torre’s colleagues on the City Council may disagree with him about this issue, and many others, that is what representative democracy is all about – no individual elected official or group of elected officials have a monopoly on deciding what is in the City’s interest, nor does the City’s staff.

If anyone has a personal interest conflicting with the interest of the City, it is the council members who have opposed district-based elections. For example, we understand that in at least one of the councilmanic districts ordered by the Los Angeles Superior Court, is the residences of more than one incumbent councilmember, and thus at least one of those incumbents could not be re-elected in a district-based election. The notion that is in the City’s interest to spend millions of dollars on a legal fight to protect incumbent council members’ re-election, seems dubious at best.

Applying the common law rule against conflicts of interest to Mr. de la Torre’s advocacy for district-based elections generally, and more specifically to his support for the Voting Rights Lawsuit, would also pose grave concerns of violating Mr. de la Torre’s rights under the First Amendment to the United States Constitution. Among the rights impacted, Mr. de la Torre has the absolute right to freedom of speech and freedom to petition the courts. As a matter of law, campaign activity and political advocacy cannot create a conflict of interest. (See *Woodland Hills Residents Assn., Inc. v. City Council* (1980) 26 Cal.3d 938.) Mr. de la Torre, like two other new councilmembers, expressed his view that the City should adopt district-based elections. At least one other councilmember, in addition to three recently-defeated outgoing councilmembers, similarly expressed the opposite view in response to a newspaper’s questions of all the candidates and in an op-ed published in the Los Angeles Times in 2018. All elected officials are free to discuss their views on issues that come before them in their capacity as elected officials, and even petition the courts when they believe it is appropriate do so; their decision to exercise their First Amendment rights does not disqualify them from participating in subsequent government decisions concerning those issues.

Attachment: Responses from Oscar De la Torre Part 1 (4427 : PNA CVRA lawsuit Conflict of Interest) SM00040

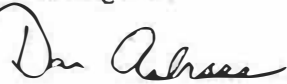
The courts' reluctance to applying the common law doctrine against conflicts of interest is well-illustrated by a case similar in certain respects to the situation here - *BreakZone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205. In *BreakZone*, a business obtained an amendment to its conditional use permit from the City of Torrance's planning commission over the objections of several residents and the police chief. A Torrance City Councilmember, Dan Walker, filed an appeal of the planning commission's decision. Councilmember Walker adjudicated the appeal, along with his council colleagues, ultimately granting the appeal and denying the business the conditional use permit amendment. The business challenged that decision in court, claiming, among other things, that Mr. Walker had a conflict of interest because: 1) he himself filed the appeal; and 2) he had received campaign contributions totaling over \$8,000 from businesses that stood to gain financially by the denial of the conditional use permit amendment. The *BreakZone* court found those allegations, even if true, did not amount to a legally cognizable conflict of interest, under the common law doctrine or any statutory prohibition. Here, any campaign contributions to Mr. de la Torre were much smaller than those at issue in *BreakZone* because Santa Monica limits such contributions to \$340. And, as in *BreakZone* where Councilmember Walker's role as the appellant did not require his recusal, Mr. de la Torre's wife's role as one of the plaintiffs in the Voting Rights Lawsuit likewise does not require Mr. de la Torre to be recused.

\*\*\*\*\*

Though we were not requested to do so, we feel it is also appropriate to weigh in on the question of whether Mr. de la Torre *should* recuse himself from decisions concerning the Voting Rights Lawsuit and any potential changes to the method of electing city council members, even though he is not *required* by law to recuse himself. In our opinion, not only is Mr. de la Torre not required to recuse himself from those decisions, he should not recuse himself.

It seems quite clear that the electorate desires significant change in Santa Monica, having unseated three out of four incumbents in the most recent election. Among the issues debated during the campaign was how the City should react to the Voting Rights Lawsuit, and the electorate signaled its desire that the City no longer fight the Voting Rights Lawsuit, by electing three challengers who promised they would end the City's expensive fight against that suit. It would be a disservice to the residents of Santa Monica for Mr. de la Torre to recuse himself and thus weaken the voice of the electorate in its desire to resolve the Voting Rights Lawsuit with the adoption of district-based elections.

Therefore, we strongly advise Mr. de la Torre to resist any calls for his recusal.

Best Regards,  
  
Daniel Ambrose

SM00041

Attachment: Responses from Oscar De la Torre Part 1 (4427 : PNA CVRA lawsuit Conflict of Interest)

2039 1/2 Stewart St.  
Santa Monica, CA 90404  
[Odelatorre16@yahoo.com](mailto:Odelatorre16@yahoo.com)

VIA EMAIL and U.S. MAIL

November 30, 2020

Fair Political Practices Commission  
1102 Q Street, Suite 3000  
Sacramento, CA 95811  
[advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)

*Re: Request for Formal Advice from Oscar de la Torre, Santa Monica*

I am writing to follow-up on, and correct, the letter sent to the FPPC by Santa Monica’s interim city attorney, George Cardona, on November 25, 2020, seeking advice concerning my obligations as an incoming elected member of the Santa Monica City Council.

Though Mr. Cardona and I agreed on November 24, 2020 to cooperate in jointly presenting the relevant facts and questions to the FPPC, Mr. Cardona then hastily and unilaterally wrote to the FPPC without affording me the opportunity to review his letter. Mr. Cardona’s letter, unsurprisingly, does not accurately and fairly convey the relevant facts to the FPPC, presents a question that seems designed only to obscure the dispositive fact that I have absolutely no financial interest in the outcome of *Pico Neighborhood Association v. City of Santa Monica*, and presumes to know how the California Supreme Court might decide that case. In contrast, Mr. Cardona himself has a vested financial interest in the City of Santa Monica continuing to resist the implementation of district-based elections in compliance with the California Voting Rights Act, because a district-elected council is almost certain to terminate Mr. Cardona, who he himself acknowledged to me that he does not believe the CVRA applies to Santa Monica and has advised the City to waste tens of millions of dollars on a futile effort to maintain the City’s racially discriminatory at-large elections.

I, therefore, write to the FPPC to provide a fair and complete summary of the relevant facts and point out the errors in Mr. Cardona’s letter, so that the FPPC can provide a fully-informed opinion. I have also sought an opinion from private legal counsel, and have also attached that opinion in this request for advice (please see Ambrose letter attached).

Attachment: Responses from Oscar De la Torre Part 2 (4427 : PNA CVRA lawsuit Conflict of Interest)

## FACTS

### A. My Background and Advocacy Work

I have been an activist and politician for my entire adult life. In 1990, I was elected Student Body President of Santa Monica High School, after a group of white students discouraged me from running because, according to them, no Mexican could be elected. In 1994, I was elected AS. President of Chico State University, spurred on by the need to organize opposition to Proposition 187. In 2002, I was elected to the governing board of the Santa Monica-Malibu Unified School District. In each of those roles, and in all other aspects of my life, I have worked for racial and social justice.

For decades, I have also advocated to the Santa Monica City Council for racial and social justice. I was raised, and now live, in the racially segregated and minority-concentrated Pico Neighborhood of Santa Monica. The inequities thrust upon the Pico Neighborhood are both historically troubling, and continually damaging to the residents of the Pico Neighborhood. All of the environmental hazards of the City, for example, have been placed in the Pico Neighborhood – e.g. a hazardous waste storage facility, the 10 freeway, the City's vehicle maintenance yard and an unabated landfill that emits methane into a Gandara Park. Furthermore, the concentrated poverty, marginalization and social neglect prompted me to create the Pico Youth & Family Center, a youth center founded in 1998 to address more than 62 gang-related homicides that had occurred in the Pico Neighborhood since 1982.

Recognizing that these inequities stemmed, in part, from the lack of political representation, and the underrepresentation of minorities throughout all decision-making bodies, particularly from the Pico Neighborhood, on the Santa Monica City Council, I have advocated for district elections for nearly a decade. The lone Latino elected to the Santa Monica City Council before 2020 in the City's 74 years of at-large elections similarly advocated for district elections, and voted to adopt district elections in 1992 – an effort that fell short by one vote on the seven-member city council. As the former President of the California Latino School Board Association, I have also advocated for district elections throughout California because the at-large elections in many California cities tend to dilute minority votes. Replacing racially discriminatory at-large elections with fair district-based elections is an issue about which I care deeply.

None of my advocacy work for district elections or for the Pico Neighborhood has been for financial compensation.

**B. My Role in the Pico Neighborhood Association**

Consistent with my lifelong advocacy for the Pico Neighborhood, I have held various roles with the Pico Neighborhood Association (“PNA”). Most recently, I served as “co-chair” of the PNA. I have resigned my position with the PNA to focus my efforts on my upcoming role on the city council.

PNA is a small non-profit neighborhood group that has, for over 40 years, given the Pico Neighborhood residents some voice, when the City’s at-large elections have denied them any voice in their local government. PNA was founded by Black and Mexican American leaders in 1979 to fight against the social neglect of the City Council that up to now was constituted by a majority of elected leaders who resided in the wealthier and almost exclusively white north side of the City. PNA raises a small amount of money through modest membership dues, and its annual budget is consistently less than \$5,000. PNA has no employees, and engages in no commercial transactions. Rather, PNA’s board – usually consisting of about 12 residents who are unpaid volunteers – meets approximately once a month to discuss issues pertinent to the Pico Neighborhood, and advocates for the interests of the Pico Neighborhood residents. The PNA has no real property in Santa Monica, or anywhere else.

Neither I, nor any of my family members, have ever been paid by PNA. My parents were involved with the PNA when it advocated for a more equitable distribution of Community Development Block Grants more than 40 years ago, and they were not paid any compensation for their work or role in the PNA. More recently, my wife and I have served as board members of PNA, and we likewise have never been paid, nor have we ever sought compensation, for any of our work. Rather, we have all volunteered with the PNA for no financial compensation at all.

Contrary to Mr. Cardona’s letter, I did not, at the trial of *Pico Neighborhood Association v. City of Santa Monica*, testify on behalf of PNA. Nor did my wife testify that I would do so. Rather, I testified in that trial to share my own experiences, particularly in campaigning for elected office on the school board and struggling in the very different city council elections. I was deposed in that case, as were all of the other PNA board members – though, frankly, it seemed those depositions were taken solely for the purpose of providing a training exercise for some of the more junior attorneys working on the case. Again, contrary to Mr. Cardona’s letter, I was not represented by Mr. Shenkman in my individual capacity at that deposition; Mr. Shenkman represented PNA and appeared at my deposition in that role.

In order to focus on my upcoming role as a member of the Santa Monica City Council, I resigned my position on the PNA board. I have no intention of resuming any role with the PNA, though I am certainly sympathetic to its mission to advocate for the historically-unrepresented Pico Neighborhood.

**C. I Have Absolutely No Financial Interest, Direct or Indirect, in the Outcome of *Pico Neighborhood Association v. City of Santa Monica*.**

In April 2016, following unsuccessful efforts to convince the city council to voluntarily adopt district-based elections, the PNA filed a lawsuit against the City of Santa Monica (“Voting Rights Lawsuit”), alleging that the City’s at-large elections violate the California Voting Rights Act of 2001 and the Equal Protection Clause of the California Constitution. My wife, Maria Loya, is also a named plaintiff in that case. The Voting Rights Lawsuit went to trial in 2018, and the plaintiffs prevailed on both of their causes of action; in 2020 the Court of Appeals reversed; and in October 2020 the California Supreme Court granted the plaintiffs’ petition for review, while also de-publishing the Court of Appeal’s opinion. The case is now pending before the California Supreme Court, with the plaintiffs’ opening brief due in December.

Though I doubt it makes a difference to the FPPC’s analysis, Mr. Cardona’s characterization of the California Supreme Court’s actions thus far in the Voting Rights Lawsuit is incomplete and inaccurate, and his predictions about how the California Supreme Court might decide the case are unfounded. If anything can be predicted from the California Supreme Court’s actions, it is that a reversal is likely, based on the Court’s depublication of the Court of Appeal’s faulty decision in its entirety and on the Supreme Court’s own motion.

The Voting Rights Lawsuit seeks only non-monetary relief – an injunction and declaration from the Court. Consistent with the requested relief, the Judgment entered by the Los Angeles Superior Court awards the plaintiffs injunctive and declaratory relief, but no monetary relief. While the plaintiffs’ lawyers are likely entitled to recover their fees and costs, and they have already filed a motion to recover some of their fees and a memorandum of costs, I understand the plaintiffs cannot share in those fees. In fact, at the outset of the case my wife and PNA both agreed that they have no right to any attorneys’ fees or costs recovered in that case. Likewise, the attorneys representing my wife and PNA agreed that they would handle the Voting Rights Lawsuit *pro bono* and pay all associated costs. In other words, the attorneys, not PNA or my wife, bear all of the financial risk and are entitled to the entirety of any financial reward. Therefore, neither I nor my wife have any financial interest, direct or indirect, in the outcome of the Voting Rights Lawsuit – our interest is merely the implementation of district elections and justice.

Attachment: Responses from Oscar De la Torre Part 2 (4427 : PNA CVRA lawsuit Conflict of Interest)

Nor does Mr. Cardona's underhanded suggestion, through his final question posed, that somehow PNA might be offered something of value in settlement negotiations change the simple fact that I have no financial interest in the Voting Rights Lawsuit. There have been dozens of CVRA cases settled or otherwise adjudicated in the nearly 18 years since the CVRA was enacted. In each and every one of those settlements and judgments, the relief consisted of a change to the defendant's elections and an award of attorneys' fees and costs; never has any CVRA plaintiff received any monetary compensation. The City of Santa Monica has never offered any monetary compensation to the PNA or my wife to settle the Voting Rights Lawsuit, and I know that my wife would never entertain such an offer if it were made. Rather, my wife, PNA and their attorneys have consistently told the City any settlement negotiations must first address changes to the method of electing city councilmembers and second address the amount of attorneys' fees and costs to be paid to the plaintiffs' attorneys, and the discussion of attorneys' fees and costs will not begin until the election changes are resolved. Indeed, it would be inappropriate to conflate those two distinct issues.

#### **D. The 2020 Campaign and Election.**

I first ran for the Santa Monica City Council in 2016. Though I did very well with voters in the Latino-concentrated Pico Neighborhood, I received much less support from the other parts of the city, and I lost. The 2016 election outcome, and what I experienced in that campaign, underscored the need for district-based elections in Santa Monica – as the Los Angeles Superior Court found.

Despite my experience in 2016, I ran again in the November 2020 election. A series of events demonstrated the mismanagement of the City by the incumbent council members and the City's upper management staff. For example, on May 31, 2020 the city's police tear-gassed and brutalized peaceful protestors while allowing looters to steal from and destroy the City's businesses, apparently at the direction of the city council and upper management staff. A tremendous anti-incumbent sentiment developed, and I felt 2020 would be an unusual opportunity to win a seat on the Santa Monica City Council. Ultimately, my sense was proven correct; three of the four incumbents seeking re-election were defeated (as many as had been defeated in the previous 26 years), and I came in fourth in a race for four seats.

Throughout my campaigns, both in 2016 and 2020, I stressed the need for the City to adopt district-based elections. In the 2020 campaign, the major candidates were all asked by a local newspaper whether they supported adopting district-based elections. All of the incumbents answered "no," while all of the challengers endorsed by Santa Monicans for Change (including me) answered "yes."



November 30, 2020

Page 6 of 6

Ultimately, three of the challengers (including me), and only one of the incumbents, was elected. I believe our support for district elections reflects the will of the voters; in fact, a survey of 400 voters in 2018 showed that Santa Monica voters support the adoption of district-based elections by a margin of more than 2 to 1. The adoption of district-based elections makes even more sense in light of the fact that the City has spent untold millions of dollars to fight against adopting district-based elections. As the voters elected me to the city council to advocate for district elections, among other things, I intend to do exactly that.

While the incumbent council members who oppose district elections have accused me of having some unidentified conflict of interest with respect to the issue of district elections, and the Voting Rights Lawsuit seeking the implementation of district elections, it is those incumbent council members who have had the conflict of interest for the past five years as they have used the City's financial resources to fight against district elections so that they may retain their council seats and the stipends, car and phone allowance, insurance etc that comes with their positions. For example, with the district map chosen by the Los Angeles Superior Court, at least two of those incumbent council members reside in the same district – meaning that only one of them could be elected in a district-based election. Frankly, I find the accusation that I am the one who has a conflict of interest to be biased and racist – just like the incumbent council members insistence on clinging to the at-large election system that the Los Angeles Superior Court found was adopted and maintained for the express purpose of denying Latinos and African Americans representation in their municipal government.

\*\*\*\*\*

Please feel free to contact me if you have any questions regarding this matter.

Very truly yours,

Oscar de la Torre

Attachment: Responses from Oscar De la Torre Part 2 (4427 : PNA CVRA lawsuit Conflict of Interest)

# Exhibit B

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**JANUARY 26, 2021**

A special meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 4:00 p.m., on Tuesday, January 26, 2021, via teleconference pursuant to the Governor’s Executive Order N-29-20 at <https://primetime.bluejeans.com/a2m/live-event/tzszchdr>

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre (*arrived at 4:04 p.m.*)  
Councilmember Kevin McKeown  
Councilmember Christine Parra

Also Present: Interim City Manager Lane Dilg  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**CONVENE**

On order of the Mayor, the City Council convened at 4:00 p.m., with all members present except Councilmember De la Torre.

**STAFF**  
**ADMINISTRATIVE**  
**ITEMS:**

**8.A. Pico Neighborhood Association and Maria Loya v. City of Santa Monica – Determination Regarding Common Law Conflict of Interest of Councilmember de la Torre,** was presented.

*Councilmember De la Torre arrived at 4:04 p.m.*

**Recommended Action**

With respect to the pending litigation in Pico Neighborhood Association and Maria Loya v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal, Case No. B295935, California Supreme Court, Case No. S263972, in which one plaintiff is an association for which Councilmember de la Torre was, until November 2020, a board member, and the other plaintiff is Councilmember de la Torre’s wife, staff recommends that Council determine that, in accordance with the principles set out in AG Opinion 07-807 (Jan. 14, 2009), Councilmember de la Torre has a common law conflict of interest and is therefore disqualified from participating in or attempting to influence discussions or decisions relating to this litigation.

Questions asked and answered of staff included, was there any preliminary opinion from the FPPC; is there a timeframe that we can expect a final

determination; could Council temporarily disqualify Councilmember De la Torre pending a decision from an outside agency; even if the FPPC rules on the financial conflict issues, there still won't be a decision on the common law issue; is it accurate, any decision from the FPPC won't address the common law issue that is being raised tonight; is it correct that this decision is being determined by the City Council, not the City Attorney; if this were a financial conflict, then the FPPC would be the higher power for resolution, but because this is not a financial issue, who is the higher power on this type of matter; what are the penalties if a Councilmember is found to have a conflict; what determines when Attorney-Client privilege is broken, and who decides when it's broken; what is the penalty of privilege being broken; is that correct that the FPPC has not given a determination; who advised the Interim City Attorney to seek a decision from the State Attorney General; has anyone on the dais had conversations about the recusal issues with Attorney Shenkman, who is the legal representative for the CVRA lawsuit; how long would it take to receive a court action from this; and, is there a way to proceed with the prior direction, without addressing issues that would cause Councilmember De la Torre to have to recuse.

Members of the public Stan Epstein, Ann Thanawalla, Denise Barton, Tricia Crane, Bob Selden, and, Olga Zurawska spoke to the recommended action.

Councilmember De la Torre responded to a comment made by a member of the public that he was advocating for the Pico Neighborhood Association to drop the CVRA case, and that is not true. He said, he would prefer that the city drop its appeal.

Considerable discussion ensued on topics including, but not limited to: reasons this is viewed as a conflict of interest because this is about litigation, not a discussion about public policy; it was obvious that Councilmember De la Torre was involved from the beginning of this litigation as the opposition; this is not about the merits of whether or not the city should have district elections, this is about allowing a spouse of a litigant be allowed in the room for a private discussion; Council needs to air on the side of caution and integrity; closed session is a sacred space, so it's better to air on the side of caution and consider this a conflict of interest; and, everybody brings their own bias or opinion, but that is not a conflict of interest, because Councilmember De la Torre is married to the person who brought about the lawsuit against the city, therefore he should not be allowed to sit in on the closed session discussion.

Councilmember De la Torre shared why he should be able to participate, and provided statements to support his opinion, and why he is not planning to recuse.

Motion by Councilmember McKeown, seconded by Councilmember Davis, that the City Council respectfully request Councilmember De la Torre to recuse himself on all matters involving Pico Neighborhood Association and Maria Loya versus the City of Santa Monica, and that should he decline that respectful request, that Council determine that a conflict of interest exists, and he is therefore disqualified from participating in any discussion related to the litigation.

After considerable discussion, as part of the original motion, Councilmember McKeown respectfully requested that Councilmember De la Torre voluntarily recuse himself.

Councilmember De la Torre stated that he would not recuse himself.

Since Councilmember De la Torre refused to recuse himself. The Mayor restated the new motion for clarification that the City Council will determine that Councilmember De la Torre is disqualified because he has a common law conflict of interest, and therefore would be disqualified from participating in, voting, or attempting to influence discussion or decisions relating to this litigation Pico Neighborhood Association and Maria Loya v. City of Santa Monica. The motion was approved by the following vote:

- AYES: Councilmembers Davis, McKeown,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmembers Parra, De la Torre
- ABSTAIN: Councilmember Brock

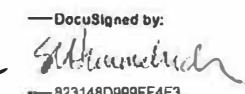
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 5:44 p.m.

ATTEST:

APPROVED:

DocuSigned by:  
  
 E2F868D58A714C3...  
 Denise Anderson-Warren  
 City Clerk

DocuSigned by:  
  
 823148D99FF4F3...  
 Sue Himmelrich  
 Mayor

# Exhibit C



# City of Santa Monica

## City Council Meeting

### AGENDA

SUE HIMMELRICH  
MAYOR

KEVIN MCKEOWN  
COUNCILMEMBER

KRISTIN MCCOWAN  
MAYOR PRO TEM

GLEAM DAVIS  
COUNCILMEMBER

PHIL BROCK  
COUNCILMEMBER

CHRISTINE PARRA  
COUNCILMEMBER

OSCAR DE LA TORRE  
COUNCILMEMBER

LANE DILG  
INTERIM CITY MANAGER

GEORGE CARDONA  
INTERIM CITY ATTORNEY

DENISE ANDERSON-WARREN  
CITY CLERK

### STANDARDS OF BEHAVIOR THAT PROMOTE CIVILITY AT ALL PUBLIC MEETINGS:

- Treat everyone courteously;
- Listen to others respectfully
- Exercise self-control
- Give open-minded consideration to all viewpoints;
- Focus on the issues and avoid personalizing debate;
- Embrace respectful disagreement and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions

Meetings are broadcast live on CityTV cable channel 16, on the internet at [www.smgov.net](http://www.smgov.net), and can be live streamed at <https://primetime.bluejeans.com/a2m/live-event/tzszchdr>. Cable television re-broadcasts air on Thursday and Saturday at 11:30 AM. The agenda will air on CityTV on Saturday and Sunday at 11:00 AM and 6:00 PM, and on Monday and Tuesday at 12:30 PM and 6:00 PM. To listen to the Council meeting through your telephone the Attendee Dial-In number is: 1 (415) 466-7000 - PIN 1048139 #.

**RULES OF ORDER FOR THE CONDUCT OF CITY COUNCIL MEETINGS**  
(Resolution No.11172 (CCS))

**WAYS TO PROVIDE PUBLIC COMMENT**

If you are interested in providing public comment at a City Council meeting, there are several ways to participate:

(1) Written public comment. In lieu of oral public comment, the public is strongly encouraged to submit written public comment on agenda items via email to [councilmtgitems@smgov.net](mailto:councilmtgitems@smgov.net) . Written public comment submitted before 2:00 pm on the day of the meeting will be available for online viewing. Please note the agenda item number in the subject line of your written comments.

(2) Oral public comment. Additionally, effective January 26, 2021, and until COVID-19 restrictions are lifted, oral public comment on agenda items can be provided remotely in one of two ways:

(a) Video/Audio public comment via BlueJeans requires Pre-registration.

Remote video/audio public comment via BlueJeans requires pre-registration no later than one hour before the start of the meeting at [santamonica.gov/public-comment](http://santamonica.gov/public-comment). Pre-registrants must provide the following information: (1) their names as they will be displayed on the BlueJeans system; (2) the agenda item(s) on which they wish to comment; (3) how many minutes they want to speak on an item; and, (4) a valid e-mail address. Pre-registrants will receive a link via e-mail to access the remote meeting through BlueJeans as attendees, and should log in before the agenda item on which they want to speak is called. When the time for public comment on a particular agenda is reached, pre-registrants who are present as attendees will be called on and temporarily promoted to presenters to provide oral public comment. Pre-registrants providing oral comment in this way may appear on video. Donation of time and electronic presentation materials will not be permitted while meetings are conducted via teleconference.

(b) Telephone public comment requires no pre-registration. If you miss the pre-registration deadline but decide during the meeting that you want to provide public comment on a particular agenda item, or if you do not have access to internet service, you can call by phone at (310) 458-8423 when the caller queue opens for the agenda item on which you wish to comment. The caller queue for an agenda item will not open until just before the item is called and will then remain open until the first five public comments (from pre-registrants and/or other callers) are heard.

Oral public comment from any one individual is limited to a total of 6 minutes per City Council meeting, with a maximum of 2 minutes per agenda item; under some circumstances, Council may change the maximum to 1 minute per agenda item.

**ORDER OF BUSINESS** (may not be changed except by majority vote of the City Council.)

- |   |  |
|---|--|
| <ol style="list-style-type: none"><li>1. Closed Session.</li><li>2. Special Agenda Items (City Manager's Report Commendations, Presentations, etc.).</li><li>3. Consent Calendar (All items considered in one motion unless removed by a City Councilmember for discussion. Public comment shall be heard prior to City Council discussion).</li><li>4. Study Session.</li><li>5. Continued Items.</li><li>6. Administrative Proceedings.</li><li>7. Ordinances:<ul style="list-style-type: none"><li>• 1<sup>st</sup> Reading</li><li>• 2<sup>nd</sup> Reading</li></ul></li></ol> | <ol style="list-style-type: none"><li>8. Staff Administrative Item.</li><li>9. Public Hearings.</li><li>10. Reports of Boards and Commissions.</li><li>11. Resolutions.</li><li>12. Written Communications (other than Reports of Commission and Officers).</li><li>13. Councilmember Discussion Items.</li><li>14. Public Input (members of the public may address the City Council <b>only</b> on items not on the agenda, but within the subject matter jurisdiction of the City)</li></ol> |
|---|--|

Agendas and reports are accessible on the City's webpage at [smgov.net/council/agendas](http://smgov.net/council/agendas). They are also available at the City Clerk's Office and in alternate formats upon request. For a free email subscription to the City Council Agendas, please contact the City Clerk's Office at (310) 458-8211 or [clerk@smgov.net](mailto:clerk@smgov.net).

*Si desea comunicarse con alguien en español, llame a nuestra oficina al (310) 458-8211 y pida hablar con Esterlina Lugo.*





## AGENDAS

CITY OF SANTA MONICA

REGULAR AND SPECIAL JOINT MEETING

VIA TELECONFERENCE PURSUANT TO

EXECUTIVE ORDER N-29-20 ISSUED BY,  
GOVERNOR GAVIN NEWSOM

TUESDAY, JANUARY 26, 2021

**MEETING BEGINS AT 5:30 PM**

Meeting can be viewed at: Streaming at <https://www.smgov.net/content.aspx?id=4292>  
LIVE STREAM (Chrome Browser Recommended):  
<https://primetime.bluejeans.com/a2m/live-event/tzszchdr>

### LIVE STREAM

<https://primetime.bluejeans.com/a2m/live-event/tzszchdr>

### AND DIAL-IN NUMBER

1 (415) 466-7000 (US), PIN 1048139 #

### WAYS TO PROVIDE REMOTE PUBLIC COMMENT:

Written public comment can be submitted via email to [councilmtgitems@smgov.net](mailto:councilmtgitems@smgov.net). Written comments received prior to 2:00 pm on the day of the meeting will be available online. Please note the agenda item number in the subject line of your written comments.

You can pre-register to speak no later than one hour before the start of the meeting at [santamonica.gov/public-comment](http://santamonica.gov/public-comment). You will need to provide: (1) your name as it will appear on the BlueJeans system (2) the agenda item(s) on which you wish to comment, and (3) how many minutes you want to speak on an item. Sign-in to the meeting as an Attendee, before the item on which you wish to speak is called. When the time comes for public comment on the agenda item(s) for which you have pre-registered, you will be called on and temporarily promoted to be a Presenter to provide oral public comment via video and/or audio. For video instructions on how to provide Video Public Comment, visit **YouTube** at: <https://youtu.be/NDinc-RLjC8>

If you have not pre-registered but decide you want to speak on a particular agenda item, please call (310) 458-8423 once the caller queue for the agenda item opens. Please note that the caller queue for each agenda item will not open until just before the item is called and will close after the first five public comments (from pre-registrants and/or other callers) are heard.

In an effort to reduce the risk of spreading Coronavirus (COVID-19), members of the City Council and City Staff will participate via teleconference. The meeting will be broadcast on CityTV Channel 16 and streaming on the City's website and YouTube channel as normal, but individuals may also join the teleconference via other methods listed above.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

**(Please note that Agenda Items may be reordered during the Council meeting at the discretion of the City Council.)**

1. CLOSED SESSIONS

- 1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been Initiated Formally Pursuant to Gov. Code Section 54956.9 (d) (1): Judith Aluce v. City of Santa Monica, Los Angeles Superior Court, Case No. 19STCV00183, consolidated with Lead Case No. 18STCV00130**
- 1.B. Conference with Legal Counsel – Existing Litigation – Litigation has been Initiated Formally Pursuant to Gov. Code Section 54956.9 (d) (1): EJA Associates, L.P., a California limited partnership v. City of Santa Monica, et al., Los Angeles Superior Court, Case Nos. 20SMCV01103, 20SMCV01550.**
- 1.C. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Pico Neighborhood Association and Maria Loya v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal, Case No. B295935, California Supreme Court, Case No. S263972.**

The following is the order of business for items to be heard no earlier than 6:30 p.m.

2. SPECIAL AGENDA ITEMS

**2.A. Proclamation: Black History Month**

3. CONSENT CALENDAR

(All items will be considered and approved in one motion unless removed by a Councilmember for discussion.)

**3.A. Approval of First Modification to Master Equity Lease Agreement with Enterprise Fleet Management, Inc.**

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a first modification to Master Equity Lease agreement #4631 in the amount of \$857,500 with Enterprise Fleet Management, Inc. to provide vehicle leasing services for the Public Works, Police, and Fire Departments. This will result in a

seven-year amended agreement with a new total amount not to exceed \$1,038,120, including a 10% contingency, with future year funding contingent on Council budget approval.

**3.B. Award Request for Proposal to Three Four Three, LLC, to provide Bioterrorism Training Projects to assist Los Angeles Area Fire Chief's Association Regional Training Group hosted by Santa Monica Fire**

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP#274 for professional services to Three Four Three, LLC, to assist Los Angeles Area Fire Chief's Association Regional Training Group hosted by Santa Monica Fire Department; and
2. Authorize the City Manager to negotiate and execute a professional services agreement with Three Four Three, in an amount not to exceed \$302,000 for a twenty-four-month period, with future year funding contingent on Council budget approval and additional grant funding.

**3.C. Recommendation to Join in Amicus Brief In Support of the State of California in Cedar Point Nursery, et al. v. Hassid, et al., United States Supreme Court, No. 20-107.**

**Recommended Action**

Staff recommends that City Council authorize the City to sign on to an amicus brief to be filed by the Public Rights Project, the City of Seattle, Cook County, and Santa Clara County in support of the State of California's position in *Cedar Point Nursery, et al. v. Hassid, et al.*, United States Supreme Court, No. 20-107.

**3.D. Adoption of Resolution Ratifying COVID-19 Emergency Proclamation and Supplements**

**Recommended Action**

Staff recommends that Council adopt the proposed resolution ratifying the Executive Order issued by the Director of Emergency Services declaring the existence of a local emergency in the city of Santa Monica and the Supplements to that Order.

**3.E. City Council - Regular Meeting - Aug 25, 2020 5:30 PM**

**3.F. City Council - Regular and Special Meeting - Oct 13, 2020 5:30 PM**

**3.G. City Council - Regular and Special Meeting - Jan 12, 2021 5:30 PM**

**4. STUDY SESSION**

**No items**

**5. CONTINUED ITEMS**

**No items**

6. ADMINISTRATIVE PROCEEDINGS

**No items**

7. ORDINANCES

(Public comment is permitted on ordinances for introduction and first reading. No public discussion is permitted on ordinances for second reading and adoption.)

**7.A. Second Reading And Adoption Of An Ordinance Of The City Council Of The City Of Santa Monica Amending Santa Monica Municipal Code Section 9.10.040 To Prohibit Certain Fast Food Restaurants In Establishments With Frontage On The Third Street Promenade**

**Recommended Action**

Staff recommends that City Council adopt the attached Ordinance.

**7.B. Second Reading And Adoption Of An Ordinance Of The City Council Of The City Of Santa Monica Adding Santa Monica Municipal Code Chapter 2.50 To Establish A Public Safety Reform And Oversight Commission**

**Recommended Action**

Staff recommends that City Council adopt the attached Ordinance.

8. STAFF ADMINISTRATIVE ITEMS

**SPECIAL JOINT MEETING OF THE CITY COUNCIL, HOUSING AUTHORITY AND PARKING AUTHORITY**

**ROLL CALL**

**8.A. Approval of minutes for Housing and Parking Authority meetings**

**Recommended Action**

Staff recommends that the:

1. Housing Authority approve the minutes of the February 25, 2020, October 13, 2020 and October 27, 2020 meetings; and
2. Parking Authority approve the minutes of the February 25, 2020 and October 27, 2020 meetings.

**8.B. Financial Status Update and FY 2020-21 Midyear Budget**

### **Recommended Action**

Staff recommends that the City Council, Housing Authority, and Parking Authority:

1. Appropriate Fiscal Year (FY) 2020-21 midyear revenue and expenditure budget adjustments (Attachment A).

Staff also recommends that the City Council:

1. Receive the FY 2021-22 through FY 2025-26 Five-Year Financial Forecast;
2. Adopt a Resolution of the City of Santa Monica establishing new classifications and adopting salary rates for various listed positions (Attachment B);
3. Approve position and classification changes (Attachment C);
4. Adopt a Resolution regarding Travel by Council Members and City-Issued Technology (Attachment D);
5. Adopt a Resolution Setting the Fire Basic Life Support (BLS) Paramedic Assessment Fee and the Disposable Medical Supplies Fee (Attachment E);
6. Extend the current Human Services Grant Program (HSGP) grant cycle for two years through FY 2022-23, to ensure staff and grantees can continue the critical work they are doing to address the pandemic, and postpone the next grant cycle to begin FY 2023-24;
7. Extend the current Organizational Support Program (OSP) grant cycle for two years through FY 2022-23, to ensure staff and grantees can continue the critical work they are doing to address the pandemic and postpone the next grant cycle to begin FY 2023-24;
8. Authorize the City Manager to accept a grant award in the amount of \$42,430 from the U.S. Department of Justice (DOJ) Edward Byrne Memorial Justice Assistance Grant (JAG) for implementation of the JAG 2020 Project "Overtime Operations to Keep Neighborhoods Safe" and execute all necessary documents to accept the grant and all grant renewals;
9. Authorize the City Manager to accept a grant award in the amount of \$2,681 from the California Department of Justice for the Sexual Assault Evidence Grant Program, to accept all grant renewals, and to execute all necessary documents to accept the grant and all grant renewals;
10. Authorize the City Manager to accept a grant award in the amount of \$24,276 from the United States Department of Justice (DOJ) for the 2020 Bulletproof Vest Partnership (BVP) Grant for the purchase of bulletproof vests by the Police Department, to accept all grant renewals, and to execute all necessary documents to accept the grant and all grant renewals;
11. Provide direction to the Interim City Manager to publicly announce and designate a 30-day application timeline for seats on the We Are Santa Monica Fund Advisory Board to be appointed by the Interim City Manager to provide community engagement and advice to the Interim City Manager with respect to the We Are Santa Monica Fund;
12. Provide direction to staff on whether to proceed with developing a digital Out-of-Home (OOH) advertising and wayfinding program by (1) issuing a request for proposals (RFP) for a digital OOH advertising vendor for the construction, installation and management of advertising space for an initial phase of 25 digital OOH kiosks, and a possible subsequent second phase of 25 additional kiosks in highly trafficked areas of the City; and (2) returning to Council with proposed kiosk locations and recommendations for new policies and/or changes to existing City policies and municipal codes to guide the successful

- implementation and operation of this program consistent with the goals of maintaining community aesthetics and enhancing overall engagement with and value for the community; and
13. Provide direction to staff on whether to return with additional information regarding public-private partnership opportunities to support programs.

**ADJOURNMENT OF SPECIAL JOINT MEETING**

9. PUBLIC HEARINGS

**No items**

10. REPORTS OF BOARDS AND COMMISSIONS

**No items**

11. RESOLUTIONS

**No items**

12. WRITTEN COMMUNICATIONS OTHER THAN REPORTS OF COMMISSION AND OFFICERS

**No items**

13. COUNCILMEMBER DISCUSSION ITEMS

- 13.A. Request of Councilmembers Brock and Parra that the City adopt as part of its annual legislative program opposition to Senate Bill 10 (Wiener), introduced on December 7, 2020 as a successor to a prior bill, SB 50, which would require that cities allow midrise, medium-density housing on sites that are either within one-half mile of high-quality public transportation or within a jobs-rich, high-opportunity neighborhood close to key job centers, without affordability requirements or sensitivity to the character of existing neighborhoods. - *This item is being removed by the requestors.***

14. PUBLIC INPUT

(Public comment is permitted only on items not on the agenda that are within the subject matter jurisdiction of the City. State law prohibits the City Council from taking any action on items not listed on the agenda, including issues raised under this agenda item.)

ADJOURNMENT

Agendas and reports are accessible on the City's webpage at [www.smgov.net/council/agendas](http://www.smgov.net/council/agendas). They are also available at the City Clerk's Office and in alternate formats upon request. For a free email subscription to the City Council Agendas, please contact the City Clerk's Office at (310) 458-8211 or [clerk@smgov.net](mailto:clerk@smgov.net).

Members of the public unable to attend a meeting but wishing to comment on an item(s)

listed on the agenda may submit written comments prior to the meeting by meeting by mailing them to: City Clerk, 1685 Main Street, Santa Monica, CA 90401 or to [councilmtgitems@smgov.net](mailto:councilmtgitems@smgov.net). Written comments received from the public by 2 PM on the day of the City Council meeting will be distributed to the City Council prior to the meeting and **posted online**.

City Hall and the Council Chamber are wheelchair accessible. If you require any special disability related accommodations (i.e. sign language interpreting, access to an amplified sound system, etc.), please contact the City Clerk's Office at (310) 458-8211 or TDD: (310) 917-6626 at least 3 days prior to the scheduled meeting.

*Si desea comunicarse con alguien en español, llame a nuestra oficina al (310) 458-8211 y pida hablar con Esterlina Lugo.*

Santa Monica Blue Bus Lines #2, #3, #5, #9 and the EXPO Line serve City Hall. Parking is available on Main Street, on Olympic Drive, and in the Civic Center Parking Structure (validation free).

# Exhibit D



**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**JANUARY 26, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:44 p.m., on Tuesday, January 26, 2021, via teleconference pursuant to the Governor's Executive Order N-29-20 at <https://primetime.bluejeans.com/a2m/live-event/tzszchdr>

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre  
Councilmember Kevin McKeown  
Councilmember Christine Parra

Also Present: Interim City Manager Lane Dilg  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**CONVENE** On order of the Mayor, the City Council convened at 5:44 p.m., with all members present.

**CLOSED SESSIONS** Member of the public Denise Barton commented on closed sessions.

On order of the Mayor, the City Council recessed at 5:48 p.m., to consider closed sessions and returned at 7:33p.m., with all members present, except Councilmember Brock to report the following:

*Councilmember Brock joined at 7:34 p.m.* **1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been Initiated Formally Pursuant to Gov. Code Section 54956.9 (d) (1): Judith Aluce v. City of Santa Monica, Los Angeles Superior Court, Case No. 19STCV00183, consolidated with Lead Case No. 18STCV00130**

The Interim City Attorney advised the plaintiff alleges that she suffered a traumatic brain injury and post-traumatic stress disorder when she was thrown from her seat on a Big Blue Bus after the bus ran a red light and collided with another vehicle. The City does not admit the allegations, but to avoid the expense and burden of further litigation, the City Attorney's Office recommended settlement in the amount of \$200,000.

Motion by Councilmember McKeown, seconded by Councilmember Davis, to approve Settlement No. 11133 (CCS), in the amount of \$200,000. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**1.B. Conference with Legal Counsel – Existing Litigation – Litigation has been Initiated Formally Pursuant to Gov. Code Section 54956.9 (d) (1): EJA Associates, L.P., a California limited partnership v. City of Santa Monica, et al., Los Angeles Superior Court, Case Nos. 20SMCV01103, 20SMCV01550.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.C. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Pico Neighborhood Association and Maria Loya v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal, Case No. B295935, California Supreme Court, Case No. S263972.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA  
ITEMS:**

**2.A. Proclamation: Black History Month,** was presented.

**CONSENT CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Member of the public Matt Neco commented on various Consent Calendar items.

At the request of Mayor Pro Tem McCowan, Item 3.B. and Councilmember Brock, Item 3.D were removed from the Consent Calendar.

Motion by Mayor Pro Tem McCowan, seconded by Councilmember de la Torre, to approve the Consent Calendar except for Items 3.B. and 3.D., reading resolutions by title only and waiving further reading thereof.

The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**FLEET MANAGEMENT**

**3.A. Approval of First Modification to Master Equity Lease Agreement No. 11134 (CCS) with Enterprise Fleet Management, Inc.,** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a first modification to Master Equity Lease No. 11134 (CCS) of \$857,500 with Enterprise Fleet Management, Inc. to provide vehicle leasing services for the Public Works, Police, and Fire Departments. This will result in a seven-year amended agreement with a new total amount not to exceed \$1,038,120, including a 10% contingency, with future year funding contingent on Council budget approval.

**AMICUS BRIEF**

**3.C. Recommendation to Join in Amicus Brief In Support of the State of California in Cedar Point Nursery, et al. v. Hassid, et al., United States Supreme Court, No. 20-107,** was approved.

**Recommended Action**

Staff recommends that City Council authorize the City to sign on to an amicus brief to be filed by the Public Rights Project, the City of Seattle, Cook County, and Santa Clara County in support of the State of California’s position in *Cedar Point Nursery, et al. v. Hassid, et al.*, United States Supreme Court, No. 20-107.

**MINUTES**

**3.E. Minutes for the City Council - Regular Meeting - Aug 25, 2020 5:30 PM,** were approved.

**MINUTES**

**3.F. Minutes for the City Council - Regular and Special Meeting - Oct 13, 2020 5:30 PM,** were approved.

**MINUTES**

**3.G. Minutes for the City Council - Regular and Special Meeting - Jan 12, 2021 5:30 PM,** were approved.

**FIRE TRAINING**

**3.B. Award Request for Proposal to Three Four Three, LLC, to provide Bioterrorism Training Projects to assist Los Angeles Area Fire Chief’s Association Regional Training Group hosted by Santa Monica Fire,** was presented.

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP#274 for professional services to Three Four Three, LLC, to assist Los Angeles Area Fire Chief’s Association Regional

- Training Group hosted by Santa Monica Fire Department; and
- 2. Authorize the City Manager to negotiate and execute professional services Agreement No. 11135 (CCS) with Three Four Three, in an amount not to exceed \$302,000 for a twenty-four-month period, with future year funding contingent on Council budget approval and additional grant funding.

Mayor Pro Tem McCowan pulled this item to ask questions of staff, including: does this come from grant dollars, not the General Fund; why was this firm selected; and, were there only the two vendors who submitted.

Motion by Mayor Pro Tem McCowan, seconded by Councilmember Davis, to approve the recommended action. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich  
 NOES: None  
 ABSENT: None

**COVID**

**3.D. Adoption of Resolution No. 11312 (CCS) entitled “AN EMERGENCY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA PURSUANT TO CHAPTER 2.16 OF THE SANTA MONICA MUNICIPAL CODE RATIFYING THE PROCLAMATION OF EXISTENCE OF LOCAL EMERGENCY AND SUPPLEMENTAL PROCLAMATIONS THERETO”,** was presented.

**Recommended Action**

Staff recommends that Council adopt the proposed resolution ratifying the Executive Order issued by the Director of Emergency Services declaring the existence of a local emergency in the city of Santa Monica and the Supplements to that Order.

Councilmember Brock pulled this item to ask questions about the right turn lane from California onto Ocean Avenue, northbound, and from Ocean Avenue southbound to the California decline. It appears those white cones stick out too far into the roadway, and that it could be hazardous.

The Interim City Attorney clarified that this topic being questioned is not addressed in the Emergency Proclamation or Supplements.

Motion by Councilmember Brock, seconded by Councilmember Davis, to approve the recommended action. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra,

Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**ORDINANCES:**  
**THIRD STREET**  
**PROMENADE**

**7.A. Second Reading And Adoption Of Ordinance No. 2661 (CCS) entitled** “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 9.10.040 TO PROHIBIT CERTAIN FAST FOOD RESTAURANTS IN ESTABLISHMENTS WITH FRONTAGE ON THE THIRD STREET PROMENADE”, was presented.

**Recommended Action**

Staff recommends that City Council adopt the attached Ordinance.

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**PUBLIC SAFETY**  
**REFORM OVERSIGHT**

**7.B. Second Reading And Adoption Of Ordinance No. 2662 (CCS) entitled** “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ADDING SANTA MONICA MUNICIPAL CODE CHAPTER 2.50 TO ESTABLISH A PUBLIC SAFETY REFORM AND OVERSIGHT COMMISSION”, was presented.

**Recommended Action**

Staff recommends that City Council adopt the attached Ordinance.

Motion by Councilmember McKeown, seconded by Councilmember Davis, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**REPORT ON MEETING**  
**COMPENSATION**

Pursuant to State law, City Clerk Denise Anderson-Warren announced that Council will receive \$50 for meeting as the Housing Authority and \$50 for meeting as the Parking Authority

**SPECIAL JOINT**  
**MEETING**

On order of the Mayor, the City Council convened to a special joint meeting with the Housing Authority and Parking Authority at 8:17 p.m.,

with all members present.

**STAFF**  
**ADMINISTRATIVE**  
**ITEMS:**  
**HOUSING AUTHORITY**  
**PARKING AUTHORITY**  
**MINUTES**

**8.A. Approval of minutes for Housing and Parking Authority meetings, was presented.**

**Recommended Action**

Staff recommends that the:

1. Housing Authority approve the minutes of the February 25, 2020, October 13, 2020 and October 27, 2020 meetings; and
2. Parking Authority approve the minutes of the February 25, 2020 and October 27, 2020 meetings.

There were no members of the public present to speak on this item.

Motion by Commissioners/Authority Member McKeown, seconded by Commissioner/Authority Member Brock, to approve the recommended action. The motion was approved by the following vote:

AYES: Commission/Authority Members Parra, Davis, McKeown, Brock, Vice Chair/Chair Pro Tem McCowan, Chair Himmelrich

NOES: None

ABSTAIN: Commissioner/Authority Member de la Torre

**MID-YEAR BUDGET**

**8.B. Financial Status Update and FY 2020-21 Midyear Budget, was presented.**

**Recommended Action**

Staff recommends that the City Council, Housing Authority, and Parking Authority:

1. Appropriate Fiscal Year (FY) 2020-21 midyear revenue and expenditure budget adjustments (Attachment A).

Staff also recommends that the City Council:

1. Receive the FY 2021-22 through FY 2025-26 Five-Year Financial Forecast;
2. **Adopt Resolution No. 11313 (CCS) entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ESTABLISHING A NEW CLASSIFICATION AND ADOPTING A SALARY RATE FOR ENGINEERING SUPPORT SERVICES ADMINISTRATOR"** (Attachment B);
3. Approve position and classification changes (Attachment C);
4. **Adopt Resolution No. 11314 (CCS) entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA REGARDING TRAVEL BY COUNCIL MEMBERS TO INCLUDE CITY COUNCIL GUIDELINES AND STANDARDS REGARDING COUNCIL TRAVEL, STAFF ASSISTANCE FOR, CITY ISSUED**

TECHNOLOGY EQUIPMENT AND ACCEPTED USE, AND OTHER RESOURCES AVAILABLE TO COUNCILMEMBERS” (Attachment D);

5. **Adopt Resolution No. 11315 (CCS) entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ESTABLISHING A BLS PARAMEDIC ASSESSMENT FEE AND A DISPOSABLE MEDICAL SUPPLIES FEE”** (Attachment E);
6. Extend the current Human Services Grant Program (HSGP) grant cycle for two years through FY 2022-23, to ensure staff and grantees can continue the critical work they are doing to address the pandemic, and postpone the next grant cycle to begin FY 2023-24;
7. Extend the current Organizational Support Program (OSP) grant cycle for two years through FY 2022-23, to ensure staff and grantees can continue the critical work they are doing to address the pandemic and postpone the next grant cycle to begin FY 2023-24;
8. Authorize the City Manager to accept a grant award in the amount of \$42,430 from the U.S. Department of Justice (DOJ) Edward Byrne Memorial Justice Assistance Grant (JAG) for implementation of the JAG 2020 Project “Overtime Operations to Keep Neighborhoods Safe” and execute all necessary documents to accept the grant and all grant renewals;
9. Authorize the City Manager to accept a grant award in the amount of \$2,681 from the California Department of Justice for the Sexual Assault Evidence Grant Program, to accept all grant renewals, and to execute all necessary documents to accept the grant and all grant renewals;
10. Authorize the City Manager to accept a grant award in the amount of \$24,276 from the United States Department of Justice (DOJ) for the 2020 Bulletproof Vest Partnership (BVP) Grant for the purchase of bulletproof vests by the Police Department, to accept all grant renewals, and to execute all necessary documents to accept the grant and all grant renewals;
11. Provide direction to the Interim City Manager to publicly announce and designate a 30-day application timeline for seats on the We Are Santa Monica Fund Advisory Board to be appointed by the Interim City Manager to provide community engagement and advice to the Interim City Manager with respect to the We Are Santa Monica Fund;
12. Provide direction to staff on whether to proceed with developing a digital Out-of-Home (OOH) advertising and wayfinding program by (1) issuing a request for proposals (RFP) for a digital OOH advertising vendor for the construction, installation and management of advertising space for an initial phase of 25 digital OOH kiosks, and a possible subsequent second phase of 25 additional kiosks in highly trafficked areas of the City; and (2) returning to Council with proposed kiosk locations and recommendations for new policies and/or changes to existing City policies and municipal codes to guide the successful

implementation and operation of this program consistent with the goals of maintaining community aesthetics and enhancing overall engagement with and value for the community; and

13. Provide direction to staff on whether to return with additional information regarding public-private partnership opportunities to support programs.

Members of the public Phuong Bui, Meredith Kim, Tara Barauskus, Denise Barton, John Medlin, Matt Stauffer, and Michael Soloff spoke to the recommended action.

Questions asked and answered of staff included: could the city reorder its priorities and instead of taking next year's GSH fund, take some of the other revenues to restore the housing fund money that was taken last year; how did staff come up with the recommendation to have corporate advertising in public spaces; is there anyway to extend grant approvals one month until staff comes back with the homeless and grant overview; are the biannual grant reports publicly available; have the amount of funds been shifted between grants, or has the same amount stayed with the original grantees; what account would fund recovery go to for the fire assessment fee; what is the amount of residents this fee will affect; for the commercial insurance, is there a sense of typically what insurance will cover; what's the average length of time for the current grantees; are some of the kiosk going to replace those currently on the Promenade, so it wouldn't actually be 25 new kiosk; why are we funding Verizon's upgrades; are new jobs being offered to previous employees; why not contract out property leasing at the Airport, instead of hiring a permanent position; is there somebody now who is performing that job; how do we get community broadband out of the agreement with Verizon; on the 311 system, since it's a 5 day system, why can't there just be 1.5 FTE, and revisit in July to see if there is a need to increase to 2.5, and maybe they could go to 7 days; is there any opportunity to potentially increase the hours of the 311 system for weekends and after hours; what's the average cost for L.A. County for ambulance fees; has there been any discussion on pulling the revenue from the kiosk to pour into the BIDs to encourage buying locally or business enhancements; if Council ask staff to perform a new RFP for the grants to be determined in June, won't that take time from what staff is currently doing to complete that process; if money is moved from the grant programs and using it for staff to oversee the grant program, what impact would that have; is it true that the demand for services for our grantees have increased significantly, as well as the donations to non-profits have decrease during this pandemic; does staff understand that affordable housing is one of the city's primary goals and areas of priority; how does cleanliness work into priorities of recovery; how can we hold grantees accountable; is data gathered on the clients of the non-profits based on gender, race, and ethnicity; and, how are CBDG funds used.



Considerable discussion ensued on topics including, but not limited to: for the We Are Santa Monica fund, the allocation should be designated toward racial equity generally, instead of the Black Agenda; concern about allowing corporate advertising taking over in town, and what is the long-term effect; if the community service grants aren't extended, it could significantly hurt a lot of these non-profits to the point that they won't be able to provide services; and, if Council wants to add something to this budget, they would need to decide where in the budget they would need to cut, in order to make up the difference.

Motion by Commission/Authority/Councilmember McKeown, seconded by Commission/Authority/Councilmember Davis, to appropriate Fiscal Year (FY) 2020-21 midyear revenue and expenditure budget adjustments.

Councilmember Brock proposed a friendly amendment to remove the Sr. Homeless Coordinator now, and bring it back in June, after the Homeless report in March. The motion was not considered friendly by the maker and seconder.

The original motion was approved by the following vote:

AYES: Commission/Authority/Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Vice Chair/Chair/Mayor Pro Tem McCowan, Chair/Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Mayor Pro Tem McCowan, seconded by Councilmember Brock, to receive the FY 2021-22 through FY 2025-26 Five-Year Financial Forecast. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to adopt Resolution No. 11313 (CCS) of the City of Santa Monica establishing new classifications and adopting salary rates for various listed positions (Attachment B); and, approve position and classification changes (Attachment C). The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None  
ABSENT: None

Motion by Councilmember Brock, seconded by Councilmember McKeown, to adopt Resolution No. 11314 (CCS), regarding Travel by Council Members and City-Issued Technology (Attachment D). The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to adopt Resolution No. 11315 (CCS), setting the Fire Basic Life Support (BLS) Paramedic Assessment Fee and the Disposable Medical Supplies Fee (Attachment E). The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

*Mayor Pro Tem McCowan excused at 11:52 p.m.*

Mayor Pro Tem McCowan recused herself to avoid any potential conflict of interest because her brother is working for one of the non-profits listed as a grantee.

Motion by Councilmember Davis, seconded by Councilmember McKeown, to extend the current Human Services Grant Program (HSGP) grant cycle for two years through FY 2022-23, to ensure staff and grantees can continue the critical work they are doing to address the pandemic, and postpone the next grant cycle to begin FY 2023-24; and, extend the current Organizational Support Program (OSP) grant cycle for two years through FY 2022-23, to ensure staff and grantees can continue the critical work they are doing to address the pandemic and postpone the next grant cycle to begin FY 2023-24.

Councilmember Brock proposed a friendly amendment to change the timeline to 2021-2022. The motion was not considered friendly by the maker.

Councilmember Davis, proposed an amendment to her motion. Extend the grants cycle for 2 years, but should not increase grants to any of the current grantees, with the understanding that any new monies that come into the city would go to new grantees, and those funds be used for mental health and homeless services in Santa Monica, with the determination before

Council in a timely manner. The motion was considered friendly by the seconder.

The motion failed by the following vote:

AYES: Councilmembers Davis, McKeown, Mayor Himmelrich  
NOES: Councilmembers Parra, Brock, de la Torre  
ABSENT: Mayor Pro Tem McCowan

Motion by Councilmember de la Torre, seconded by Councilmember Brock, to extend the current Human Services Grant Program (HSGP) grant cycle for one year through FY 2021-2022, with an RFP process available in the next six months.

Councilmember Brock, withdrew his second on the motion, so the motion failed due to a lack of a second.

Motion by Councilmember McKeown, seconded by Councilmember Davis, to extend the current Human Services and Organizational Support Program for 2 years, with the understanding that any new monies that come into the city would go to new grantees, and those funds be used for mental health and homeless services in Santa Monica, with the determination before Council in a timely manner.

Councilmember de la Torre, proposed a friendly amendment to have the Human Service reports be made available to the public. The motion was not considered friendly by the maker.

The main motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Himmelrich  
NOES: None  
ABSENT: Mayor Pro Tem McCowan

Motion by Councilmember McKeown, seconded by Councilmember de la Torre, to give direction to staff to make these reports available to the Council and public as appropriate. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Himmelrich  
NOES: None  
ABSENT: Mayor Pro Tem McCowan

*Mayor Pro Tem McCowan  
returned at 12:28 a.m.*

Motion by Councilmember Brock, seconded by Councilmember Parra, to

authorize the City Manager to accept a grant award in the amount of \$42,430 from the U.S. Department of Justice (DOJ) Edward Byrne Memorial Justice Assistance Grant (JAG) for implementation of the JAG 2020 Project “Overtime Operations to Keep Neighborhoods Safe” and execute all necessary documents to accept the grant and all grant renewals; authorize the City Manager to accept a grant award in the amount of \$2,681 from the California Department of Justice for the Sexual Assault Evidence Grant Program, to accept all grant renewals, and to execute all necessary documents to accept the grant and all grant renewals; and, authorize the City Manager to accept a grant award in the amount of \$24,276 from the United States Department of Justice (DOJ) for the 2020 Bulletproof Vest Partnership (BVP) Grant for the purchase of bulletproof vests by the Police Department, to accept all grant renewals, and to execute all necessary documents to accept the grant and all grant renewals. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember McKeown, seconded by Councilmember Davis, to provide direction to the Interim City Manager to publicly announce and designate a 30-day application timeline for seats on the We Are Santa Monica Fund Advisory Board to be appointed by the Interim City Manager to provide community engagement and advice to the Interim City Manager with respect to the We Are Santa Monica Fund. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Davis, seconded by Councilmember de la Torre, to Provide direction to staff on whether to proceed with developing a digital Out-of-Home (OOH) advertising and wayfinding program by (1) issuing a request for proposals (RFP) for a digital OOH advertising vendor for the construction, installation and management of advertising space for an initial phase of 25 digital OOH kiosks, and a possible subsequent second phase of 25 additional kiosks in highly trafficked areas of the City; and (2) returning to Council with proposed kiosk locations and recommendations for new policies and/or changes to existing City policies and municipal codes to guide the successful implementation and operation of this program consistent with the goals of maintaining community aesthetics and enhancing overall engagement with and value for the community.

The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

Motion by Councilmember Brock, seconded by Councilmember de la Torres, to provide direction to staff on whether to return with additional information regarding public-private partnership opportunities to support programs. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**ADJOURNMENT OF  
SPECIAL JOINT  
MEETING**

On order of the Chair/Mayor, the special joint meeting with the Housing Authority and Parking Authority adjourned at 12:38 a.m., and the regular meeting of the City Council reconvened, with all members present.

**PUBLIC INPUT:**

Members of the public John Medline, Jonathan Foster, and Denise Barton commented on various local issues.

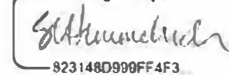
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 12:54 a.m. in memory of Jean McNeil Wyner, Art Lopez, and Soledad Martin.

ATTEST:

DocuSigned by:  
  
E2F85B056A714C3...  
Denise Anderson-Warren  
City Clerk

APPROVED:

DocuSigned by:  
  
823148D990FF4F3  
Sue Himmelrich  
Mayor

# Exhibit E

**From:** [Joe Pertel](#)  
**To:** [councilmtgitems](#)  
**Subject:** Special Meeting, January 26, 2021 at 4:00 p.m. - Determination re: Conflict of Interest of Council Member Oscar de la Torre  
**Date:** Tuesday, January 26, 2021 11:59:59 AM  
**Attachments:** [Notice of Reprimand \(Daniel Ambrose\).pdf](#)

EXTERNAL

Dear Council Members:

In an article that appeared in the *Santa Monica Outlook* on January 25th ("*Fight Brewing Over De La Torre's Participation in Voting Rights Deliberations*"), Council Member de la Torre refers to outside counsel ("The Ambrose Group") that he retained to provide a legal opinion in support of his refusal to recuse himself from discussions concerning the lawsuit filed by his spouse, Maria Loya, and the Pico Neighborhood Association, an organization for which he served as a member of the Board of Directors until recently. The article includes statements from the firm's presumptive founder and principal, Daniel Ambrose.

According to the California State Bar, Daniel David Ambrose ("Mr. Ambrose"), State Bar License 320304, was admitted to practice law in the State of California less than three years ago. According to public sources, Mr. Ambrose practices primarily in the area of "criminal defense" and "wrongful death." (See *profile*, Daniel D. Ambrose, Avvo, Practice Areas.) He does not appear to have expertise in the area of conflicts of interest or the rules of professional responsibility in the State of California in the form of published articles or cases.

Prior to practicing law in California, Mr. Ambrose apparently practiced law in the State of Michigan for approximately twenty years, where he was reprimanded by the Michigan State Bar on three separate occasions. Most recently, in 2012, Mr. Ambrose was apparently **reprimanded by the Attorney Discipline Board for the State of Michigan for violating its rules concerning conflicts of interest**, as well as engaging in "conduct involving discourteous conduct towards a tribunal," engaging in "conduct prejudicial to the administration of justice," and engaging in "conduct that expose[d] the legal profession to obloquy, contempt, censure, or reproach . . ." A true and correct copy of the Notice of Reprimand with Conditions" is attached hereto.

In the event that Mr. Ambrose's legal memorandum prepared on behalf of Council Member de la Torre is submitted, I urge the Council to consider the relevant qualifications, experience, and ethical challenges of its author.

Sincerely,

Joseph A. Pertel  
Santa Monica resident

<http://data.adbmich.org/CES6/default.aspx?>

sortf=@sysdate&sortd=false&q=@pnumber=53053

Joseph A. Pertel  
Law Office of Joseph A. Pertel  
2801 Ocean Park Boulevard, # 276  
Santa Monica, California 90405  
Website: [pertellaw.com](http://pertellaw.com)  
Telephone: (310) 503-5791



MEMBERS  
THOMAS G. KIENBAUM  
CHAIRPERSON  
JAMES M. CAMERON, JR.  
VICE-CHAIRPERSON  
ROSALIND E. GRIFFIN, M.D.  
SECRETARY  
ANDREA L. SOLAK  
CARL E. VER BEEK  
CRAIG H. LUBBEN  
SYLVIA P. WHITMER, Ph.D  
LAWRENCE G. CAMPBELL  
DULCE M. FULLER

STATE OF MICHIGAN  
ATTORNEY DISCIPLINE BOARD



Item 8A  
JOHN F. VAN BOLT  
EXECUTIVE DIRECTOR  
---  
MARK A. ARMITAGE  
DEPUTY DIRECTOR  
---  
JENNIFER M. PETTY  
LEGAL ASSISTANT  
  
211 WEST FORT ST.  
SUITE 1410  
DETROIT, MICHIGAN 48226-3236  
PHONE: 313-963-5553  
FAX: 313-963-5571  
---  
WWW.ADBMICH.ORG

NOTICE OF REPRIMAND WITH CONDITIONS  
(By Consent)

Case No. 12-32-GA

Notice Issued: June 5, 2012

Daniel D. Ambrose,, P 53053, Berkley, Michigan, by the Attorney Discipline Board Tri-County Hearing Panel #69.

1. Reprimand
2. Effective June 5, 2012

The respondent and the Grievance Administrator submitted a stipulation for consent order of discipline in accordance with MCR 9.115(F)(5). The stipulation was approved by the Attorney Grievance Commission and was accepted by the hearing panel. The stipulation contains respondent's plea of no contest to the allegations that he engaged in conduct involving a failure to supervise, in violation of MRPC 5.1; engaged in a conflict of interest, in violation of MRPC 1.7(b); engaged in conduct involving discourteous conduct towards a tribunal, in violation of MRPC 3.5(d); violated or attempted to violate the Rules of Professional Conduct, contrary to MRPC 8.4(a); engaged in conduct prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1) (formerly MCR 9.104(A)(1)); engaged in conduct that exposes the legal profession to obloquy, contempt, censure, or reproach, in violation of MRPC 9.104(2) (formerly MCR 9.104(A)(2)); and engaged in conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, in violation of MCR 9.104(4) (formerly MCR 9.104(A)(4)).

Pursuant to the agreement of the parties, the hearing panel ordered that respondent be reprimanded and be subject to conditions relevant to the alleged misconduct. Costs were assessed in the amount of \$1,164.30.

  
\_\_\_\_\_  
John F. Van Bolt

Dated: **JUN - 5 2012**  
\_\_\_\_\_

**From:** [Natalya Zernitskaya](#)  
**To:** [councilmtgitems](#)  
**Cc:** [Gleam Davis](#); [Phil Brock](#); [Christine Parra](#); [Kristin McCowan](#); [Sue Himmelrich](#); [Oscar de la Torre](#); [Councilmember Kevin McKeown](#); [Lane Dilg](#); [Attorney Mailbox](#)  
**Subject:** Santa Monica City Council Special Meeting 1/26/2021- Item 8A Public Comments  
**Date:** Tuesday, January 26, 2021 1:45:40 PM  
**Attachments:** [LWVSM 1.26.21 City Council Special Meeting -Item 8A Comments.pdf](#)

---

EXTERNAL

Good Afternoon,

Please see the attached for public comments from the League of Women Voters of Santa Monica for Item 8A of today's Santa Monica City Council's Special Meeting Agenda. I have included the text of the attachment in the body of this email below for your convenience.

January 26, 2021

To: Santa Monica City Council, Interim City Attorney, Interim City Manager

Re: Santa Monica City Council Special Meeting 1/26/2021 - Item 8A

The League of Women Voters believes that democratic government depends upon informed and active participation at all levels of government. Furthermore, **we support accountability and transparency in government.**

In accordance with these principles, the League of Women Voters of Santa Monica **supports the staff recommendation that Councilmember de la Torre be disqualified from participating in or attempting to influence discussions or decisions relating to the pending litigation in *Pico Neighborhood Association and Maria Loya v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal, Case No. B295935, California Supreme Court, Case No. S263972.***

**The City Council as a whole, and each Councilmember individually has a duty of care and must adhere to the highest ethical standards.** Potential conflicts of interest must be disclosed and the appropriate remedy must be applied.

We understand that the FPPC has not yet provided guidance with regard to whether there is a financial conflict of interest, and acknowledge that we do not know the financial arrangements between the plaintiff's attorneys and the plaintiffs.

However, the facts remain that if Councilmember de la Torre were to participate in the City Council's discussions and decisions regarding the litigation against the City, he **would be privy to privileged information for a case in which he has personal connections to both plaintiffs** and has served as the spokesperson of one of the plaintiffs during the course of the litigation (and the other plaintiff is his wife).

The situation appears to indicate that he wishes to participate in both sides of a litigation. Regardless of any financial arrangements, this is **a clear conflict of**

**interest and could potentially expose the city to both fiscal and reputational damages.**

*Per the staff report, "it seems difficult to imagine that Councilmember de la Torre has no private or personal interest in the outcome of the pending litigation where his wife remains a plaintiff in the litigation, his wife remains a board member of the other plaintiff in the litigation, and, until shortly before being sworn in as a councilmember, he was the chair of the board of the other plaintiff in the litigation and served as that plaintiff's representative at deposition and trial."*

If the councilmember is unwilling to voluntarily recuse himself from discussions or decisions related to the pending litigation, **we urge the Council to disqualify him from participating in or attempting to influence discussions or decisions related to the litigation.**

Sincerely,

Natalya Zernitskaya  
President  
League of Women Voters of Santa Monica

Natalya Zernitskaya (she/her)  
President  
League of Women Voters of Santa Monica  
[league@lwvsantamonica.org](mailto:league@lwvsantamonica.org)

## THE LEAGUE OF WOMEN VOTERS OF SANTA MONICA



P.O. Box 1265 Santa Monica, CA 90406-1265  
Phone: 310.564.6946 www.lwvsantamonica.org

### #MakingDemocracyWork

January 26, 2021

#### OFFICERS

##### *President*

Natalya Zernitskaya

##### *Vice President, Program*

Barbara Inatsugu

##### *Secretary*

Sharon Hart

##### *Treasurer*

Karen Carrey

#### DIRECTORS

Cathie Gentile

Camille Hannant

Ann Williams

To: Santa Monica City Council, Interim City Attorney, Interim City Manager

Re: Santa Monica City Council Special Meeting 1/26/2021 - Item 8A

The League of Women Voters believes that democratic government depends upon informed and active participation at all levels of government. Furthermore, **we support accountability and transparency in government.**

In accordance with these principles, the League of Women Voters of Santa Monica **supports the staff recommendation that Councilmember de la Torre be disqualified from participating in or attempting to influence discussions or decisions relating to the pending litigation in Pico Neighborhood Association and Maria Loya v. City of Santa Monica, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal, Case No. B295935, California Supreme Court, Case No. S263972.**

**The City Council as a whole, and each Councilmember individually has a duty of care and must adhere to the highest ethical standards.** Potential conflicts of interest must be disclosed and the appropriate remedy must be applied.

We understand that the FPPC has not yet provided guidance with regard to whether there is a financial conflict of interest, and acknowledge that we do not know the financial arrangements between the plaintiff's attorneys and the plaintiffs.

However, the facts remain that if Councilmember de la Torre were to participate in the City Council's discussions and decisions regarding the litigation against the City, he **would be privy to privileged information for a case in which he has personal connections to both plaintiffs** and has served as the spokesperson of one of the plaintiffs during the course of the litigation (and the other plaintiff is his wife).

The situation appears to indicate that he wishes to participate in both sides of a litigation. Regardless of any financial arrangements, this is **a clear conflict of interest and could potentially expose the city to both fiscal and reputational damages.**

Per the staff report, *"it seems difficult to imagine that Councilmember de la Torre has no private or personal interest in the outcome of the pending litigation where his wife remains a plaintiff in the litigation, his wife remains a board member of the other plaintiff in the litigation, and, until shortly before being sworn in as a councilmember, he was the chair of the board of the other plaintiff in the litigation and served as that plaintiff's representative at deposition and trial."*

If the councilmember is unwilling to voluntarily recuse himself from discussions or decisions related to the pending litigation, **we urge the Council to disqualify him from participating in or attempting to influence discussions or decisions related to the litigation.**

Sincerely,  
Natalya Zernitskaya  
President  
League of Women Voters of Santa Monica

**From:** [Barbara Inatsugu](#)  
**To:** [councilmtgitems](#)  
**Subject:** City Council Special Meeting – January 26, 2021 – Agenda Item 8.A  
**Date:** Tuesday, January 26, 2021 2:01:22 PM

---

EXTERNAL

To: Mayor Susan Himmelrich and Members of the City Council

From: Barbara Inatsugu, Santa Monica Resident

Re: City Council Special Meeting – January 26, 2021 – Agenda Item 8.A

I am writing this letter in support of the letter and recommendations submitted by Natalya Zernitskaya on behalf of the League of Women Voters of Santa Monica.

Other comments that have been submitted on this item deal with the legal and other aspects of the question of whether councilmember de la Torre should be permitted to vote on any issues related to the CVRA lawsuit which is still working its way through the courts. So I will not repeat those comments here.

**The fact is this should be an issue at all.** Councilmember de la Torre served on the Santa Monica-Malibu School Board for 18 years. He was first elected in 2002 and re-elected four times. He actively served as a school board member until being elected to the Santa Monica City Council in 2020. During that time, he attended conferences and workshops in which board members heard from experts, including CSBA and other legal counsel, regarding roles and responsibilities of elected or appointed members of boards of education. That included issues around and directly related to conflicts of interest. Furthermore, during his many years on the board, the issue of conflict of interest was raised and discussed during board deliberations while he was in attendance.

**Nor can he claim to be exempt or above the law.** No one is above the law, particularly our elected officials who, when they are sworn into office swear to support the Constitution of the United States and the Constitution and laws of the State of California, and all local ordinances, and to faithfully and impartially perform and discharge their duties as members of the City Council according to the law and the best of their ability.

Ultimately, the issue before you as a Council is one of good governance, and a question of integrity and ethics. As stated in the comment submitted by Natalya Zernitskaya representing the League of Women Voters of Santa Monica, if Councilmember de la Torre “is unwilling to voluntarily recuse himself from discussions or decisions related to the pending (CVRA) litigation...the Council should disqualify him from participating in or attempting to influence discussions or decisions related to the CVRA litigation.



**From:** [Joe Pertel](#)  
**To:** [councilmtgitems](#)  
**Subject:** Special Meeting, January 26, 2021 at 4:00 p.m. - Determination re: Conflict of Interest of Council Member Oscar de la Torre  
**Date:** Monday, January 25, 2021 6:26:43 PM

EXTERNAL

Dear Council,

I am writing in support of the Staff Report which recommends the **disqualification** of Council Member Oscar de la Torre from participating in any aspect of the discussions concerning the litigation entitled *Pico Neighborhood District and Maria Loya v. City of Santa Monica ("Pico Neighborhood")*, which is currently pending review in the California Supreme Court.

In addition to the conflicts of interest set forth in the Staff Report, I believe that Council Member De la Torre should also be disqualified since he has a personal financial interest in this action since his spouse, Maria Loya, was ordered by the Court of Appeal to pay the statutory costs of this action based on its finding that the lawsuit was frivolous. ["Prevailing defendants do not recover costs unless the action was frivolous or the like." *Pico Neighborhood, supra*, at p. 26.] As a result, if the Court of Appeal's decision is affirmed, Ms. Loya will be liable for paying an award likely totaling tens of thousands of dollars for costs incurred by the City of Santa Monica in defense of this lawsuit. This certainly constitutes a greater conflict of interest than found in the 2009 Attorney General Opinion in which the public official's conflict involved a contract pending before the board in which her son was a party. [AG Opinion 07-807 (Jan. 14, 2009).] As a result, I strongly urge the members of the Council to **disqualify** Council Member De la Torre from participating in discussions concerning any aspect of this litigation.

Very truly yours,

Joseph A. Pertel,  
Santa Monica Resident

Joseph A. Pertel  
Law Office of Joseph A. Pertel  
2801 Ocean Park Boulevard, # 276  
Santa Monica, California 90405  
Website: [pertellaw.com](#)  
Telephone: (310) 503-5791

**REVIEWED**

1/26/2021

By City Clerk's Office at 1:36 pm, Jan 26, 2021

## LAW OFFICES OF

**ROGER JON DIAMOND**  
 2530 WILSHIRE BLVD., 2ND FLOOR  
 SANTA MONICA, CA 90403  
 TELEPHONE (310) 452-6643  
 rogdiamond@aol.com

January 26, 2021

Santa Monica City Council  
 1685 Main Street, Room 102  
 Santa Monica, CA 90401

Re: *Pico Neighborhood Ass'n & Loya v. City of Santa Monica*  
 LASC Case No. BC 616804  
 Court of Appeal Case No. B295935  
 California Supreme Court Case No. S263972  
 Conflict of Interest of Councilmember de la Torre  
 City Council Hearing Date January 26, 2021; Agenda Item 8.A

Dear Mayor Himmelrich and Members of the City Council:

This letter is submitted on behalf of Santa Monicans for Integrity in Government ("SMIG"), a newly formed unincorporated association of Santa Monica residents who are committed to preserving integrity and preventing corruption in the City of Santa Monica's government.

The immediate issue that triggered SMIG's formation is the apparent claim by Councilmember Oscar de la Torre that he may participate in City Council deliberations and decision-making with respect to the pending lawsuit entitled *Pico Neighborhood Association and Maria Loya v. City of Santa Monica*, Los Angeles Superior Court, Case No. BC 616804, Second District Court of Appeal Case No. B295935, California Supreme Court Case No. S263972. Councilmember de la Torre's wife, Maria Loya, is a plaintiff in the above-referenced lawsuit, and de la Torre himself has actively participated in the lawsuit beginning in mid-2015 (ten months prior to the lawsuit's filing), including as president and a board member of plaintiff Pico Neighborhood Association ("PNA"). Consequently, Mr. de la Torre has a common law conflict of interest under California law that disqualifies him from participating in or attempting to influence City Council discussions or decisions relating to the above-referenced lawsuit. Accordingly, SMIG hereby demands that the City Council take all necessary actions to prevent Councilmember de la Torre from engaging in the foregoing conduct.

The City also needs to assess whether Councilmember de la Torre has a financial conflict of interest subject to Government Code Section 1090 and whether Councilmember de la Torre's participation would violate Government Code Section 87100 (a provision of the California Political Reform Act). If so, the City will be precluded from entering into any agreement with the plaintiffs in the above-referenced lawsuit (§1090) and Councilmember de la Torre would be precluded from participating or attempting to influence the City's decisions with respect to the lawsuit (§87100).



Moreover, SMIG is concerned that Councilmember de la Torre may have already violated the common law conflict of interest standard and the above-referenced statutes since taking office on December 8, 2020. In particular, SMIG is concerned that he may have engaged in prohibited advocacy with one or more of his colleagues on the City Council. The City Attorney should assess whether such advocacy has occurred, and if so, the legal consequences as to Councilmember de la Torre and the other Councilmembers involved.

**1. Common law conflict of interest for public officials in California: the legal standard.**

As the City Attorney’s report acknowledges, California’s common law conflict of interest rule addresses more than financial conflicts of interest. Separate and apart from financial conflicts, the common law rule “prohibits officials from placing themselves in a position where their private, personal interests may conflict with their official duties.” *Clark v. City of Hermosa Beach*, 48 Cal. App. 4th 1152, 1171 (1996), quoting from 64 Ops. Cal. Att’y Gen. 795, 797 (1981). As a public official, Councilmember de la Torre must “exercise the powers conferred on him with disinterested skill, zeal and diligence and primarily for the benefit of the public.” *Noble v. City of Palo Alto*, 89 Cal. App. 47, 51 (1928); see also *Clark v. City of Hermosa Beach*, supra, 48 Cal. App. at 1170-71.

When a public official has a common law conflict of interest, the legal consequence is that the public official is disqualified from participating in or attempting to influence discussions or decisions relating to the matter in question. 92 Ops. Cal. Att’y Gen. 19 (2009).

**2. Councilmember de la Torre has a common law conflict of interest that precludes him from participating as a Councilmember in dealing with the Maria Loya/Pico Neighborhood Association lawsuit.**

The facts establishing Councilmember de la Torre’s common law conflict of interest are clear. The plaintiffs in the lawsuit are Maria Loya (i.e., Councilmember de la Torre’s wife) and the PNA. At all relevant times until shortly after the November 2020 election, Mr. de la Torre served as a board member and President of plaintiff PNA. Mr. de la Torre has actively participated in the Maria Loya/PNA lawsuit since June 2015, when his initial discussions with counsel for plaintiffs commenced. And Mr. de la Torre has served as plaintiff PNA’s primary representative throughout this lawsuit. This has included attending depositions, having his own deposition taken as PNA’s person most knowledgeable about the matters in question, and serving as PNA’s public spokesperson throughout the litigation. Mr. de la Torre also testified at trial on behalf of the plaintiffs. (City Attorney Report (Jan. 26, 2021) pp. 2-3.)

Indeed, Mr. de la Torre has at all times been a central figure on the plaintiffs’ side of this lawsuit from its very beginning. This is best evidenced by the declaration of plaintiffs’ counsel Kevin Shenkman filed in support of plaintiffs’ attorney’s fee motion. Exhibit “L” to Mr. Shenkman’s declaration provides a virtual itinerary of Mr. de la Torre’s involvement with plaintiffs’ counsel through the trial court’s decision in this case. (A copy of Exhibit “L” is attached hereto.)

As the City Attorney’s report observes:

“[I]t seems difficult to imagine that Councilmember de la Torre has no private or personal interest in the outcome of the pending

litigation where his wife remains a plaintiff in the litigation, his wife remains a board member of the other plaintiff in the litigation, and until shortly before being sworn in as a councilmember, he was the chair of the board of the other plaintiff in the litigation and served as that plaintiff's representative at deposition and trial.” (City Attorney Report at pp. 6-7.)

Accordingly, the City Council should follow the City Attorney's recommendation and determine that Councilmember de la Torre has a common law conflict of interest that disqualifies him from participating in or attempting to influence discussions or decisions relating to the Maria Loya/PNA litigation.

**3. Councilmember de la Torre may have a statutory financial conflict of interest with respect to the Maria Loya/PNA litigation that warrants investigation.**

The City Attorney's report indicates that the City has sought the FPPC's formal advice on whether Councilmember de la Torre has a financial conflict of interest under Government Code Section 1090. This issue is critically important because, as the City Attorney notes, such a conflict would prevent the City from entering into any contract with respect to the Maria Loya/PNA litigation. (City Attorney Report at pp. 4-5.)

Preliminarily, and subject to further investigation and review, SMIG has the following concerns about Councilmember de la Torre's potential financial conflict of interest:

- According to the City Attorney's report, the Court of Appeal's decision on July 9, 2020 "ordered the Plaintiffs to pay costs to the City." (City Council Report at p. 4.) As a plaintiff, Ms. Loya is thus potentially liable for the City's costs in the lawsuit. And since California is a community property state, Councilmember de la Torre would be exposed financially if the Court of Appeal ruling is ultimately affirmed in this respect. Thus, Councilmember de la Torre has a financial interest in the City reaching a settlement of this lawsuit that potentially eliminates this financial risk to his wife and himself.
- SMIG is also concerned that Councilmember de la Torre may have a further financial interest in the outcome of this lawsuit that warrants a preliminary investigation, at a minimum. In this regard, plaintiffs' counsel has filed an attorney's fees motion in this case seeking an award of attorney's fees (not including appellate work) against the City in excess of \$21 million and nearly \$1 million in costs. In order to assess the financial conflict issue, the City needs to know whether Councilmember de la Torre or his family has any financial stake in this lawsuit's outcome.

Moreover, as described above, assuming Councilmember de la Torre has a financial interest in the Maria Loya/PNA lawsuit, he is prohibited by the California Political Reform Act ("PRA") from participating or influencing City decisions with respect to the lawsuit. In this regard, Government Code Section 87100 states:

"No public official at any level of state or local government shall make, participate in making or in any way attempt to use his

official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

“Public official” under the PRA includes elected officials. The existence of a “financial interest” as it is used in Section 87100 is defined in Government Code Section 87013, which provides in relevant part:

“A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or ....”

Here, the Court of Appeal’s award of costs against the plaintiffs, by itself, constitutes a financial interest within the meaning of Section 87100. Consequently, Councilmember de la Torre is precluded by the PRA from participating in City deliberations and decision-making with respect to this lawsuit.

**4. The City Council should direct the City Attorney to assess whether other Councilmembers are disqualified from participating with respect to the Maria Loya/PNA litigation.**

Councilmember de la Torre took office as a Councilmember on December 8, 2020, about 50 days ago. SMIG is informed and believe that since then, he has continued to advocate for the plaintiffs in the Maria Loya/PNA lawsuit, and that his advocacy has included support for the position that the City should concede that the California Voting Rights Act compels a decision in plaintiffs’ favor. SMIG is further informed and believe that this advocacy has been targeted at some of his colleagues on the City Council, in addition to other community members. At a minimum, the City needs to determine whether Councilmember de la Torre’s communications since taking office on December 8th violate the foregoing common law conflicts of interest rule. And in the event such violations have occurred, the City Attorney will need to evaluate whether other members of the City Council are themselves disqualified from participating in City Council deliberations and decisions in this lawsuit.

**Conclusion**

In closing, Councilmember de la Torre clearly has a powerful personal (if not financial) interest in his wife and PNA prevailing in their lawsuit against the City. Indeed, achieving such a result has been Mr. de la Torre’s mission since mid-2015 when his discussions with counsel for plaintiffs commenced. Mr. de la Torre cannot, with any integrity or consistent with the law, participate as a Councilmember in this lawsuit. Furthermore, his participation would compromise the integrity of City Council decision-making in this matter.

Accordingly, the City Council should take prompt action to preclude him from doing so. Failing such prompt City Council action, SMIG will commence litigation against Mr. de la Torre and the

City and seek an award of public interest attorney's fees pursuant to Code of Civil Procedure Section 1021.5.

Sincerely,

*Roger Jon Diamond*

Roger Jon Diamond

cc: Acting City Attorney, George Cardona  
Acting City Manager, Lane Dilg  
Santa Monicaans for Integrity in Government

**From:** [Council Mailbox](#)  
**To:** [Sue Himmelrich](#); [Kristin McCowan](#); [Glean Davis](#); [Councilmember Kevin McKeown](#); [Oscar de la Torre](#); [Christine Parra](#); [Phil Brock](#)  
**Cc:** [councilmailtoitems](#); [George S. Cardona](#)  
**Subject:** FW: Pico Neighborhood Association and Maria Loya v. City of Santa Monica - Determination Regarding Common Law Conflict of Interest of Councilmember de la Torre  
**Date:** Tuesday, January 26, 2021 9:05:05 AM

---

Council-

Please see the email below regarding the PNA lawsuit.

Thank you,

Stephanie

**From:** Cathie Gentile <cathiegentile1953@gmail.com>  
**Sent:** Monday, January 25, 2021 7:37 PM  
**To:** Council Mailbox <Council.Mailbox@SMGOV.NET>  
**Subject:** Pico Neighborhood Association and Maria Loya v. City of Santa Monica - Determination Regarding Common Law Conflict of Interest of Councilmember de la Torre

EXTERNAL

Dear Mayor and City Council:

I feel very strongly that Councilmember de la Torre has a common law conflict of interest and is therefore disqualified from participating in or attempting to influence discussion or decisions relating to this litigation.

Sincerely,

Catherine Gentile

Santa Monica resident

**From:** [William Schoene](#)  
**To:** [councilmtgitems](#)  
**Subject:** Staff Administrative Item 8A  
**Date:** Tuesday, January 26, 2021 1:59:05 PM

---

EXTERNAL

Councilmembers:

We believe councilmember Oscar de la Torre SHOULD NOT be required to recuse himself from discussion and possible resolution of the voting rights

lawsuit against the city of SM.-- because he clearly represents the interests of Pico neighborhood residents especially, among all Santa Monica, by his current and past associations, and those interests might not be fairly nor adequately represented if his participation is disallowed.

Denying councilmember de la Torre from participating would seem to validate the very claim that the lawsuit is making. Please decide in favor of democracy.

William Schoene  
Mary Lou Schoene  
1519 Oak Street  
Santa Monica CA 90405

**From:** [Tricia Crane](#)  
**To:** [councilmtgitems](#); [Christine Parra](#); [Phil Brock](#); [Oscar de la Torre](#); [Sue Himmelrich](#); [Kristin McCowan](#); [Kevin McKeown Fwd](#); [Gleam Davis](#); [Clerk Mailbox](#); [Denise Anderson-Warren](#); [Lane Dilg](#)  
**Subject:** Support for Councilmember de la Torre - Agenda item 8A, City Council meeting of Jan. 26, 2021  
**Date:** Tuesday, January 26, 2021 8:19:53 AM

EXTERNAL

To: City Council  
From: Tricia Crane  
Re: Staff Administrative item 8.A, City Council meeting of Jan. 26, 2021

Dear Mayor Himmelrich and City Council,

City Attorney Cardona should not be allowed to prevent newly elected Councilmember Oscar de la Torre from participating in the City Council discussion concerning the voting rights lawsuit in tonight's Closed Session meeting (Staff Administrative Item 8.A).

Instead, the Council should consider and respect the fact that the voters supported the election of Oscar de la Torre, Phil Brock and Christine Parra precisely because the three shared a campaign platform that promised to seek an end to the City's long and costly fight against districting.

Further, Cardona's legal argument is in direct conflict with the legal advice of Councilmember de la Torre's attorney who advised him to *not* recuse himself from engaging in discussions of the districting case, which is currently before the California Supreme Court.

Those of us who seek transparency in our local government appreciate the fact that Mayor Himmelrich has called for the discussion of this issue to be held in public via teleconference at 4 p.m. today in advance of Closed Session.

Sincerely,

Tricia Crane



# Exhibit F

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**APRIL 13, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:30 p.m., on Tuesday, April 13, 2021, via teleconference pursuant to the Governor’s Executive Order N-29-20 at <https://primetime.bluejeans.com/a2m/live-event/fjkaykar>

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan (*arrived at 5:45 p.m.*)  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre (*arrived at 5:33 p.m.*)  
Councilmember Kevin McKeown  
Councilmember Christine Parra

Also Present: Interim City Manager Lane Dilg  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**CONVENE**

On order of the Mayor, the City Council convened at 5:30 p.m., with all members present except Councilmember de la Torre and Mayor Pro Tem McCowan.

**CLOSED SESSIONS**

Member of the public David Whatley commented on closed sessions.

Councilmember de la Torre gave a statement of recusal.

Due to Councilmember de la Torre’s work with the youth of the Pico Neighborhood for many years, there are some alleged victims that he knows personally. This makes it very difficult for impartiality because it is emotionally and psychologically very hard. For this reason, Councilmember de la Torre recused himself in all matters regarding the settlement of these issues.

On order of the Mayor, the City Council recessed at 5:40 p.m., to consider closed sessions and returned at 6:40 p.m., with all members present, to report the following:

*Mayor Pro Tem McCowan  
arrived at 5:45 p.m.*

**1.A. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Government Code**

*Councilmember de la Torre was excused at 5:45 p.m.*

**Section 54956.9(d)(1): Guadalupe Olmedo v. City of Santa Monica, et al., Los Angeles Superior Court, Case No. BC719653.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.B. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): John Doe #1, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV36226; John Doe #1 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV39505; John UA Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV43543; John AI Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV44059; John Doe #7, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV46215; John PS Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV48207; John FM Doe, et al. v. Roe #1, Roe #2, et al., Los Angeles Superior Court, Case No. 20STCV49643; John UN Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV00968; John OQ Doe, et al. v. Santa Monica PAL, City of Santa Monica, et al., Los Angeles Superior Court, Case No. 21STCV04365.**

*Councilmember de la Torre arrived at 6:40 p.m.*

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA ITEMS:**

**2.A. Proclamation: Arts Month 2021**, was presented.

**CONSENT CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

There was no public commented on various Consent Calendar items.

Motion by Councilmember de la Torre, seconded by Councilmember Brock, to approve the Consent Calendar, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**PROTECTIVE  
EQUIPMENT**

**3.A. Award Bid #SP2643 to Safeguard US Inc. to provide design/build services for fall protection equipment at several City facilities,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award Bid #SP2643 to Safeguard US Inc. for the Fall Protection Project for the Risk Management Division;
2. Authorize the City Manager to negotiate and execute Contract No. 11149 (CCS) with Safeguard US Inc., in an amount not to exceed \$1,631,934 (including an 8% contingency);
3. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority.

**SQL REPORT  
DEVELOPMENT**

**3.B. Approval of Modification to Agreement-SA Technologies (SQL Report Development Services),** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a first modification to agreement #11081 in the amount of \$100,000 with SA Technologies, Inc., (SAT) a California-based company, for services related to SQL report development. This will result in a two-year agreement with a new total amount not to exceed \$190,000, with future year funding contingent on Council budget approval.

**AMICUS BRIEF**

**3.C. Authorization to Join in Amicus Brief In Support of the City of New York in Community Housing Improvement Program, et al. v. City of New York, et al., United States Court of Appeals for the Second Circuit, Case No. 20-3366,** was approved.

**Recommended Action**

Staff recommends that City Council authorize the City to sign on to an amicus brief to be filed by the City of Los Angeles in support of the City of New York's position in *Community Housing Improvement Program, et al. v. City of New York, et al.*, United States Court of Appeals for the Second Circuit, Case No. 20-3366.

**MINUTES**

**3.D. Minutes of City Council - Special Meeting - March 13, 2021,** were approved.

**MINUTES**

**3.E. Minutes of City Council - Regular and Special Joint Meeting - March 23, 2021,** were approved.

**ORDINANCES:  
ZONING**

**7.A. Introduction and Adoption of Emergency Interim Ordinance No. 2667 (CCS) entitled "AN EMERGENCY INTERIM ZONING**

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA MAKING MINOR CHANGES, CORRECTIONS AND CLARIFICATIONS TO INTERIM ZONING REGULATIONS ESTABLISHED BY EMERGENCY INTERIM ORDINANCE 2636 (CCS) AND EXTENDED AND AMENDED BY EMERGENCY INTERIM ZONING ORDINANCE 2658 FOR ECONOMIC RECOVERY OF THE BC (PROMENADE) DISTRICT AND THOSE PORTIONS OF THE BC (2ND AND 4TH STREET) DISTRICT BOUNDED BY SECOND STREET TO THE WEST, BROADWAY TO THE SOUTH, 4TH STREET TO THE EAST, AND WILSHIRE BOULEVARD TO THE NORTH”, was presented.

**Recommended Action**

Staff recommends that the City Council introduce and adopt an Emergency Interim Zoning Ordinance to make minor changes, corrections and clarifications to interim zoning regulations for economic recovery of the City’s BC (Promenade) District and those portions of the BC (2<sup>nd</sup> and 4<sup>th</sup> Street) District bounded by 2<sup>nd</sup> Street to the west, Broadway to the south, 4<sup>th</sup> Street to the east, and Wilshire Boulevard to the North.

There was no public comment for this item.

Question asked and answered of staff included, if fortune telling is allowed on the Promenade, why is it not being allowed on the Pier.

Motion by Councilmember Brock, seconded by Councilmember Parra, to introduce and adopt on first reading of the ordinance reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmembers de la Torre
- ABSENT: None

**ZONING**

**7.B. Introduction and Adoption of Emergency Interim Zoning Ordinance No. 2668 (CCS) entitled “AN EMERGENCY INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING AND EXTENDING INTERIM ZONING REGULATIONS ADOPTED BY EMERGENCY INTERIM ZONING ORDINANCE NUMBER 2663 (CCS) TO TEMPORARILY PROHIBIT NON-RESIDENTIAL USES CITYWIDE AND SINGLE-UNIT DWELLINGS IN COMMERCIAL ZONES TO PRESERVE POTENTIAL HOUSING SITES IN PREPARATION OF THE 6TH CYCLE HOUSING ELEMENT”**, was presented.

**Recommended Action**

Staff recommends that the City Council introduce and adopt an Emergency Interim Zoning Ordinance amending and extending interim regulations temporarily prohibiting, with some exceptions, non-residential development citywide and single-unit dwellings in commercial zones to preserve potential housing sites in preparation of the 6th Cycle Housing Element.

Member of the public Noelani Derrickson spoke to the recommended action.

Question asked and answered of staff included, why is this Interim Zoning Ordinance being extended until January 2022.

Motion by Councilmember McKeown, seconded by Councilmember Davis, to introduce and adopt on first reading of the ordinance reading by title only and waiving further reading thereof, including modifications to exemptions for temporary usage using language set out in the staff report, and setting a new expiration date of January 15, 2022 for the IZO. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**PUBLIC ASSEMBLIES**

**7.C. Introduction and Adoption of an Emergency Ordinance entitled “AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 4.08.780 TO PROMOTE THE PUBLIC SAFETY AND WELFARE BY PROHIBITING CERTAIN ITEMS AT PUBLIC ASSEMBLIES AND COMMUNITY EVENTS”, was presented.**

**Recommended Action**

Staff recommends that City Council adopt an emergency ordinance amending Santa Monica Municipal Code Section 4.08.780 relating to restrictions on carrying, using, or possessing certain specified items during community events or public assemblies to promote public safety and welfare.

Members of the public Karen Wise, Burt Champagne, Meredith Coons, Craig Miller, Denise Barton, Jon Katz, Thomas Modrano, Mark Shaw, Phil Racko, and, Angele Kranhan Katz spoke to the recommended action.

Questions asked and answered of staff included: if someone was found in violation of this ordinance, what would be the penalty; does the Police

Department not have the materials they need to provide protection during a protest; does the Police Department have the tools to combat against the type of looting that occurred on May 31<sup>st</sup>; given the current ordinances, if video footage came forth, what would be the penalty to that person; how would enforcement of this ordinance as a preventative take place; is it a good idea to put out the word that Santa Monica does not allow specific items for protest, and do we think it's going to prevent those who want to create an unpeaceful protest; could this potentially escalate a situation if law enforcement has to make a judgement call about whether or not a person has unwarranted items during a protest; is the expectation to only issue a citation, not take a person to jail; will it depend on a person's attitude or behavior to determine how the law enforcement handles a violation; is there a protocol where the Police Department contacts the organizers of protest once a permit has been filed; what was the most important tools used to make arrest after the May 31<sup>st</sup> looting incidents; how many arrest were made in the aftermath of May 31<sup>st</sup>; does the department plan to use drones, video, and facial recognition in the future to help utilize prosecution or arrest; what is the perception from an officers perspective when they arrive on the scene, depending on the posture of the protestors; would having an ordinance in place deter people posturing in an angry manner; is this something that will keep protestors, buildings, and officers safe during an emergency; the ordinance as written, would someone carrying a stick be in violation, and could they be cited; would the same sign with a plastic pole, be a violation; how would this ordinance assist officers to discover items that are banned, if they are concealed in people's backpacks or bags; without this ordinance, is it correct that the Police's hands are tied when they approach someone with a weapon to intervene before harm is committed; and, where does a flag fall under this category.

Motion by Councilmember Parra, seconded by Councilmember Brock, to introduce and adopt on first reading of the ordinance reading by title only and waiving further reading thereof, with amendments from staff.

Councilmember de la Torre proposed a friendly amendment to make it legal for a stick or plastic pole, of any size, as long as it holds up a sign or something expressible, to be allowable. The amendment was considered friendly by the maker and seconder.

Councilmember Brock proposed a friendly amendment to sunset and shall have no effect after September 30, 2021. The amendment was considered friendly by the maker.

The motion failed by the following vote:

- AYES: Councilmembers de la Torre, Brock, Parra
- NOES: Councilmembers Davis, McKeown,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- ABSENT: None

**SIGNAGE**

**7.D. Introduction for First Reading of an Ordinance to Making Minor Changes, Corrections and Clarifications to Santa Monica Municipal Code Sections 9.61.120, 9.61.150, and 9.61.200 Related to Administrative Approval, Exempt Signs, and Signs for Establishments With Frontage Along the Third Street Promenade, was presented.**

**Recommended Action**

Staff recommends that the City Council introduce for first reading an ordinance amending the text of the City’s Zoning Ordinance to make minor corrections to the Sign Code related to administrative approval, exempt signs, and signs for establishments with frontage along the Third Street Promenade.

There was no public comment on this item.

*Councilmember Brock excused at 9:22 p.m.*

Motion by Councilmember McKeown, seconded by Councilmember Davis, to introduce for first reading of the ordinance reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Brock

**STAFF**  
**ADMINISTRATIVE**  
**ITEMS:**  
**AMERICAN RESCUE**  
**PLAN**

*Councilmember Brock returned at 9:32 p.m.*

**8.A. American Rescue Plan Allocation Recommendations, Rent Relief Programs, and Proposed Community Funding Project Submissions, was presented**

**Recommended Action**

Staff recommends that the City Council:

1. Review, discuss, and provide direction on the allocation of American Rescue Plan Act funding, the Rent Relief Program and the Proposed Community Funding Project Submissions; and
2. Authorize budget and staffing changes as outlined in the Financial Impacts & Budget Actions section of this report.

Members of the public Ed Horowitz, John Ruskin, Greg Morena, Denise Barton, Amy Ruskin, Dylan McDermott, Dominic Gomez, Yossi Gorvin,



Craig Krull, Austin Highsmith Garces, Michael Riley, Cindy Pfeifer, Jim Stapleton, Rose Shoshana, Zina Josephs, Michael Soloff, Joe Galliani, Mike Myers, Edgar Juaregi, Petra Iko, Charles Duncombe, Robert Berman, Rebecca Setareh, Marisa Caichiolo, Om Bleicher, Lois Lambert, Allison Hobble, William Turner, and Dominic Bea spoke to the recommended action.

Questions asked and answered of staff included: when is it expected that the budget will be able to pay back the GSH funds; is repayment to GHS a plan that Council can make now, or would it have to be year by year budgets; is there a failure to allocate, or a failure to communicate; could more be allocated to arts venues that have been almost completely shut down, or will that take away from something else; if the city gives three months abatement tonight, where's the money coming from to supplement rent abatement after those three months, if non-profits and small businesses aren't able to get grant money; what kind of rent relief does \$1 million cover; does it make sense to not give any relief tonight, and instead wait until Council comes back with the proposed budget next month; how would the Pier Business Improvement District (BID) work, and why is there consideration of forming a Business Improvement District if the Pier businesses nor the city have money to put into the BID; for Pier funds, is the amount of contingency funds determine future losses, or is that hopeful to the future; what are the three Planning positions for, and are all three related to permitting; why does virtual work take longer; is part of the problem with the digital permit that the input is not automated; do we need to hire full-time people to get the backlog up to date, can contracted or part-time workers be hired to do the work; how much money is needed to fund these three positions; what was the \$7 million staffing cost in the presentation, what does that represent; can the rent abatement process and how it works be explained; what action is staff asking Council to do tonight; can contracting work be done on efficiency; shouldn't we be looking at the Federal funding in coordination with the budget, instead of piecemealing money now; what are we doing about the 19-20 Affordable Housing fund, when the city has said that housing is such a priority for this city, how soon can the general fund pay that fund back; by removing GHS funds, does it impact the city's ability to build affordable housing; what else can the city do to help the city-owned tenants; it is prohibited to just hire data inputters and not hire full-time permit staff; shouldn't Council wait until the budget and the Moss-Adams report before making decisions to hire full-time staff; does the schools have enough crossing guards this year at every school; is there a way to allocate funding the neighborhood organizations for one year out of the \$3 million; what does Council need to do to make sure services are funded for things residents need and can see; how did staff come up with the two priorities that money should be allocated; is it possible to ask to get \$2.5 million to get affordable/supportive housing added to Parking Structure #3.

Considerable discussion ensued on topics including, but not limited to: funding neighborhood organizations; funding essential services for resident needs; and, funding needs to be restored for the CREST and afterschool programs.

Motion by Councilmember Davis, seconded by Councilmember McKeown, to adopt the staff recommendation including to: not fund the three Planning positions; give staff direction to use this money or other money, to give nine months' rent abatement for nonprofits who are City tenants; give six months' rent abatement for for-profit tenants on the Pier and other City land; give three months' rent abatement for the galleries; and add as one of the City's projects, plan for Permanent Supportive Housing at Parking Structure 3 as one of the proposed projects for the federal earmarks Congressman Lieu is carrying.

Councilmember McKeown proposed a friendly amendment to include an affirmation of the Council's desire for this year's GSH money be put back into the general fund and to give direction that Council's intent and expectation is that the previous year's money taken from the GSH will be paid back as soon as possible. The amendment was considered friendly by the maker.

Councilmember Parra proposed a friendly amendment to explore three to six months' rent abatement for all other galleries. The amendment was considered friendly by the maker and the seconder.

The motion, with amendments was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**AGENDA**  
**MANAGEMENT**

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to postpone Item 13.B. to the April 27<sup>th</sup> meeting, due to the lateness of this meeting.

Councilmember de la Torre proposed a friendly amendment to open the application process for two weeks. The amendment was considered friendly by the maker and the seconder.

Mayor Pro Tem McCowan proposed an amendment to open the application process for one week. The amendment was considered friendly by the maker and the seconder.

The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: Councilmember McKeown  
ABSENT: None

**COUNCILMEMBER**  
**DISCUSSION ITEMS:**  
**ZERO EMISSION**  
**DELIVERY ZONE**

**13.A. Request of Mayor Pro Tempore McCowan and Councilmember Davis that, to promote our community’s economic recovery and to help local restaurants and businesses safely reach their customers, Council direct staff to return on April 27 with an amendment to the remotely controlled delivery device ordinance to allow remotely controlled devices participating in the Zero Emission Delivery Zone program to serve businesses in all parts of Santa Monica. Speed limits, weight limits and other operational requirements that apply within the zone should apply throughout Santa Monica, was presented.**

Members of the public Zach Rash and Denise Barton, spoke on the recommended action.

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to adopt the staff recommendation. The motion was approved by the following vote:

AYES: Councilmembers Davis, McKeown, Brock  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: Councilmembers Parra, de la Torre  
ABSENT: None

**PUBLIC SAFETY**  
**REFORM AND**  
**OVERSIGHT**  
**COMMITTEE**

**13.B. Appointments to the Public Safety Reform and Oversight Committee,** was continued to the April 27, 2021 council meeting as a 5-Item; direction given to staff to reopen the application process for one additional week.

**PUBLIC INPUT:**


Members of the public Denise Barton commented on various local issues.

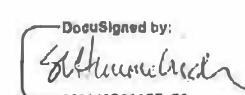
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 1:39 a.m. in memory of Silvia Quintana.

ATTEST:

APPROVED:

DocuSigned by:  
  
E2F858058A714C3...  
Denise Anderson-Warren  
City Clerk

DocuSigned by:  
  
623148D989FF4F3...  
Sue Himmelrich  
Mayor

# Exhibit G

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**APRIL 27, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:30 p.m., on Tuesday, April 27, 2021, via teleconference pursuant to the Governor’s Executive Order N-29-20 at <https://primetime.bluejeans.com/a2m/live-event/dpkxgfb>

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre  
Councilmember Kevin McKeown  
Councilmember Christine Parra

Also Present: Interim City Manager Lane Dilg  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**CONVENE** On order of the Mayor, the City Council convened at 5:30 p.m., with all members present.

**AGENDA MANAGEMENT** Staff requested hearing Item 8.B. before Item 8.A., to accommodate the expected large number of callers on this item.

Motion by Mayor Pro Tem McCowan, seconded by Councilmember Parra, to hear item 8.B. before item 8.A. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmember McKeown
- ABSENT: None

Councilmember McKeown stated for the record his no vote is out of concern that changing the agenda order on the night of the meeting can cause confusion and disenfranchise members of the public, and he would prefer to publish the agenda in the order the Council plans to hear it.

**CLOSED SESSIONS** There was no one present for public comment on closed sessions.

Councilmember de la Torre recused himself from Item 1.C. for the same reasons he previously stated.

Due to his work with the youth of the Pico Neighborhood for many years, there are some alleged victims that he knows personally. This makes it very difficult for impartiality because it is emotionally and psychologically very hard. For this reason, he recused himself in all matters regarding the settlement of these issues.

On order of the Mayor, the City Council recessed at 5:38 p.m., to consider closed sessions and returned at 6:52 p.m., with all members present, to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Guadalupe Olmedo v. City of Santa Monica, et al., Los Angeles Superior Court, Case No. BC719653.**

The Interim City Attorney advised the plaintiff, who was 94 at the time, alleges that she fell and suffered head and soft tissue injuries when, on November 1, 2017, the Big Blue Bus on which she was a passenger began moving forward after she had gotten out of her seat to disembark. The City does not admit the allegations, but to avoid the expense and burden of further litigation, the City Attorney's Office recommended settlement in the amount of \$21,000.

Motion by Councilmember McKeown, seconded by Councilmember Davis, to approve Settlement Agreement No. 11151 (CCS), in the amount of \$21,000. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**1.B. Conference with Real Estate Negotiator pursuant to Government Code Section 54956.8: Property: Parking Area East/Airport Park Expansion West (226,090 sf) and 3200 Airport Avenue (16,590 sf), Santa Monica, California; City Negotiators: Jennifer Taylor, Economic Development Manager, and Stelios Makrides, Chief Operations Officer/Airport Director; Owner of Record: City of Santa Monica; Persons to be negotiated with: Angel City Football Club; Under negotiation: Ground Lease and Building Lease Terms.**

The Interim City Attorney advised this matter was heard with no

*Councilmember de la Torre was excused at 6:30 p.m.* reportable action taken.

**1.C. Conference with Legal Counsel – Existing Litigation –** Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): John Doe #1, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV36226; John Doe #1 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV39505; John UA Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV43543; John AI Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV44059; John Doe #7, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV46215; John PS Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV48207; John FM Doe, et al. v. Roe #1, Roe #2, et al., Los Angeles Superior Court, Case No. 20STCV49643; John UN Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV00968; John OQ Doe, et al. v. Santa Monica PAL, City of Santa Monica, et al., Los Angeles Superior Court, Case No. 21STCV04365; John Doe #17 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV07070; John Doe #18 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV08464.

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA ITEMS:**  
*Councilmember de la Torre returned at 6:52 p.m.*

**2.A. Commendation: Cori Newlander,** was presented by the Mayor.

**REPORT ON MEETING COMPENSATION**

Pursuant to State law, City Clerk Denise Anderson-Warren announced that Council will receive \$50 for meeting as the Housing Authority.

**CONSENT CALENDAR:**

There being a Consent Calendar for Council and the Housing Authority, the Mayor, with the consensus of the Councilmembers, convened to a joint meeting at 7:05 p.m., and the two Consent Calendars were heard concurrently, with all Authority/ Councilmembers present.

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Members of the public Denise Barton and Olga Zurawska commented on various Consent Calendar items.

At the request of Authority/Councilmember Brock, Item 3.F. was removed from the Consent Calendar.

At the request of Authority/Councilmember de la Torre, Item 3.C. was removed from the Consent Calendar.

Motion by Authority/Councilmember McKeown, seconded by Authority/Councilmember Brock, to approve the Consent Calendar except for Items 3.C. and 3.F., reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Authority/Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Vice Chair/Mayor Pro Tem McCowan, Chair/Mayor Himmelrich

NOES: None

ABSENT: None

**SOFTWARE  
SUBSCRIPTION SERVICES**

**3.A. Approval of Third Modification to Agreement with Origami Risk, Inc. for Claims Management Software Subscription Services,** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a third modification to agreement #10275 for an additional three years in the amount of \$362,400 with Origami Risk, Inc., an Illinois-based company, for claims management software subscription services for the Finance Department. This will result in an eight-year amended agreement with a new total amount not to exceed \$953,753, with future year funding contingent on Council budget approval.

**PARK IMPROVEMENTS**

**3.B. Award Bid #SP2393 and SP2583 to Cinbad Industry, Inc. for the Tongva Park Pedestrian Improvements and Palisades Park Petanque Courts Repurposing Projects,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award Bids #SP2393 & #SP2583 to Cinbad Industry, Inc. for construction services for the Tongva Park Pedestrian Improvements and Palisades Park Petanque Courts Repurposing Projects for the Community Services Department;



- 2. Authorize the City Manager to negotiate and execute Contract No. 11150 (CCS) with Cinbad Industry, Inc. in an amount not to exceed \$325,000 (including a 10% contingency);
- 3. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority; and
- 4. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**CDBG/HOME GRANT FUNDS**

**3.D. Approval of the Proposed FY 2021-22 One-Year Action Plan Allocating Federal Community Development Block Grant (CDBG) and HOME Investment Partnerships Act Program (HOME) Entitlement Grant Funds, was approved.**

**Recommended Action**

Staff recommends that the City Council:

- 1. Approve the Proposed 2021-22 Annual CDBG and HOME Action Plan (Attachment A).
- 2. Authorize the City Manager to submit all documents required to receive the City’s annual Community Development Block Grant (CDBG) and Home Investment Partnerships Act (HOME) entitlement grant funds to the U.S. Department of Housing and Urban Development (HUD).

**HOUSING AUTHORITY MINUTES**

**SPECIAL MEETING OF THE HOUSING AUTHORITY**

**3.E. Minutes for the Housing Authority, were approved.**

**Recommended Action**

Staff recommends that the Housing Authority approve the minutes of the January 26, 2021 meeting.

**MINUTES**

**3.G. Minutes of City Council - Special Meeting - March 30, 2021 5:30 PM, were approved.**

**MINUTES**

**3.H. Minutes of City Council - Regular Meeting - April 13, 2021 5:30 PM, were approved.**

**CITY YARDS**

**3.C. Approval of Third Modification to Design-Build Contract with Hathaway Dinwiddie Construction Company for the City Yards Modernization Project, was presented.**

**Recommended Action**

Staff recommends that the City Council:

- 1. Authorize the City Manager to negotiate and execute a Guaranteed Maximum Price (GMP) third modification to

Design-Build Contract #10371 (CCS) in the amount of \$6,350,000 with Hathaway Dinwiddie Construction Company for design and construction services of the Fire Department Training Facility as part of the City Yards Modernization – Package A Project for the Public Works Department. This would result in a five-year amended agreement with a new total amount not to exceed \$82,223,039; and

- 2. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority.

Councilmember de la Torre pulled this item to ask questions of staff.

Questions asked and answered of staff included: for other Fire departments who will use this facility, will they compensate the city for their use; and, inquiry about the construction company’s contingency percentage and construction management fee and if the company exceeds their costs of improvements, are they obligated to complete the project regardless or do they come back with a change order.

Motion by Councilmember de la Torre, seconded by Councilmember Parra, to approve the recommended action. The motion was approved by the following:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**HOUSING AUTHORITY**

**3.F. Adoption of Fiscal Year 2021-2022 Santa Monica Public Housing Authority Annual and Administrative Plans**, was presented.

**Recommended Action**

Staff recommends that the Housing Authority Board:

- 1. Adopt the FY 2021-22 Santa Monica Housing Authority Annual Plan, provided as Attachment A
- 2. Adopt the FY 2021-22 Santa Monica Housing Authority Administrative Plan, provided as Attachment B
- 3. Authorize the submission of the FY 2021-22 Annual Plan to the United States Department of Housing and Urban Development
- 4. Authorize the submission of the FY 2021-22 Administrative Plan to the United States Department of Housing and Urban Development.

Authority member Brock pulled this item to ask questions of staff.

Questions asked and answered of staff included: has the city violated the law by not having a Section 8 representative sit with the Council as they make Housing Authority decisions and by not having a resident advisory board for Section 8 tenants; are the Housing Authority bylaws up to date; is the Housing Authority an autonomous division or is it part of the Housing Division; are there ways for residents to contact the resident advisory board members; can the Housing Authority seek assistance from HUD to make homeownership voucher programs available in Santa Monica, and clarification on why the plan was submitted to HUD the way it was, and is that how it's normally done.

Motion by Commissioner Brock, seconded by Councilmember de la Torre, to approve the recommendation. The motion was approved by the following:

- AYES: Commissioners Parra, Davis, McKeown, Brock, de la Torre, Vice Chair McCowan, Chair Himmelrich
- NOES: None
- ABSENT: None

**ADJOURNMENT OF SPECIAL JOINT MEETING**

On order of the Chair/Mayor, the special joint meeting with the Housing Authority was recessed at 7:34 p.m., and the regular meeting of the City Council was reconvened, with all members present.

**CONTINUED ITEMS:  
PUBLIC SAFETY REFORM AND OVERSIGHT COMMITTEE**

**5.A. Appointments to the Public Safety Reform and Oversight Committee, was presented.**

Questions asked and answered of staff included, how are the appointment terms are determined, and if Council was aware that the appointment terms would be determined by lot.

The Interim City Attorney clarified that all appointments are to be made by lot, and that the committee would pull by lot to determine each person's term for office.

Members of the public Scott Wolfe, Burch Champagne, Kimberly Miles Lawson, Meredith Coons, Derek Devermont, Robbie Jones, Erika Leslie and Phillip Bracko spoke on the recommended action.

**The two Youth seats (18 – 22 non-voting member)**

On order of the Mayor, the floor was opened for nominations the two Youth seats (18 – 22 non-voting member).

Mayor Himmelrich nominated Samantha Mota  
Councilmember Brock nominated Miranda McLaughlin Basseri

There being no other nominations, Miranda McLaughlin-Basseri and Samantha Mota were appointed to the Public Safety Reform and Oversight Committee for the two Youth seats by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock,  
de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

The City Clerk opened the first round of votes and asked each Councilmember to give the names of their nine choices for the committee seats.

George Brown, George Centeno, Derek Devermont, Craig Miller, Greg Morena, Lana Negrete, and Angela Scott were appointed to seven of the nine seats on the Public Safety Reform Committee by the following votes:

Councilmember Parra nominated: Craig Miller, Lana Negrete, Derek Devermont, Elizabeth Brown, Luis Ramirez, Manju Raman, Jason Feldman, Greg Morena, George Centeno

Councilmember Davis nominated: George Brown, George Centeno, Jaime Cruz, Derek Devermont, Greg Morena, Marc Morgenstern, Lana Negrete, Angela Scott and Michael Shotton

Councilmember McKeown nominated: George Brown, George Centeno, Joel Koury, Rebecca Landry, Greg Morena, Marc Morgenstern, Angela Scott, Michael Shotton and Michele Wittig

Mayor Pro Tem McCowan nominated: Elizabeth Brown, George Brown, George Centeno, Greg Morena, Marc Morgenstern, Lana Negrete, Angela Scott, Paul Song and Michelle Wittig

Councilmember Brock nominated: Craig Miller, Derek Devermont, Jason Feldman, Houman Hemmati, Lana Negrete, Greg Morena, George Centeno, Manju Raman and Joe Palazzolo

Councilmember de la Torre nominated: George Centeno, Jaime Cruz, Jason Feldman, Houman Hemmati, Craig Miller, Greg Morena, Manju Raman, Luis Ramirez and Angela Scott

Mayor Himmelrich nominated: Elizabeth Brown, George Brown, George Centeno, Derek Devermont, Craig Miller, Lana Negrete, Angela Scott and Paul Song

The City Clerk opened the second round of votes and asked each Councilmember to give names for their two choices for committee seats.

Manju Raman was appointed to 1 of the 9 seats on the Public Safety Reform and Oversight Committee by the following votes:

Councilmember Parra nominated: Elizabeth Brown and Manju Raman

Councilmember Davis nominated: Jaime Cruz and Marc Morgenstern

Councilmember McKeown nominated: Marc Morgenstern and Michele Wittig

Mayor Pro Tem McCowan nominated: Paul Song and Michele Wittig

Councilmember Brock nominated: Manju Raman and Houman Hemmati

Councilmember de la Torre nominated: Manju Raman and Jaime Cruz

Mayor Himmelrich nominated: Manju Raman and Elizabeth Brown

The City Clerk opened the third round of votes and asked each Councilmember to give a name for their choice for the final committee seat.

Jaime Cruz was appointed to 1 of the 9 seats on the Public Safety Reform and Oversight Committee by the following votes:

Councilmember de la Torre nominated: Jaime Cruz

Councilmember Brock nominated: Jaime Cruz

Mayor Pro Tem McCowan nominated: Jaime Cruz

Councilmember McKeown nominated: Marc Morgenstern

Councilmember Davis nominated: Jaime Cruz

Councilmember Parra nominated: Jaime Cruz

Mayor Himmelrich nominated: Elizabeth Brown

Mayor Himmelrich changed her vote to Jaime Cruz.

**ORDINANCES:**  
**SIGNAGE**

**7.A. Second Reading And Adoption Of Ordinance No. 2669 (CCS) entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA MAKING MINOR CHANGES, CORRECTIONS AND CLARIFICATIONS TO SANTA MONICA MUNICIPAL CODE SECTIONS 9.61.20, 9.61.150, AND 9.61.200 RELATED TO ADMINISTRATIVE APPROVAL, EXEMPT SIGNS, AND SIGNS FOR ESTABLISHMENTS WITH FRONTAGE ALONG THE THIRD STREET PROMENADE”,** was presented.

**Recommended Action**

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Councilmember Davis, seconded by Mayor Himmelrich, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**ZERO EMISSION  
DELIVERY ZONE  
PROGRAM**

**7.B. Introduction and Adoption of an Ordinance Amending the Remotely Controlled Delivery Device Ordinance to allow remotely controlled devices participating in the Zero Emission Delivery Zone program to serve businesses citywide,** was presented.

**Recommended Action**

Staff recommends that the City Council introduce and adopt the attached ordinance amending Santa Monica Municipal Code Section 3.12.1055 to allow remotely controlled devices participating in the Zero Emission Delivery Zone (ZEDZ) program to operate citywide.

Members of the public Logan, Hunter Hall, Timothy Mosamba and Zach Rush spoke to the recommendation.

Questions asked and answered of staff included: have there been any incidents with these delivery devices; where are the cameras on these devices, what are the protocols for using the cameras; and, what happens to the data from the cameras.

Considerable discussion ensued on topics including, but not limited to, concern that many delivery drivers may lose their jobs, and hopes that the vendor would do their best to hire any newly displaced delivery drivers.

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to introduce on first reading of the ordinance reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None  
ABSTAIN: Councilmember de la Torre

**BOARDS/COMMISSIONS/  
TASK FORCES REVIEW**

**8.B. Comprehensive Review of Boards, Commissions and Task Forces**, was presented.

**Recommended Action**

Staff recommends that the City Council:

- 1) Review and discuss recommendations from the Community Working Group (“CWG”) and the City Clerk, as a result of a comprehensive review of all boards, commissions and task forces, and direct staff to return with resolution(s) implementing adopted recommendations for general policies and procedures governing boards, commissions and task forces to become effective July 1, 2021;
- 2) Provide direction on additional CWG recommendations around board and commission consolidation and reclassification, budgets, definitions, and appointment methodology;
- 3) Direct staff to return with an ordinance converting the Environmental Task Force into a permanent commission named the Commission on Sustainability and the Environment, with the same term limits as other boards and commissions, as recommended by the CWG; and,
- 4) Approve a policy permitting boards and commissions to meet quarterly for the remainder of calendar year 2021 or until the end of fiscal year 2022.

Members of the public Joe Schmitz, Homa Mojtabai, Olga Zurawska, Alex Elliot, Denise Barton, Lori Brown, Erica Leslie, Zina Josephs, Nancy Coleman, Michael Soloff and Ann Thallawalla, spoke to the recommended action.

Questions asked and answered of staff included: what is the best way

to integrate a robust outreach strategy and find ways to inspire people to get involved; may we have requirements based on gender; is the primary motivation the idea that it takes too much staff time to service boards and commissions; why are the budgets not consistent for each board and commission; can we have a Youth Authority instead of appointing a youth to each body; is there a way to remove the residency requirements for Board and Commission members; has there been a study of the boards and commissions that have the initiatives brought to Council; are there any concerns that consolidation would diminish civic engagement; is there a way to find out which are effective vs. ineffective Boards or Commissions; and, which boards and commissions are allowed to meet more than quarterly.

Considerable discussion ensued on topics including, but not limited to: Brown Act concerns regarding the Disabilities Commission being combined into a larger commission; budgeted expenditures apart from the Pier Board; lack of standardization; more details on allocations and their source, and look at a way to incorporate youth leadership development.

Motion by Councilmember Davis, seconded by Councilmember Brock, to: 1. require every city board, commission and task force to have consistent bylaws established by resolution which includes officers who should rotate and serve one or two-year terms as chair in order to promote diversity and provide leadership opportunities to more people in the community; 2. election of officers should take place in July after the annual appointments; 3. the year-end appointments in December should be moved to June to align with the annual appointments; 4. a rule should be added that all bodies produce an annual Boards and Commissions work plan to set priorities for the year which should align with the department's plan; 5. required trainings for the year should happen immediately after the appointments in July; 6 all boards, commissions and task forces should adopt the same order of business on their agendas but if a rule does not apply to a board, commission or task force it should be noted on the agenda; 7. attendance requirements should be included in the bylaws and they should be consistent and clarified by the rules for what is considered an excused and unexcused absence; 8. the latest start time for any meeting should be 7 PM; 9. accommodation language should be included in the bylaws template after consultation with the Disabilities Commission; 10. all existing boards, commissions and task forces should review their current bylaws, remove outdated information and/or procedures and utilize the bylaws template to be consistent with the City Council format.



Interim City Attorney George Cardona proposed a friendly amendment to allow three months for Board and Commission members to complete the required training.

The amendment was considered friendly to the maker and seconder.

Mayor Pro Tem McCowan proposed a friendly amendment to add the language, 'except in extraordinary circumstances', in regard to the 7:00 PM start time.

The amendment was considered friendly to the maker and seconder.

Councilmember de la Torre proposed a friendly amendment to require an annual one-page evaluation for each Board and Commission be presented to Council.

The amendment was considered friendly to the maker and seconder.

The motion, with amendments was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis,  
Parra, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember McKeown, seconded by Councilmember de la Torre, to have term limits for the Task Force on the Environment and convert it to a permanent commission called the Commission on Sustainability and the Environment.

Councilmember de la Torre proposed a friendly amendment to include in the ordinance the goal of achieving environmental justice.

The amendment was considered friendly to the maker.

The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock,  
de la Torre, Mayor Pro Tem McCowan,  
Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Brock, seconded by Councilmember de la Torre, to approve the unexcused absences recommendation.

Interim City Attorney George Cardona proposed a friendly amendment to make term limits Commission on Sustainability and the Environment members the same as other Boards and Commissions.

The amendment was considered friendly to the maker and the seconder.

The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra  
NOES: Mayor Pro Tem McCowan, Mayor Himmelrich  
ABSENT: None

Motion by Councilmember Davis, seconded by Mayor Himmelrich, to explore all means to enhance diverse representation that reflects the Santa Monica community that includes: increase the use of social media to reach and encourage community members to get involved; consider involvement at fairs or booths at festivals, such as COAST; consider community-based meetings that give residents more opportunities to have informal conversations about community concerns; and, that specific outreach to younger members of the community age 18 through 29 to sit on boards and commissions.

Councilmember de la Torre proposed a friendly amendment to include cultural events, and that the youth should have equal voting rights.

The amendment was friendly to the maker and the seconder.

Mayor Pro Tem McCowan proposed a friendly amendment to modify the residency requirements for youth members.

The amendment was not considered friendly to the maker.

The motion, with amendments was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Davis, seconded by Councilmember McKeown, to allow members to serve two consecutive terms and request a third term from City Council however members who term out must wait one year before applying to another Board or

Commission; that staff liaisons are expected to do administrative work for Boards and Commissions and not intensive research, staff research should be limited to information the department uniquely has access to and should align with the department’s work plan; budgets for Boards and Commissions should be part of the department budgets; every five years there should be a comprehensive review of all advisory bodies; every five years there should be a consideration of updating Board and Commission applications; consider training sessions on running meetings, participating during meetings, parliamentary procedure and other trainings including but not limited to implicit bias training; allow Boards and Commissions to continue meeting quarterly and maintain self-sufficiency with minimal departmental staff support through the end of calendar year 2021, exceptions include Boards and Commissions enumerated in the Charter, Boards and Commissions with adequate staff and quasi-judicial, decision-making Board and Commissions including the Housing Commission.

The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan
- NOES: None
- ABSENT: None
- ABSTAIN: Mayor Himmelrich

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to direct staff to investigate the legality of Council liaisons to Boards and Commissioners. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**STAFF ADMINISTRATIVE**  
**ITEMS:**  
**LEGISLATIVE PLATFORM**

**8.A. Approval of Annual Legislative Platform, was presented.**

**Recommended Action**

Staff recommends that the City Council approve the attached 2021 State and Federal Legislative Agendas, which detail both the City’s historic legislative priorities and emerging concerns, aligned with the Council’s adopted community and budget priorities for FY 2021-2023.

Member of the public Jonathan Foster, spoke to the recommended action.

Questions asked and answered of staff included: would we be able to move back up to full scope of representation in Sacramento, now that the budget is improving slightly; and, with the new Administration, how specific do we have to be to take advantage of Federal opportunities; what is the amount of the state lobbyist contract; how are we going to lobby for sustainable issues, when it is not considered one of our top three priorities; how are we reconciling lobbying conflicting tenant/housing legislation; would there be a conflict of interest to support the California Voters Right Act, even though the city is involved in current litigation; and, if we give the lobbyist a mass amount of issues to address, are we diluting their efforts.

Considerable discussion ensued on topics including, but not limited to add economic justice, concerned about having conflicting interest that might affect affordable housing goals; expand on economic empowerment, Entrepreneurship and Environmental justice issues; access to education; substance abuse and rehabilitation; support for essential workers; and, youth services.

Motion by Councilmember de la Torre to give direction to staff to include Environmental Justice, especially mitigation for pollution coming from freeways, especially methane, under Racial Justice. The motion was removed because these issues are already covered under recommendations from staff.

Motion by McKeown, seconded by Councilmember Brock, to adopt the staff recommendation. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: Councilmember Davis  
ABSENT: None

Councilmember Davis stated for the record her reason for her no vote is because she sees as inherently contradictory positions regarding housing and equity particularly with regard to the issue of local control versus the attempt to build more affordable housing and more diverse housing in historically exclusive neighborhoods.

**COUNCILMEMBER**  
**DISCUSSION ITEMS:**  
**SOCIAL SERVICES**  
**COMMISSION**

**13.A. Recommendation to accept Elaine Barringer's resignation from the Social Services Commission and authorize the City Clerk to publish the vacancy, was presented.**

Motion by Councilmember McKeown, seconded by Mayor Himmelrich, to accept the resignation with regret.

The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock,  
de la Torre, Mayor Pro Tem McCowan,  
Mayor Himmelrich

NOES: None

ABSENT: None

**REED PARK**

**13.B. Councilmember Brock and Mayor Himmelrich request that the appropriate departmental staff explore the possibility of converting a portion of Reed Park into a neighborhood off-leash dog park and report back to the council for budget consideration on the feasibility and cost of this proposal, was presented.**

Question asked and answered of staff included, are there any other Park Planners on staff.

Members of the public Jon Katz and Jonathan Foster, spoke on the recommended action.

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to adopt the recommendation.

Councilmember McKeown proposed a friendly amendment to broaden exploring and report back not just on the budgeted consideration, feasibility and cost, but the impact on neighbors, current users of the park, and how this fits in with our policies, successes and failures dealing with the homeless. The motion was considered friendly by the maker and seconder.

Councilmember Davis proposed a friendly amendment to add and explore if there might be other areas to consider a dog park. The motion was considered friendly to maker and seconder.

The motion, with amendments was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis,  
Parra, Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**MAIN STREET PILOT PROGRAM**

**13.C. Request of Councilmembers Parra and Davis that, as part of its economic recovery efforts, Council direct staff to consider the proposals of the Main Street Business Improvement Association and the Park Association and return to Council with a plan to implement a pilot program for temporary summer**

**weekend closure(s) of all or part of Main Street to automobiles and bus traffic, as well as to assess the pilot’s traffic impacts on surrounding neighborhoods, was presented.**

Questions asked and answered of staff included: has there been any consideration to residents who are inconvenienced and don’t participate; who’s paying the cost to have the streets closed; and, will it cause other surrounding businesses to lose money.

Members of the public Hunter Hall, Roger Genser, Daniel Londono, and Carl Hansen spoke on the recommended action.

Motion by Councilmember Davis, seconded by Councilmember Parra, to adopt the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**PUBLIC INPUT:**

Members of the public Theresa Morosco, Jonathan Foster, and Denise Barton commented on various local issues.

**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 12:42 a.m. in memory of Frances Beeler and Margo Verge.

ATTEST:

DocuSigned by:  
  
 E2F85B05BA714C3...  
 Denise Anderson-Warren  
 City Clerk

APPROVED:

DocuSigned by:  
  
 823148D999FF4F3...  
 Sue Himmelrich  
 Mayor

# Exhibit H

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**MAY 11, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:30 p.m., on Tuesday, May 11, 2021, via teleconference pursuant to the Governor's Executive Order N-29-20 at <https://primetime.bluejeans.com/a2m/live-event/eawbaucd>

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre  
Councilmember Kevin McKeown  
Councilmember Christine Parra

Also Present: Interim City Manager Lane Dilg  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**ANNOUNCEMENT**

Mayor Himmelrich announced that Items 1.D., 1.E., 1.F. and 3.C. were removed from the agenda by staff, prior to the 72-hour posting of the agenda.

**CLOSED SESSIONS**

There was no public comment on closed sessions.

Councilmember de la Torre announced that he will be recusing himself from Item 1.G. for the reasons he previously stated at the April 13<sup>th</sup> and April 27<sup>th</sup> Council meetings.

On order of the Mayor, the City Council recessed at 5:34 p.m., to consider closed sessions and returned at 7:07 p.m., with all members present, to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Santa Monica Coalition for a Livable City v. City of Santa Monica, et al., Los Angeles Superior Court, Case No. 20STCP03106.**

The Interim City Attorney advised that this litigation relates to the SMCLC's claims that the City's decision in July 2020 to proceed with



negotiations with the developers of a proposed project on parcels located at 4th and 5th and Arizona in Santa Monica violated the Surplus Lands Act. The City does not admit the allegations in SMCLC's lawsuit and does not agree with the merits of SMCLC's claims, which were rendered moot by the Council's December 15, 2021 decision to terminate negotiations with the developers. SMCLC has dismissed its complaint but has filed a motion seeking attorneys' fees. The City does not admit to the allegations nor agree with the merits of SMCLC's motion for attorneys' fees, but to avoid the expense and burden of further litigation, the City Attorney's Office recommended settlement in the amount of \$115,000.

Motion by Mayor Himmelrich, seconded by Mayor Pro Tem McCowan, to approve Settlement Agreement No. 11152 (CCS), in the amount of \$115,000. The motion was approved by the following vote:

AYES: Councilmembers Brock, McKeown, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: Councilmember de la Torre  
ABSENT: None

**1.B. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Government Code  
Section 54956.9(d)(1): Jones-Thomas v. City of Santa Monica, Los  
Angeles Superior Court, Case No. BC691476.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.C. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Government Code  
Section 54956.9(d)(1): Richard v. City of Santa Monica, Los Angeles  
Superior Court, Case No. 19STCV22178.**

The Interim City Attorney advised that the plaintiff, now deceased, alleged that he suffered severe spinal injuries and partial paralysis when he fell from his seat on a Big Blue Bus on October 17, 2018, and that the fall was the result of the bus making a right turn at too high a speed. The City does not admit the allegations, but to avoid the expense and burden of further litigation, the City Attorney's Offices recommended settlement in the amount of \$125,000.

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to approve Settlement Agreement No. 11153 (CCS), in the amount of \$125,000. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre,

Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**1.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): Unfair Practice Charge, Administrative Team Associates v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1495-M; Unfair Practice Charge, Administrative Team Associates v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1507-M.**

This item was removed at the request of staff.

**1.E. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1); Unfair Practice Charge, Santa Monica Firefighters Local 1109 IAFF v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1514-M.**

This item was removed at the request of staff.

**1.F. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1); Unfair Practice Charge, Municipal Employees Association v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1510-M.**

This item was removed at the request of staff.

*Councilmember de la Torre  
was excused at 6:25 p.m.*

**1.G. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): John Doe #1, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV36226; John Doe #1 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV39505; John UA Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV43543; John AI Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV44059; John Doe #7, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV46215; John PS Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV48207; John FM Doe, et al. v. Roe #1, Roe #2, et al., Los Angeles Superior Court, Case No. 20STCV49643; John UN Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior**

**Court, Case No. 21STCV00968; John OQ Doe, et al. v. Santa Monica PAL, City of Santa Monica, et al., Los Angeles Superior Court, Case No. 21STCV04365; John Doe #17 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV07070; John Doe #18 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV08464.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA ITEMS:**

*Councilmember de la Torre returned at 7:03 p.m.*

**2.A. Proclamation: Asian American and Pacific Islander Heritage Month**, was presented by the Mayor.

**2.B. Proclamation designating May 16 – 23, 2021 as National Public Works Week**, was presented by the Mayor.

**CONSENT CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

There was no public comment on the various Consent Calendar items.

At the request of Councilmember de la Torre, Item 3.F. was removed from the Consent Calendar.

Motion by Councilmember McKeown, seconded by Councilmember Brock, to approve the Consent Calendar except for Items 3.C. and 3.F., reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**OLYMPIC WELL FIELD**

**3.A. Award Request for Proposal #286 and Enter into Agreement No. 11154 (CCS) with ICF International for Olympic Well Field Groundwater Monitoring Professional Services**, was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP# 286 to ICF International to perform regulatory mandated groundwater monitoring and studies related to groundwater management in the Olympic Well Field and for adaptive management of the City’s groundwater resources to help achieve the City’s water self-sufficiency goals for the Public Works Department; and

- 2. Authorize the City Manager to negotiate and execute an agreement with ICF International in an amount not to exceed \$1,675,130 for three years, with two additional one-year renewal options in a total amount not to exceed \$1,329,952 for the two years, on the same terms and conditions, for a total amount not to exceed \$3,005,082 over a five-year period.

**CLEAN ENERGY**

**3.B. Award Bid #4404 and Enter into Agreement No. 11155 (CCS) with Clean Energy Fuels Corporation for Purchase of Renewable Liquid Natural Gas, was approved.**

**Recommended Action**

Staff recommends that the City Council:

- 1. Award Bid #4404 to Clean Energy Corporation to provide Renewable Natural Gas fuel for the Santa Monica Department of Transportation.
- 2. Authorize the City Manager to negotiate and execute an agreement with Clean Energy Fuels Corporation, in an amount not to exceed \$5,871,932 over a five-year period, which includes a 15% contingency and a 2.5% annual cost escalator, with future year funding contingent on Council budget approval.

**MORTUARY SERVICES**

**3.C. Award Sole Source Contract to Beacon Mortuary for Embalming, Cremation, Decedent Care, and Transportation Services, was removed at the request of staff.**

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute an agreement with Beacon Mortuary for embalming, cremation, decedent care, transportation of decedents, and funeral service assistance for the Public Works Department. This recommended award is made as an exception to the competitive bidding process pursuant to Santa Monica Municipal Code Section 2.24.250(d) and is for a total amount not to exceed \$350,000 with future year funding contingent on Council budget approval.

**1121 22<sup>ND</sup> STREET**

**3.D. Adoption of Resolution No. 11329 (CCS) entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ACCEPTING AND APPROVING THE FINAL PARCEL MAP FOR PARCEL NO. 73727 TO SUBDIVIDE A PROPERTY AT 1121 22nd STREET", was adopted.**

**Recommended Action**

Staff recommends that the City Council adopt the attached resolution accepting and approving Final Parcel Map No. 73727 for a three-unit condominium project at 1121 22nd Street.

**CYBERSECURITY**

**3.E. Award Professional Services Agreement No. 11156 (CCS) to RSI Systems Inc. for Cyber-Security Resource, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Award Cybersecurity Resource RFP to RSI Systems Inc., to assist with the continued development of a robust cybersecurity program to properly safeguard City assets.
2. Authorize the City Manager to negotiate and execute an agreement with RSI Systems, in an amount not to exceed \$525,000 over a three-year period, with future year funding contingent on Council budget approval and additional grant funding.
3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**MINUTES**

**3.G. Minutes for the City Council - Regular and Special Meeting - Apr 27, 2021 5:30 PM, were approved.**

**HOMELAND SECURITY**

**3.F. Authorization to accept the 2020 Urban Area Security Initiative (UASI) Grant Funds for Homeland Security Projects and enter into a Subrecipient agreement with the City of Los Angeles, was presented.**

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the City Manager to accept a grant awarded in the amount of \$2,164,108.00 from the 2020 Urban Area Security Initiative (UASI) for homeland security projects in the Police, Fire, and Information Services Departments, and to accept all grant renewals.
2. Authorize the City Manager to execute all necessary documents to accept the grant and all grant renewals.
3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

This item was pulled by Councilmember de la Torre to ask questions of staff.

Questions asked and answered of staff included: who owns the data that is pulled and how is it used; how long is the data retained, and is that period of time justifiable to complete investigations; and, what is this product and how is it used.

Motion by Councilmember de la Torre, seconded by Councilmember Brock, to approve the recommended action.

The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**ORDINANCES:**  
**REMOTE CONTROL**  
**DELIVERY DEVICES**

**7.A. Second Reading And Adoption Of Ordinance No. 2672 (CCS)**  
**Of entitled** “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 3.12.1055 TO ALLOW THE CITYWIDE OPERATION OF REMOTE-CONTROLLED DELIVERY DEVICES BY OPERATORS PARTICIPATING IN THE ZERO EMISSIONS DELIVERY ZONE PILOT PROGRAM”, was presented.

**Recommended Action**

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Councilmember Davis, seconded by Mayor Himmelrich, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**STAFF**  
**ADMINISTRATIVE**  
**ITEMS:**  
**AFTER ACTION REPORT**

**8.A. OIR Group Independent After-Action Report and Evaluation Regarding Events Leading To, During, and Following May 31, 2020,** was presented.

**Recommended Actions**

Staff recommends that the City Council:

- (1) Receive OIR Group’s Independent After-Action Report and Evaluation Regarding the Events Leading To, During, and Following May 31, 2020 (the “Report”);
- (2) Direct the Santa Monica Police Department (“SMPD”) to prepare a response to the Report indicating the degree to which SMPD accepts each of the recommendations made and setting out a plan for implementation; and
- (3) Direct staff to develop a plan, including oversight by the Public Safety Reform and Oversight Commission, for independent evaluation and public reporting on the status of SMPD’s implementation of the recommendations.

Members of the public Jan Ludwinski, Denise Barton, John Medlin, Joann

Berlin, Clay Claiborne, and, Isabel Story spoke to the recommended action.

Questions asked and answered of staff included: is it unusual to find out that so many body worn cameras were not activated; was there any pattern to the cameras that weren't turned on, were they more at the protest or the looters; is there any sense in Santa Monica that body worn cameras are only worn 50% of the time, or was something unusual on that particular day; why weren't there 100 additional officers instead of the 20, and how did that decision get made; were there any conversations about the fact that there wasn't a second drone available, when the first drone was not working to report live feed to dispatch; nobody reviewed the body cams until a month ago; was there accountability by SMPD for the officers who never turned on their body cams or used excessive force that day over the past 11 months; was SMPD going to deliver an after-action report without viewing the body cam video back in July or August; provide any insight as to the reasoning the Police did not address the significant looting and rioting happening in the city; the Police Captains who remain, were they retrained, do they understand their responsibility to respond differently if there was a next time; what can our Police department and our city do in those 44 recommendations to build the trust in the community; blame for the lack of an initial after-action report lies solely with whom; who knew what and when, because there was allegations that the Council was directing PD; was there anything beyond the Chief of Police emailing the Council to say that she was handling everything; is there any explanation to help understand the challenges for resources and training, or was it just poor planning; what was the exact number of officers we provided for mutual aid for surrounding municipalities; based on experiences with other departments, are there mutual aid opportunities inside of dispatch; is our EOC sufficient for a city of our size; was there any evidence that the City Manager was involved in making budget decisions to only authorize 20 additional officers; the two Captains that were sent to meet with protestors, how was that decision made, and what was the reasoning behind that decision; what was the report back from the Police Officers who were sent to Beverly Hills on Saturday, and was there any report back and communications on what they experienced; is there any understanding on why there was such an exodus of high Police Officials in the first few months of hiring the Police Chief; what type of accountability is recommended for those officers who did not turn on their body cameras; why are there no names listed in the report; with respect to the many issues identified, can this be considered rookie mistakes, was there a lack of preparedness on the executive level of the Police in knowing how to deal with any incidence like this; what do we need to look for in a new Police Chief; was this also a result of lacking a succession plan; do you think the looting was preventable; should the Council be integrated into the planning to help with communication for whenever this type of event were to ever occur again; what can we do for the mental health and overall health to help

our Police Officers to improve the morale; is there some sort of program that is designed for Police Officers to help with mental health issues; and, has the RFP for the Inspector General been issued.

Considerable discussion ensued on topics including, but not limited to: coordinating this unprecedented event was difficult doing things virtually; priorities should be broken down into three categories; more transparency is needed with the community when major events are happening in the city; for emergency planning, everything should be geared up, and it's easier to reduce what's not needed; mental health help is primary for law enforcement and surrounding staff; Priorities should include Leadership, Planning and Use of Force; have PD report back within 90 days, how they plan to implement the 44 recommendations; concerns that it's too much to ask the Public Safety Reform Oversight Commission to return in 90 days, given that they aren't having their first meeting until June, as well as they have already been tasked to complete a list of other items to review.

Motion by Councilmember McKeown, seconded by Councilmember Brock, to pass along all 44 of the recommendations, with the priorities being Leadership, Planning and Use of Force; that they be passed along to the Police Department, asking them to come back to the Council in 90 days, reporting how they plan to implement the 44 recommendations; pass them on to the Commission, asking them to look at the 44 and help Council decide what more might need to be done, to report back to Council in 90 days with their recommendations.

Mayor Himmelrich proposed a friendly amendment to add to the priorities Mental Health for the Police Officers. The motion was considered friendly to the maker and the seconder.

Interim City Attorney Cardona restated the motion, with the amendment:

- 1) Receive OIR Group's Independent After-Action Report and Evaluation Regarding the Events Leading To, During, and Following May 31, 2020 (the "Report");
- 2) to direct the Santa Monica Police Department ("SMPD") within 90 days to prepare a response to the Report, setting out a plan for implementation of the Report's recommendations, with priorities being leadership, planning, use of force, and mental wellbeing of police officers; and
- 3) Direct the Public Safety Reform and Oversight Commission (PSROC) within 90 days to review the report consolidating consideration of other policing issues and setting out additional recommendations for consideration by Council.
- 4) to direct staff to develop a plan, based on the reports from SMPD and PSROC, including oversight by the Public Safety Reform and Oversight Commission, for prioritization independent evaluation and public reporting



on the status of SMPD's implementation of the recommendations. The maker and seconder accepted the motion read by the Interim City Attorney.

There were concerns from some Councilmembers about the 90-day timeline being too short, and to maybe consider 120 days instead.

Councilmember McKeown proposed amending the motion to have the Police Department come back in 60 days with an Information item and have the PSFOC report back with a workplan based on the recommendations, within no more than 90 days. The motion was considered friendly by the seconder.

The Interim City Attorney read the final motion, with amendments as follows:

- (1) Receive OIR Group's Independent After-Action Report and Evaluation Regarding the Events Leading To, During, and Following May 31, 2020 (the "Report");
- (2) Direct the Santa Monica Police Department ("SMPD") within 60 days to prepare a response to the Report, in the form of an information item, setting out a plan for implementation of the Report's recommendations, with priorities being leadership, planning, use of force, and mental wellbeing of police officers; and
- (3) Direct the Public Safety Reform and Oversight Commission within 60 days after the issuance of the information item to review the information item and prepare a work plan for consolidating their consideration of other policing issues and setting out additional recommendations for consideration by Council; and,
- (4) Direct staff, working with the Public Safety Reform and Oversight Commission, to develop a plan, including oversight by the Public Safety Reform and Oversight Commission, for prioritization, independent evaluation, and public reporting on the status of SMPD's implementation of the recommendations.

The motion with the amendments were approved by the following vote:

AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember McKeown, seconded by Mayor Himmelrich, to Direct staff to ensure that body-cam use is enforced; and, direct staff to organize outdoor city-wide event for national night out for community to celebrate coming back together and recognize good work done by police.

The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**AGENDA MANAGEMENT**

Motion by Mayor Himmelrich, seconded by Councilmember McKeown, to hear items 13.A – 13.D. together, as they are all accepting resignations from boards and commissions. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**COUNCILMEMBER DISCUSSION ITEMS:**  
**ARTS**

**13.A. Recommendation to accept Angela Scott's resignation from the Arts Commission and authorize the City Clerk to publish the vacancy, was presented.**

There was no public comment on this item.

Motion by Mayor Himmelrich, seconded by Councilmember McKeown, to accept the resignation with regret. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**DISABILITIES COMMISSION**

**13.B. Recommendation to accept Marielle Kriesel's resignation from the Disabilities Commission and authorize the City Clerk's office to publish the vacancy, was presented.**

There was no public comment on this item.

Motion by Mayor Himmelrich, seconded by Councilmember McKeown, to accept the resignation with regret. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**SOCIAL SERVICES**

**13.C. Recommendation to accept Derek Devermont's resignation**

**COMMISSION**

**from the Social Services Commission and authorize the City Clerk to publish the vacancy, was presented.**

There was no public comment on this item.

Mayor Himmelrich, seconded by Councilmember McKeown, to accept the resignation with regret. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**COMMISSION ON THE STATUS OF WOMEN**

**13.D. Recommendation to accept Kelsey O'Hara's resignation from the Commission on the Status of Women and authorize the City Clerk to publish the vacancy, was presented.**

There was no public comment on this item.

Mayor Himmelrich, seconded by Councilmember McKeown, to accept the resignation with regret. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**BOARDS AND COMMISSIONS**

**13.E. Request of Mayor Himmelrich and Councilmember Brock that the City Council form an ad hoc committee of 3 council members to study and make recommendations to the City Council concerning the boards and commissions structure, including but not limited to: commission consolidation and reclassification, methods of appointment, council liaisons, and staffing of commissions, was presented.**

Member of the public Denise Barton and Dolores Sloan spoke on the recommended action.

Motion by Mayor Himmelrich, seconded by Councilmember McKeown, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, McKeown, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

The Mayor opened the floor for nominations.

Councilmembers Brock, Davis and Mayor Pro Tem McCowan were nominated.

Motion by Mayor Himmelrich, seconded by Councilmember Davis, to appoint Councilmembers Brock, Davis, and Mayor Pro Tem McCowan to serve as the members of the ad hoc. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, McKeown, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**CITY HALL MURAL**

**13.F. Request of Councilmembers de la Torre, Parra and Brock that, as part of the City’s efforts to eliminate and mitigate the vestiges of white supremacy and racial injustice in the City of Santa Monica, the City Council direct staff to address community concerns related to the display of the 1930s Stanton McDonald Wright mural at the entrance to Santa Monica City Hall. Specifically, the request is that Council direct staff as follows: In the short term, the City will install a temporary artistic scrim (light woven or screen material) cover over the mural to begin recontextualizing the mural prior to July 13th, when the public is expected to return for Council meetings in City Hall. In the long-term, the City will, taking into account prior plans set forth by the Arts Commission and Cultural Affairs, initiate a community engagement and education process around the representations depicted in the mural. This process will include engaging an artist to recontextualize the mural with artwork that does not whitewash our past but rather celebrates the diverse history of Santa Monica’s people, culture and its renewed commitment to acknowledging the movement for equity, justice and respect for all, was presented.**

Members of the public Denise Barton and Jeremy Gonzales spoke on the recommended action.

Questions asked and answered included: this isn’t about removing the mural; thoughts about contextualizing the mural, instead of covering it up; how much is it going to cost to cover up a portion of the mural; and is this about covering up the mural on the north wall or both murals.

Motion by Councilmember de la Torre, seconded by Councilmember

Brock, to approve the recommendation.

Mayor Himmelrich proposed a friendly amendment to put mesh up until the context is created. The motion was not considered friendly by the maker.

Councilmember Brock proposed a substitute motion to find out what the cost to put up the mesh, but don't put anything on top of the mural, and then start the robust discussion about can it be moved, should it stay, should there be an explanation, and/or what goes on with it. The motion failed for a lack of a second.

Councilmember Brock proposed that the same scrim be placed on the south wall mural as well. The motion was considered friendly by the maker.

The original motion, with the amendment was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmember McKeown
- ABSENT: None

Councilmember McKeown stated for the record his no vote was because he believes covering up the mural is the wrong way to start a discussion of how we should look at works of art in Landmarked buildings in 2021. What we're doing here is going down a path of obscuring and forgetting our past, instead of changing the narrative and recontextualizing what's on those walls.

**PUBLIC INPUT:**

There was no public commented on various local issues.

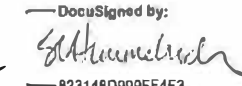
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 12:05a.m.

ATTEST:

APPROVED:

DocuSigned by:  
  
 E2F858058A714C3  
 Denise Anderson-Warren  
 City Clerk

DocuSigned by:  
  
 823148D999FF4F3  
 Sue Himmelrich  
 Mayor

# Exhibit I

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**JUNE 5, 2021**

A special meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 9:30 a.m., on Saturday, June 5, 2021, via teleconference pursuant to the Governor’s Executive Order N-29-20 at <https://primetime.bluejeans.com/a2m/live-event/fdkcssvr>

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre

Absent: Councilmember Kevin McKeown  
Councilmember Christine Parra

Also Present: Interim City Manager Lane Dilg  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**CONVENE** On order of the Mayor, the City Council convened at 9:30 a.m., with all members present except Councilmembers McKeown and Parra.

**CLOSED SESSIONS** There was no public comment on closed sessions.

On order of the Mayor, the City Council recessed at 9:32 a.m., to consider closed sessions and returned at 12:10 p.m., with all members present except Councilmembers McKeown, Parra and de la Torre, to report the following:

**1.A. Public Employee Appointment**  
**Title: City Manager**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.B. Public Employee Appointment**  
**Title: Interim City Manager**

*Councilmember de la Torre was excused at 12:08 p.m.*

The Interim City Attorney advised this matter was heard with no reportable action taken.

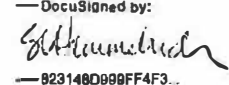
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 12:10 p.m.

ATTEST:

DocuSigned by:  
  
E:2FA5E056A714C3  
Denise Anderson-Warren  
City Clerk

APPROVED:

DocuSigned by:  
  
823148D88FF4F3...  
Sue Himmelrich  
Mayor



# Exhibit J

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**JULY 13, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:31 p.m., on Tuesday, July 13, 2021, via teleconference pursuant to the Governor’s Executive Order N-29-20 at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre  
Councilmember Christine Parra

Absent: Councilmember Lana Negrete

Also Present: Interim City Manager John Jalili  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE** On order of the Mayor, the City Council convened at 5:31 p.m., with all members present except Councilmember Negrete. Councilmember Brock led the assemblage in the Pledge of Allegiance.

**AGENDA MANAGEMENT** Mayor Himmelrich ask Council if they would like to continue the appointments Item 13.A. through 13.J. until July 27<sup>th</sup>, when there is a full Council.

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to continue the appointments until the July 27<sup>th</sup> meeting. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: Councilmember Negrete

**CLOSED SESSIONS** There was no public comment on closed sessions.

On order of the Mayor, the City Council recessed at 5:35 p.m., to consider closed sessions and returned at 6:30 p.m., with all members present, except Councilmember Negrete to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been Initiated Formally Pursuant to Gov. Code Section 54956.9 (d)**

**(1): Alfonso Lara v. City of Santa Monica et al., Los Angeles Superior Court, Case No. BC693323.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.B. Conference with Legal Counsel – Existing Litigation – Litigation has been Initiated Formally Pursuant to Gov. Code Section 54956.9 (d) (1): Carlos Delmar v. City of Santa Monica et al., Los Angeles Superior Court, Case No. BC714119.**

The Interim City Attorney advised this Plaintiff alleges back injuries resulting from a three-vehicle accident involving a Big Blue Bus that occurred when plaintiff made a left turn at the intersection of Pico and La Cienega Boulevards on September 21, 2017 and for which he contends the City is at fault. The City does not admit these allegations, but to avoid the expense and burden of further litigation, the City Attorney’s Office recommended settlement in the amount of \$45,000.

Motion by Councilmember Davis, seconded by Councilmember de la Torre, to approve Settlement No. 11171 (CCS) in the amount of \$45,000. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

**1.C. Conference with Legal Counsel – Existing Litigation – Litigation has been Initiated Formally Pursuant to Gov. Code Section 54956.9 (d) (1): Santa Monica Bayside Owners Association v. City of Santa Monica, California Coastal Commission, Los Angeles Superior Court, Case No. 21SMCP00269.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): John Doe #1, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV36226; John Doe #1 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV39505; John UA Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV43543; John AI Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV44059; John Doe #7, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV46215; John PS Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV48207; John FM Doe, et al. v. Roe #1, Roe #2, et al., Los Angeles**

**Superior Court, Case No. 20STCV49643; John UN Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV00968; John OQ Doe, et al. v. Santa Monica PAL, City of Santa Monica, et al., Los Angeles Superior Court, Case No. 21STCV04365; John Doe #17 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV07070; John Doe #18 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV08464.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**CONSENT  
CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Members of the public Denise Barton, Janet Morris, John Alley and Jeff Harlen commented on various Consent Calendar items.

At the request of Councilmember Brock, Item 3.B. was removed from the Consent Calendar.

Motion by Councilmember Davis, seconded by Councilmember Brock, to approve the Consent Calendar except for Item 3.B, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**COVID-19**

**3.A. Adoption of Resolution No. 11349 (CCS) entitled “AN EMERGENCY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA PURSUANT TO CHAPTER 2.16 OF THE SANTA MONICA MUNICIPAL CODE RATIFYING THE PROCLAMATION OF EXISTENCE OF LOCAL EMERGENCY AND SUPPLEMENTAL PROCLAMATIONS THERETO”, was adopted.**

**Recommended Action**

Staff recommends that Council adopt the proposed resolution ratifying the Executive Order issued by the Director of Emergency Services declaring the existence of a local emergency in the city of Santa Monica and the Supplements to that Order.

**MINUTES**

**3.C. Minutes of the June 29, 2021 City Council Special Meeting, were approved.**

**PARKING  
STRUCTURE #3**

**3.B. Award Bid #2610 and RFP #2610 for the Demolition of Parking Structure #3, was presented.**

**Recommended Action**

Staff recommends that the City Council:

1. Adopt the environmental findings in the July 13, 2021 City staff report.
2. Award Bid #2610 to AMPCO Contracting, Inc., to provide demolition construction services for the Demolition of Parking Structure #3 (PS3) Project for the Public Works Department;
3. Authorize the City Manager to negotiate and execute Contract No. 11172 (CCS) with AMPCO Contracting Inc., in an amount not to exceed \$2,552,566 (including a 15% contingency);
4. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within the contract authority;
5. Award RFP #2610 to Arcadis for construction observation services for the Demolition of Parking Structure #3 Project for the Public Works Department; and
6. Authorize the City Manager to negotiate and execute Contract No. 11173 (CCS) with Arcadis, in an amount not to exceed \$172,800; and
7. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within the contract authority.

Staff read into the record an amendment to add to the recommended action to 6. Authorize the City Manager to negotiate and execute a contract with Arcadis in the amount of \$172,800.

Councilmember Brock pulled this item to receive a staff report and ask questions of staff. Questions asked and answered of staff included: is there a reason the city is pursuing this now since there is no plan for a replacement for this property right now; what was the rough parameters for the RFP for housing that is proposed to be built at this location; was there a seismic study done on this property; which other parking structures have seismic structure issues as well; if we aren't going to close the structure until late 2022, is there a reason we need to vote to demolish it today, can we delay the demolition until say December 31<sup>st</sup> to allow the merchants to benefit during the holidays; and, what is the estimated revenue loss for closing this structure.

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to approve the recommendation, with the amendment. The motion was approved by the following vote:

- AYES: Councilmembers Davis, Parra, Mayor Pro Tem McCowan,  
Mayor Himmelrich
- NOES: None
- ABSTAIN: Councilmembers Brock, de la Torre
- ABSENT: Councilmember Negrete

Councilmembers Brock and de la Torre changed their votes to ayes, making the vote unanimous by Council.

**ORDINANCES:**  
**LIABILITY CLAIMS**

**7.A. Second Reading And Adoption Of Ordinance No. 2675 (CCS), entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE**

SECTION 2.44.050 TO AUTHORIZE THE CITY ATTORNEY AND THE RISK MANAGER TO SETTLE LIABILITY CLAIMS UP TO \$95,000, AUTHORIZE THE RISK MANAGER TO SETTLE WORKER’S COMPENSATION CLAIMS UP TO \$25,000, AND AUTHORIZE THE CITY MANAGER TO APPROVE WORKER’S COMPENSATION CLAIMS IN EXCESS OF \$25,000”, was presented.

**Recommended Action**

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**TASK FORCE ON THE ENVIRONMENT CONVERSION**

**7.B. Introduction and First Reading of an Ordinance adding Chapter 2.67 to the SMMC converting Task Force on the Environment to the Commission on Sustainability and the Environment**, was presented.

**Recommended Action**

Staff recommends that the City Council introduce for first reading an Ordinance adding Chapter 2.67 to the Santa Monica Municipal Code to convert the Task Force on the Environment to the Commission on Sustainability and the Environment.

There was no public comment on this item.

Motion by Councilmember de la Torre, seconded by Councilmember Brock, to introduce and hold first reading of the ordinance reading by title only and waiving further reading thereof.

Councilmember de la Torre proposed an amendment to the name of the new Commission to include Justice and the Environment. The amendment was considered friendly by the seconder.

The motion, with the amendment changing the name to Commission on Sustainability, Environmental Justice and the Environment was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**STAFF**

**8.A. Housing Priority for Historically Displaced Households**, was

**ADMINISTRATIVE**  
**ITEMS:**  
**HOUSING**

presented.

**Recommended Action**

Staff recommends that the City Council approve proposed revisions to the Affordable Housing Production Program Guidelines and the Housing Trust Fund Guidelines to:

1. Establish a pilot program to prioritize households on the City’s affordable housing waitlist who were displaced by the Civic Auditorium or I-10 Freeway projects; and
2. Incorporate changes related to Santa Monica worker priority to broaden diversity in the applicant pool.

Members of the public Denise Barton, Paulina Sahagun, Ericka Leslie, Robbie Jones, and Michael Soloff spoke to the recommended action.

Questions asked and answered of staff included: are there any other areas in the city besides Belmar and areas surrounding the freeway that displaced residence of color; what are the documents required to prove displacement or a history of displacement; people are not being given housing, only affordable housing, correct; the families that would be placed on the waitlist, they would not be taken off because of income; is this being viewed as a first step that after the pilot program, the city will be looking at other areas and means that have had a negative impact on certain people in the community; is there a way to identify families who may be eligible for reparations, but may not qualify for this pilot; as we do research, can businesses be included in the database of those affected by displacement; any idea on what the original outreach effort is going to look like, and who are the other partners involved in getting the word out to those impacted; are we looking at grant opportunities to assist with this project as well; want clarification that this pilot is not a race based project, but more about those who were displaced by these large projects; and, are there lists of those 600 families that were displaced in order for comparison.

Motion by Councilmember Davis, seconded by Councilmember Parra, to adopt the staff recommendation. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: Councilmember Negrete

**PUBLIC HEARINGS:**  
**STREETLIGHT**  
**ASSESSMENT**

**9.A. Public Hearing and Adoption of Resolution No. 11350 (CCS) entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA CONFIRMING THE ASSESSMENT FOR THE STREET LIGHTING IMPROVEMENTS ON 10th STREET WITHIN THE CITY OF SANTA MONICA” and Resolution No. 11351 (CCS) entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA CONFIRMING THE ASSESSMENT FOR THE STREET LIGHTING IMPROVEMENTS ON 25th STREET WITHIN THE CITY OF SANTA MONICA”, was presented.**

**Recommended Action**

Staff recommends that the City Council hold a public hearing, receive public comment, and adopt the attached resolutions confirming assessment costs for the installation of streetlights in the following assessment districts:

1. District "A" – 10th Street between Carlyle Avenue and Marguerita Avenue; and
2. District "B" – 25th Street between Idaho Avenue and Washington Avenue.

There was no public comment on this item.

Questions asked and answered of staff included, how many lights were installed in each district, and why are these lights different from other lights installed around town.

Motion by Mayor Pro Tem McCowan, seconded by Councilmember Brock, to adopt Resolutions Nos. 11350 (CCS) and 11351 (CCS), and the staff recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**REPORT ON MEETING COMPENSATION**

Pursuant to State law, City Clerk Denise Anderson-Warren announced that Council will receive no compensation for meeting as the Public Financing Authority.

**SPECIAL JOINT MEETING**

On order of the Mayor, the City Council convened to a special joint meeting with the Public Financing Authority at 8:26 p.m., with all members present, except Authority member Negrete.

**CITY YARDS MODERNIZATION PROJECT**

**9.B. Adoption of Resolution No. 11352 (CCS), entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A GROUND LEASE, A LEASE AGREEMENT, AN INDENTURE, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE CERTIFICATE IN CONNECTION WITH THE ISSUANCE OF SANTA MONICA PUBLIC FINANCING AUTHORITY LEASE REVENUE BONDS (CITY YARDS PROJECT), SERIES 2021, APPROVING THE ISSUANCE OF SUCH BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$70,000,000, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH BONDS AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS" and Resolution No. 17 (PFA), entitled, "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA MONICA PUBLIC FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF A GROUND LEASE, A LEASE AGREEMENT, AN INDENTURE AND A BOND**



PURCHASE AGREEMENT IN CONNECTION WITH THE ISSUANCE OF SANTA MONICA PUBLIC FINANCING AUTHORITY LEASE REVENUE BONDS (CITY YARDS PROJECT), SERIES 2021, AUTHORIZING THE ISSUANCE OF SUCH BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$70,000,000, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS”, was presented.

**Recommended Actions**

Staff recommends that the City Council:

1. Hold a public hearing, receive public comment, adopt the attached Resolution Authorizing Issuance of Lease Revenue Bonds (City Yards Project) Series 2021 (Attachment A), and approve the related documents required for the Issuance of Lease Revenue Bonds (City Yards Project), Series 2021 (Attachments C, D, E, F, G, and H).

Staff recommends that the Public Financing Authority:

1. Hold a public hearing, receive public comment, adopt the attached Resolution Authorizing Issuance of Lease Revenue Bonds (City Yards Project), Series 2021 (Attachment B), and approve the related documents required for the Issuance of Lease Revenue Bonds (City Yards Project), Series 2021 (Attachments C, D, E, F, G, and H).

There was no public comment on this item.

Motion by Councilmember Brock, seconded by Mayor Pro Tem McCowan, to adopt Resolution No. 11352 (CCS) and the staff recommendation. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

Motion by Authority Member Brock, seconded by Authority Member Davis, to adopt Resolution No. 17 (PFA), and the staff recommendation. The motion was approved by the following vote:

AYES: Authority Members Parra, Davis, Brock, de la Torre,  
Chair Pro Tem McCowan, Chair Himmelrich  
NOES: None  
ABSENT: Authority Member Negrete

**MINUTES**

**9.C Approval of minutes for Public Financing Authority meeting, was presented.**

**Recommended Action**

Staff recommends that the Public Financing Authority approve the minutes of the March 23, 2021 meeting.

Motion by Chair Pro Tem McCowan, seconded by Authority Member Brock, to adopt the staff recommendation. The motion was approved by the following vote:

AYES: Authority Members de la Torre, Brock, Davis, Parra,  
Chair Pro Tem McCowan, Chair Himmelrich

NOES: None

ABSENT: Authority Member Negrete

**ADJOURNMENT OF SPECIAL JOINT MEETING**

On order of the Chair/Mayor, the special joint meeting with the Public Finance Authority was adjourned at 8:33 p.m., and the regular meeting of the City Council was reconvened, with all members present, except Councilmember Negrete.

**COUNCILMEMBER DISCUSSIONS: ANNUAL APPOINTMENTS**

**13.A. Annual Appointments to Boards and Commissions for terms ending June 30, 2020 and June 30, 2021, was continued to the July 27, 2021 meeting.**

Board/Commission	Number of Appointments	Term End Date	Requirements
Airport Commission	1	6/30/2025	Santa Monica Resident
Architectural Review Board	2	6/30/2025	-
Arts Commission	2	6/30/2025	Work or Reside in Santa Monica
Audit Subcommittee	1	6/30/2025	Santa Monica Resident
Building and Fire-Life Safety Commission	1	6/30/2025	State of California Licensed or Registered Architect
	2	6/30/2025	-
Commission for the Senior Community	2	6/30/2024	Santa Monica Resident; Over the Age of 60 (2)
	2	6/30/2025	
Commission on the Status of Women	2	6/30/2024	Santa Monica Resident
	3	6/30/2025	
Disabilities Commission	3	6/30/2024	Santa Monica Resident; Self Identify Person with Disabilities (2)
	3	6/30/2025	
Housing Commission	2	6/30/2023	Santa Monica Resident and Section 8

SM00256

			Member. One Section 8 Member must be 62 years of age or older.
	2	6/30/2025	Santa Monica Resident
Landmarks Commission	2	6/30/2025	Santa Monica Resident
Personnel Board	1	6/30/2026	Santa Monica Resident
Planning Commission	1	6/30/2025	Santa Monica Resident
Recreation and Parks Commission	1	6/30/2025	Santa Monica Resident
Santa Monica Library Board	1	6/30/2025	Santa Monica Resident
Santa Monica Travel and Tourism, Inc.	2	6/30/2025	-
Social Services Commission	2	6/30/2024	Santa Monica Resident
	2	6/30/2025	
Urban Forest Task Force	9	6/30/2023	Santa Monica Resident or Persons who do Business or are Employed in the City of Santa Monica

**ARTS COMMISSION**

**13.B. Appointment to one unscheduled vacancy on the Arts Commission for a term ending on 6/30/2024, was continued to the July 27<sup>th</sup> meeting.**

**BUILDING AND FIRE-LIFE SAFETY COMMISSION**

**13.C. Appointments to two unscheduled vacancies on the Building and Fire-Life Safety Commission for terms ending on 6/30/2024, was continued to the July 27<sup>th</sup> meeting.**

**CLEAN BEACHES**

**13.D. Appointment to one unscheduled vacancy on the Clean Beaches and Ocean Parcel Tax Citizens Oversight Committee for a term ending on 6/30/2022, was continued to the July 27<sup>th</sup> meeting.**

**COMMISSION FOR THE SENIOR COMMUNITY**

**13.E. Appointment to two unscheduled vacancies on the Commission for the Senior Community for terms ending 6/30/2022 and 6/30/2023, was continued to the July 27<sup>th</sup> meeting.**

**DISABILITIES COMMISSION**

**13.F. Appointment to one unscheduled vacancy on the Disabilities Commission for a term ending on 6/30/2022, was continued to the July 27<sup>th</sup> meeting.**

**SOCIAL SERVICES COMMISSION**

**13.G. Appointment to one unscheduled vacancy on the Social Services Commission for a term ending on 6/30/2022, was continued to the July 27<sup>th</sup> meeting.**

**AUDIT SUBCOMMITTEE**

**13.H. Appointment to one annual Councilmember vacancy on the Audit Subcommittee for a term ending June 30, 2025, was continued to the July 27<sup>th</sup> meeting.**

**CLEAN POWER ALLIANCE**

**13.I. Request of Mayor Himmelrich that the Council designate one representative to serve as a director of the Board of Clean Power Alliance. The Joint Powers Authority requires each Party of the governing body to appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The person appointed and designated as the Director shall be an elected or appointed member of the governing body of the Party, was continued to the July 27<sup>th</sup> meeting.**

**WESTSIDE CITIES OF COUNCIL OF GOVERNMENTS**

**13.J. Request of Mayor Himmelrich to appoint a Councilmember as a Governing Board Representative to the Westside Cities Council of Governments (COG) and designate an Alternate Governing Board Representative. The Joint Powers Authority and By-laws require each City Council to designate one of its Councilmembers as a Governing Board Representative and one Councilmember as an Alternate Governing Board Representative, was continued to the July 27<sup>th</sup> meeting.**

**LOBBYIST ORDINANCE**

**13.K. Request of Councilmembers Brock and Parra that Council direct staff to return with a proposed ordinance, similar to that in place in Beverly Hills, that: (1) more precisely defines what constitutes a lobbyist/legislative advocate; (2) precludes any individual who in the prior two years has been acting as a lobbyist/legislative advocate from being appointed to a board, commission, or task force; and (3) precludes any member of a board, commission, or task force from simultaneously acting as a lobbyist/legislative advocate, was presented.**

Members of the public Denise Barton, Mark Verville and Tricia Crane, spoke on the recommended action.

Motion by Councilmember Brock, seconded by Mayor Himmelrich, to adopt the staff recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**AB 832 OUTREACH**

**13.L. Request of Mayor Himmelrich, Mayor Pro Tem McCowan and Councilmember Negrete that staff create an enhanced communications campaign to inform renter residents and property owners about the resources available to them after the passage of AB 832 and how to access**

**these resources. Staff should consider what methods (mail, doorhangers, emails, hotline etc.) will be most inclusive and cost-effective in reaching SM renters and property owners to help them understand their opportunities and know where and how they apply for these resources, was presented.**

There was no public comment on this item.

Motion by Councilmember de la Torre, seconded by Councilmember Parra, to adopt the staff recommendation. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**PUBLIC INPUT:**

Members of the public Jonathan Foster and John Medlin commented on various local issues.

**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 9:06 p.m.

ATTEST:

DocuSigned by:  
  
 E2F85B056A714C3  
 Denise Anderson-Warren  
 City Clerk

APPROVED:

DocuSigned by:  
  
 823148D899FF4F3...  
 Sue Himmelrich  
 Mayor

# Exhibit K

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**AUGUST 24, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:32 p.m., on Tuesday, August 24, 2021, via teleconference pursuant to the Governor's Executive Order N-29-20 at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Lana Negrete  
Councilmember Oscar de la Torre  
Councilmember Christine Parra

Also Present: Interim City Manager John Jalili  
Interim City Attorney George Cardona  
City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE**

On order of the Mayor, the City Council convened at 5:32 p.m., with all members present. Mayor Pro Tem McCowan led the assemblage in the Pledge of Allegiance.

**CLOSED SESSIONS**

There was no public comment on closed sessions.

On order of the Mayor, the City Council recessed at 5:37 p.m., to consider closed sessions and returned at 7:31 p.m., with all members present, to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): Unfair Practice Charge, Santa Monica Police Officers Association v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1535-M.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.B. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Jennifer Ranney v. City of Santa Monica, Los**

**Angeles Superior Court, Case No. 19STCV06460.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.C. Conference with Labor Negotiator: Government Code Section 54957.6 -- Agency Designated Representatives: Chief People Officer Lori Gentles and Laura Kalty, Outside Counsel, Liebert Cassidy Whitmore; Bargaining Units: ATA-Administrative Team Associates; IBT-California Teamsters Local 911; FEMA-Santa Monica Fire Executive Management Association; FIRE-Santa Monica Firefighters Local 1109 IAFF; MEA-Municipal Employees Association; MTA-AFSCME Local 4819, Management Team Association; PALSSU-Public Attorneys' Legal Support Staff Union; PAU-Public Attorneys Union; POA-Santa Monica Police Officer Association; SMART TD-The International Association of Sheet Metal, Air, Rail, and Transportation Division, Local 1785; STA-Supervisory Team Associates; Coalition of Santa Monica City Employees.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): John Doe #1, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV36226; John Doe #1 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV39505; John UA Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV43543; John AI Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV44059; John UC Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV44495; John Doe #7, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV46215; John PS Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV48207; John FM Doe, et al. v. Roe #1, Roe #2, et al., Los Angeles Superior Court, Case No. 20STCV49643; John UN Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV00968; John OQ Doe, et al. v. Santa Monica PAL, City of Santa Monica, et al., Los Angeles Superior Court, Case No. 21SMCV01279; John HI Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV03145; John Doe #11, et al. v. Santa Monica PAL, City of Santa Monica, et al., Los Angeles Superior Court, Case No. 21STCV07050; John Doe #17 v.**



*Councilmember de la Torre  
excused at 6:40 p.m.*

**City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV07070; John Doe #18 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV08464; John Doe #19 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV13419; John UH Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV14884;**

The Interim City Attorney advised in this matter sixty-one plaintiffs in these nineteen complaints allege that they were sexually abused by Eric Uller, a former City employee, between the late 1980s and early 2000s while he was employed by the City and while the Plaintiffs were participants in the Santa Monica Police Activities League (“PAL”) or in sports or other activities conducted at or near PAL facilities. The allegations of abuse range from single incidents of touching and fondling, to multiple incidents of abuse occurring over extended periods of time and including mutual masturbation and oral and anal copulation. Plaintiffs contend that the City is responsible for the abuse based on allegations of negligent hiring and supervision and failure to act on information suggesting the abuse was ongoing. The City does not admit these allegations, and has questions regarding the credibility of specific allegations of abuse made by certain of the plaintiffs, but to avoid the expense and burden of further litigation, the City Attorney’s Office recommended a collective settlement with all 61 plaintiffs in the total amount of \$54,900,000 on terms under which: (1) The City will pay the total amount of \$54,900,000 into a qualified settlement fund by no later than December 31, 2021; (2) Plaintiffs have retained a retired superior court judge to determine the allocations from the qualified settlement fund to individual plaintiffs; (3) the City may provide information regarding the credibility of individual plaintiffs’ claims to plaintiffs’ counsel who may in turn provide it to the retired superior court judge for consideration in determining allocations to individual plaintiffs; and (4) the plaintiffs will provide the City and PAL with full releases and dismiss all pending complaints against the City and PAL.

Motion by Councilmember Davis, seconded by Mayor Himmelrich, to approve Settlement No. 11186 (CCS), in the amount of \$54,900,000, with terms. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: Councilmember de la Torre

**1.E. Conference with Legal Counsel – Anticipated Litigation –  
Initiation of Litigation pursuant to paragraph (4) of subdivision (d) of**

*Councilmember de la Torre returned at 7:25 p.m.*

**Government Code Section 54956.9 – 1 potential case.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA ITEMS:**

**2.A. City Manager's Report: Federal Transit Administration Review of Big Blue Bus,** was presented.

**2.B. City Manager's Report: Update on Covid Vaccinations for City Employees,** was presented.

Members of the public Monique Lukens and Robin Herman spoke on this item.

**CONSENT CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Members of the public Matt Stauffer, Denise Barton, and Ericka Leslie commented on various Consent Calendar items.

Item 3.F. was removed from the agenda at the request of staff.

At the request of Councilmember de la Torre, Item 3.H. was pulled from the Consent Calendar.

Motion by Councilmember de la Torre, seconded by Councilmember Parra, to approve the Consent Calendar except for Items 3.F and 3.H., reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**VEHICLE PURCHASES**

**3.A. Authorization of Purchase Orders with Coastline Equipment, CraneWorks Southwest, National Auto Fleet Group, and Nixon-Egli Equipment for Vehicle Purchases for the Public Works Department,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the Procurement Manager to issue a purchase order with Coastline Equipment for the purchase of three John Deere 315SL backhoes for the Public Works Department – Water Resources Division. This recommended award is made as an exception to the

- competitive bidding process pursuant to Section 2.24.250(c) and is for a total amount not to exceed \$495,585;
2. Authorize the Procurement Manager to issue a purchase order with CraneWorks Southwest, Inc. for the purchase of a Crane Truck for the Public Works Department – Water Resources Division. This recommended award is made as an exception to the competitive bidding process pursuant to Section 2.24.250(c) and is for a total amount not to exceed \$206,140;
  3. Authorize the Procurement Manager to issue a purchase order with National Auto Fleet Group for the purchase of a Ford Transit CCTV Truck for the Public Works Department – Water Resources Division. This recommended award is made as an exception to the competitive bidding process pursuant to Section 2.24.250(c) and is for a total amount not to exceed \$271,590;
  4. Authorize the Procurement Manager to issue a purchase order with Nixon-Egli Equipment Co. for the purchase of three Truck Mounted High-Pressure Sewer Cleaners for the Public Works Department – Water Resources Division. This recommended award is made as an exception to the competitive bidding process pursuant to Section 2.24.250(c) and is for a total amount not to exceed \$1,138,610; and
  5. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**HVAC  
MAINTENANCE/REPAIR**

**3.B. Award Bid to ACCO Engineered Systems, Inc. for Department of Transportation HVAC Maintenance and Repair Services,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Award Bid #4407 to ACCO Engineered Systems, Inc. for maintenance and repair of heating, ventilation and air conditioning systems for the Department of Transportation Big Blue Bus (BBB) Division;
2. Authorize the City Manager to negotiate and execute Agreement No. 11187 (CCS) with ACCO Engineered Systems, Inc., in an amount not to exceed \$514,800, including a \$46,800 contingency, for a five-year period with future year funding contingent on Council budget approval.

**ANNENBERG  
COMMUNITY BEACH  
HOUSE**

**3.C. Authorization to accept GRoW @ Annenberg Grant for the Annenberg Community Beach House,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the City Manager to accept a restricted grant in the amount of \$25,000 from GRoW @ Annenberg for assistance in

- general operations and re-opening efforts at the Annenberg Community Beach House in the Community Services Department.
- 2. Authorize the City Manager to execute all necessary documents to accept the grant.
- 3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**BIG BLUE BUS**

**3.D. Authorization of Participation in LA Metro’s Fareless System Initiative Pilot Program, was approved.**

**Recommended Action**

Staff recommends that the City Council authorize the Department of Transportation (DOT) Big Blue Bus (BBB) to participate in Phase I of LA Metro’s proposed 18-month Fareless System Initiative Pilot Program. Phase I includes providing free transportation to K-12 students and Community College Students whose school districts and boards approve participation in the LA Metro Pilot Program.

**AFFORDABLE HOUSING**

**3.E. Adoption Resolution Nos. 11356 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AUTOMATICALLY ADJUSTING THE AFFORDABLE HOUSING UNIT BASE FEE FOR NEW MARKET-RATE MULTIFAMILY DEVELOPMENT PURSUANT TO SANTA MONICA MUNICIPAL CODE SECTION 9.64.070(B) BASED ON CHANGES IN CONSTRUCTION COSTS AND LAND COSTS” and 11357 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AUTOMATICALLY ADJUSTING THE AFFORDABLE HOUSING UNIT DEVELOPMENT COST PURSUANT TO SANTA MONICA MUNICIPAL CODE SECTION 9.64.070(C) BASED ON CHANGES IN CONSTRUCTION COSTS AND LAND COSTS”, was adopted.**

**Recommended Action**

Staff recommends that the City Council:

- 1. Adopt the attached Resolution decreasing the Affordable Housing Unit Base Fee by 2.7 percent for new market-rate apartments and condominiums (Attachment A); and
- 2. Adopt the attached Resolution decreasing the Affordable Housing Unit Development Cost by 2.7 percent (Attachment B).

**BENEFITS**

**3.F. Award a Professional Services Agreement to Alight-Hodges-Mace, LLC for Benefit Administration Platform, was pulled at the request of staff.**

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP to Alight - Hodges-Mace, LLC (“Alight”) for a benefits administration system for the Human Resources Department;
2. Authorize the City Manager to negotiate and execute a three-year agreement with Alight-Hodges-Mace, LLC, in an amount not to exceed \$508,935 (including one-time implementation costs), with two additional one-year renewal option(s) in the amount of \$168,720 per year, on the same terms and conditions for a total amount not to exceed \$846,375 over a five-year period, with future year funding contingent on Council budget approval.

**EMERGENCY PROCLAMATION**

**3.G. Adoption of Resolution No. 11358 (CCS) entitled “AN EMERGENCY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA PURSUANT TO CHAPTER 2.16 OF THE SANTA MONICA MUNICIPAL CODE RATIFYING THE PROCLAMATION OF EXISTENCE OF LOCAL EMERGENCY AND SUPPLEMENTAL PROCLAMATIONS THERETO”,** was adopted.

**Recommended Action**

Staff recommends that Council adopt the proposed resolution ratifying the Executive Order issued by the Director of Emergency Services declaring the existence of a local emergency in the city of Santa Monica and the Supplements to that Order.

**SALARY ADJUSTMENT**

**3.I. Adoption of Salary Resolution No. 11359 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ADOPTING A SALARY RATE FOR MOTOR COACH OPERATOR TRAINEE”,** was adopted.

**Recommended Action**

Staff recommends that the City Council adopt the attached Salary Resolution to provide an equity adjustment for the Motor Coach Operator Trainee.

**MINUTES**

**3.J. Minutes of Special City Council Meeting - June 15, 2021,** were approved.

**MINUTES**

**3.K. Minutes of Regular City Council - Regular Meeting - July 14, 2015,** were approved.

**SANTA MONICA BLACK LIVES ASSOCIATION**

**3.H. Authorization of Memorandum of Understanding No. 11188 (CCS) with the Santa Monica Black Lives Association to Support the Wellbeing and Socioeconomic Needs of the Black Community,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the transfer of \$100,000 in previously appropriated funds from the General Fund to the Santa Monica Black Lives Association for use to promote the wellbeing of the Black community in Santa Monica and to address the health, wellness, mental health, and socioeconomic needs of the Black community as directed by Council on September 8, 2020; and
2. Authorize the City Manager to negotiate and execute a memorandum of understanding with the Santa Monica Black Lives Association to establish reporting requirements and the intended uses of the funds.

Councilmember de la Torre pulled this item to ask questions of staff including: why is this organization not being included in the grants cycle; where does the funding come from; moving forward will this be part of the grant process, or will they have to come back annually; what if they don't apply for grant funding, what will happen then; who is on this board, and who will be making the decisions for this organization; what parameters are going to be put in place to best support this organization; has seed money been provided to other organizations, or does the Council have the option to do this for other organizations; and, will the pathway be open going forward to provide seed funding for other organizations.

Motion by Councilmember Brock, seconded by Councilmember Negrete to approve the recommended action. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**ORDINANCES:**  
**NOISE CODE**

**7.A. Second Reading And Adoption Of Ordinance No. 2679 (CCS) entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING PROVISIONS IN ARTICLE 4 OF THE SANTA MONICA MUNICIPAL CODE RELATING TO NOISE AND TARGETED RESIDENTIAL PROTESTS TO PROMOTE THE PUBLIC SAFETY AND WELFARE",** was presented.

**Recommended Action**

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to adopt the ordinance, reading by title only and waiving further reading thereof.

The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

## **PUBLIC ASSEMBLIES**

**7.B. Introduction and Adoption of Emergency Ordinance No. 2680 (CCS) entitled “AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 4.08.780 TO PROMOTE THE PUBLIC SAFETY AND WELFARE BY PROHIBITING CERTAIN ITEMS AT PUBLIC ASSEMBLIES AND COMMUNITY EVENTS”,** was presented.

### **Recommended Action**

Staff recommends that: (1) one of the Councilmembers who voted in the majority against adoption of a similar emergency ordinance on April 13, 2021 move for reconsideration pursuant to Council Rule 12(d); and (2) if the motion for reconsideration is made, the City Council adopt an emergency ordinance amending Santa Monica Municipal Code Section 4.08.780 relating to restrictions on carrying, using, or possessing certain specified items during community events or public assemblies to promote public safety and welfare.

Motion by Mayor Pro Tem McCowan, seconded by Mayor Himmelrich, to move for reconsideration pursuant to Council Rule 12(d), by one of the Councilmembers who voted in the majority against adoption of a similar emergency ordinance on April 13, 2021.

Members of the public Denise Barton and Christina Sanchez spoke to the recommended action.

Questions asked and answered of staff included: did the Police do anything to the person who had a pitch fork at the peaceful protest in town recently, and what would be different if this emergency ordinance is passed; if there is a large event, and a large number of attendees have prohibitive items, how will the Police engage; how can the Police ensure that this law is applied fairly and non-discriminatory; why can't the law be simplified to just say, if you are here for a protest, here are the items you can have, why is it necessary to include all of these exemptions; can the city communicate the prohibited items; what ways was the intel different for the previous protest than the intel for the events for this weekend; what would we do different than the City of L.A., even though they had a similar law on the books, and they have an outbreak of violence; cities that have these laws on the books, is there any insight as to how intervention effects the level of

violence; will the Police be searching people's backpacks for prohibited items randomly; is the Police seeing a different level of weapons at protest in comparison to the past; and, how would the application of a 120 day sunset affect the Police department.

Considerable discussion ensued on topics including, but not limited to: concerns about constraints on people's first amendment rights, especially people of color; our Police realizes that there are sufficient laws on the books to stop members of the public who are at protest to be violent; not sure that this ordinance is going to be sufficient to stop those who truly are coming to promote harm; these measures are meant to keep the peace in our community; adopting this ordinance will show support to our Police and provide them with the tools to keep our community safe; something to think about should include looking at how some are using these events to cause a distraction to do other violent acts; law enforcement needs to be able to use preventive measures and be provided with the necessary tools to keep the protestors and community safe; given the events that are going on in the country right now, it is necessary to pass this ordinance to protect visitors, residents, and our community from those who want to cause harm to others.

Motion by Councilmember Brock, seconded by Councilmember Negrete, to introduce and adopt at first reading the ordinance reading by title only and waiving further reading thereof.

Mayor Pro Tem McCowan, proposed an amendment to sunset the ordinance for 120 days and come back to review and introduce a permanent ordinance. The motion was not considered friendly by the maker.

Mayor Pro Tem McCowan, proposed a different amendment to adopt the emergency ordinance, with a sunset clause of 180 days, and direct staff to return at an appointed time prior to February 28, 2022. The amendment was considered friendly by the maker and seconder.

The motion, with amendments was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: Councilmember Davis  
ABSENT: None

## **RECESS**

On the order of the Mayor, Council recessed for a break at 9:54 p.m., and reconvened at 10:11 p.m. with all members present.

## **DUMPING/PIER**

**7.C. Introduction and Adoption of Emergency Ordinance No. 2681 (CCS) entitled "AN EMERGENCY ORDINANCE OF THE CITY**



COUNCIL OF THE CITY OF SANTA MONICA ADDING SECTIONS TO THE SANTA MONICA MUNICIPAL CODE TO PROHIBIT DUMPING OF COMMERCIAL TRASH IN CITY RECEPTACLES; PROHIBIT DUMPING OF LIQUID WASTE ON PUBLIC RIGHTS OF WAY, ON OR ONTO THE PIER OR BEACH, OR INTO STORM DRAINS; AND PROHIBIT THE USE OF COMBUSTIBLE FUELS ON AND IN CLOSE PROXIMITY TO THE SANTA MONICA PIER WITHOUT A PERMIT”, was presented.

**Recommended Action**

Staff recommends that the City Council introduce and adopt an emergency ordinance adding sections to the Santa Monica Municipal Code to prohibit dumping of commercial trash in City receptacles; dumping of liquid waste on public rights of way, on or onto the Pier or Beach, or into storm drains; and use of combustible fuels on or in close proximity to the Pier.

Members of the public Jim Harris, Randy Parent, Nick Ralston, and Misti Kerns spoke to the recommended action.

Questions asked and answered of staff included: given the state law on vending, how is this law enforceable and not in violation of the state’s vending law; does our marine degradable container laws apply to vendors as well; are the same Enforcement officers interacting with people, or is it a different person each day; because these are going to be considered Administrative citations, what will happen to repeat offenders; are some of the materials used to clean up grease also harmful to the environment; would providing more containers help provide a solution; what kind of signage and messaging will be used to inform vendors of the new law; would this enforcement apply citywide; what’s the definition of the radius for combustibles around the Pier; for health and safety, is there anything in place for the street vendors to legally dispose of waste and trash; what would be the levels of enforcement after giving a citation; is there a joint record keeping between Code, Police and Fire when citations are given, and does it include photos; who would be providing education to vendors, and how would the education be delivered; and, what is the option to get volunteers to disseminate the information to educate vendors of the regulations.

Considerable discussion ensued on topics including, but not limited to, we need to think about a better way to help move the street vendors to a safer regulated way of doing business.

Motion by Councilmember de la Torre, seconded by Councilmember Brock, to introduce and adopt at first reading the ordinance reading by title only and waiving further reading thereof.

The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**COUNCILMEMBER**  
**DISCUSSION ITEMS:**  
**PUBLIC SAFETY**  
**REFORM AND**  
**OVERSIGHT**  
**COMMITTEE**

**13.A. Appointments to two unscheduled vacancies on the Public Safety Reform and Oversight Committee for terms ending 6/30/2022 and 6/30/2024, was presented.**

There were no public speakers for this item.

On order of the Mayor, the floor was opened for nominations for the term ending 6/30/2022.

Councilmember Davis nominated Marc Morgenstern  
Councilmember Parra nominated Joseph Palazzolo  
Mayor Himmelrich nominated Michele Wittig  
Councilmember Negrete nominated Marlene Nord

No one received a majority by the following vote:

Morgenstern: Councilmember Davis, Mayor Pro Tem McCowan  
Palazzolo: Councilmembers de la Torre, Brock, Parra  
Wittig: Mayor Himmelrich  
Nord: Councilmember Negrete

On order of the Mayor, the floor was opened for nominations for the term ending 6/30/2022

Councilmember Davis nominated Marc Morgenstern  
Councilmember Brock nominated Joseph Palazzolo  
Mayor Himmelrich nominated Michele Wittig

Joseph Palazzolo was appointed to the Public Safety Reform and Oversight Committee for a term ending June 30, 2022, by the following vote:

Morgenstern: Councilmember Davis, Mayor Pro Tem McCowan  
Palazzolo: Councilmembers Parra, Negrete, Brock, de la Torre  
Wittig: Mayor Himmelrich

On order of the Mayor, the floor was opened for nominations for the term ending 6/30/2024.

Mayor Himmelrich nominated Michele Wittig  
Councilmember Negrete nominated Luis Ramirez  
Councilmember Davis nominated Marc Morgenstern  
Councilmember Brock nominated Jon-Patrick Allem

Luis Ramirez was appointed to the Public Safety Reform and Oversight Committee for a term ending June 30, 2024, by the following vote:

Wittig: None  
Ramirez: Councilmembers de la Torre, Brock, Negrete, Parra, Mayor Himmelrich  
Morgenstern: Councilmember Davis, Mayor Pro Tem McCowan  
Allem: None

**SANTA MONICA LIBRARY BOARD**

**13.B. Annual appointment to the Santa Monica Library Board for a term ending June 30, 2025, was presented.**

On order of the Mayor, the floor was opened for nominations.

Councilmember Davis nominated Abby Arnold  
Councilmember Parra nominated Paige Kelly  
Councilmember Brock nominated Laurel Schmidt

Abby Arnold was appointed to the Santa Monica Library Board for a term ending June 30, 2025, by the following vote:

Arnold: Councilmembers de la Torre, Negrete, Davis, Mayor Pro Tem McCowan, Mayor Himmelrich  
Kelly: Councilmember Parra  
Schmidt: Councilmember Brock

**AUDIT SUBCOMMITTEE**

**13.C. Appointment to one annual Councilmember vacancy on the Audit Subcommittee for a term ending June 30, 2025, was presented.**

The Mayor opened the floor to nominations.

Councilmember Brock volunteered to serve on the Audit Subcommittee.

There being no other nominations, Councilmember Brock was appointed to the Audit Subcommittee for a term ending June 30, 2025, by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**ARTS COMMISSION**

**13.D. Recommendation to accept Rocio X Garcia's resignation from the Arts Commission and authorize the City Clerk to publish the vacancy, was presented.**

Motion by Mayor Himmelrich, seconded by Councilmember Davis, to accept the resignation with regret. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**HOMELESSNESS AD HOC**

**13.E. Request of Mayor Himmelrich, Mayor Pro Tem McCowan and Councilmember Parra that the City Council form an ad hoc committee of 3 council members to study and make recommendations for future strategic investments that would advance the City's Four Pillars Strategy to Address Homelessness. The ad hoc committee would act as liaisons and advisors to the Social Services Commission and would participate in the Social Services Commission's discussions on topics such as behavioral health. Ad hoc committee recommendations would inform priorities for allocating local funding, staffing capacity, and opportunities to leverage non-City public and private resources. The ad hoc committee recommendations would be timed to coincide with the release of the results of the Homeless Count in Spring 2022, was presented.**

There was no public comment on this item.

Questions asked of and answered included, but not limited to: how will this Ad hoc committee work with the Social Services commission, with concerns about this not being a Brown Act body; how will the public be kept informed about the work of the committee; who's going to staff this committee; and, would it be possible to have a member of the City Attorney's Office available for the meetings.

Mayor Pro Tem McCowan stated that she was willing to step down and allow another Councilmember to serve on this ad hoc. Councilmembers Brock, Negrete, and Parra expressed an interest in volunteering for this ad hoc committee.

Motion by Councilmember de la Torre, seconded by Mayor Himmelrich, to approve the recommendation to create an Ad hoc committee, with Councilmembers Negrete, Parra and Brock.

The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**LABOR RELATIONS**

**13.F. Request of Councilmembers Davis, Brock and Mayor Himmelrich that the City Council express its position that, to protect the health and safety of both City employees and the public we serve, absent legitimate medical or religious concerns, all City employees, volunteers, and contractors should be required to be fully vaccinated against COVID-19, was presented.**

Members of the public Denise Barton, Dhun May, Melonie Wise, Zina Josephs, and Kathy Knight, spoke on the recommended action.

Motion by Councilmember Davis, seconded by Councilmember Parra, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Brock, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmember de la Torre
- ABSENT: None
- ABSTAIN: Councilmember Negrete

Councilmember de la Torre stated his no vote reflects his view of concerns that the mandate violates people’s constitutional rights, concern for legal liabilities for the city, would like to see more access and incentives for the vaccines, but cannot support the mandate.

**ZONING**

**13.G. Recommendation of Councilmembers Negrete, Davis, and Parra, that Council direct staff to present to the Planning Commission for initial consideration and then to the Council a text amendment to the Zoning Ordinance to remove from SMMC Section 9.11.020, Land Use Regulations – Commercial and Mixed-Use Corridor Districts and SMMC Section 9.10.020, Land Use Regulations—Downtown Districts, the requirement that a tattoo or body modification parlor obtain a minor use permit in the MUBL, MUB, GC, NC, LT, NV, BC, TA, OT and WT districts, and instead make this use a permitted use in the MUBL, MUB, GC, NC, LT, NV, BC, TA, OT and WT districts, subject to the special requirements set out in SMMC Section 9.31.230(C) , was presented.**

There was no public comment for this item.

Motion by Councilmember Negrete, seconded by Councilmember Davis, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**BOARDS AND COMMISSIONS**

**13.H. Request of Mayor Pro Tem McCowan, Councilmember Davis, and Councilmember Brock that the Council: 1) receive an update from the Boards and Commissions Ad Hoc Committee; 2) provide feedback to the Ad Hoc Committee relating to the update; and 3) provide any additional recommendations related to the Ad Hoc Committee’s continued work reviewing the City’s Boards and Commissions procedures, was presented.**

There was no public comment on this item.

Considerable discussion ensued on topics including, but not limited to: how do we get more young people involved, look into forming a Youth commission; disabilities should remain as a stand-alone because of the issues that come up; special qualifications and requirements may be required for some commissions; a better system if each Councilmember would be responsible for making appointments to boards, commissions and task forces instead of having one big pool; issues with maintaining all the current bodies with the reduced resources; how can there be a way to form a group that can meet all groups concerns and be more inclusive; create opportunities to make sure that the commissions are current and meeting the needs of current residents; create subcommittees to address a broader range of issues as they come up; and, reimagine some commissions to be more current and be more inclusive.

**LATINO/HISPANIC HERITAGE MONTH**

**13.I. Request of Councilmembers Brock and Parra that, to enhance Latino/Hispanic heritage month and resident/family-focused programming on the Santa Monica Pier, Council direct staff to: (1) waive fees associated with the partial use of the parking lot on the Santa Monica Pier to support the annual Santa Monica Classic Car Show on the Santa Monica Pier scheduled for September 11, 2021 from 9-5 pm presented by the Pico Youth and Family Center; and (2) allocate up to \$5,000 of Council discretionary funds to reimburse the Pico Youth and Family Center for documented expenditures to support sound, entertainment, and promotional materials for this event that will be free and open to the public, was presented.**

*Councilmember de la Torre excused at 12:54 a.m.*

Councilmember de la Torre recused himself from this item to avoid a potential conflict of interest because he is associated with Pico Youth and Family Center.

There was no public comment on this item.

Motion by Mayor Himmelrich, seconded by Councilmember Parra, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Brock, Negrete, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember de la Torre

**PUBLIC INPUT:**  
*Councilmember de la Torre returned at 1:03 a.m.*


Members of the public Olivia Landon and Denise Barton commented on various local issues.

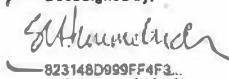
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 1:10 a.m. in memory of Mary Ester Leyas, Belinda Vamos and Justin Paul McCowan.

ATTEST:

APPROVED:

DocuSigned by:  
  
 E2F358056A714C3  
 Denise Anderson-Warren  
 City Clerk

DocuSigned by:  
  
 823148D999FF4F3...  
 Sue Himmelrich  
 Mayor

# Exhibit L



**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**OCTOBER 12, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:33 p.m., on Tuesday, October 12, 2021, via teleconference pursuant to Assembly Bill No. 361 signed by, Governor Gavin Newsome at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan (*arrived at 6:43 p.m.*)  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Lana Negrete (*arrived at 8:28 p.m.*)  
Councilmember Oscar de la Torre (*arrived at 5:53 p.m.*)  
Councilmember Christine Parra

Also Present: Interim City Manager David White  
Interim City Attorney Joseph Lawrence  
City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE** On order of the Mayor, the City Council convened at 5:33 p.m., with all members present except Councilmembers de la Torre, Negrete, and Mayor Pro Tem McCowan. Councilmember Brock led the assemblage in the Pledge of Allegiance.

**CLOSED SESSIONS** There was no one present for public comment on closed sessions.

*Councilmember de la Torre arrived at 5:53 p.m.* On order of the Mayor, the City Council recessed at 5:36 p.m., to consider closed sessions and returned at 6:32 p.m., with all members present, except Councilmember Negrete and Mayor Pro Tem McCowan to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Paul Veglia v. City of Santa Monica, Los Angeles Superior Court Case No. 21STCV33366.**

The Interim City Attorney advised this was a personal injury case where Mr. Veglia fell on Third Street Promenade near Arizona and sustained significant injury. The City does not admit these allegations, but to avoid the expense and burden of further litigation, the City Attorney’s Office recommended settlement in the amount of \$280,000.

Motion by Councilmember Davis, seconded by Councilmember Brock, to approve Settlement No. 11214 (CCS), in the amount off \$280,000. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra,  
Mayor Himmelrich

NOES: None

ABSENT: Councilmember Negrete, Mayor Pro Tem McCowan

**1.B. Conference with Legal Counsel – Existing Litigation –  
Litigation has been Initiated Formally Pursuant to Gov. Code Section  
54956.9 (d) (1): James Tatum Jr. v. City of Santa Monica, Los Angeles  
Superior Court, Case No. 19STCV34362**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.C. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Gov. Code Section  
54956.9(d)(1): Unfair Practice Charge, Santa Monica Police Officers  
Association v. City of Santa Monica, Public Employment Relations  
Board, Case No. LA-CE-1535-M.**

This item was pulled at the request of staff.

**1.D. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Gov. Code Section  
54956.9(d)(1): City of Santa Monica et al. vs. 1238 10th Street, LLC, et  
al., Case No. 21SMCV01585.**

The Interim City Attorney advised this matter was pulled at the request of staff.

**1.E. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Gov. Code Section  
54956.9(d)(1): Casa Greene, Inc., et al. v. California, et al., Case No.  
20STCV3496.**

This item was pulled at the request of staff.

**1.F. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Gov. Code Section  
54956.9(d)(1): John Doe #1, et al. v. City of Santa Monica, Santa  
Monica PAL, et al., Los Angeles Superior Court, Case No.  
20STCV36226; John Doe #1 v. City of Santa Monica, Santa Monica  
PAL, et al., Los Angeles Superior Court, Case No. 20STCV39505;**

**John UA Doe, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV43543; John AI Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV44059; John Doe #7, et al. v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV46215; John PS Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 20STCV48207; John FM Doe, et al. v. Roe #1, Roe #2, et al., Los Angeles Superior Court, Case No. 20STCV49643; John UN Doe v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV00968; John OQ Doe, et al. v. Santa Monica PAL, City of Santa Monica, et al., Los Angeles Superior Court, Case No. 21STCV04365; John Doe #17 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV07070; John Doe #18 v. City of Santa Monica, Santa Monica PAL, et al., Los Angeles Superior Court, Case No. 21STCV08464**

This item was pulled at the request of staff.

**1.G. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): City of Santa Monica v. The Insurance Company of the State of Pennsylvania, et al., LASC Case No. 21STCV36027.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA ITEMS:**

**2.A. Welcome to City Manager David White and Interim City Attorney Joe Lawrence, was presented.**

**2.B. Commendations: 2021 Juniors/14U Santa Monica Little League All-Star team, was presented.**

**CONSENT CALENDAR:**

*Mayor Pro Tem McCowan arrived at 6:43 p.m.*

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Member of the public Ann Thanawalla commented on various Consent Calendar items.

Motion by Councilmember Brock, seconded by Councilmember Davis, to approve the Consent Calendar, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

**AYES: Councilmembers de la Torre, Brock, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich**

NOES: None  
ABSENT: Councilmember Negrete

**COVID-19 EMERGENCY  
PROCLAMATION**

**3.A. Adoption of Resolution No. 11365 (CCS) entitled “AN EMERGENCY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA PURSUANT TO CHAPTER 2.16 OF THE SANTA MONICA MUNICIPAL CODE RATIFYING THE PROCLAMATION OF EXISTENCE OF LOCAL EMERGENCY AND SUPPLEMENTAL PROCLAMATIONS THERETO”,** was adopted.

**Recommended Action**

Staff recommends that Council adopt the proposed resolution ratifying the Executive Order issued by the Director of Emergency Services declaring the existence of a local emergency in the city of Santa Monica and the Supplements to that Order.

**WATER RESOURCES**

**3.B. Approval of First Contract Modification to Agreement No. 11215 (CCS) with Alexander's Contract Services for Meter Reading Services for the Water Resources Division,** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a first modification to contractual services agreement #4652 in the amount of \$360,000 with Alexander’s Contract Services for meter reading services as an exception to the competitive bidding process, section 2.24.250 (g), for the Public Works Department. This will result in a five-year amended agreement with a new total amount not to exceed \$610,000, with future year funding contingent on Council budget approval.

**TAX AUDIT SERVICES**

**3.C. Approval of Second Modification to Professional Services Agreement with Hinderliter, de Llamas & Associates for Sales, Use and Transactions Tax Audit and Information Services,** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a second modification to agreement #10196 (CCS) with Hinderliter, de Llamas & Associates (HdL) to extend the term of the agreement for two additional years to provide sales, use, and transactions tax audit and information services for the City. Payments for this contract are primarily based on a percentage of revenues recovered for the City through audits. The estimated \$209,000 increase resulting from the two-year contract extension will be more than offset by the revenues recovered. This second modification will result in an eight-year amended agreement with a new total estimated amount of \$784,000. Future year funding is contingent on Council budget approval.

**TRANSPORTATION  
PROJECTS**

**3.D. Adoption of Resolution No. 11366 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ADOPTING CALTRANS LOCAL ASSISTANCE PROCEDURES MANUAL CHAPTER 10: CONSULTANT SELECTION”, was adopted.**

**Recommended Action**

Staff recommends that the City Council adopt the attached Resolution adopting Caltrans’ policy for consultant procurement for State and Federal funded transportation projects.

**GROUNDWATER STUDY**

**3.E. Approval of Third Modification to Contract 10631 (CCS) with Earth Consultants, Inc. for a Differential Interferometry Synthetic Aperture Radar (DInSAR) study of Groundwater Recharge in the Santa Monica Basin, was approved.**

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a third modification to agreement #10631 (CCS) in the amount of \$32,260 with Earth Consultants International, Inc. (ECI) for a satellite-based groundwater recharge study of the Santa Monica Basin for the Public Works Department. This will result in a six-year amended agreement with a new total amount not to exceed \$205,000, with future year funding contingent on Council budget approval.

**TRAFFIC GRANT**

**3.F. Authorization to accept Grant from the California Office of Traffic Safety for the Selective Traffic Enforcement Program, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the City Manager to accept a grant awarded in the amount of \$265,000 from the California Office of Traffic Safety for the Selective Traffic Enforcement Program in the Police Department.
2. Authorize the City Manager to execute all necessary documents to accept the grants and all grant renewals.
3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**WATER SERVICES**

**3.G. Adoption of Resolution No. 11367 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ADOPTING POLICIES AND PROCEDURES FOR PROVIDING PRIORITY SERVICE TO DEVELOPMENTS WITH HOUSING UNITS AFFORDABLE TO LOWER INCOME HOUSEHOLDS PURSUANT TO GOVERNMENT CODE SECTION**

65589.7”, was adopted.

**Recommended Action**

Staff recommends that the City Council adopt the attached resolution on the prioritization of providing water and wastewater services to residential developments with affordable housing units.

**INVESTMENT  
MANAGEMENT  
SERVICES**

**3.H. Approval of First Modification to Professional Services Agreement with RNC Capital Management LLC to provide investment management services, was approved.**

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a first modification to agreement #10366 (CCS) with RNC Genter Capital Management LLC to provide investment management services for the Cemetery and Mausoleum Perpetual Care Funds extending the term of the agreement for an additional nine months for a total term of five years and nine months. Management fees are determined by the value of the assets under management. Based on the value of the portfolio as of June 30, 2021, staff estimates the extension of the term of the contract will result in an additional \$78,600 in fees.

**INSPECTOR GENERAL**

**3.I. Award Professional Services Agreement No. 11216 (CCS) with OIR Group to Serve as Inspector General for the Public Safety Reform and Oversight Commission, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Award RFP# 267 to OIR Group for Inspector General services for the Public Safety Reform and Oversight Commission for the City Manager’s Office;
2. Authorize the City Manager to negotiate and execute an agreement with OIR Group, in an amount not to exceed \$140,000 for one year (with four additional one-year renewal option(s) in the amount of \$140,000 each, on the same terms and conditions) for a total amount not to exceed \$700,000 over a five-year period with future year funding contingent on Council budget approval.

**AMICUS BRIEF**

**3.J. Authorization to Join in Amicus Brief in Support of the United States in State of Arizona, et al. v. United States Department of Homeland Security, et al., United States District Court for the District of Arizona, Case No.: CV-21-00186-PHX-SRB, was approved.**

**Recommended Action**

Staff recommends that City Council authorize the City to sign on to an *amicus* brief to be filed by Los Angeles County and joined by other cities

and counties in support of the appellees (the federal government) in *State of Arizona, et al. v. U.S. Department of Homeland Security, et al.*, Ninth Circuit, No. 21-16118.

**STREET EASEMENTS**

**3.K. Adoption of Resolution No. 11368 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA, SUMMARILY VACATING STREET EASEMENTS NORTH OF AND RUNNING PARALLEL TO OCEAN PARK BOULEVARD BETWEEN 16TH AND 17TH STREETS”, was adopted.**

**Recommended Action**

Staff recommends that the City Council adopt the attached resolution to vacate the street easements that currently exist north of and parallel to Ocean Park Boulevard between 16<sup>th</sup> Street and 17<sup>th</sup> Street at the current site of John Adams Middle School (JAMS).

**CITY YARDS**

**3.L. Approval of Fourth Modification to Design-Build Contract #10371 (CCS) with Hathaway Dinwiddie Construction Company for City Yards Modernization Project, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the City Manager to negotiate and execute a Guaranteed Maximum Price (GMP) fourth modification to Design-Build Contract #10371 (CCS) in the amount of \$3,300,000 with Hathaway Dinwiddie Construction Company (HDCC) for design and construction services of the City Yards Modernization – Package A Project for the Public Works Department. This would result in a five-year amended agreement with a new total amount not to exceed \$85,523,039.
2. Authorize the Director of Public Works to issue any necessary change orders to complete additional work within contract authority.
3. Authorize budget changes as outlined in the Financial Impacts & Budget Actions section of this report.

**MINUTES**

**3.M. Minutes of City Council - Special Meeting – September 14, 2021, were approved.**

**ORDINANCES:  
DELIVERY ZONE PILOT PROGRAM**

**7.A. Second Reading and Adoption Of Ordinance No. 2683 (CCS) entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 3.12.1055 TO EXTEND THE CITYWIDE OPERATION OF REMOTE-CONTROLLED DELIVERY DEVICES BY OPERATORS PARTICIPATING IN THE ZERO EMISSIONS DELIVERY ZONE PILOT PROGRAM”, was presented.**

**Recommended Action**

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Councilmember Brock, seconded by Councilmember Davis, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**STAFF**  
**ADMINISTRATIVE**  
**ITEMS:**  
**HOUSING ELEMENT**

**8.A. Adoption of 6th Cycle (2021-2029) Housing Element Update,** was presented.

**Recommendation**

Staff recommends that the City Council:

1. **Adopt Resolution No. 11369 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE 6TH CYCLE (2021-2029) HOUSING ELEMENT UPDATE”;**
2. **Adopt Resolution No. 11370 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA MAKING FINDINGS NECESSARY TO ADOPT THE 6TH CYCLE (2021-2029) HOUSING ELEMENT AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND MITIGATION MONITORING AND REPORTING PROGRAM”;** and
3. **Adopt Resolution No. 11371 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ADOPTING THE 6TH CYCLE (2021-2029) HOUSING ELEMENT OF THE CITY’S GENERAL PLAN”**

Members of the public Elisa Pastor, Matt Stauffer, Denise Barton, Carl Hansen, Anjuli Kronheim-Katz, Tricia Crane, Leonor Camner, Aaron Eckhouse, Daniel Freedman, Natalya Zernitskaya, Michael Soloff and Tony Joaquin spoke to the recommended action.

*Councilmember Negrete arrived via phone at 8:28 p.m.*

Questions asked and answered of staff included: how do we police that the Accessory Dwelling Units (ADUs) in the single-unit areas are being used for additional housing, not just created for family members; did staff find out how many ADUs are being rented out; how many units are expected to be built on service lots about R1 zones; where is upzoning starting, is it from the LUCE or the current zoning; what happened to the maps and tables with



all of the heights and Floor Area Ratios (FAR) that are now missing; reducing parking, is that for all housing or affordable housing, and why not just get rid of parking all together; is the 50 percent requirement putting constraints on properties where they are required by the Affirmative Further Fair Housing (AFFH) programs; was there a decision made to choose the suitable sites selected in the middle of town where there's already a bunch of people living; how aggressive do we need to be to acquire reasonable affordable housing; maximum caps, why not remove them from other areas of the city instead of just surface parking lots; is there any thought about bringing back activity centers; how would the proposed actions being submitted affect previously proposed and approved plans; how can a balance between unit mixes happen; how do we keep from having moderate rate studio apartments; why does it take three years to perform a request for proposals (RFP); are in-lieu fees based on geography or are there any limitations; where does right to refuse rights apply in the city; is there any way that the language can be stronger as it relates to redlining and discrimination that happened historically; what is the current fee and projected fee for wastewater, and is the capital wastewater fee being paid by developers or homeowners; what is Parking overlay 1; isn't it more sustainable to use some of the open office space than building something new; is modular construction accepted in California; if house of worships are used for building, where will the congregation park for various events; how are units that don't require parking going to handle this, with our lack of experience; was there any risk analysis to see what affect 9,000 additional units are going to have on our sustainability plan; how many of the incomplete projects are included in the Regional Housing Needs Allocation (RHNA) numbers; can the FAR numbers be locked in at this point, or could we still change them; has there been any thought to how much of a burden this is going to be administratively; if the drought continues, will the cost of water increase for users; there's no way to control the amount of water used, are sub-meters specified in our local cost; how can there be no parking requirement on new buildings; are we still at 15% inclusionary housing; would it be appropriate to request the state to provide assistance to help pay for the housing; are there ways to avoid gentrification in the Pico neighborhood; any way to increase the size of the units to accommodate families; if Santa Monica is not able to meet its RHNA numbers, is there an option available to coordinate with other cities to create housing just outside of the city's boundaries; how are we going to create more fair, affordable housing for families; why can't fair affordable housing be addressed in the Housing Element, why do we have to wait; how did the conversations with Santa Monica College, SMMUSD and UCLA play into the reference; can't we just remove commercial and instead make everything residential; is there a way to down-zone a property and just use the commercial to build on top of it; and, has anyone looked at boosting the number of housing a quarter mile from transit, instead of half-mile.

Staff presented five recommendations that were not in agreement with the Planning Commission’s recommendations and asked the Council to vote on those amendments before the main vote on the Housing Element. The five proposed amendments are as follows:

Motion by Mayor Himmelrich, seconded by Councilmember Parra, to make a change to Program 1.F. to not accept the Planning Commission recommendation that the City shall revise the definition of a Housing Project in the DCP to be consistent with the Housing Accountability Act (HAA).

Councilmember Brock, proposed a friendly amendment to move the deadline from March 31, 2022 to December 31, 2022. On staff’s recommendation to revisit this later, Councilmember Brock withdrew his amendment.

The main motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to accept staff’s recommendation for Program 1.F. to accept staff’s recommendation that says, “based on the results of the feasibility analysis, the feasible FARs for housing project range from a minimum 2.75 to 4.0 with heights ranging from 55 feet to 84 feet.”

Councilmember Davis, proposed a friendly amendment to remove the words FARs up or down. The motion was not considered friendly by the maker.

The main motion was approved by the following vote:

- AYES: Councilmembers Parra, Negrete, Brock, de la Torre Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmember Davis
- ABSENT: None

Councilmember Davis stated for the record, her no vote is because the motion suggests that retaining the option to downzone is not intended to get us more housing and is a reflection of the fact that we may downzone and keep housing from being built. It’s not a showing of good faith to our commitment to build more housing.

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to accept the staff recommendation language for Program 1.J. based on the results of the feasibility analysis, the feasible FARs for housing projects range from a minimum 2.75 to 3.25 with heights ranging from 55 feet to 65 feet. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Parra, Mayor Himmelrich
- NOES: Councilmember Davis, Mayor Pro Tem McCowan
- ABSENT: None

Motion by Councilmember Brock, seconded by Mayor Himmelrich, to approve the staff recommendation for Program 1.K. to include, to establish that City-owned sites are allowed 100 percent residential use and require residential use to occupy at least 50 percent of the floor area. Additionally, while not required to meet the shortfall of lower-income units, the Zoning Ordinance shall be amended to specify additional mixed-used zoning districts that shall be allowed 100 percent residential uses. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

Motion by Councilmember Davis, seconded by Mayor Pro Tem McCowan, to adopt the Planning commission recommendation for Program 2.D Density Bonus.

A substitute motion by Councilmember Parra, seconded by Councilmember Brock, to approve the staff recommendation that eliminates the PC language “If there is an affordability requirement in place that distributes affordability requirements evenly across income levels, explore ways for housing providers to maximize incentives and concessions, parking reductions, and density as set forth in State Density Bonus Law.” The substitute motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Parra, Mayor Himmelrich
- NOES: Councilmember Davis, Mayor Pro Tem McCowan
- ABSENT: None

Councilmember Davis stated her no vote for the record is based on the fact that the language says if there’s a conflict between the distribution of affordability requirements, and the state density bonus law, that we commit to find a way to reconcile those in such a way as to maximize housing

production. If we don't adopt the affordability requirements across the entire scope of affordability, then this wouldn't even kick in. It was only to address that issue.

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to address Program 2.E. to accept the staff recommendation to update the language to include previous direction given earlier by Council.

Councilmember Brock proposed an amendment to change to issue the second RFP by June 30, 2023. The amendment was accepted by the maker.

*Councilmember Parra excused at 11:25 p.m.*

Mayor Pro Tem McCowan, proposed a friendly amendment to add to the language "community-serving, commercial and revenue generating uses." The amendment was considered friendly by the maker and seconder.

The motion was approved by the following vote:

- AYES: Councilmembers Davis, Negrete, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Parra

*Councilmember Parra returned at 11:30 p.m.*

Motion by Councilmember Davis, moved to approve the Planning Commission recommendation. The motion died due to no second.

Councilmember de la Torre, seconded by Councilmember Parra, to adopt the staff recommendation and not adopt the Planning Commission recommendation Policy 1.11 Increase Housing Opportunities in Multi-Unit Residential Zones. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmember Davis
- ABSENT: None

Councilmember Davis stated her no vote for the record was because this was just to explore the possibility of eliminating unit density caps. I don't know why it wouldn't put something that talked about increasing our ability to build more housing. In the Housing Element there was no commitment to do it, and to say we're not even going to explore it, or the possibility reflects poorly on our intent to build affordable housing in the city.

Motion by Councilmember Brock, seconded by Mayor Himmelrich, to add a cover letter to the Housing Element, with inclusion of the preface received by Council from Michael Soloff and Denny Zane, with the City

Manager and Mayor’s review and edits.

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Mayor Himmelrich, seconded by Councilmember Davis, to  
Adopt Resolution No. 11369 (CCS) entitled “A RESOLUTION OF THE  
CITY COUNCIL OF THE CITY OF SANTA MONICA CERTIFYING  
THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE 6TH  
CYCLE (2021-2029) HOUSING ELEMENT UPDATE.” The motion was  
approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Mayor Himmelrich, seconded by Mayor Pro Tem McCowan, to  
adopt Resolution No. 11370 (CCS) entitled “A RESOLUTION OF THE  
CITY COUNCIL OF THE CITY OF SANTA MONICA MAKING  
FINDINGS NECESSARY TO ADOPT THE 6TH CYCLE (2021-2029)  
HOUSING ELEMENT AND ADOPTING A STATEMENT OF  
OVERRIDING CONSIDERATIONS AND MITIGATION  
MONITORING AND REPORTING PROGRAM.” The motion was  
approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to add  
to Program 2.C. language to say “includes, but not limited to” and to  
change the deadline from March 30, 2022 to December 31, 2022.

Councilmember Brock amended his new deadline to June 30, 2022, to  
allow staff more time.

The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Mayor Himmelrich, seconded by Councilmember Brock, to adopt Resolution No. 11371 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ADOPTING THE 6TH CYCLE (2021-2029) HOUSING ELEMENT OF THE CITY’S GENERAL PLAN,” including the five programs, one policy change, and one amendment voted on previously.

The motion, with amendments was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Parra,  
Mayor Himmelrich  
NOES: Councilmember Davis, Mayor Pro Tem McCowan  
ABSENT: None

Councilmember Davis stated her reason for her no vote is as follows:

I am voting no on the motion to approve the housing element. While I appreciate the hard work on the part of Planning Commission and other stakeholders as well as the tremendous amount of work that staff has put into it, I do not believe that it is a truly compliant housing element. It may be technically compliant; that’s for HCD to decide. But I do not believe that this document will lead to meaningful change in our housing policy or build sufficient housing.

Housing is a human right. We need to build housing to meet our moral obligation on this issue. But housing also is a climate change issue, a social justice issue, and a measure of our society’s values.

First, this plan does not affirmatively further fair housing. This requirement was inserted into the housing element analysis because of the hundreds of years of discrimination that people have faced. We must counter that intentional discrimination with equally intentional and meaningful programs designed to remediate that history. When you look at this plan to build housing, it leaves a third of our city, the most segregated part of our city, untouched. Relying on community assembly sites- none of which are in the RI- is not enough. I understand that the Suitable Sites Inventory does not propose to build housing in the Pico neighborhood and that is good. But simply saying that we will not build in the Pico neighborhood is not enough.

Second, the Suitable Sites Inventory does not meet HCD’s specifications. Although there is a lengthy discussion about methodology, the inventory itself does not make any sense. I keep going back to it but I don’t understand how the El Cholo site is on the inventory and others are not. Why are some large supermarket sites on the inventory and others are not? There does not appear to be any discernible reasoning for it.

Finally, this proposal does not adequately address constraints on housing. For example, the interaction between the AHPP and the State Density Bonus Law is unclear but it seems like we will not be adopting policies that will maximize the amount of housing we can build under the state law.

Also, parking is a constrain on housing. But while we are reducing some parking minimums, we should be eliminating all parking minimums. Our lack of commitment to really building more housing is exemplified by our refusal to remove the option to down one out of the language in the document. I am not convinced that there will be votes to do the upzoning we need to do to meet out RHNA obligations.

I agree that we should have no problem meeting our market rate housing obligation. But research reviewed at UCLA shows that building market rate housing actually reduces rents in nearby areas. Also, I support building family housing but we need to build all types of housing.

Finally, there is constant reference to this as an unfunded mandate. This is not an unfunded mandate. The City does not have to build the housing.

For profit and non-profit developers will do that. The City's obligation is to facilitate the building of that housing with zoning and other policies. I don't think this draft is specific enough on how we are going to do it and I do not think it is strong enough commitment to taking whatever steps are necessary to build the housing we need.


**PUBLIC INPUT:**

Members of the public Denise Barton, Jonathan Foster and John Alle commented on various local issues.

**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 12:36 a.m. in memory of Denise Sargent.

ATTEST:

DocuSigned by:  
  
E2F858056A714C3...  
Denise Anderson-Warren  
City Clerk

APPROVED:

DocuSigned by:  
  
823148D999FF4F3...  
Sue Himmelrich  
Mayor

# Exhibit M



**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**NOVEMBER 9, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:37 p.m., on Tuesday, November 9, 2021, via teleconference pursuant to Assembly Bill No. 361 signed by, Governor Gavin Newsome at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Lana Negrete  
Councilmember Oscar de la Torre

Absent: Councilmember Christine Parra

Also Present: City Manager David White  
Interim City Attorney Joseph Lawrence  
City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE** On order of the Mayor, the City Council convened at 5:37 p.m., with all members present except Councilmember Parra. Councilmember de la Torre led the assemblage in the Pledge of Allegiance.

**CLOSED SESSIONS** There was no public comment on closed sessions.

On order of the Mayor, the City Council recessed at 5:41 p.m., to consider closed sessions and returned at 7:17 p.m., with all members present except Councilmember Parra, to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): Unfair Practice Charge, Administrative Team Associates v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1495-M.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.B. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section**

**54956.9(d)(1): Unfair Practice Charge, Administrative Team Associates v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1507-M.**

*Councilmember de la Torre was excused at 5:45 p.m.*

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.C. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Oscar de la Torre, Elias Serna v. City of Santa Monica, Los Angeles Superior Court, Case No. 21STCV08597.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

*Councilmember de la Torre returned at 6:10 p.m.*

**1.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Brian Conti Quirante, et al. v. City of Santa Monica, et al., Los Angeles Superior Court, Case No. 20STCV17661.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.E. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Anthony Echevarria v. City of Santa Monica, U.S. District Court Case No. 2:21-CV-05603-SVW (AGR).**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.F. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): Unfair Practice Charge, Municipal Employees Association v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1510-M.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.G. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): River Lund v. City of Santa Monica, Los Angeles Superior Court Case No. 20STCV23298.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.H. Conference with Labor Negotiator: Government Code Section 54957.6 -- Agency Designated Representatives: Chief People Officer Lori Gentles and Laura Kalty, Outside Counsel, Liebert Cassidy Whitmore; Bargaining Units: ATA-Administrative Team Associates; IBT-California Teamsters Local 911; FEMA-Santa Monica Fire Executive Management Association; FIRE-Santa Monica Firefighters Local 1109 IAFF; MEA-Municipal Employees Association; MTA-AFSCME Local 4819, Management Team Association; PALSSU-Public Attorneys' Legal Support Staff Union; PAU- Public Attorneys Union; POA-Santa Monica Police Officer Association; SMART TD-The International Association of Sheet Metal, Air, Rail, and Transportation Division, Local 1785; STA- Supervisory Team Associates; Coalition of Santa Monica City Employees.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.I. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): Unfair Practice Charge, Santa Monica Police Officers Association v. City of Santa Monica, Public Employment Relations Board, Case No. LA-CE-1535-M, was presented.**

The Interim City Attorney reported that on July 23, 2021, the SMPOA filed an Unfair Labor Practice charge with the California Public Employment Relations Board ("PERB"). The charge alleges that the City had an obligation under the state's Meyers-Milias-Brown Act to meet and confer with the SMPOA prior to the City Council enacting Chapter 2.50 of the Santa Monica Municipal Code, which established the Public Safety Reform and Oversight Commission, and that the City failed to comply with this obligation.

The SMPOA and the City have reached an agreement to settle this PERB charge. Both sides agree that the City Council will consider at a future City Council meeting, proposed amendments to Chapter 2.50 of the Santa Monica Municipal Code. If the proposed changes are adopted, the PERB complaint will be dismissed with prejudice. The proposed changes to the Ordinance are intended to mainly clarify the Ordinance and in doing so, they remove SMPOA's concerns raised in its PERB charge. Key proposed changes to the Ordinance that the City Council will consider at a future meeting:

- Ordinance Section 2.50.020(d) - allows for the addition of 1 ex officio, non-voting, member to the Commission; the person has to

- be jointly recommended by Police Chief and SMPOA. If no agreement between them, then the ex officio position is left vacant. The person has to satisfy other commissioner requirements such as not being a city employee, member of the Police Department.
- Ordinance Section 2.50.020(f) - makes some changes to SMPD Community Academy training by Commissioners; changes the Community Academy training deadline to 6 months; current Commissioners have until May 31, 2022 to complete the training.
  - Ordinance Section 2.50.030(a)(2) - clarifies that the Inspector General may gather information regarding ongoing disciplinary investigations but will not participate in them.
  - Ordinance Section 2,50.030(a)(4) - clarifies that the Inspector General may not disclose to the Commission or to third parties SMPD disciplinary or personnel records except as permitted by state or federal law.
  - Ordinance Section 2.50.040(b) - clarifies that the Commission will not participate in individual disciplinary investigations, proceedings or actions or make recommendations about initiating any individual disciplinary investigation, discipline or promotion. However, the Commission may refer individuals to the SMPD so that they can make complaints.
  - Ordinance Section 2.50.040(d) — Commission can make recommendations to the City Council regarding potential changes to State or Federal law.
  - Ordinance Section 2.50.050(a) - clarifies that the City's annual budget, subject to City Council approval, shall contain funds for the work of the Inspector General.
  - Ordinance Section 2.50.070 - City Manager, Police Chief and SMPOA are to be given 72-hour notice of written reports that the Commission may be considering sending to the City Council.
  - Ordinance Section 2.50.080(b) - Commission's initial recommendations report shall also be provided to City Manager, Police Chief and SMPOA at least 72 hours before the Commission meeting at which they will be considered for adoption.

The settlement also calls for payment of \$5,000 to SMPOA. If these proposed changes to the Ordinance are adopted by the City Council, the SMPOA will withdraw its PERB charge with prejudice. The City Attorney's Office recommended approval of the agreement, with terms.

Motion by Mayor Himmelrich, seconded by Councilmember Davis, to approve Settlement No. 11223 (CCS) in the amount of \$5,000, with terms.

The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Parra

**1.J. Conference with Legal Counsel – Existing Litigation –  
Litigation has been initiated formally pursuant to Government Code  
Section 54956.9(d)(1): NMS 1539, LLC et al. v. City of Santa Monica,  
et al., Central District of California, Case 2:20-CV-11318; NMS 1539,  
LLC et al. v. City of Santa Monica, et al., Los Angeles Superior Court,  
Case No. 20STCP04004**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA  
ITEMS:**

**2.A. Proclamation designating November 14-20, 2021 as United  
Against Hate Week in Santa Monica,** was presented.

Member of the public Peerawat Prasatcharoen spoke on this item.

**2.B. City Manager Report,** was presented.

**CONSENT CALENDAR:**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

Members of the public Patricia Hoffman and Denise Barton commented on various Consent Calendar items.

At the request of Mayor Himmelrich, Item 3.G was removed from the Consent Calendar.

At the request of Councilmember Brock, Item 3.C was removed from the Consent Calendar.

Motion by Councilmember Brock, seconded by Mayor Pro Tem McCowan, to approve the Consent Calendar except for Items 3.C and 3.G, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Parra

**NOISE MONITORING**

**3.A. Award Sole Source Agreement No. 11224 (CCS) for Noise Monitoring System and Services to EMS Bruel & Kjaer Inc., DBA Envirosuite, Inc.,** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute an agreement with EMS Bruel & Kjaer Inc., DBA Envirosuite, Inc. (“Envirosuite”) for an Aircraft Noise and Operations Monitoring System (ANOMS) for the Public Works Department. This recommended award is made as an exception to the competitive bidding process pursuant to Section 2.24.250 (b) and is for a total amount not to exceed \$809,156 with future year funding contingent on Council budget approval.

**ASSET MANAGEMENT SOFTWARE**

**3.B. Approval of Second Modification to Contract # 10916 (CCS) with ProDIGIQ, Inc. for Real Estate and Asset Management Software,** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a second modification to agreement CCS#10916 with ProDIGIQ, Inc. (ProDIGIQ) in the amount of \$72,000 for proprietary and web-based comprehensive real estate and asset management software for the Public Works Department. This will result in a five-year amended agreement with a new total amount not to exceed \$432,000, with future year funding contingent on Council budget approval.

**BUS ADVERTISING SALES PROGRAM**

**3.D. Approve Extension of Department of Transportation Memorandum of Understanding (MOU) No. 11225 (CCS) with Culver CityBus for Management of Bus Advertising Sales Program,** was approved.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to enter a three-year Memorandum of Understanding (MOU) with the City of Culver City to manage the bus advertising sales program for Culver CityBus on behalf of the Santa Monica Department of Transportation. No costs are associated with this program.

**EV CHARGER INFRASTRUCTURE**

**3.E. Authorization to Apply for Southern California Edison’s Charge Ready Program to Fund EV Charger Infrastructure and Installation,** was approved.

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the application to the Southern California Edison’s

Charge Ready program for the installation of electric vehicle charging infrastructure at Virginia Avenue Park, Gandara Park, Clover Park, and Lot 7; and

2. Authorize the City Manager to negotiate and execute all necessary documents to apply for the program and accept the rebates, if awarded.

**SECURITY SERVICES**

**3.F. Authorization of a Change Order to Purchase Order 22101027 with Universal Protection Service, LP dba Allied Universal Security Services to Provide Services for the Public Works Department, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the Procurement Manager to issue a change order to purchase order #22101027 in the amount of \$122,800 with Universal Protection Service, LP dba Allied Universal Security Services to provide security services for the Public Works Department. This recommendation is made as an exception to the competitive bidding process pursuant to Section 2.24.250(g) and would result in a revised purchase order total not to exceed \$242,800 with future year funding contingent on Council budget approval; and
2. Approve a cumulative purchase order total for Universal Protection Service, LP not to exceed \$420,833 from December 1, 2018 through June 30, 2022.

**MINUTES**

**3.H. Minutes of City Council - July 27, 2021, were approved.**

**MINUTES**

**3.I. Minutes of City Council - August 24, 2021, were approved**

**MINUTES**

**3.J. Minutes of City Council - September 14, 2021, were approved.**

**MINUTES**

**3.K. Approval of Minutes of City Council - October 26, 2021, were approved.**

**RECORDS MANAGEMENT SOFTWARE**

**3.C. Award Bid to Versaterm Inc. Corporation for Police and Fire Computer Aided Dispatch (CAD) and for Police Records Management System (RMS) and Approval of First Modification to Cit Com Agreement No. 11227 (CCS) for Software Implementation Services, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Award Bid #PRJ0011672 to Versaterm Inc. Corporation for software, licenses, and implementation and support services for

- a replacement Police and Fire Computer Aided Dispatch (CAD) and Police Records Management System (RMS) for the Police and Fire Departments.
2. Authorize the City Manager to negotiate and execute Agreement No. 11226 (CCS) with Versaterm Corporation, in an amount not to exceed \$3,275,855 (including a contingency of \$274,643) for software implementation, for a total contract amount not to exceed \$5,212,702 (including years 1-5 of annual subscription & licensing costs), with future year funding contingent on Council budget approval.
  3. Authorize the City Manager to negotiate and execute a first modification to increase Agreement No. 11227 (CCS) in the amount of \$296,052 and extend the contract term by one additional year with Cit Com for software implementation services. This will result in a 3-year amended agreement with a new total amount not to exceed \$546,052.

Councilmember Brock pulled this item to question the bid process.

Motion by Councilmember Brock, seconded by Mayor Himmelrich, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Parra

**BOARDS AND COMMISSIONS**

**3.G. Adoption of Resolution No. 11383 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ESTABLISHING POLICIES FOR CITY BOARDS, COMMISSIONS, COMMITTEES, TASK FORCES, AND REGIONAL ADVISORY BOARDS, AND REPEALING RESOLUTION NUMBER 11338 (CCS)”**, was approved.

**Recommended Action**

Staff recommends that the City Council adopt the attached Resolution adding the proposed nepotism policy to the Resolution Establishing Policies for City Boards, Commissions, Committees, Task Forces, and Regional Advisory Boards, and repealing Resolution No. 11338 (CCS).

Mayor Himmelrich recused herself from this item to avoid any potential of conflict of interest because her husband is currently serving as a Housing Commissioner.

Mayor Pro Tem McCowan took over running the meeting for this item to be discussed.



*Mayor Himmelrich was excused at 7:38 p.m.*

Discussion and questions included, but not limited to: could applications remain online after appointments; in I.G., why is this the only clause being affected tonight, and how is legal status defined; question about indefinite term limits; there needs to be term limit for Metropolitan Water District and Vector Control appointees; 10.F. add all Regional board appointments; the Nepotism policy should not take effect until the end of a person’s current term end date; and consider adding an employee or business partner to the definition of the nepotism policy.

Interim City Attorney explained that the only item to be considered tonight is the Nepotism policy, as that was the only item listed on the agenda. If the Council wants to bring back the full resolution at a future meeting, they could give direction to staff in a separate vote.

Motion by Councilmember de la Torre, seconded by Councilmember Davis, to approve the recommendation.

Councilmember Negrete, proposed a friendly amendment to amend the motion to change the language to allow anyone currently serving on a board, commission or task force, to be able to serve until their current term expires. The motion was not considered friendly by the maker or seconder.

Substitute motion by Councilmember Negrete, seconded by Councilmember Brock, to amend the resolution to allow anyone currently serving on a board, commission or task force, to be able to serve until their current term expires.

The motion failed by the following vote:

- AYES: Councilmembers Negrete, Brock
- NOES: Councilmembers Davis, de la Torre, Mayor Pro Tem McCowan
- ABSENT: Councilmember Parra, Mayor Himmelrich

The original motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Mayor Pro Tem McCowan
- NOES: None
- ABSENT: Councilmember Parra, Mayor Himmelrich

**ORDINANCES:**  
**SEWER CAPPING**

**7.A. Second Reading and Adoption of Ordinance No. 2684 (CCS) entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA MODIFYING SECTION 7.04.610 OF THE SANTA MONICA MUNICIPAL CODE TO CLARIFY SEWER CAPPING REQUIREMENTS”, was presented.**  
**Recommended Action**

*Mayor Himmelrich returned  
at 8:16 p.m.*

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Councilmember Davis, seconded by Councilmember Brock, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Parra

**RECYCLING**

**7.B. Second Reading and Adoption of Ordinance No. 2685 (CCS) entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA TO ADD SECTION 5.46 OF THE SANTA MONICA MUNICIPAL CODE TO ORGANICS RECYCLING REQUIREMENTS”,** was presented.

**Recommended Action**

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Councilmember Negrete, seconded by Councilmember Davis, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers Davis, Negrete, Brock, de la Torre  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Parra

**COUNCILMEMBER  
DISCUSSION ITEMS:  
LEADED FUEL**

**13.A. Request of Mayor Pro Tem McCowan and Councilmember Davis that Council direct staff to take necessary steps to have the City join in the recent petition filed by Earthjustice to urge the U.S. Environmental Protection Agency (EPA) to initiate a nationwide ban of leaded aviation gasoline and to appeal to the City’s congressional representatives to advocate for the United States Department of Transportation, Federal Aviation Administration and Environmental Protection Agency to stop the sale of leaded aviation fuel and to expedite the approval process for an alternative to the leaded aviation fuel,** was presented.

There was no one present for public comment.

Motion by Councilmember Negrete, seconded by Councilmember Brock, to approve the recommendation. The motion was approved by the

following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis,  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: Councilmember Parra

## **BOARDS AND COMMISSIONS**

**13.B. Request of Mayor Pro Tem McCowan and Councilmembers Brock and Davis that the Council: 1) receive an update from the Boards and Commission Ad hoc committee; 2) approve the recommendation to add appointments to boards and commissions that will not be impacted by consolidation or reorganization on the Nov. 23rd meeting. (This would include: ARB, Building and Fire Life Safety, Audit, Housing, SMTT, Airport, and Rec and Park); 3) provide feedback about reducing the Urban Forest Task Force membership from 9 to 7 and the Arts Commission membership from 11 to 7; and, 3) provide any additional recommendations related to the Ad Hoc Committee's continued work reviewing the City's Boards and Commissions procedures, was presented.**

Questions asked and answered included: do we provide childcare for members who want to participate; are we going to be able to remain remote, because that may increase how and who participates; should boards and commissions be able to submit recommendations to Council for appointments; and can the amount of commissions remain, but maybe reduce the amount of times they meet.

Members of the public Denise Barton and Olga Zurawaska spoke on the recommended action.

Considerable discussion ensued on topics including, but not limited to: support reducing the Arts Commission from 11 to 9 members, instead of reducing it down to 7 members; whether or not commissioners should go back to giving recommendations to Council on appointments; youth should be voting members, with shorter terms, with the suggestion that maybe reach out to SMC to get participants from their government or political science classes or possibly creating a Youth Commission; look at how to reduce staff participation in some boards and commissions, and to look at the frequency of meetings; look at having non-staff run meetings for some bodies; and, look into adding an employee, employer, or business partner to the nepotism policy.

Direction to staff to included: surveying other city policies to possibly add an employee, employer or business partner to the nepotism policy; postpone the appointments to the next meeting with a full Council, which will be the Dec. 7<sup>th</sup>; and, staff should work with the Mayor to create a letter

to send out to all members who are not in compliance with the vaccination mandate, to let them know that if they are not in compliance, they will no longer be able to serve on a board, commission or task force.

Motion by Mayor Himmlicher, seconded by Councilmember Brock, to approve the recommendation; approve reducing the Urban Forest Task Force from 9 to 7 members, and reducing the Arts Commission from 11 to 9 members; schedule annual appointments (ARB, Building and Fire Life Safety, Audit Subcommittee, Housing, SMTT, Airport and Rec and Parks commissions) to the Dec. 7<sup>th</sup> meeting, and that all board and commission members have to follow the city's vaccination policy in order to remain. The motion was approved by the following vote:

- AYES: Councilmembers Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Parra

**PUBLIC INPUT:**

Members of the public Denise Barton and Jonathan Foster commented on various local issues.

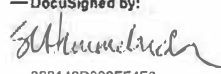
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 9:08 p.m. in memory of Roger Thornton and Bill Beebe.

ATTEST:

APPROVED:

DocuSigned by:  
  
 E2F85B056A714C3  
 Denise Anderson-warren  
 City Clerk

DocuSigned by:  
  
 823148D99FF4F3...  
 Sue Himmelrich  
 Mayor

# Exhibit N

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**DECEMBER 14, 2021**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:33 p.m., on Tuesday, December 14, 2021, via teleconference pursuant to Assembly Bill No. 361 signed by, Governor Gavin Newsome at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Gleam Davis  
Councilmember Oscar de la Torre (*arrived at 5:45 p.m.*)  
Councilmember Christine Parra

Absent: Councilmember Lana Negrete

Also Present: City Manager David White  
Interim City Attorney Joseph Lawrence  
City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE** On order of the Mayor, the City Council convened at 5:33 p.m., with all members present except Councilmembers Negrete and de la Torre. Mayor Pro Tem McCowan led the assemblage in the Pledge of Allegiance.

**CLOSED SESSIONS** Member of the public Denise Barton commented on closed session items.

*Councilmember de la Torre arrived at 5:45 p.m.* On order of the Mayor, the City Council recessed at 5:37 p.m., to consider closed sessions and returned at 6:35 p.m., with all members present except Councilmember Negrete, to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): Santa Monica Bayside Owners Association v. City of Santa Monica, California Coastal Commission, Los Angeles Superior Court, Case No. 21SMCP00269**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.B. Conference with Legal Counsel – Existing Litigation –**

**Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): EJA Associates, L.P. v. City of Santa Monica and Downtown Santa Monica, Inc. Los Angeles Superior Court, Case No. 20SMCV01103 and EJA Associates, L.P. v. City of Santa Monica and Downtown Santa Monica, Inc. Los Angeles Superior Court, Case No. 20SMCV01550**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.C. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): City of Arcadia et al. v. Southern California Edison Company, Santa Barbara Superior Court, Case No. 20CV02026**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.D. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Gov. Code Section 54956.9(d)(1): Yazhari v City of Santa Monica, Los Angeles Superior Court, Case No: 20STCV26250**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**SPECIAL AGENDA ITEMS:**

**REPORT ON COUNCIL TRAVEL**

**2.A. City Manager's Report**, was presented.

Councilmember Brock reported that he attended the League of CA cities Christmas event in downtown Los Angeles at the California Club on December 10<sup>th</sup>.

**REPORT ON MEETING COMPENSATION**

Pursuant to State law, City Clerk Denise Anderson-Warren announced that Council will receive no compensation for meeting as the Redevelopment Successor Agency.

**CONSENT CALENDAR:**

There being a Consent Calendar for Council and the Redevelopment Successor Agency, the Mayor, with the consensus of the Councilmembers, convened to a joint meeting at 6:38p.m., and the two Consent Calendars were heard concurrently, with all Agency/Councilmembers present except Agency/Councilmember Negrete.

All items were considered and approved in one motion unless removed by an Agency/Councilmember for discussion.

Member of the public Stan Epstein commented on various Consent Calendar items.

At the request of staff, Item 3.F was removed from the Consent Calendar.

At the request of Agency/Councilmember Davis, Item 3.M was removed from the Consent Calendar.

At the request of Agency/Councilmember Brock, Items 3.D and 3.J were removed from the Consent Calendar.

Motion by Agency/Councilmember Brock, seconded by Agency/Councilmember Davis, to approve the Consent Calendar except for Items 3.F, 3.M, 3.D and 3.J, reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Agency/Councilmembers Parra, Davis, Brock, de la Torre, Chair/Mayor Pro Tem McCowan, Chair/Mayor Himmelrich
- NOES: None
- ABSENT: Agency/Councilmember Negrete

**COMMUNICATION SYSTEMS**

**3.A. Approval of Fourth Modification to Saddle Peak Antenna Site Lease Agreement to Support City Radio and Data Communication Systems with its Buses**, was approved.

**Recommended Action**

Staff recommends that City Council authorize the City Manager to negotiate and execute a fourth modification to agreement #8377 in the amount of \$330,813 with American Tower Corporation, a Delaware-based company, for an antenna site lease. This would result in a five-year amended agreement with a new total contract amount not to exceed \$1,129,641, with future year funding contingent on Council budget approval.

**TELECONFERENCE MEETINGS**

**3.B. Adoption of Resolution No. 11390 (CCS) entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA MAKING FINDINGS AS REQUIRED BY AB 361 TO PERMIT COUNCIL AND CITY BOARD, COMMISSION, AND TASK FORCE MEETINGS TO CONTINUE TO BE CONDUCTED BY TELECONFERENCE WHILE THE COVID-19 EMERGENCY REMAINS IN PLACE"**, was adopted.

**Recommended Action**

Staff recommends that Council adopt a resolution making the findings required by AB 361 to continue teleconference meetings of the City



Council and City Boards, Commissions, and Task Forces after December 23, 2021 and through January 13, 2022.

**ALCOHOLIC BEVERAGE CONTROL GRANT**

**3.C. Authorization to accept Grant from the California Department of Alcoholic Beverage Control (ABC), was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the City Manager to accept a grant awarded in the amount of \$20,000 from the California Department of Alcoholic Beverage Control (ABC) for the 2021-22 ABC-OTS Grant Program.
2. Authorize the City Manager to execute all necessary documents to accept the grant and all grant renewals.
3. Authorize budget changes as outlined in the Financial Impacts and Budget Actions section of this report.

**2501 2<sup>ND</sup> STREET**

**3.E. Adoption of Resolution No. 11391 (CCS) entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ACCEPTING AND APPROVING THE FINAL PARCEL MAP FOR TRACT NO. 78204 TO SUBDIVIDE A PROPERTY AT 2501 SECOND STREET", was adopted.**

**Recommended Action**

Staff recommends that the City Council adopt the attached resolution accepting and approving Final Parcel Map No.78204 for a 3-unit condominium project located at 2501 Second Street.

**EMPLOYEE SUPPORT SERVICES**

**3.G. Approval of Modification of Agreement No. 11048 (CCS) with BetterUp for Employee Support Services, was approved.**

**Recommended Action**

Staff recommends that the City Council approve the second modification to the BetterUp Enterprise Agreement and authorize the City Manager to negotiate and execute an agreement with BetterUp Inc. for a four-month pilot program to provide employee support services in the amount not to exceed \$40,000 for a total amount not to exceed \$292,500. The term of the agreement does not change and expires June 30, 2022. This recommended award is made as an exception to the competitive bidding process pursuant to Section 2.24.250 (a) with future year funding contingent on Council budget approval.

**LOW-MOD HOUSING**

**3.H. Annual Report on Low-Mod Housing Income Asset Fund, was approved.**

**Recommended Action**

Staff recommends that the Redevelopment Successor Agency:

1. Receive the Annual Report on the Low- and Moderate-Income Housing Asset Fund for Fiscal Year 2020-21 and authorize the City Manager to post the report on the City's website by December 31, 2021; and
2. Direct the City Manager to present the independent audit of the Low- and Moderate-Income Housing Asset Fund to the Council upon completion of the independent audit of the City's Annual Comprehensive Financial Report (ACFR) and authorize the City Manager to post the results of the audit on the City's website after presentation to City Council.

**RECOGNIZED  
OBLIGATION PAYMENT  
SCHEDULE**

**3.I. Approval of Annual Recognized Obligation Payment Schedule (ROPS), was adopted.**

**Recommended Action**

Staff recommends that the Redevelopment Successor Agency adopt Resolution Nos. 39 (SA) and 40 (SA) approving the Agency's recognized obligation payment schedule and administrative budget for July 1, 2022 through June 30, 2023.

**SANTA MONICA  
TRAVEL & TOURISM**

**3.K. Authorization of Memorandum of Understanding No. 11229 (CCS) and Agreement No. 11230 (CCS) with Santa Monica Travel & Tourism for Voluntary Tourism Services District, was approved.**

**Recommended Action**

Authorize the City Manager to negotiate and execute a Memorandum of Understanding and License Agreement with Santa Monica Travel and Tourism for purposes of creating a voluntary tourism services district to support enhanced clean and safe services along Ocean Front Walk and the adjoining public right of way.

**OUTDOOR DINING FEE  
WAIVER**

**3.L. Adoption of Fee Resolution No. 11392 entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA WAIVING CERTAIN FEES ON A TEMPORARY BASIS TO FURTHER STIMULATE ECONOMIC RECOVERY", was adopted.**

**Recommended Action**

Staff recommends that the City Council adopt a Fee Resolution to authorize the extension of fee waivers until June 30, 2022 for outdoor dining permits and monthly outdoor dining license fees, and the Santa Monica Outdoors Temporary Use program pursuant to Santa Monica Municipal Code Chapter 6.40.

**SEISMIC STRUCTURAL ANALYSIS**

**3.D. Approval of Second Modification Extending Term of Professional Services Agreement with Degenkolb Engineers for Seismic Structural Analysis and Plan Review Services**, was presented.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a second modification to agreement #10635 (CCS) with Degenkolb Engineers for seismic structural analysis review and seismic plan review services for the Community Development Department. This modification will extend the term by one year and will result in a five-year amended agreement.

Councilmember Brock requested that this item postponed to the January 11, 2022 City Council meeting, and have the existing contract attached.

Mayor Himmelrich made a friendly amendment to move Item 3.J with Item 3.D.

The amendment was friendly to the maker.

Motion by Councilmember Brock, seconded by Councilmember de la Torre, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**SEISMIC STRUCTURAL ANALYSIS**

**3.J. Approval of Second Modification of Term Extension for Professional Services Agreement with IDS Group for Seismic Structural Analysis and Plan Review Services**, was presented.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a second modification to agreement #10636 (CCS) with IDS Group, Inc. for seismic structural analysis review and seismic plan review services for the Community Development Department. This modification will extend the term by one year and will result in a five-year amended agreement.

Councilmember Brock requested that this item postponed to the January 11, 2022 City Council meeting, and have the existing contract attached.

Motion by Councilmember Brock, seconded by Councilmember de la Torre, to approve the recommendation.

The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**PARKING FACILITIES**

**3.F. Approval of Fourth Amendment to Parking Lease Agreement No. 10740 (CCS) with Macerich for Lease, Operations and Maintenance of Parking Facilities, was presented.**

**Recommended Action**

Staff recommends that the Council authorize the City Manager to enter into a Fourth Amendment to Agreement for the Lease, Operations and Maintenance of Parking Facilities with Macerich SMP LP in order to:

1. Approve the installation and designation of four (4) new electrical vehicle charging stations with dedicated parking at Parking Structure 7 on Level 5; ~~and~~
2. ~~Authorize Macerich to negotiate and enter into a license agreement, subject to City approval, to permit a new pre-payment parking program at Parking Structures 7 and 8.~~

Staff pulled the report to ask Council to approve only the first recommendation and to pull the second recommendation from consideration at this time.

Motion by Mayor Himmelrich, seconded by Councilmember Davis, to approve the installation and designation of four (4) new electrical vehicle charging stations with dedicated parking at Parking Structure 7 on Level 5.

The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**849 OCEAN AVENUE**

**3.M. Approval of Statement of Official Action for 849 Ocean Avenue Denying CUP Applications for Oceana Hotel, was presented.**

**Recommended Action**

Staff recommends that City Council approve the attached Statement of Official Action denying the Appeals of the Planning Commission’s denial of Conditional Use Permit Applications 20ENT-0237 and 21ENT-0090 to allow the Oceana Hotel’s existing restaurant to provide meal and

alcohol service to the general public.  
Councilmember Davis pulled this item to abstain from voting because she was not being present for the initial hearing.

Motion by Mayor Himmelrich, seconded by Councilmember de la Torre, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSTAIN: Councilmember Davis
- ABSENT: Councilmember Negrete

**ADJOURNMENT OF  
SPECIAL MEETING**

On order of the Chair/Mayor, the special joint meeting with the Redevelopment Successor Agency was recessed at 6:51 p.m., and the regular meeting of the City Council was reconvened, with all members present except Councilmember Negrete.

**ORDINANCES:  
PUBLIC SAFETY  
REFORM AND  
OVERSIGHT  
COMMISSION**

**7.A. Approval of Revisions to the Public Safety Reform and Oversight Commission Ordinance,** was presented.

**Recommended Action**

Staff recommends that the City Council introduce for first reading the attached ordinance to amend Santa Monica Municipal Code Chapter 2.50 to make revisions and clarifications to the composition, scope of powers and duties, and reporting processes of the Public Safety Reform and Oversight Commission and its Inspector General.

Member of the public Ericka Leslie and another unknown member of the public spoke to the recommended action.

Questions asked and answered of staff included: is it true that the city has to meet and confer with the union on these types of matters; is it appropriate to require an annual report that is broken down by race, ethnicity and diversity, and how does the Council ask for this information; and, why was the \$5,000 settlement necessary as part of this agreement.

Motion by Councilmember Davis, seconded by Mayor Himmelrich, to introduce and hold first reading of the ordinance reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None  
ABSENT: Councilmember Negrete

**STAFF**  
**ADMINISTRATIVE**  
**ITEMS:**  
**1318 FOURTH STREET**

**8.A. Adoption of CEQA Findings and Authorization to enter into Agreement with EAH, Inc. for the 1318 Fourth Street Affordable Housing Development,** was pulled at the request of staff.

**Recommended Action**

Authorize the City Manager to negotiate and execute an Exclusive Negotiating Agreement with EAH, Inc. for a mixed-use, affordable housing development on the City-owned site located at 1318-20 Fourth Street and adopt the CEQA Findings in this Staff Report under “Environmental Status”.

**BOARDS AND COMMISSIONS**

**8.B. Discussion and Approval of Recommendations from the Boards and Commission Ad Hoc Committee and other Related Policies,** was presented.

**Recommended Action**

Staff recommends that the City Council:

- 1) Review and discuss recommendations from the Boards and Commission Ad Hoc committee, including consolidation, term limits for members and for Chairs and Vice Chairs, appointment methodology, changing requirements for specific qualifications; clarify serving on more than one board at a time; clarify expectations and additional training for Chairs, and making changes effective January 1, 2022;
- 2) Direct staff to return to Council with a resolution incorporating the recommended procedural changes previously approved by Council including: Council liaisons would be limited to serve on a maximum of two commissions a year, with quasi-judicial bodies exempt; changes to the Chair and Vice Chair rotation by election; reduce the Urban Forest Task Force from nine to seven members, reduce the Arts Commission from eleven to nine members, and any procedural changes approved at this meeting;
- 3) Direct staff to come back with an updated Civility Policy for both members of the public, as well as members of the bodies;
- 4) Direct staff to return with information for a ballot measure to move the Charter boards and commissions to the Santa Monica Municipal code; and,
- 5) Approve a policy permitting boards and commissions to meet quarterly for the first quarter of 2022 or until the end of fiscal year 2022, and direct staff to come back with options for returning to in-person meetings.

Members of the public Denise Barton, Alex Elliot and Jonathan Foster

spoke to the recommended action.

Questions asked and answered of staff included: why did the ad hoc committee decide to merge the Disability Commissions with other Commissions; does the West Valley Water District also provide a stipend to board members; is our MWD a part of West Valley Water District; what is the proposed, updated civility policy; was the current civility policy reviewed and deemed inadequate; and, what are the advantages and disadvantages of moving the Charter boards and commissions to the Santa Monica Municipal Code.

Considerable discussion ensued on topics including, but not limited to, keeping the Disabilities commission as its own commission, and maybe incorporate mental health under this commission.

Motion by Councilmember Brock, seconded by Councilmember Parra, to approve the recommendations from the Boards and Commission Ad Hoc committee, including:

- a. Consolidation of the Social Services Commission, the Commission on the Status of Women, and the Commission on the Senior Community into one newly named Commission; and leaving the Disabilities Commission as a standalone.

The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

Motion by Councilmember Davis, seconded by Mayor Himmelrich, to have staff return to Council with better and less costly options to support Boards and Commissions that includes non-specialized, centralized staff to do the administrative work associated with the commissions. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

Motion by Mayor Pro Tem McCowan, seconded by Councilmember Davis, to direct staff to return to Council with a resolution incorporating the recommended procedural changes previously approved by Council including: Council liaisons would be limited to serve on a maximum of two commissions a year, with quasi-judicial bodies exempt;

changes to the Chair and Vice Chair rotation by election; reduce the Urban Forest Task Force from nine to seven members, reduce the Arts Commission from 11 to nine members, and any procedural changes approved at this meeting, and, approve a policy permitting boards and commissions to meet quarterly until the end of fiscal year 2022, and direct staff to come back with options for returning to in-person meetings. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

Motion by Mayor Pro Tem McCowan, seconded by Councilmember Brock, to direct staff to come back with an updated Civility Policy for both members of the public, as well as members of the bodies and clarifying expectations on civility and create additional training for Chairs and Vice Chairs. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

Motion by Councilmember Brock, seconded by Councilmember Davis, to direct staff to return with information for a ballot measure to move the Charter boards and commissions to the Santa Monica Municipal Code. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

Motion by Mayor Pro Tem McCowan, seconded by Councilmember Davis, to not change the appointment methodology, requirements and/or specific qualifications for applicants and clarify that the limitations of serving on more than one board at a time does not apply to advisory committees. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: Councilmember Negrete

Motion by Councilmember Brock, seconded by Mayor Pro Tem



McCowan to establish term limits for members of the following boards/commissions/regional boards: Clean Beaches and Ocean Parcel Committee members shall be appointed for 4-year seats for two consecutive terms, with request for a third term with a supermajority vote from Council; West Vector and MWD are limited to serving two consecutive terms. However, a third consecutive term may be served if the member makes a written request to serve a third term, or a Councilmember nominates a member to a third term, and the City Council approves the third term by a two-thirds vote. The current members shall serve the remainder of their term but shall be ineligible to serve any subsequent term.

The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**COUNCILMEMBER**  
**DISCUSSION ITEMS:**  
**HOMELESS**  
**ASSISTANCE**

**13.A. Request of Councilmembers Brock, Parra and de La Torre that the City Manager, as a matter of urgency, make available to the full Council, Santa Monica residents and the public, the following information regarding homelessness assistance in the city: contact information for members of the community who may encounter an individual or individuals experiencing homelessness and in need of assistance for shelter or psychiatric/mental health crisis. This information should include details gathered in response to inquiries from the Council Ad Hoc Commission on Homelessness; should include local and regional street-based outreach teams and their contact information; should include a Map of street-based outreach teams' coverage and hours of operation in the city; should include a Map and Public Directory of all available public restrooms and hours of operation; should include existing shelters and hygiene services for people experiencing homelessness or in medical or mental health crisis; should include all existing funding sources for such services; and should include suggested opportunities to add new resources to the system of care, including but not limited to identifying city-owned land and sites that could provide additional temporary shelter capacity, was presented.**

Members of the public Denise Barton, Jonathan Foster and Shannon Yoshikawa spoke on the recommended action.

Motion by Councilmember de la Torre, seconded by Councilmember Brock, to approve the recommendation, with direction staff to add how we assess best practices on data gathering and reporting to monitor and

improve service delivery and program effectiveness. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: Councilmember Negrete

**PUBLIC INPUT:**

Members of the public David Morris, Teresa Marasco, Michael, Olga Zurawaska, Michelle Grey and Jonathan Foster commented on various local issues.

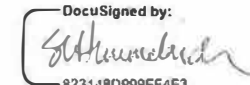
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 9:59 p.m.

ATTEST:

DocuSigned by:  
  
 E2F85B056A714C3...  
 Denise Anderson-Warren  
 City Clerk

APPROVED:

DocuSigned by:  
  
 823148D999FF4F3...  
 Sue Himmelrich  
 Mayor

# Exhibit O

City Council Meeting: May 28, 2019

Santa Monica, California

RESOLUTION NO. 11172 (CCS)

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF SANTA MONICA AMENDING THE RULES OF ORDER AND  
PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS AND  
REPEALING RESOLUTION NUMBER 11106 (CCS)

THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES RESOLVE AS  
FOLLOWS:

SECTION 1. The City Council Rules of Order and Procedure are hereby amended  
as follows:

**RULES FOR CITY COUNCIL MEETINGS**

**RULE 1. RULES OF ORDER.**

Except as otherwise provided by these rules, the City Charter, the Municipal Code,  
or applicable provisions of state law, the procedures of the City Council shall be governed  
by the latest revised edition of Roberts Rules of Order.

The City Council rules, or any one thereof, may be suspended by a vote of two-  
thirds (2/3) of the Councilmembers present.

**RULE 2. TIME AND PLACE FOR HOLDING REGULAR MEETINGS.**

Pursuant to the provisions of Section 611 of the Santa Monica City Charter, the  
City Council establishes the second and fourth Tuesdays of each month as the days for  
holding regular meetings of the City Council. The regular meeting shall commence at  
5:30 p.m., for the Closed Session. It is the intention of the City Council that all other

agenda items shall commence at 6:30 p.m., following the Closed Session. If any such Tuesday falls on any day designated by law by the City Council as a day for public feast, Thanksgiving or holiday, such regular meeting shall be held on the date of the regular meeting next following said Tuesday at the hour heretofore fixed or at such other day as may be fixed. The City Council Chamber in City Hall is established as the place for holding its regular meetings.

**RULE 3. QUORUM AND ACTION**

In accordance with Section 614 of the Santa Monica City Charter, four Councilmembers shall constitute a quorum for the transaction of business. Except as otherwise provided in the Charter, or other law or these rules action shall be taken by a majority vote of the entire membership of the City Council. However, in the case of a quasi-judicial hearing, if only four Councilmembers are participating, the applicant or appellant shall be entitled to request and receive a continuance of the hearing, until such time as five Councilmembers are participating.

Whenever any Councilmember questions the presence of a quorum, the presiding officer shall forthwith direct the City Clerk to call the roll, each Councilmember shall respond when his or her name is called and the Clerk shall announce the result. Such proceedings shall be without debate, but no Councilmember who is speaking may be interrupted by a question as to the presence of a quorum.

The City Council may also establish standing subcommittees of its members to address designated areas of City business on the Council's behalf and may establish ad hoc committees to formulate reports or recommendations on particular matters.

**RULE 4. MEETINGS TO BE PUBLIC - EXCEPTION FOR CLOSED SESSIONS.**

As required by the Ralph M. Brown Act (the "Brown Act"), California Government Code Sections 54950, et seq all regular, adjourned regular and special meetings of the City Council shall be public, provided, however, the City Council may meet in a Closed

Session from which the public is excluded, for those purposes authorized by the Brown Act.

No Councilmember, employee of the City, or any other person present during a Closed Session of the City Council shall disclose to any person the content or substance of any communication which took place during the Closed Session unless the City Council specifically authorizes the disclosure by majority vote or unless the disclosure is required by law.

**RULE 5. AGENDA.**

The City Clerk shall prepare the Agenda under the direction of the City Manager as follows:

(a) The City Manager shall consult with the Mayor and Mayor Pro Tempore in the preparation of the Agenda.

(b) The Agenda and all available supporting documents shall be delivered to Councilmembers on the Tuesday preceding the Tuesday City Council meeting to which it pertains or as soon thereafter as possible.

(c) Any Councilmember or the City Manager may direct that any matter within the City Council's jurisdiction be placed upon the Agenda. Councilmembers should endeavor to submit agenda items by 3:00 p.m. on Thursday in order to ensure that matters will be agendized for the following Tuesday. Subject to Brown Act requirements, items submitted after 3:00 p.m. Thursday will be agendized for the following Tuesday if possible.

Councilmember items may only be combined with other items on the agenda by a vote of the Council. A Councilmember who wishes to combine his or her item with another item on the agenda may direct that the following language be included with the agenda item: "This item may be considered with Item . ." The City Manager may combine staff items on the agenda in order to ensure that the public's business is handled efficiently and conveniently.

(d) The City Clerk shall post the Agenda as required by the Brown Act. Copies of the Agenda shall be posted in the lobby of City Hall and the Police Department. The City Clerk shall maintain on file in his or her office declarations establishing compliance with the posting requirements.

(e) No action shall be taken on any item not appearing on the posted Agenda unless the item is added to the Agenda in the manner required by the Brown Act.

(f) Matters directed to be placed on the Agenda at the direction of Councilmembers shall be listed on the Agenda in the order of receipt by the City Clerk.

(g) Written requests to the City Council shall be received and opened by the City Clerk and referred to the City Manager or his or her designee and either shall be transmitted to the appropriate board, commission or staff member or shall be placed on the Agenda if City Council consideration is deemed appropriate by the Mayor or City Manager. Written requests being agendized shall be scheduled for City Council consideration at the earliest convenient meeting, taking into consideration the length and content of meeting agendas. Members of the public submitting written requests shall be advised of how their request is being handled. Councilmembers shall receive copies of those written requests which are not agendized. Agendized communications shall be listed on the Agenda in order of receipt. No communication shall be placed on an Agenda if it contains material that:

- (1) Is profane.
- (2) Is potentially slanderous or libelous.
- (3) Advocates or opposes the candidacy of any person or party for any elective office.
- (4) Is primarily an advertisement or promotion or has as a substantial purpose, the advancement of any cause the major benefit of which is private and not public.

Members of the public submitting written requests to the City Council are encouraged to limit their submissions to one per meeting.

(h) All electronic presentation materials intended for use at a City Council meeting, including PowerPoint presentations, videos, audio, electronic images, and electronic portable document formats (PDFs), but excluding any hardcopy document projected by an overhead projector, must be received by the City Clerk no later than 12:00 PM on the day of a City Council meeting. For clarity, this rule shall not apply to a current member of a board or commission speaking on a matter within the purview of the board or commission on which the member sits.

#### **RULE 6. CATEGORIES AND ORDER OF BUSINESS.**

The business of the City Council shall be conducted in the order and manner specified below. The order may be changed by a majority vote of those present. The following is the order of business:

(a) Call to Order.

(b) Salute to the Flag.

(c) Roll Call.

(d) Closed Session.

(e) Special Agenda Items. This item includes the City Manager's Report, proclamations, commendations, introductions of special guests, special meetings, appointments to the City Council and presentations and reports by other non-City public entities or legislative bodies.

(f) Consent Calendar. The consent calendar shall consist of the approval of minutes of previous meetings and those other items such as contracts and routine resolutions which do not necessitate a separate public hearing and which are determined in the Agenda preparation process to be relatively non-controversial. Ordinances for second reading and adoption may be placed on the consent calendar if all members of



the City Council were present when the vote for first reading and introduction took place and this vote was unanimous. The consent calendar shall be considered as one item regardless of the number of matters appearing on it and may be approved by a single vote. The title to the individual consent items need not be read unless a request to do so is made by any Councilmember. Members of the public shall have no more than one opportunity to address the City Council concerning any and all items on the consent calendar. Members of the public shall be heard prior to City Council consideration of the consent calendar. Councilmembers may request to have individual matters removed from the consent calendar so that they may be heard on those matters. All matters remaining on the consent calendar may be approved by a single vote. Any items removed from the consent calendar shall be considered separately in the order of their appearance on the Agenda. Removed items may be heard immediately following the consent calendar or may be heard after the City Council concludes Closed Session or Study Session.

(g) Study Session. During Study Sessions staff will present information regarding a complex matter that will be subject to Council deliberation and decisions in the future. No City Council action will be recommended or taken as part of the Study Session.

(h) Continued Items. This item includes agendized items of a previous City Council meeting not considered at such meeting. The City Council may vote by a majority of its members to have a carry-over item placed on a subsequent agenda as a continued item.

(i) Administrative Proceedings. This item includes proceedings requiring the City Council to make a quasi-judicial decision concerning an individual application or appeal.

(j) Ordinances.

(1) Second Reading and Adoption. No public discussion is permitted on second readings.

(2) Introduction and First Reading.

(k) Staff Administrative Items. This category will include policy matters to be considered by the City Council or at joint meetings of the City Council, Parking Authority, Housing Authority, the Public Financing Authority and/or Redevelopment Successor Agency.

(l) Public Hearings. This item consists of public hearings required by specific provisions of law.

(m) Reports of Boards and Commissions. Boards and commissions who may present reports under this item include, but are not limited to, all City boards, commissions and task forces. Reports may also be provided by the Santa Monica Pier Corporation, Downtown Santa Monica, Inc., Santa Monica Convention and Visitors Bureau.

(n) Resolutions. A resolution will be considered under this item only if its substance makes extensive public input advisable, or if it should be considered after another item on the Agenda, otherwise the resolution will be considered on the Consent Calendar.

(o) Written Communication. This item allows the City Council to consider issues raised by written submissions from the public.

(p) Councilmember Discussion Items. Staff items as deemed necessary.

(q) Public Input. This item allows members of the public to address the City Council on matters that are within the City Council's subject matter jurisdiction. No formal action may be taken on any matter under this item unless the item is specifically agendized.

**RULE 7. PREPARATION OF MINUTES.**

The City Clerk shall have exclusive responsibility for preparation of the Minutes, and any directions for corrections in the Minutes shall be made only by majority vote of the City Council.

**RULE 8. APPROVAL OF MINUTES.**

Minutes of a City Council meeting may be approved without reading if the City Clerk has previously furnished each Councilmember with a copy and unless a reading is ordered by a majority vote of the City Council.

**RULE 9. PRESIDING OFFICER.**

The Mayor shall be the Presiding Officer at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of both the Mayor and Mayor Pro Tempore, the City Clerk shall call the City Council to order and a temporary Presiding Officer shall be elected by the Councilmembers present to serve until the arrival of the Mayor or Mayor Pro Tempore or until adjournment.

**RULE 10. POWERS AND DUTIES OF PRESIDING OFFICER.**

(a) Participation. The Presiding Officer may move, second, and debate from the chair, subject only to such limitations of debate as are imposed upon Councilmembers by these rules, and shall not be deprived of any of the rights or privileges of a Councilmember by reason of his or her acting as the Presiding Officer.

(b) Duties. The Presiding Officer shall:

- (1) preserve order at all meetings of the City Council
- (2) state (or cause to be stated) each question coming before the City Council
- (3) announce the decisions of the City Council on all subjects
- (4) decide all questions of order subject to the right to appeal rulings on questions of order to the entire City Council and
- (5) encourage all persons present at the meeting to conform their conduct to the City's Civility Policy.

**RULE 11. SWORN TESTIMONY AND SUBPOENA POWER.**

Any Councilmember may request that anyone appearing before the City Council on any matter shall be sworn. On receipt of such a request, all proceedings shall be suspended and the City Council will immediately vote on whether the individual should be sworn. A majority vote of the Councilmembers present shall determine whether the speaker shall be placed under oath. All oaths will be administered by the City Clerk.

The City Council shall have the power to issue subpoenas as provided in City Charter Section 614.

**RULE 12. RULES OF DEBATE.**

(a) Getting the Floor. A Councilmember desiring to speak shall gain recognition by the Presiding Officer.

(b) Questions to Staff. Every Councilmember desiring to question City staff shall address his or her questions to the City Manager, the City Attorney, the City Clerk or designated staff. Members of the City staff, after recognition by the Presiding Officer shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

(c) Interruptions. A Councilmember who has the floor shall not be interrupted when speaking unless he or she is called to order by the Presiding Officer, a point of order or a personal privilege is raised by another Councilmember or the speaker chooses to yield to a question by another Councilmember. If a Councilmember is called to order, he or she shall cease speaking until the question of order is determined.

(d) Points of Order. The Presiding Officer shall determine all points of order subject to the right of any Councilmember to appeal to the City Council. If an appeal is taken, the question shall be: "Shall the decision of the Presiding Officer be sustained?" The Presiding Officer's decision may be overruled by a two-thirds vote of the Councilmembers then present.

(e) Point of Personal Privilege. The right of a Councilmember to address the City Council on a question of personal privilege shall be limited to cases in which the Councilmember's integrity, character, or motives are questioned or where the safety or welfare of the City Council is concerned.

(f) Privilege of Final Comment. The Councilmember moving the introduction or adoption of an ordinance, resolution, or motion, shall have the privilege of speaking last on the matter after all other Councilmembers have been given an opportunity to speak.

(g) Motion to Reconsider Legislative Actions. A motion to reconsider any legislative action taken by the City Council may be made only by one of the Councilmembers on the prevailing side and may be seconded by any Councilmember. Such motion may be made at any time and shall be debatable. A motion by a non-prevailing Councilmember or a request by a member of the public for reconsideration may be made only if one year has passed since the action was taken.

(h) Calling for the Question. A question may be called by majority vote of those present. However, neither the moving party nor the party seconding any motion may call for the question, each Councilmember shall be afforded one opportunity to speak on each item before the question is called, and a question may not be called to interrupt or cut off a particular speaker.

(i) Limitation of Debate. Councilmembers shall limit their remarks to the subject under debate. No Councilmember shall be allowed to speak more than once upon any particular subject until every other Councilmember desiring to do so has spoken. Prior to beginning deliberation, the Council may, by a two-thirds vote of those present, limit the amount of time that each Councilmember may spend stating his or her views on a particular agenda item.

### **RULE 13. PROTEST AGAINST CITY COUNCIL ACTION.**

Any Councilmember shall have the right to have the reasons for his or her opposition to any action of the City Council entered in the Minutes. Such opposition shall

be made in the following manner: "I would like the Minutes to reflect that I opposed this action for the following reasons..."

**RULE 14. DISCLOSURE FOR QUASI JUDICIAL MATTERS.**

On quasi-judicial matters, Councilmembers shall verbally disclose off the record contacts relating to the item, after the item is called and before City Council consideration of the matter. Disclosure shall include the identity of an individual(s) with whom the Councilmember had contact, and the nature of the contact.

**RULE 15. PUBLIC TESTIMONY.**

(a) Pursuant to the Brown Act, public testimony is permitted on all agenda items, except ordinances for second reading, and the public shall have an opportunity to comment on any matter which is not on the Agenda but is within the City Council's jurisdiction. However, members of the public do not have the right to give testimony outside the scope of or unrelated to the agenda item under consideration. Additionally, members of the public should strive to avoid unduly reiterating their own or others' testimony.

(b) Registration. Any member of the public wishing to address the City Council regarding any item on the Agenda for public discussion shall register with the City Clerk prior to the start of the meeting, if possible, but no later than prior to the public hearing on that item. Except when donating time to another speaker, a request received after the start of the hearing shall be considered late and may only be heard with Council approval.

(c) Manner of Addressing the City Council. After being recognized by the Presiding Officer, each member of the public addressing the City Council shall go to the podium, state his or her name and whom he or she is representing, if he or she represents an organization or other person. Each member of the public is encouraged, but not required, to also state his or her address, neighborhood, or city of residence. All remarks shall be addressed to the City Council as a whole and not to any individual member thereof. After a public hearing has been closed, no member of the public shall address

the City Council on the matter under consideration without first securing City Council approval.

(d) Time Limits. Except on Written Communication, members of the public shall limit their remarks to two minutes per agenda item unless the City Council grants additional time by majority vote. For purposes of these Rules, the consent calendar shall be considered one item. Members of the public using one minute to address the City Council may speak first during public comment, followed by K-12 students speaking on their own behalf, while members of the public using the full two minutes will speak afterwards. Persons speaking on another's written communication and persons submitting late chits, who receive permission to speak shall be limited to one minute. On Written Communication, those speaking on another's item may speak only if the person raising the matter appears and testifies. If the person who raises the item does not appear and testify, the matter shall be received and filed and persons wishing to speak on the matter may give their testimony during Public Input. A member of the public wishing to speak on more than one item shall limit his or her remarks to a total of six minutes per meeting unless the City Council grants additional time by majority vote. A member of the public may allocate time between items in one minute increments up to two minutes. Testimony given as an applicant or appellant does not count toward the six minute maximum. A Board or Commission member reporting to the City Council on behalf of a Board or Commission shall not be subject to these rules on time limits; however, City Council may limit the duration of such reports.

(e) Special Time Limits for Applicants and Appellants. Applicants and appellants on administrative items shall limit their remarks to ten minutes and may reserve some of their time for use for rebuttal at the conclusion of the public hearing. The appellant shall have the opportunity to address the City Council first and last.

(f) Special Time Limits for Special Agenda Items. Public testimony is permitted on the City Manager's Report and Appointments to the City Council. Proclamations, commendations and appearances by special guests are ceremonial items. In order to ensure adequate time for the Council's regular business, only honorees and guests may

address the Council on such items. Groups of honorees or guests, who wish to speak, should appoint one or two representatives to speak for them.

(g) Special Assistance for Those Who Cannot Wait to Speak. Members of the public, including those with special needs, who cannot wait to speak on an agenda item may request assistance from the City Clerk, and a member of the Clerk's office will provide assistance in preparing a written statement of testimony for distribution to the City Council.

(h) Extended Time Limits for Speakers Who Require Interpreter. A member of the public who utilizes an interpreter to provide English language translation shall receive twice the time otherwise allotted under these Rules.

(i) Donating Time to Another Speaker. Except on Public Input, a member of the public, speaking on their own behalf, may donate two minutes per agenda item to another speaker, speaking on their own behalf, and a speaker may accept one such donation from another per agenda item. The speaker and the person donating time shall turn in their chits together, notify the clerk of the donation, and go to the podium together. The speaker shall state both of their names and state that he or she is speaking for both. Donated time shall not increase an individual speaker's total time limit of six minutes per meeting. Any request received after the start of the hearing shall be considered late and the donator will not be permitted to donate his/her time.

(j) All electronic presentation materials intended for use at a City Council meeting, including PowerPoint presentations, videos, audio, electronic images, and electronic portable document formats (PDFs), but excluding any hardcopy document projected by the overhead projector, must be received by the City Clerk no later than 12:00 PM on the day of a City Council meeting. All such electronic presentation materials must be emailed to the City Clerk's Office and include the City Council meeting date, agenda item number, and name of the public speaker. For clarity, this rule shall not apply to a current member of a board or commission speaking on a matter within the purview of the board or commission on which the member sits.



**RULE 16. RULES OF CONDUCT AND SAFETY.**

When the City Council is in session, all persons present must preserve safety and order and should strive to conform their conduct to the City's Civility Policy. Members of the public should sit in the audience seating area, unless addressing the City Council or entering or leaving the Council Chambers, should not block the aisles with personal belongings and should not bring audible equipment into the Council Chambers including cellular telephones or pagers. Members of the public may not, except when testifying on or participating in an agenda item, enter the well area, which is the open area directly in front of the dais and extending outward from it to a line running between the points on the Clerk's desk and the podium nearest to the audience.

Any person who disrupts the meeting shall be called to order by the Presiding Officer. Disruption shall include but not be limited to, blocking the audience or camera view of the proceedings. If such conduct continues, the Presiding Officer may request the Sergeant at Arms to remove the person from Council Chambers.

The Chief of Police or such member or members of the Police Department as he or she may designate, shall be Sergeant At Arms of the City Council and shall carry out all orders given by the Presiding Officer through the City Manager for the purpose of maintaining order at City Council meetings. Any Councilmember may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the City Council shall require him or her to do so.

**RULE 17. SEATING ORDER.**

After each municipal election, the City Clerk shall determine City Council member seating order by drawing lots.

**RULE 18. ENTITLEMENT TO VOTE AND FAILURE TO VOTE.**

Every Councilmember is entitled to vote unless disqualified by reason of a conflict of interest. A Councilmember who abstains from voting consents to the decision made by the voting Councilmembers.

**RULE 19. VOTING PROCEDURE.**

Any vote of the City Council, including a roll call vote, may be registered by the members answering "Yes" for an affirmative vote or "No" for a negative vote upon his or her name being called by the City Clerk. Voting order shall be based on seating order with each roll call vote beginning at alternating ends of the dais and the Mayor voting last.

**RULE 20. DISQUALIFICATION FOR CONFLICT OF INTEREST.**

Any Councilmember who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Presiding Officer state the nature of such disqualification and shall leave the dais prior to Council consideration of the matter. A Councilmember stating such disqualification shall not be counted as part of a quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.

**RULE 21. TIE VOTE.**

Tie votes shall be lost motions.

**RULE 22. CHANGING VOTE.**

The vote of a Councilmember may be changed only if he or she makes a timely request to do so immediately following the announcement of the vote by the City Clerk or the Presiding Officer and prior to the time that the next item in the order of business is taken up.

**RULE 23. PROCEDURE ON AGENDA ITEMS REQUIRING A MOTION.**

The following procedure shall be followed in connection with any Agenda item requiring a motion:

- (a) City Clerk reads the title.
- (b) Presiding Officer calls for a staff report.
- (c) Councilmembers question City staff.
- (d) City Council conducts Public hearing.
- (e) City Council deliberates.

(f) A Councilmember makes a motion, another Councilmember seconds the motion, and the Council debates it, with the maker of the motion having the opportunity to speak last.

- (g) The Presiding Officer or City Clerk restates the motion.
- (h) The City Council votes on the motion.
- (i) The Presiding Officer or City Clerk announces result.

**RULE 24. PRESENCE OF CITY STAFF AT CITY COUNCIL MEETINGS.**

The City Manager, City Clerk, and City Attorney, or, in their absence, their authorized representatives, shall attend and be present during all City Council meetings and give necessary service and advice.

**RULE 25. RECORD OF MEETINGS.**

All public meetings of the City Council shall be recorded. The recording shall be made by the City Clerk and retained in accordance with the City's record retention schedule. The use of other recording or television equipment is permitted so long as it is not disruptive of the meeting.

**RULE 26. INTERPRETATION AND MODIFICATION OF THESE RULES.**

These rules shall be interpreted liberally in order to provide for the optimum in the free interchange of information and public debate without an unnecessary waste of time or duplication of effort. These rules may be amended by resolution.

**RULE 27. FAILURE TO OBSERVE RULES OF ORDER.**

These rules of order and procedures govern the conduct of City Council meetings. These rules are intended to expedite the transaction of the business of the City Council in an orderly fashion and are deemed to be procedural only. Failure to strictly observe these rules shall not affect the jurisdiction of the City Council or invalidate any action taken at a meeting that otherwise conforms to law.

SECTION 2. Resolution Number 10928 (CCS) and all other resolutions adopting, amending, or relating to City Council Rules of Order, are hereby repealed in their entirety.

SECTION 3. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

APPROVED AS TO FORM:

DocuSigned by:  
  
FEC6DBA8A0D3460

LANE DILG  
City Attorney

Adopted and approved this 28th day of May, 2019.

DocuSigned by:  
  
6FE4004DAD0B40B  
\_\_\_\_\_  
Gleam Davis, Mayor

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that Resolution No. 11172 (CCS) was duly adopted at a meeting of the Santa Monica City Council held on the 28<sup>th</sup> day of May, 2019, by the following vote:

AYES: Councilmembers Himmelrich, Jara, Morena, Winterer  
Mayor Pro Tem O'Day, Mayor Davis

NOES: None

ABSENT: Councilmember McKeown

ATTEST:

DocuSigned by:  
  
E2F85B056A714C3  
\_\_\_\_\_  
Denise Anderson-Warren, City Clerk

# Exhibit P

City Council Meeting: September 14, 2021

Santa Monica, California

RESOLUTION NO. 11360 (CCS)

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF SANTA MONICA AMENDING THE RULES OF ORDER AND  
PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS AND  
REPEALING RESOLUTION NUMBER 11172 (CCS)

THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES RESOLVE AS  
FOLLOWS:

SECTION 1. The City Council Rules of Order and Procedure are hereby amended  
to read as follows:

RULES FOR CITY COUNCIL MEETINGS

**RULE 1. RULES OF ORDER.**

Except as otherwise provided by these rules, the City Charter, the Municipal Code,  
or applicable provisions of state law, the procedures of the City Council shall be governed  
by the latest revised edition of Roberts Rules of Order.

The City Council rules, or any one thereof, may be suspended by a vote of two-  
thirds (2/3) of the Councilmembers present.

**RULE 2. TIME AND PLACE FOR HOLDING REGULAR MEETINGS.**

Pursuant to the provisions of Section 611 of the Santa Monica City Charter, the  
City Council establishes the second and fourth Tuesdays of each month as the days for  
holding regular meetings of the City Council. The regular meeting shall commence at 5:30  
p.m., for the Closed Session. It is the intention of the City Council that all other

agenda items shall commence no earlier than 6:30 p.m., following the Closed Session. If any such Tuesday falls on any day designated by law by the City Council as a day for public feast, Thanksgiving or holiday, such regular meeting shall be held on the date of the regular meeting next following said Tuesday at the hour heretofore fixed or at such other day as may be fixed. The City Council Chamber in City Hall is established as the place for holding the City Council's regular meetings.

**RULE 3. QUORUM AND ACTION**

In accordance with Section 614 of the Santa Monica City Charter, four Councilmembers shall constitute a quorum for the transaction of business. Except as otherwise provided in the Charter, or other law or these rules action shall be taken by a majority vote of the entire membership of the City Council. However, in the case of a quasi-judicial hearing, if only four Councilmembers are participating, the applicant or appellant shall be entitled to request and receive a continuance of the hearing, until such time as five Councilmembers are participating.

Whenever any Councilmember questions the presence of a quorum, the presiding officer shall forthwith direct the City Clerk to call the roll, each Councilmember shall respond when his or her name is called and the Clerk shall announce the result. Such proceedings shall be without debate, but no Councilmember who is speaking may be interrupted by a question as to the presence of a quorum.

The City Council may also establish standing subcommittees of its members to address designated areas of City business on the Council's behalf and may establish ad hoc committees to formulate reports or recommendations on particular matters.

**RULE 4. MEETINGS TO BE PUBLIC - EXCEPTION FOR CLOSED SESSIONS.**

As required by the Ralph M. Brown Act (the "Brown Act"), California Government Code Sections 54950, et seq., all regular, adjourned regular and special meetings of the City Council shall be public, provided, however, the City Council may meet in a Closed



Session from which the public is excluded, for those purposes authorized by the Brown Act.

No Councilmember, employee of the City, or any other person present during a Closed Session of the City Council shall disclose to any person the content or substance of any communication which took place during the Closed Session unless the City Council specifically authorizes the disclosure by majority vote or unless the disclosure is required by law.

**RULE 5. AGENDA.**

The City Clerk shall prepare the Agenda under the direction of the City Manager as follows:

(a) The City Manager shall consult with the Mayor and Mayor Pro Tempore in the preparation of the Agenda.

(b) The Agenda and all available supporting documents shall be delivered to Councilmembers on the Tuesday preceding the Tuesday City Council meeting to which it pertains or as soon thereafter as possible.

(c) Any Councilmember or the City Manager may direct that any matter within the City Council's jurisdiction be placed upon the Agenda. Councilmembers should endeavor to submit Councilmember agenda items as follows: (1) for regular meetings, by 3:00 p.m. on Thursday in order to ensure that matters will be agendized for the following Tuesday; and (2) for special meetings, by 3:00 p.m. on the day two days before the day of the special meeting. Subject to Brown Act requirements, items submitted after 3:00 p.m. on the specified day will be agendized for the next regular meeting, unless the Councilmember has identified an urgency requiring that the matter be added to the current agenda.

Councilmember items may only be combined with other items on the agenda by a vote of the Council. A Councilmember who wishes to combine his or her item with another item on the agenda may direct that the following language be included with the

agenda item: "This item may be considered with Item." The City Manager may combine staff items on the agenda in order to ensure that the public's business is handled efficiently and conveniently.

(d) The City Clerk shall post the Agenda as required by the Brown Act. Copies of the Agenda shall be posted in the lobby of City Hall. The City Clerk shall maintain on file in his or her office declarations establishing compliance with the posting requirements.

(e) No action shall be taken on any item not appearing on the posted Agenda unless the item is added to the Agenda in the manner required by the Brown Act.

(f) Matters directed to be placed on the Agenda at the direction of Councilmembers shall be listed on the Agenda in the order of receipt by the City Clerk.

(g) Written requests to the City Council shall be received and opened by the City Clerk and referred to the City Manager or his or her designee and either shall be transmitted to the appropriate board, commission or staff member or shall be placed on the Agenda if City Council consideration is deemed appropriate by the Mayor or City Manager. Written requests being agendized shall be scheduled for City Council consideration at the earliest convenient meeting, taking into consideration the length and content of meeting agendas. Members of the public submitting written requests shall be advised of how their request is being handled. Councilmembers shall receive copies of those written requests which are not agendized. Agendized communications shall be listed on the Agenda in order of receipt. No communication shall be placed on an Agenda if it contains material that:

- (1) Is profane.
- (2) Is potentially slanderous or libelous.
- (3) Advocates or opposes the candidacy of any person or party for any elective office.
- (4) Is primarily an advertisement or promotion or has as a substantial purpose the advancement of any cause the major benefit of which is private and not public.

Members of the public submitting written requests to the City Council are encouraged to limit their submissions to one per meeting.

(h) All electronic presentation materials intended for use at a City Council meeting, including PowerPoint presentations, videos, audio, electronic images, and electronic portable document formats (PDFs), but excluding any hardcopy document projected by an overhead projector, must be received by the City Clerk no later than 12:00 PM on the day of a City Council meeting. For clarity, this rule shall not apply to a current member of a board or commission speaking on a matter within the purview of the board or commission on which the member sits.

#### **RULE 6. CATEGORIES AND ORDER OF BUSINESS.**

The business of the City Council shall be conducted in the order and manner specified below. The order may be changed by a majority vote of those present. The following is the order of business:

- (a) Call to Order.
- (b) Salute to the Flag.
- (c) Roll Call.
- (d) Closed Session.
- (e) Special Agenda Items. This item includes the City Manager's Report, proclamations, commendations, introductions of special guests, special meetings, appointments to the City Council and presentations and reports by other non-City public entities or legislative bodies.
- (f) Consent Calendar. The consent calendar shall consist of the approval of minutes of previous meetings and those other items such as contracts and routine resolutions which do not necessitate a separate public hearing and which are determined in the Agenda preparation process to be relatively non-controversial. Ordinances for second reading and adoption may be placed on the consent calendar if all members of

the City Council were present when the vote for first reading and introduction took place and this vote was unanimous. The consent calendar shall be considered as one item regardless of the number of matters appearing on it and may be approved by a single vote. The title to the individual consent items need not be read unless a request to do so is made by any Councilmember. Members of the public shall have no more than one opportunity to address the City Council concerning any and all items on the consent calendar. Members of the public shall be heard prior to City Council consideration of the consent calendar. Councilmembers may request to have individual matters removed from the consent calendar so that they may be heard on those matters. All matters remaining on the consent calendar may be approved by a single vote. Any items removed from the consent calendar shall be considered separately in the order of their appearance on the Agenda. Removed items may be heard immediately following the consent calendar or may be heard after the City Council concludes Closed Session or Study Session.

(g) Study Session. During Study Sessions staff will present information regarding a complex matter that will be subject to Council deliberation and decisions in the future. No City Council action will be recommended or taken as part of the Study Session.

(h) Continued Items. This item includes agenda items of a previous City Council meeting not considered at such meeting. The City Council may vote by a majority of its members to have a carry-over item placed on a subsequent agenda as a continued item.

(i) Administrative Proceedings. This item includes proceedings requiring the City Council to make a quasi-judicial decision concerning an individual application or appeal.

(j) Ordinances.

(1) Second Reading and Adoption. No public discussion is permitted on second readings.

(2) Introduction and First Reading.

(k) Staff Administrative Items. This category will include policy matters to be considered by the City Council or at joint meetings of the City Council, Parking Authority, Housing Authority, the Public Financing Authority and/or Redevelopment Successor Agency.

(l) Public Hearings. This item consists of public hearings required by specific provisions of law.

(m) Reports of Boards and Commissions. Boards and commissions who may present reports under this item include, but are not limited to, all City boards, commissions and task forces. Reports may also be provided by the Santa Monica Pier Corporation, Downtown Santa Monica, Inc., Santa Monica Convention and Visitors Bureau.

(n) Resolutions. A resolution will be considered under this item only if its substance makes extensive public input advisable, or if it should be considered after another item on the Agenda, otherwise the resolution will be considered on the Consent Calendar.

(o) Written Communication. This item allows the City Council to consider issues raised by written submissions from the public.

(p) Councilmember Requested Items. This category consists of Councilmember requested agenda items. Action and direction may occur on these items to the extent specified in the agenda item. Councilmembers should discuss requested agenda items in advance with the City Manager to see if the City Manager will place them on the agenda as Staff Administrative Items or otherwise or address them in other ways.

(q) Public Input. This item allows members of the public to address the City Council on matters not otherwise on the agenda that are within the City Council's subject matter jurisdiction. State law prohibits the City Council from taking any action on items not listed on the agenda. As a result, no formal action may be taken on any matter under this item.

**RULE 7. PREPARATION OF MINUTES.**

The City Clerk shall have exclusive responsibility for preparation of the Minutes, and any directions for corrections in the Minutes shall be made only by majority vote of the City Council.

**RULE 8. APPROVAL OF MINUTES.**

Minutes of a City Council meeting may be approved without reading if the City Clerk has previously furnished each Councilmember with a copy and unless a reading is ordered by a majority vote of the City Council.

**RULE 9. PRESIDING OFFICER.**

The Mayor shall be the Presiding Officer at all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of both the Mayor and Mayor Pro Tempore, the City Clerk shall call the City Council to order and a temporary Presiding Officer shall be elected by the Councilmembers present to serve until the arrival of the Mayor or Mayor Pro Tempore or until adjournment.

**RULE 10. POWERS AND DUTIES OF PRESIDING OFFICER.**

(a) Participation. The Presiding Officer may move, second, and debate from the chair, subject only to such limitations of debate as are imposed upon Councilmembers by these rules, and shall not be deprived of any of the rights or privileges of a Councilmember by reason of his or her acting as the Presiding Officer.

(b) Duties. The Presiding Officer shall:

- (1) preserve order at all meetings of the City Council;
- (2) state (or cause to be stated) each question coming before the City Council;
- (3) announce the decisions of the City Council on all subjects;
- (4) decide all questions of order subject to the right to appeal rulings on questions of order to the entire City Council in accordance with Rule 12(d) below; and
- (5) encourage all persons present at the meeting to conform their conduct to the City's Civility Policy.

**RULE 11. SWORN TESTIMONY AND SUBPOENA POWER.**

Any Councilmember may request that anyone appearing before the City Council on any matter shall be sworn. On receipt of such a request, all proceedings shall be suspended and the City Council will immediately vote on whether the individual should be sworn. A majority vote of the Councilmembers present shall determine whether the speaker shall be placed under oath. All oaths will be administered by the City Clerk.

The City Council shall have the power to issue subpoenas as provided in City Charter Section 614.

**RULE 12. RULES OF DEBATE.**

(a) Getting the Floor. A Councilmember desiring to speak shall gain recognition by the Presiding Officer.

(b) Questions to Staff. Every Councilmember desiring to question City staff shall address his or her questions to the City Manager, the City Attorney, the City Clerk or designated staff. Members of the City staff, after recognition by the Presiding Officer shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.

(c) Interruptions. A Councilmember who has the floor shall not be interrupted when speaking unless he or she is called to order by the Presiding Officer, a point of order or a personal privilege is raised by another Councilmember or the speaker chooses to yield to a question by another Councilmember. If a Councilmember is called to order, he or she shall cease speaking until the question of order is determined.

(d) Points of Order. The Presiding Officer shall determine all points of order subject to the right of any Councilmember to appeal to the City Council. If an appeal is taken, the question shall be: "Shall the decision of the Presiding Officer be overruled?" The Presiding Officer's decision may be overruled by a two-thirds vote of the Councilmembers then present.

(e) Point of Personal Privilege. The right of a Councilmember to address the City Council on a question of personal privilege shall be limited to cases in which the Councilmember's integrity, character, or motives are questioned or where the safety or welfare of the City Council is concerned.

(f) Privilege of Final Comment. The Councilmember moving the introduction or adoption of an ordinance, resolution, or motion, shall have the privilege of speaking last on the matter after all other Councilmembers have been given an opportunity to speak.

(g) Motion to Reconsider Legislative Actions. A motion to reconsider any legislative action taken by the City Council may be made only by one of the Councilmembers on the prevailing side and may be seconded by any Councilmember. Such motion may be made at any time and shall be debatable. A motion by a non-prevailing Councilmember or a request by a member of the public for reconsideration may be made only if one year has passed since the action was taken.

(h) Calling for the Question. A question may be called by majority vote of those present. However, neither the moving party nor the party seconding any motion may call for the question, each Councilmember shall be afforded one opportunity to speak on each item before the question is called, and a question may not be called to interrupt or cut off a particular speaker.

(i) Limitation of Debate. Councilmembers shall limit their remarks to the subject under debate. No Councilmember shall be allowed to speak more than once upon any particular subject until every other Councilmember desiring to do so has spoken. Prior to beginning deliberation, the Council may, by a two-thirds vote of those present, limit the amount of time that each Councilmember may spend stating his or her views on a particular agenda item.

### **RULE 13. PROTEST AGAINST CITY COUNCIL ACTION.**

Any Councilmember shall have the right to have the reasons for his or her opposition to any action of the City Council entered in the Minutes. Such opposition shall



be made in the following manner: "I would like the Minutes to reflect that I opposed this action for the following reasons..."

**RULE 14. DISCLOSURE FOR QUASI JUDICIAL MATTERS.**

On quasi-judicial matters, Councilmembers shall verbally disclose off-the-record contacts relating to the item, after the item is called and before City Council consideration of the matter. Disclosure shall include the identity of any individual(s) with whom the Councilmember had contact, and the nature of the contact.

**RULE 15. PUBLIC TESTIMONY.**

(a) Permitted. Pursuant to the Brown Act, public testimony is permitted on all agenda items, except ordinances for second reading, and the public shall have an opportunity to comment on any matter which is not on the Agenda but is within the City Council's jurisdiction. However, members of the public do not have the right to give testimony outside the scope of or unrelated to the agenda item under consideration. Additionally, members of the public should strive to avoid unduly reiterating their own or others' testimony.

(b) Registration. Any member of the public wishing to address the City Council regarding any item on the Agenda for public discussion shall register with the City Clerk staff or the staff managing phone calls through a call-in service provider prior to the start of the meeting, if possible, but no later than prior to the public hearing on that item. Except when donating time to another speaker, which will only be permitted when both the person donating time and the other speaker are physically present at the Council meeting, a request received after the start of the hearing shall be considered late and may only be heard with Council approval.

(c) Manner of Addressing the City Council. After being recognized by the Presiding Officer, each member of the public addressing the City Council shall go to the podium or be selected from the phone comment queue to speak, state his or her name and whom he or she is representing, if he or she represents an organization or other person. Each member of the public is encouraged, but not required, to also state his or her address, neighborhood, or city of residence. All remarks shall be addressed to the City Council as a whole and not to any individual member thereof. After a public hearing has been closed, no member of the public shall address the City Council on the matter under

consideration without first securing City Council approval.

(d) Written Public Comment. Those wishing to provide public comment are encouraged to submit it in writing via email to be viewed online. For written comments received by 2:00 p.m. on the day of the Council meeting best efforts shall be made to have them posted on the Council's online agenda. All written comments shall be made part of the public record.

(e) Time Limits. Except on Written Communication, members of the public shall limit their remarks to two minutes per agenda item unless the City Council grants additional time by majority vote or the City Council reduces this time limit because of the large number of speakers for public comment on the particular item. For purposes of these Rules, the consent calendar shall be considered one item. The order in which members of the public provide remarks will be determined by the City Clerk, to the extent possible giving priority to K-12 students speaking on their own behalf and members of the public with physical constraints on their ability to remain at the meeting or on the phone line for an extended period of time, and to the extent possible alternating between members of the public physically present at the meeting and those who have called in. Persons speaking on another's written communication and persons submitting late speaker requests, who receive permission to speak shall be limited to one minute. On Written Communication, those speaking on another's item may speak only if the person raising the matter appears and testifies, either in person or by phone. If the person who raises the item does not appear and testify, the matter shall be received and filed and persons wishing to speak on the matter may give their testimony during Public Input. A member of the public wishing to speak on more than one item shall limit his or her remarks to a total of six minutes per meeting unless the City Council grants additional time by majority vote. A member of the public may allocate time between items in one-minute increments up to two minutes. Testimony given as an applicant or appellant does not count toward the six-minute maximum. A Board or Commission member reporting to the City Council on behalf of a Board or Commission shall not be subject to these rules on time limits; however, City Council may limit the duration of such reports.

(f) Special Time Limits for Applicants and Appellants. Applicants and appellants on administrative items shall limit their remarks to ten minutes and may reserve some of their time for use for rebuttal at the conclusion of the public hearing. The appellant

shall have the opportunity to address the City Council first and last.

(g) Special Time Limits for Special Agenda Items. Public testimony is permitted on the City Manager's Report and Appointments to the City Council. Proclamations, commendations and appearances by special guests are ceremonial items. In order to ensure adequate time for the Council's regular business, groups of honorees or guests, who wish to speak, should appoint one or two representatives to speak for them.

(h) Special Assistance for Those Who Cannot Wait to Speak. Members of the public, including those with special needs, who cannot wait to speak on an agenda item may request assistance from the City Clerk, and a member of the Clerk's office will provide assistance in preparing a written statement of testimony for distribution to the City Council.

(i) Extended Time Limits for Speakers Who Require Interpreter. A member of the public who utilizes an interpreter to provide English language translation shall receive twice the time otherwise allotted under these Rules.

(j) Donating Time to Another Speaker. Donations of time to other speakers may be made only if both the person donating time and the other speaker are physically present at the Council meeting. Except on Public Input, a member of the public, speaking on their own behalf, may donate two minutes per agenda item to another speaker, speaking on their own behalf, and a speaker may accept one such donation from another per agenda item. The speaker and the person donating time shall turn in their chits together, notify the clerk of the donation, and go to the podium together. The speaker shall state both of their names and state that he or she is speaking for both. Donated time shall not increase an individual speaker's total time limit of six minutes per meeting. Any request received after the start of the hearing shall be considered late and the donator will not be permitted to donate his/her time.

(k) Any electronic presentation materials presented as attachments to written public comment submitted by email for viewing online must be submitted in accordance with the time deadline set forth in Section 15(d) above. Electronic presentation materials will not be accepted in connection with public comment being provided by calling in to the Council meeting. For speakers who will be physically present to provide public comment at the Council meeting, all electronic presentation materials intended for use in

connection with the public comment, including PowerPoint presentations, videos, audio, electronic images, and electronic portable document formats (PDFs), but excluding any hardcopy document projected by the overhead projector, must be received by the City Clerk no later than 12:00 PM on the day of a City Council meeting. All such electronic presentation materials must be emailed to the City Clerk's Office and include the City Council meeting date, agenda item number, and name of the public speaker who, as noted above, will need to be present at the meeting. For clarity, this rule shall not apply to a current member of a board or commission speaking on a matter within the purview of the board or commission on which the member sits – arrangements for the use of electronic presentation materials by such a speaker should be made with the City Clerk by no later than 2:00 pm on the day of the Council Meeting.

**RULE 16. RULES OF CONDUCT AND SAFETY.**

When the City Council is in session, all persons present, whether in person or speaking by phone, must preserve safety and order and should strive to conform their conduct to the City's Civility Policy. Members of the public who are physically present at the Council meeting should sit in the audience seating area, unless addressing the City Council or entering or leaving the Council Chambers, should not block the aisles with personal belongings and should not bring audible equipment into the Council Chambers including cellular telephones or pagers. Members of the public may not, except when testifying on or participating in an agenda item, enter the well area, which is the open area directly in front of the dais and extending outward from it to a line running between the points on the Clerk's desk and the podium nearest to the audience.

Any person who disrupts the meeting shall be called to order by the Presiding Officer. Disruption shall include but not be limited to, blocking the audience or camera view of the proceedings. If such conduct continues, the Presiding Officer may request the Sergeant at Arms to remove the person from Council Chambers.

The Chief of Police or such member or members of the Police Department as he or she may designate, shall be Sergeant At Arms of the City Council and shall carry out all orders given by the Presiding Officer through the City Manager for the purpose of maintaining order at City Council meetings. Any Councilmember may move to require the Presiding Officer to enforce the rules, and the affirmative vote of a majority of the City Council shall require him or her to do so.

SM00499

**RULE 17. SEATING ORDER.**

After each municipal election, the City Clerk shall determine City Council member seating order by drawing lots, with the exception of the Mayor Pro Tem, who shall be seated next to the Mayor.

**RULE 18. ENTITLEMENT TO VOTE AND FAILURE TO VOTE.**

Every Councilmember is entitled to vote unless disqualified by reason of a conflict of interest. A Councilmember who abstains from voting consents to the decision made by the voting Councilmembers.

**RULE 19. VOTING PROCEDURE.**

Any vote of the City Council, including a roll call vote, may be registered by the members answering "Yes" for an affirmative vote or "No" for a negative vote upon his or her name being called by the City Clerk. Voting order shall be based on seating order with each roll call vote beginning at alternating ends of the dais and the Mayor voting last.

**RULE 20. DISQUALIFICATION FOR CONFLICT OF INTEREST.**

Any Councilmember who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Presiding Officer state the nature of such disqualification and shall leave the dais prior to Council consideration of the matter. A Councilmember stating or having the Presiding Officer state such disqualification shall not be counted as part of a quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.

**RULE 21. TIE VOTE.**

Tie votes shall be lost motions.

**RULE 22. CHANGING VOTE.**

The vote of a Councilmember may be changed only if he or she makes a timely request to do so immediately following the announcement of the vote by the City Clerk or the Presiding Officer and prior to the time that the next item in the order of business is taken up.

**RULE 23. AGENDA MANAGEMENT.**

At any time prior to the City Council taking up agenda items after the report back from Closed Session, any member of the City Council may make a motion for agenda management to reorder or combine agenda items. Such a motion shall require the votes of a majority of the Councilmembers present to pass. If such a motion is passed, the City Clerk shall call agenda items in accordance with the agenda as modified by the motion.

**RULE 24. PROCEDURE ON AGENDA ITEMS REQUIRING A MOTION.**

The following procedure shall be followed in connection with any Agenda item requiring a motion:

- (a) City Clerk reads the title.
- (b) Presiding Officer calls for a staff report.
- (c) Councilmembers question City staff.
- (d) City Council conducts Public hearing.
- (e) City Council deliberates.
- (f) A Councilmember makes a motion, another Councilmember seconds the motion, and the Council debates it, with the maker of the motion having the opportunity to speak last.
- (g) The Presiding Officer or City Clerk restates the motion.
- (h) The City Council votes on the motion.
- (i) The Presiding Officer or City Clerk announces result.

**RULE 25. PRESENCE OF CITY STAFF AT CITY COUNCIL MEETINGS.**

The City Manager, City Clerk, and City Attorney, or, in their absence, their authorized representatives, shall attend and be present during all City Council meetings and give necessary service and advice.

**RULE 26. RECORD OF MEETINGS.**

All public meetings of the City Council shall be recorded. The recording shall be made by the City Clerk and retained in accordance with the City's record retention schedule. The use of other recording or television equipment is permitted so long as it is not disruptive of the meeting.

**RULE 27. USE OF TECHNOLOGY TO COMMUNICATE DURING MEETINGS**

During City Council meetings, Councilmembers shall not use electronic communications of any type, including texts and emails, to communicate among themselves.

**RULE 28. INTERPRETATION AND MODIFICATION OF THESE RULES.**

These rules shall be interpreted liberally in order to provide for the optimum in the free interchange of information and public debate without an unnecessary waste of time or duplication of effort. These rules may be amended by resolution.

**RULE 29. FAILURE TO OBSERVE RULES OF ORDER.**

These rules of order and procedures govern the conduct of City Council meetings. These rules are intended to expedite the transaction of the business of the City Council in an orderly fashion and are deemed to be procedural only. Failure to strictly observe these rules shall not affect the jurisdiction of the City Council or invalidate any action taken at a meeting that otherwise conforms to law.

///

///

SECTION 2. Resolution Number 11172 (CCS) and all other resolutions adopting, amending, or relating to City Council Rules of Order, are hereby repealed in their entirety.

SECTION 3. The City Clerk shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

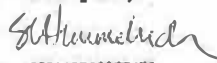
APPROVED AS TO FORM:

DocuSigned by:  
*George S. Cardona*  
ECB444B01A56432

GEORGE S. CARDONA  
Interim City Attorney



Adopted and approved this 14<sup>th</sup> day of September 2021.

DocuSigned by:  
  
823148D899FF4F3...

---

Sue Himmelrich, Mayor


I, Nikima Newsome, Assistant City Clerk of the City of Santa Monica, do hereby certify that Resolution No. 11360 (CCS) was duly adopted at a meeting of the Santa Monica City Council held on the 14<sup>th</sup> day of September 2021, by the following vote:

AYES: Councilmembers Brock, Davis, de la Torre, Negrete, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:  
  
7032651F371E430...

---

Nikima Newsome, Assistant City Clerk

# Exhibit Q

**CITY OF SANTA MONICA**

**CITY COUNCIL MINUTES**

**FEBRUARY 8, 2022**

A regular meeting of the Santa Monica City Council was called to order by Mayor Himmelrich at 5:35 p.m., on Tuesday, February 8, 2022, via teleconference pursuant to Assembly Bill No. 361 signed by, Governor Gavin Newsome at City Council Chambers, 1685 Main Street.

Roll Call: Present: Mayor Sue Himmelrich  
Mayor Pro Tem Kristin McCowan  
Councilmember Phil Brock  
Councilmember Glean Davis  
Councilmember Lana Negrete  
Councilmember Oscar de la Torre  
Councilmember Christine Parra

Also Present: City Manager David White  
Interim City Attorney Joseph Lawrence  
City Clerk Denise Anderson-Warren

**CONVENE/PLEDGE** On order of the Mayor, the City Council convened at 5:35 p.m., with all members present. Mayor Pro Tem McCowan led the assemblage in the Pledge of Allegiance.

**CLOSED SESSIONS** Members of the public Denise Barton and Zina Josephs commented on closed sessions.  
  
On order of the Mayor, the City Council recessed at 5:40 p.m., to consider closed sessions and returned at 7:55 p.m., with all members present, except Councilmember Brock to report the following:

**1.A. Conference with Legal Counsel – Existing Litigation – Litigation has been initiated formally pursuant to Government Code Section 54956.9(d)(1): Santa Monica Bayside Owners Association v. City of Santa Monica and the California Coastal Commission, Los Angeles Superior Court 21SMCP00269**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.B. Conference with Legal Counsel – Anticipated Litigation: Anticipate significant exposure to litigation Pursuant to Government**

**Code Section 54956.9(d)(2): Oceana Hotel**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.C. Conference with Real Estate Negotiator pursuant to Government Code Section 54956.8: Property: 2828 Donald Douglas Loop North, Santa Monica, California Offices and Pilot Lounge Premises (~5,285 sq. ft.), Hangars #6, # 26, and #31 (~5,380 sq. ft.), Aircraft Main Ramp (~145,000 sq. ft.), Aircraft Overflow Ramp (~64,460 sq. ft.); and 3100 Donald Douglas Loop North, Santa Monica, California (“Fuel Farm”) (~3,820 sq. ft.) consisting of three 12,000 gallon and one 500 gallon underground storage tanks and associated systems and equipment; City Negotiators: Stelios Makrides, Chief Operations Officer/Airport Director; Owner of Record: City of Santa Monica; Persons to be negotiated with Atlantic SMO Holdings; Under negotiation: Ground Lease and Building Lease Terms.**

The Interim City Attorney advised this matter was heard with no reportable action taken.

**1.D. Public Employee Appointment: Title – City Attorney**

The Interim City Attorney advised this matter was heard with no reportable action taken.

*Councilmember Brock returned at 7:56 p.m.*

**2.A. City Manager Report**, was presented.

**SPECIAL AGENDA ITEMS:**

There was nothing to report on Council travel.

**REPORT ON COUNCIL TRAVEL**

All items were considered and approved in one motion unless removed by a Councilmember for discussion.

**CONSENT CALENDAR:**

Members of the public Denise Barton, Stan Epstein and People of CA commented on various Consent Calendar items.

Staff requested to move Item 3.E. to be heard under the special joint meeting as Item 8.B.

At the request of Councilmember Parra, Item 3.A was removed from the Consent Calendar.

At the request of Councilmember Brock, Item 3.C was removed from the Consent Calendar.

Motion by Councilmember Davis, seconded by Councilmember Brock, to approve the Consent Calendar except for Items 3.A, 3.C and 3.E reading resolutions by title only and waiving further reading thereof. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**PUBLIC WORKS**

**3.B. Approval of Modification to Purchase Orders for Water Treatment Antiscalants & Cleaners, was approved.**

**Recommended Action**

Staff recommends that the City Council:

1. Authorize the Procurement Manager to issue a change order to purchase order #22200672 in the amount of \$210,000 with Avista Technologies for the provision of water treatment antiscalants and cleaner chemicals for the Public Works Department. This would result in a revised purchase order total not to exceed \$685,000, with future year funding contingent on Council budget approval; and
2. Authorize the Procurement Manager to issue a change order to purchase order #22200758 in the amount of \$100,000 with King Lee for the provision of water treatment antiscalants and cleaner chemicals for the Public Works Department. This would result in a revised purchase order total not to exceed \$200,000, with future year funding contingent on Council budget approval.

**AB 361**

**3.D. Adoption of Resolution No. 11399 (CCS) entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA MAKING FINDINGS AS REQUIRED BY AB 361 TO PERMIT COUNCIL AND CITY BOARD, COMMISSION, AND TASK FORCE MEETINGS TO CONTINUE TO BE CONDUCTED BY TELECONFERENCE WHILE THE COVID-19 EMERGENCY REMAINS IN PLACE”, was approved.**

**Recommended Action**

Staff recommends that Council adopt a resolution making the findings required by AB 361 to continue teleconference meetings of the City Council and City Boards, Commissions, and Task Forces through March 10, 2022.

**MINUTES**

**3.E. Approval of minutes for Housing and Parking Authority meetings, was removed from the Consent Calendar and heard as Item 8.B. at the request of staff.**

**Recommended Action**

Staff recommends that the:

1. Housing Authority approve the minutes of the October 26, 2021 and November 23, 2021 meetings; and
2. Parking Authority approve the minutes of the October 26, 2021 meeting.

**MINUTES**

**3.F. Minutes of the City Council - Regular Meeting - January 11, 2022 5:30 PM,** were approved.

**MINUTES**

**3.G. Minutes of the City Council - Special Meeting - January 29, 2022 10:00 AM,** were approved.

**MINUTES**

**3.H. Minutes of the City Council - Special Meeting - February 2, 2022 6:00 PM,** were approved.

**BERGAMOT STATION  
ARTS CENTER**

**3.A. Award Request for Proposal to Redcar Properties LTD and Authorize City Manager to Execute Contract No. 11240 (CCS) for Property Management for Bergamot Station Arts Center,** was presented.

**Recommended Action**

1. Award RFP# 303 to Redcar Properties LTD for property management services for the Community Development Department;
2. Authorize the City Manager to negotiate and execute an agreement with Redcar Properties LTD, for a management fee of up to \$90,000 per annum for two years, three additional one-year renewal options, for a total amount not to exceed \$450,000 and future year funding contingent on Council budget approval.e

This item was pulled by Councilmember Parra to ask questions regarding increase of Common Area Maintenance (CAM) fees; who will determine the CAM charges and is there an opportunity to negotiate those charges; can there be a cap on the annual fees or cap the CAM charges; and, will there be a minimum community events requirement.

Motion by Councilmember Parra, seconded by Councilmember Brock, to approve the recommendation. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre  
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

**1333 Fourth Street**

**3.C. Approval of Third Lease Modification with JP Morgan Chase for 1333 Fourth Street Lease,** was presented.

**Recommended Action**

Staff recommends that the City Council authorize the City Manager to negotiate and execute a lease modification with JP Morgan Chase to extend term from May 1, 2022 through April 30, 2026, providing a total of \$4,022,120 in rental revenues during the four-year term.

This item was pulled by Councilmember Brock to ask questions regarding the Chase lease and asked staff to clarify issues that were brought up by the public.

Motion by Councilmember Brock, seconded by Councilmember de la Torre, to approve the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**STUDY SESSION:**  
**COVID-19**

**4.A. Study Session on Mandating Proof of COVID-19 Vaccination at Local Businesses and City Facilities,** was presented.

**Recommended Action**

Staff recommends that the City Council review and comment on the Study Session on Mandating Proof of COVID-19 Vaccination at Local Businesses and City Facilities and the strategy outlined by the COVID-19 Emergency Operations Center.

Members of the public Jill Hawkins, Frieda, Peggy Fisher, Jerome Courshon, Karen Harris, Diana Hinek, Robin Dunbar, Chevy Baruch, Pamela Abramson-Levine, Denise Young, Ana Thanawalla, Steven Muller, Ana Frank, Jason Mathbaum, People of California, Natalya Zernitskaya, John Katz and Sandra Ouban spoke on the recommendation.

Questions asked and answered of staff included: are we prepared for another surge; why is it important to look at the reason cities defer to the Department of Public Health when making decisions to implement measures to protect health; how many collateral consequences are there as a result of COVID; are we at that point now where the hospitals are reaching capacity; how did the surge impact the hospitals, and how could this policy have changed things, if we approved it in the fall; what can we do to increase the number of people who get boosters in our community, and what increased outreach and education is the city doing; until the Council changes the definition of fully vaccinated, will that make a difference; and, in what ways are we looking to provide support and education to business owners who support a mask mandate and vaccinations.

Considerable discussion ensued on topics including, but not limited to: reminder that this is a public health emergency, and it makes sense to go with the County Health and Department of Public Health guidelines to protect the public health; expressed thanks to the EOC staff with providing small businesses with PPE supplies, and other measures to help them survive during this emergency; thank the restaurants and businesses in Santa Monica who encouraged their employees to get the vaccination to protect not just the customers, but to protect themselves and their families; residents want to feel safe when they go out to dine, and if staff can find ways to support and encourage local businesses who want to support mask mandate and proof of vaccination; the city needs to do more to encourage vaccinations and mask mandates; create more opportunities for residents to get vaccinated, booster shots and provide mask; if we find it necessary to impose a vaccination mandate in the future, include data, such as the people who died if they were vaccinated or unvaccinated; look at the numbers of people who are admitted to the hospital and whether or not they had COVID or did not have COVID; include information on natural immunity and how long it last; and what effects having COVID has on a person; and, those businesses who are checking for vaccinations should be acknowledged, recognized, and supported.

Motion by Councilmember Davis, seconded by Councilmember Brock, to receive and file. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**ORDINANCES:**  
**ARTS COMMISSION**

**7.A. Second Reading and Adoption of Ordinance No. 2693 (CCS) entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 2.64.020 TO DECREASE THE MEMBERSHIP OF THE ARTS COMMISSION FROM ELEVEN TO NINE MEMBERS”, was presented.**

**Recommended Action**

Staff recommends that City Council waive reading in full and adopt the attached Ordinance.

Motion by Councilmember Brock, seconded by Councilmember Davis, to adopt the ordinance, reading by title only and waiving further reading thereof. The motion was approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich



NOES: None  
ABSENT: None

**SPECIAL JOINT  
MEETING OF THE CITY  
COUNCIL, HOUSING  
AUTHORITY AND  
PARKING AUTHORITY**

On order of the Mayor, the regular City Council meeting was recessed to reconvene to a joint meeting with the Housing Authority and the Parking Authority at 10:02 p.m., with all members present.

**REPORT ON MEETING  
COMPENSATION**

Pursuant to State law, City Clerk Denise Anderson-Warren announced that Council will receive \$50 compensation for meeting as the Housing Authority and \$50 for meeting as the Parking Authority.

**STAFF  
ADMINISTRATIVE  
ITEMS:  
FY 2021-22 MIDYEAR  
BUDGET**

**8.A. Financial Status Update and FY 2021-22 Midyear Budget and Adoption of Resolutions**, was presented.

**Recommended Action**

Staff recommends that the City Council, Housing Authority and Parking Authority:

1. Appropriate FY 2021-22 midyear revenue and expenditure budget adjustments and approve corresponding adjustments to the FY 2022-23 budget plan (Attachment A);

Staff also recommends that the City Council:

1. Receive the FY 2021-22 through FY 2027-28 Five Year Financial Forecast;
2. Direct staff to set aside \$11 million in unprogrammed revenue to Assigned General Fund Reserves;
3. **Adopt Resolution No. 11400 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA ESTABLISHING NEW CLASSIFICATIONS AND ADOPTING SALARY RATES FOR THE FOLLOWING NEW OR EXISTING CLASSIFICATIONS: ADMINISTRATIVE AIDE, ADMINISTRATIVE INTERN, ADMINISTRATIVE INTERN II, BUSINESS LICENSE SUPERVISOR, CROSSING GUARD, EQUITY AND INCLUSION MANAGER, FACILITIES ATTENDANT, LABORER TRAINEE, LIBRARY LITERACY PROGRAM ASSISTANT, LIBRARY PAGE, PRINCIPAL BUDGET ANALYST, PRINCIPAL BUYER, PRINCIPAL PROCUREMENT ANALYST, POLICE CADET, PRODUCTION ASSISTANT, SAFETY AND TRAINING SUPERVISOR, VIDEO INTERN, VIDEO TECHNICIAN I, AND VIDEO TECHNICIAN II”** (Attachment B) and approve the position and classification changes (Attachment C);
4. **Adopt Resolution No. 11401 (CCS) entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA SETTING FORTH THE ADMINISTRATIVE CITATION**

SCHEDULE OF FINES FOR CERTAIN VIOLATIONS OF THE SANTA MONICA MUNICIPAL CODE, SETTING CIVIL PENALTIES FOR PARKING VIOLATIONS AND FOR THE LATE PAYMENT OF PENALTIES, SETTING FINES FOR POLICE AND FIRE DEPARTMENT RESPONSES TO EXCESSIVE FALSE ALARMS, AND SETTING FINES FOR THE SANTA MONICA PUBLIC LIBRARY” (Attachment D);

5. Direct staff to proceed with research and analysis on various potential tax revenue measures;
6. Authorize the City Manager to negotiate and execute a second modification to agreement #10929 with Moss Adams LLP, a Washington-based company, for internal auditing services for the City Manager’s Office. The modification would increase the third year amount by \$240,000 for a new amended total not to exceed \$931,000, with future year funding contingent on Council budget approval, to complete a homeless services delivery audit and the Human Services Grants Program grantee monitoring; and
7. Approve a relocation allowance up to \$25,000 for the Police Chief, effective retroactively to October 18, 2021.

Members of the public Denise Barton and Zina Josephs, spoke to the recommended action.

Questions asked and answered of staff included: is it correct that the funding for the Pier Task Force is not included in this mid-year budget; can it be confirmed that those positions being filled are being filled with previous employees as part of the COVID layoffs; when does the 2-year retention deadline expire, and will previous employees be able to fill some of these positions; are we looking at federal funding to help some of the transportation initiatives and staffing; does Transportation have the staffing to take advantage of the Dept. of Transportation grants and funding, for example vision zero; is there any time when Council will be able to have a discussion about the Civic Auditorium, given the proposed CIP projects; is this taking into consideration things that have come up recently, like the Pier Task Force; was the small business liaison considered with the permit specialist position; why the increase now in HR and how does it encourage employee retention, and are these positions for recruitment; what would it cost to bring in an outside recruiter instead of hiring full-time employees; how much would it take to open Fairview Library a few days a week; how is the Ocean Park library drop off program working; what is the average transient occupancy tax (TOT) for neighboring cities; is there a point when visitors start to decline due to the high TOT rate; what’s the average parking fees for local areas and are we at the top of the scale; what is the business license modernization; will we go back to paying PERS the way we were before COVID; by adding the staff for Workers Comp, is it actually saving the city money; and, why is it necessary to add the

Executive staff person in the City Attorney's Office.

Considerable discussion ensued on topics including, but not limited to: concerns about the services that directly impact residents; would like to wait to hire staffing in the City Attorney until the new City Attorney is hired; we need more traffic and community officers and more public safety officers in the parks and streets; for all of the proposed taxes, can all of the neighboring cities be included and shared in the polling analysis; neighborhood funding and the newsletter should be included in the mid-year budget; frame the budget discussion by reflecting where we were before budget and where we would like to move forward with efficiencies; as part of the addition to the Police budget, include there is a need to support small businesses with safety and cleanliness; maybe coordinate city services to support small businesses; a good strategy to leverage city staff to receive grants; good that the city is looking into diversity and equity in procurement for underserved businesses; potentially increase the position in Finance that is being proposed; support a vendor cart coordinator for a future budget consideration; anything to support youth, seniors, and disabled in the city is a benefit, especially after COVID; microgrant programs should be incorporated in an upcoming budget;

Motion by Mayor/Chair Pro Tem McCowan, seconded by Council/Authority Member Negrete, to adopt the staff recommendation to appropriate FY 2021-22 midyear revenue and expenditure budget adjustments and approve corresponding adjustments to the FY 2022-23 budget plan. The motion was approved by the following vote:

AYES: Council/Authority Members de la Torre, Brock, Negrete,  
Davis, Parra  
Mayor/Chair Pro Tem McCowan, Mayor/Chair Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Negrete, seconded by Councilmember Davis, to receive the FY 2021-22 through FY 2027-28 Five Year Financial Forecast; and, to direct staff to set aside \$11 million in unprogrammed revenue to Assigned General Fund Reserves. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Negrete, seconded by Councilmember Davis, to adopt Resolution No. 11400 (CCS) establishing new classifications and

adopting salary rates for various positions (Attachment B) and approve the position and classification changes (Attachment C). The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember de la Torre, seconded by Councilmember Brock, to adopt Resolution No. 11401 (CCS) of the City Council of the City of Santa Monica revising the City's master fine schedule for certain violations of the Santa Monica Municipal Code, eliminate overdue fines for adult cardholder accounts for the Santa Monica Public Library and to establish new non-standard fines for violations of the Second Shared Mobility Pilot Program Administrative Regulations. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Parra, seconded by Councilmember Negrete, to direct staff to proceed with research and analysis on various potential tax revenue measures. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Councilmember Negrete, seconded by Mayor Himmelrich, to authorize the City Manager to negotiate and execute a second modification to agreement #10929 with Moss Adams LLP, a Washington-based company, for internal auditing services for the City Manager's Office. The modification would increase the third-year amount by \$240,000 for a new amended total not to exceed \$931,000, with future year funding contingent on Council budget approval, to complete a homeless services delivery audit and the Human Services Grants Program grantee monitoring. The motion was approved by the following vote:

AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

Motion by Mayor Himmelrich, seconded by Councilmember Negrete, to approve a relocation allowance up to \$25,000 for the Police Chief, effective retroactively to October 18, 2021. The motion was approved by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra,  
Mayor Pro Tem McCowan, Mayor Himmelrich  
NOES: None  
ABSENT: None

**MINUTES**

**8.B Approval of minutes for Housing and Parking Authority meetings**, was presented.

**Recommended Action**

Staff recommends that the:

1. Housing Authority approve the minutes of the October 26, 2021 and November 23, 2021 meetings; and
2. Parking Authority approve the minutes of the October 26, 2021 meeting.

There was no public comment for this item.

Motion by Authority Member Davis, seconded by Authority Member Negrete, to approve the minutes. The motion was approved by the following vote:

AYES: Authority Members Parra, Davis, Negrete, Brock, de la Torre,  
Chair Pro Tem McCowan, Chair Himmelrich  
NOES: None  
ABSENT: None

**ADJOURNMENT OF SPECIAL JOINT MEETING**

On order of the Chair/Mayor, the special joint meeting was adjourned at 12:25 a.m., and the regular meeting of the City Council was reconvened with all members present.

**COUNCILMEMBER DISCUSSION ITEMS:**  
**SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNORS**

**13.A. Designation of City's voting delegate and alternate representative to Southern California Association of Governors (SCAG) General Assembly at the JW Marriott Desert Springs Resort & Spa, Palm Desert on May 5, 2022**, was presented.

There was no public comment for this item.

Councilmember Brock volunteered to serve as the delegate representative.

Councilmember de la Torre volunteered to serve as the alternate representative.

There being no other volunteers, Councilmember Brock was selected as the delegate representative and Councilmember de la Torre the alternate representative for the City of Santa Monica to Southern California Association of Governors (SCAG) General Assembly meeting on May 5, 2022. The selections were approved by the following vote:

- AYES: Councilmembers de la Torre, Brock, Negrete, Davis, Parra, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**PAID PARENTAL LEAVE POLICY**

**13.B. Request of Mayor Pro Tem McCowan that the City Manager provide to the City Council as part of the FY 22/23 exception-based budget, information related to implementation of a paid parental leave policy for City staff that could take effect in FY 22/23, was presented.**

There was no public comment on this item.

Motion by Councilmember Negrete, seconded by Councilmember de la Torre, to adopt the recommendation. The motion was approved by the following vote:

- AYES: Councilmembers Parra, Davis, Negrete, Brock, de la Torre, Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: None
- ABSENT: None

**SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT**

**13.C. Request of Mayor Himmelrich, Council Member Davis, and Council Member Negrete that the City Council join with and support the Santa Monica-Malibu Unified School District (“SMMUSD”) in opposing a petition filed by certain individuals with the Los Angeles County Committee on School District Organization pursuant to SB 442 which became effective January 1, 2022. This petition seeks to compel SMMUSD to convert from at-large elections, which are required by Section 900 of the Santa Monica City Charter, to district based elections and to adopt a map of proposed districts that was drawn by the petition’s proponents without any input from SMMUSD stakeholders and which seems not to have been drawn in accordance with the California Elections Code, which sets forth a procedure for drawing such districts. This petition seeks to override the Santa Monica City Charter without a vote of the people and without a showing of any compelling interest that would justify doing so. In addition to stating its opposition to the petition, the Council authorizes the City Manager, including the City Attorney, to use City resources, as appropriate, to support the SMMUSD and to publicly oppose the nullification of the City charter in public media, at any hearing held by**

**the County Committee on School District Organization, and, if necessary, through litigation,** was presented.

Members of the public John King, Joe Patel, Patty Braun, Wade Major, Nicole Faries, Maria Leon-Vazquez, Ana Thanawalla, Jill Hawkins and Chevy Baruch spoke on the recommended action.

Considerable discussion ensued on topics including, but not limited to, concern about how much financial resources are the city going to be spending, and, SB 442 has nothing to do with the unification process currently with Santa Monica-Malibu Unified School district;

Motion by Councilmember Negrete, seconded by Councilmember Davis, to adopt the recommendation.

Councilmember Brock proposed a substitute motion to remove “to use City resources, as appropriate” and “if necessary through litigation.” The motion died due to a lack of a second.

The original motion was approved by the following vote:

- AYES: Councilmember Negrete, Davis, Parra  
Mayor Pro Tem McCowan, Mayor Himmelrich
- NOES: Councilmembers de la Torre, Brock
- ABSENT: None

**INDEPENDENT  
INVESTIGATION**

**13.D. Request of Councilmember Davis that the City Council authorize the City Manager and the Interim City Attorney return to the City Council with a proposal to have an independent investigation of possible violations of the Brown Act by City Council members in connection with the search, candidate evaluation, and recruitment for the positions of City Manager and City Attorney conducted in 2021 and 2022. The investigation also would encompass possible breaches of the Confidentiality Agreements signed by City Council members in connection with these matters. Any proposal should include, as legally proper, full subpoena and other investigatory powers as may be appropriate to conduct a comprehensive review of any potential Brown Act or Confidentiality Agreement violations that the investigator might discover in the course of the investigation,** was presented.

There was no public comment on this item.

Considerable discussion ensued on topics including, but not limited to: is this really necessary; concern about the cost of an investigation; additional training is needed instead of spending money on an investigation; this process will continue to divide the Council instead of improving relations;

belief that this matter has nothing to do with training; this is about creating consequences for breaches; and, this investigation is about the integrity of the Council.

Motion by Councilmember Davis, seconded by Mayor Himmelrich, to approve the recommendation.

Substitute motion by Councilmember Brock, seconded by Councilmember de la Torre, to dedicate a portion of the Council retreat on March 25<sup>th</sup> to be spent on subsequent training to provide clarification to the Councilmembers on Brown Act, Ethics, and handling confidential information.

The substitute motion failed by the following vote:

AYES: Councilmembers Parra, Brock, de la Torre,  
NOES: Councilmember Davis, Mayor Pro Tem McCowan,  
Mayor Himmelrich  
ABSTAIN: Councilmember Negrete

The original motion was approved by the following vote:

AYES: Councilmembers Davis, Negrete, Mayor Pro Tem McCowan,  
Mayor Himmelrich  
NOES: Councilmembers Parra, Brock, de la Torre  
ABSENT: None

**PUBLIC INPUT:**


Members of the public Denise Barton and Danielle Charney commented on various local issues.

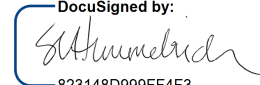
**ADJOURNMENT**

On order of the Mayor, the City Council meeting adjourned at 2:41 a.m.

ATTEST:

APPROVED:

DocuSigned by:  
  
E2F85B056A714C3...  
Denise Anderson-Warren  
City Clerk

DocuSigned by:  
  
823148D999FF4F3...  
Sue Himmelrich  
Mayor