

SPECIAL MEETING OF THE
CITY COUNCIL, CITY OF CULVER CITY,
CALIFORNIA

February 6, 2012
6:30 p.m.

Call to Order & Roll Call

The meeting of the City Council was called to order at 6:30 p.m.

Present: Micheál O'Leary, Mayor
Christopher Armenta, Councilmember
Jeffrey Cooper, Councilmember
Andrew Weissman, Councilmember

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Closed Session

The City Council adjourned to Closed Session to discuss the following items:

CS-1 Conference with Legal Counsel - Existing Litigation
Re: Brian Fitzpatrick v. City of Culver City et al.
USDC case no: CV11-6616 JFW (CWx)
Pursuant to Government Code Section 54956.9(a)

CS-2 Conference with Real Property Negotiators
Re: 9814 Washington Boulevard
Agency Negotiators: John M. Nachbar, City Manager/Executive Director; Sol Blumenfeld, Community Development Director/Assistant Executive Director; Todd Tipton, Redevelopment Administrator; and Murray Kane, City Special Counsel
Other Parties Negotiators: The Jazz Bakery
Under Negotiation: Both Price and Terms, including use restrictions, development obligations, and other monetary related considerations
Pursuant to Government Code Section 54956.8

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Recess

The City Council recessed to Closed Session at 6:30 p.m.

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Reconvene

The City Council reconvened its meeting at 7:11 p.m. with all Councilmembers present.

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Closed Session Report

Mayor O'Leary reported that Closed Session Item CS-2 had not been discussed during closed session.

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Invocation/Pledge of Allegiance

The Invocation was given by John Nachbar, City Manager, and the Pledge of Allegiance was led by Fred Yglesias.

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**Community Announcements by City Council Members/Information
Items from Staff**

Martin Cole, Assistant City Manager/City Clerk, reported on the following items:

- The applicant for Item PH-1 [Adoption of a Resolution Approving a Tentative Tract Map to Subdivide the Property at 11957 Washington Boulevard into 31 Airspace Units for the Development of a 3-Story Mixed-Use Development (Retail and Residential)] has requested that his application be withdrawn.
- The City Manager requested that the City Council continue Action Item A-1 [(1) Approval of a Commitment Letter with Red Barn/Regency Centers for the Sale and Redevelopment of City Owned Property at the Northerly Corners of the Washington Boulevard and Centinela Avenue Intersection, and (2) Approval of an Agreement with International Parking Design to Design, Bid, and Oversee Construction of a Public Parking Structure to Satisfy the Parking Requirements of the Washington Boulevard/Centinela Avenue Market Hall Project] to February 27, 2012.

Mr. Cole noted that there were speakers for both items.

Discussion ensued between the City Council and staff regarding procedures for those wanting to speak at tonight's meeting, and continuing Action Item A-1 to February 13, 2012 instead of February 27, 2012.

Mayor O'Leary reported that free income tax preparation and family services events were available from the Board of Equalization.

Councilmember Armenta reported that tax services would be provided at the Board of Equalization office in Culver City one day per week.

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Joint Public Comment - Items Not on the Agenda

Mayor O'Leary invited public comment.

The following members of the audience addressed the City Council:

Marta Zaragoza spoke on behalf of residents who were having difficulty getting assistance with tree issues on their streets.

Cary Anderson provided a DVD presentation on an incident where the traffic light was out at a Culver City intersection; he discussed the status quo in 2003-2004; the establishment of www.culvercity.tv; concern that hiring parking enforcement would continue the status quo; and the unwritten policy to provide traffic support during an incident.

Councilmember Weissman received clarification that as a result of Mr. Anderson's presentation of the video in 2004 the policy had been changed.

Kathleen McCann, Culver City Sister City Committee, discussed cherry trees planted in Culver City, the continued bond with Sister City of Kaizuka, Japan, and she invited everyone to visit the trees next to the Kaizuka meditation garden on Overland Avenue at the Culver City Julian Dixon Library.

Michael Candland noted that the applicant had withdrawn the application to develop the parcel on Washington and Marcase1 (Item PH-1); he described conditions at the intersection; discussed the Environmental Impact Report; concern with noise generated by police and paramedics traveling through the area; he reported that people were moving out due to the noise in the intersection; he requested noise mitigation; and he did not see how the parcel could be developed residentially.

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February 6, 2012

Receipt of Correspondence

MOVED BY COUNCILMEMBER COOPER, SECONDED BY COUNCILMEMBER ARMENTA AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL RECEIVE AND FILE CORRESPONDENCE.

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Joint Consent Calendar

Item JC-1

JOINT CITY COUNCIL AND PARKING AUTHORITY AGENDA ITEM: Award of a Contract to American Lighting Supply as the Lowest Responsive and Responsible Bidder for the Lighting Upgrade Project at the City Hall and Cardiff Parking Structures as Part of the City's Energy Efficiency and Conservation Block Grant Administered by the Federal Department of Energy.

MOVED BY COUNCILMEMBER COOPER, SECONDED BY COUNCILMEMBER ARMENTA AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL AND PARKING AUTHORITY BOARD:

1. AWARD A CONTRACT TO AMERICAN LIGHTING SUPPLY AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER IN THE AMOUNT OF \$74,706.18 FOR THE LIGHTING UPGRADE PROJECT AT THE CITY HALL AND CARDIFF PARKING STRUCTURES; AND,
2. AUTHORIZE THE DIRECTOR OF PUBLIC WORKS/CITY ENGINEER TO APPROVE CHANGE ORDERS IN AN AMOUNT NOT-TO-EXCEED \$11,206.00; AND,
3. AUTHORIZE THE CITY ATTORNEY/PARKING AUTHORITY COUNSEL TO REVIEW/PREPARE THE NECESSARY DOCUMENTS; AND
4. AUTHORIZE THE CITY MANAGER/EXECUTIVE DIRECTOR TO EXECUTE SUCH DOCUMENTS ON BEHALF OF THE CITY AND PARKING AUTHORITY, RESPECTIVELY.

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Consent Calendar

MOVED BY COUNCILMEMBER COOPER, SECONDED BY COUNCILMEMBER ARMENTA AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL APPROVE CONSENT CALENDAR ITEMS C-1, C-2 AND C-4.

Item C-1

Receive and File Year-End Report and Audit Summary and the Audited Financial Statements for the Fiscal Year Ending June 30, 2011.

THAT THE CITY COUNCIL RECEIVE AND FILE THE YEAR-END REPORT AND AUDIT SUMMARY AND THE AUDITED FINANCIAL STATEMENTS FOR THE FISCAL YEAR ENDING JUNE 30, 2011.

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Item C-2

Approval of an Amendment to the Existing Professional Services Agreement with Hanson Bridgett LLP to Establish a Health Reimbursement Arrangement for Retiree Medical Payments in an Amount Not-To-Exceed \$25,000.

THAT THE CITY COUNCIL:

1. APPROVE AN AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH HANSON BRIDGETT LLP TO ESTABLISH A HEALTH REIMBURSEMENT ARRANGEMENT FOR RETIREE MEDICAL PAYMENTS IN AN AMOUNT NOT TO EXCEED \$25,000 (FOR A TOTAL NOT-TO-EXCEED CONTRACT AMOUNT OF \$37,500); AND,
2. AUTHORIZE THE CITY ATTORNEY TO REVIEW/PREPARE THE NECESSARY DOCUMENTS; AND,
3. AUTHORIZE THE CITY MANAGER TO EXECUTE SUCH DOCUMENTS ON BEHALF OF THE CITY.

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Item C-4

Adopt a Resolution Approving an Encroachment Agreement with AboveNet, Inc. for Use of the Underground Public Right-of-Way on Bristol Parkway (at Slauson Avenue).

THAT THE CITY COUNCIL:

1. ADOPT RESOLUTION NO. 2012-R016 APPROVING THE ENCROACHMENT AGREEMENT WITH ABOVENET FOR THE INSTALLATION OF FIBER OPTIC CABLE AS SHOWN ON THE ATTACHED SYSTEM EXHIBIT;
2. AUTHORIZE THE CITY ATTORNEY TO REVIEW/PREPARE THE NECESSARY DOCUMENTS; AND,
3. AUTHORIZE THE CITY MANAGER TO EXECUTE THE DOCUMENTS ON BEHALF OF THE CITY.

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The following Consent Calendar item was discussed and voted on separately:

Item C-3

Award of a Contract to Fleming Environmental, Inc., as the Lowest Responsive and Responsible Bidder, for the Construction of the Culver City Park Playground, P-916.

Mayor O'Leary received clarification regarding the process for reviewing bids; qualifying bidders; the contractor in question; checks and balances; and choosing the lowest responsible bidder.

MOVED BY MAYOR O'LEARY, SECONDED BY COUNCILMEMBER WEISSMAN AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL:

1. AWARD A CONTRACT TO FLEMING ENVIRONMENTAL, INC., AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR THE CULVER CITY PARK PLAYGROUND PROJECT, P-916, IN THE AMOUNT OF \$237,373.00, BASED ON ITS BASE BID; AND,

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Item C-3
(continued)

2. AUTHORIZE THE PARKS DIVISION MANAGER TO APPROVE CHANGE ORDERS IN THE AMOUNT NOT-TO-EXCEED \$11,868.65 (5%), IF NECESSARY; AND,

3. AUTHORIZE THE CITY ATTORNEY TO REVIEW/PREPARE THE NECESSARY DOCUMENTS; AND,

4. AUTHORIZE THE CITY MANAGER TO EXECUTE SUCH DOCUMENTS ON BEHALF OF THE CITY.

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Order of the Agenda

Mayor O'Leary clarified that Item PH-1 had been pulled from the agenda and that Action Item A-1 had been postponed until February 13, 2012.

Martin Cole, Assistant City Manager/City Clerk noted that those who wished to speak for Action Item A-1 could either speak now, keep their comments as part of the public record, or return on February 13, 2012.

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Public Hearings

Item PH-1

Adoption of a Resolution Approving a Tentative Tract Map to Subdivide the Property at 11957 Washington Boulevard into 31 Airspace Units for the Development of a 3-Story Mixed-Use Development (Retail and Residential)

This item was pulled from the agenda as the application was withdrawn by the applicant.

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Action Items

Item A-1

(1) Approval of a Commitment Letter with Red Barn/Regency Centers for the Sale and Redevelopment of City Owned Property at the Northerly Corners of the Washington Boulevard and Centinela Avenue Intersection, and (2) Approval of an Agreement with International Parking Design to Design, Bid, and Oversee Construction of a Public Parking Structure to Satisfy the Parking Requirements of the Washington Boulevard/Centinela Avenue Market Hall Project.

Mayor O'Leary invited public comment.

The following members of the audience addressed the City Council:

Robert Pine indicated that the developer was continuing to use the Hercules California Marketplace as their flagship listing and he expressed concern with developer qualifications.

Jean Ballantine discussed an email she sent to the City Council; the commitment letter to Lab Holdings; whether Red Barn is qualified; a lawsuit between the developer and the City of Hercules; the rush on projects due to State redevelopment issues; whether there is a concern that if the property is not sold quickly that the State will take over the City asset; and concern that if no one is interested in the project then perhaps it is the wrong project.

Robert Mayhew, The Community Company, noted that his development partner is Regency Shopping Centers; discussed concerns with Red Barn; clarified that Regency is the legal applicant; he provided background on Regency Shopping Centers noting that there was no project level debt; pointed out the difficulty of securing financing in this economic climate; he clarified that Red Barn would act as an architectural consultant rather than as a principal; and he discussed tenanting the project.

Mayor O'Leary asked that Mr. Mayhew provide additional information to residents.

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Item A-1
(continued)

At this time, Sol Blumenfeld, Community Development Director, responded to several of the questions raised regarding the number of developers for the project; community support; he discussed the unique nature of the project; leveraging by the City required to make the project work; smaller boutique tenants; City assistance with project parking; buying down the cost to develop the site; and the narrow universe of potential developers.

Murray Kane, City Special Counsel, clarified that the property is owned by the City and they felt the City had the right to sell it; he discussed the redevelopment dissolution statute; and concern that if the property was not committed by contract for development that it could become enmeshed in administrative actions of the dissolution.

Mayor O'Leary requested clarification regarding specific issues that caused residents' concerns.

Discussion ensued between the City Council and staff regarding an email from staff to a resident regarding Red Barn; issuance of the RFQ and RFP; vetting of developers; review of the Red Barn issues; the situation with the development in Hercules, California; the legal record with respect to the developer; comments from Keyser Marston Associates (KMA); finding of an absence of malfeasance; poorly drafted agreements with the Hercules city administration and the soft economy; concern as to whether Regency could provide the tenants necessary to populate the market hall; and clarification that the City went to the second choice due to the urgency of the matter.

Further discussion ensued regarding clarification that the project comported fully with the design and terms and conditions; risks related to moving more quickly; concern with taking chances; developer agreement to a schedule of performance, to convey property and to conform to parking agreements; clarification that in the event of non-compliance and subsequent default the City would be able to take back the title; differences between this project and the situation with the City of Hercules; and clarification that no decision would be made until February 13, 2012 as the matter has been postponed but a discussion is appropriate.

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Item A-1
(continued)

At this time, Robert Mayhew, The Community Company, clarified that Red Barn is not involved in tenant procurement, rather they are an architectural consultant; he added that they were not part of the financial process; he discussed the location of the project; and their role in tenant procurement.

Discussion ensued between the City Council, staff and Robert Mayhew regarding the original choice of Lab Holdings; larger retail tenants; the Regency proposal; agreement to make the identical project; artisan mixes; the original site plan; the market hall concept; providing a broad array of shopping choices; the long-term liability of the project; other markets; encouraging smaller tenants; availability of additional information on previous projects completed by the developer; the perception of the extent of Red Barn's involvement; the ability to get to know Regency further before making any decisions; protecting City assets; and ensuring that the project is right for the community and that area of the City.

This item will be brought back for consideration at the Council Meeting of February 13, 2012.

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Public Comment for Items Not on the Agenda (Continued).

Mayor O'Leary invited public participation.

There was no response.

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Items from the City Council

Items Presented by Mayor O'Leary:

- Discussed the need to appoint members to the Oversight Board and noted that he did not feel that the intent of the City Charter was to give the power for the appointment of an important position to just one person (the Mayor); he indicated that he would like to bring the discussion to the full City Council and should there be a charter review opportunity, he would like to see that considered. Also he does not feel it appropriate for an outside Agency to bestow authority that was not intended for the position of Mayor.

Discussion ensued between the City Council and staff regarding adding consideration of appointments to the Oversight Board to the February 13, 2012 agenda; the ability of the City Council to reach consensus for a future discussion of the matter and participation in the discussion; clarification that the matter had gone directly to the Mayor who could have made the decision without it ever coming to the City Council; expanding the topic; and a general discussion regarding the Mayor's prerogative.

Mayor O'Leary received Council consensus to discuss the specific item and have a discussion regarding the City Charter.

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Adjournment

There being no further business, at 8:21 p.m., the City Council adjourned its meeting to a meeting to be held on February 13, 2012.

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Ela Valladares

DEPUTY CITY CLERK of the City of Culver City, California
EX-OFFICIO CLERK of the City Council, City of Culver City,
California

APPROVED March 26, 2012



MICHEÁL O'LEARY

MAYOR of the City of Culver City, California