

THESE MINUTES ARE NOT OFFICIAL
UNTIL APPROVED BY THE
CITY COUNCIL

REGULAR MEETING OF THE
CITY COUNCIL
CULVER CITY, CALIFORNIA

August 26, 2013
5:00 p.m.

Call to Order & Roll Call

Mayor Cooper called the meeting of the City Council to order at 5:00 p.m.

Present: Jeffrey Cooper, Mayor
Meghan Sahli-Wells, Vice Mayor
Jim B. Clarke, Councilmember
Micheál O'Leary, Councilmember
Andrew Weissman, Councilmember

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Closed Session

At 5:00 p.m., the City Council recessed to Closed Session to discuss the following items:

CS-1 Conference with Legal Counsel – Anticipated Litigation
Re: Initiation of Litigation – 1 Matter
Pursuant to Government Code Section 54956.9(d)(4)

CS-2 Conference with Real Property Negotiators
Re: 9300 Culver Blvd. (Parcel B)
City Negotiators: John Nachbar, City Manager/Executive Director; Sol Blumenfeld, Community Development Director/Assistant Executive Director, and Todd Tipton, Economic Development Administrator
Other Parties Negotiators: Stand Up to Cancer and DogTown CrossFit
Under Negotiation: Price, Terms of Payment or Both, including use restrictions, development obligations and other monetary related considerations
Pursuant to Government Code Section 54956.8

CS-3 Public Employee Performance Evaluation

Title: City Attorney

Pursuant to Government Code Section 54957

CS-4 Conference with Legal Counsel – Existing Litigation

Re: Joan Mary Higgins v. City of Culver City

Case No. SC116786

Pursuant to Government Code Section 54956.9(d)(1)

CS-5 Conference with Legal Counsel – Existing Litigation

Re: Simplis, Kandace et al. v. City of Culver City (Case No. CV-9497 JHN (MANx))

Pursuant to Government Code Section 54956.9(a)

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Reconvene

Mayor Cooper reconvened the City Council meeting at 7:19 p.m. with all Councilmembers present.

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Report on Action Taken in Closed Session

Mayor Cooper indicated there was nothing to report from 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

Vice Mayor Sahli-Wells discussed construction at the tri-school complex; requested that the poster and press release from the Police Department on school safety be posted on the City website; and she announced the African Gourmet Food and Wine Festival on August 31 at Parcel B.

Councilmember O'Leary discussed attending meetings of the Expo

Board, the Independent Cities Association, and the League of California Cities.

Mayor Cooper reported that Culver City had been named the Third Most Fiscally Responsible City in Los Angeles County; and he indicated that volunteers were being sought to serve on the Civil Grand Jury.

Councilmember O'Leary encouraged residents who want to stay active in the community to apply for the Civil Grand Jury.

Dan Hernandez, Parks, Recreation and Community Services Director, provided a brief presentation on Fiesta La Ballona and thanked everyone who worked to make the event a success.

Mayor Cooper thanked all volunteers who worked hard at Fiesta La Ballona.

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Joint Public Comment - Items Not on the Agenda

Mayor Cooper invited public comment.

The following members of the audience addressed the City Council:

Cristian Vasquez introduced himself as the new Editor of Culver City News.

Shireen Daytona discussed the effects of large rent increases on herself and her neighbors; Culver City housing programs; the housing project on Irving; and the Landlord Tenant Mediation Board.

Martin Cole, Assistant City Manager/City Clerk, discussed two recent affordable housing projects in the City; the system by which the units were chosen; income requirements; and the process.

Howard Paul Shore expressed concern with safety at the Culver Center; suggested creating an ordinance to keep unwanted people off private property, and he asked about the differences in property taxes between Culver City and Los Angeles.

Discussion ensued between Councilmembers and staff regarding the way property taxes are calculated and the percentage of

property taxes received by Culver City, and assurance was given to Mr. Shore that staff would contact the Culver Center.

Gary Robinson discussed reinstating full bus service to West Los Angeles College; the concerns of residents on Freshman Drive; measuring noise levels on Freshman Drive vs. those on Jefferson Boulevard; concern with providing special treatment to one neighborhood over another; and he requested that the item be discussed on a future agenda.

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Receipt of Correspondence

Martin Cole, Assistant City Manager/City Clerk, reported that correspondence received included items with regard to A-2 and J-1 that had been distributed to Councilmembers and made part of the record.

MOVED BY COUNCILMEMBER WEISSMAN, SECONDED BY COUNCILMEMBER O'LEARY AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL RECEIVE AND FILE CORRESPONDENCE.

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Joint Consent Calendar

Item JC-1

JOINT CITY COUNCIL, HOUSING AUTHORITY AND SUCCESSOR AGENCY AGENDA ITEM: Cash Disbursements

MOVED BY COUNCILMEMBER O'LEARY, SECONDED BY COUNCILMEMBER WEISSMAN AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL APPROVE CASH DISBURSEMENTS FOR AUGUST 3, 2013 - AUGUST 16, 2013.

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Consent Calendar

MOVED BY COUNCILMEMBER O'LEARY, SECONDED BY COUNCILMEMBER WEISSMAN AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL APPROVE CONSENT CALENDAR ITEMS C-2 AND C-4 THROUGH C-6.

Item C-2
(Out of Sequence)

Adoption of a Resolution Approving an Updated Executive Compensation Plan

THAT THE CITY COUNCIL: ADOPT A RESOLUTION APPROVING AN UPDATED EXECUTIVE COMPENSATION PLAN.

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Item C-4
(Out of Sequence)

Adoption of a Resolution Accepting the 2013 Citywide Engineering and Traffic Speed Zone Study

THAT THE CITY COUNCIL:

1. ADOPT A RESOLUTION ACCEPTING THE AUGUST, 2013 ENGINEERING AND TRAFFIC SURVEY SPEED ZONE STUDY, AND RESCINDING RESOLUTION NO. 2003-R073;
2. AUTHORIZE THE CITY CLERK TO CERTIFY A COPY OF THE "2013 CITYWIDE ENGINEERING AND TRAFFIC SURVEY" AND SUBMIT IT TO THE COURT.

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Item C-5

Award of a Contract to All American Asphalt as the Lowest Responsive and Responsible Bidder for the Construction of the 2013 Pavement Overlay Project, PZ-863, PZ-903 in the Base Bid Amount of \$1,203,866 with a Contingency of up to \$125,386 (for a Total Authorization Not-to-Exceed \$1,329,252)

THAT THE CITY:

- 1) AWARD A CONSTRUCTION CONTRACT TO ALL AMERICAN ASPHALT, AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR THE 2013 PAVEMENT OVERLAY PROJECT, PZ-863, PZ-903, IN THE AMOUNT OF \$1,203,866, BASED ON ITS BASE BID; AND,
- 2) AUTHORIZE THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO APPROVE CHANGE ORDERS IN THE AMOUNT NOT-TO-EXCEED \$125,386, 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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Item C-6

Approval of a Purchase Order with Mallory Safety & Supply for the Purchase of Disaster Preparedness Equipment

THAT THE CITY COUNCIL:

1. APPROVE A PURCHASE ORDER WITH MALLORY SAFETY & SUPPLY TO PURCHASE EMERGENCY PREPAREDNESS EQUIPMENT IN AN AMOUNT NOT-TO-EXCEED \$99,982.69; AND,

2. AUTHORIZE THE CHIEF FINANCIAL OFFICER 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-1
(Out of Sequence)

Meeting Minutes

Mayor Cooper invited public comment.

The following member of the audience addressed the City Council:

Cary Anderson asserted that the minutes for the August 12, 2013 City Council meeting did not accurately reflect what he said.

Mayor Cooper indicated that staff would review the broadcast of the meeting and get back to Mr. Anderson with amended minutes if necessary.

Councilmember Clarke reported that the City Manager had asked to pull item C-3, and that he would have to abstain from voting on the August 12, 2013 City Council meeting minutes as he was absent from the meeting.

MOVED BY COUNCILMEMBER O'LEARY AND SECONDED BY VICE MAYOR SAHLI-WELLS THAT THE CITY COUNCIL APPROVE THE MINUTES FOR THE REGULAR MEETING OF AUGUST 12, 2013 WITH POSSIBLE AMENDMENTS AS DEEMED NECESSARY BY THE ASSISTANT CITY MANAGER/CITY CLERK.

THE MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COOPER, O'LEARY, SAHLI-WELLS, WEISSMAN
NOES: NONE
ABSTAIN: CLARKE

Martin Cole, Assistant City Manager/City Clerk, reported on staff efforts to update the City's voting system.

{Note from the City Clerk: I have reviewed the minutes of August 12, 2013 and amended the minutes to better reflect the comments made by Mr. Anderson at that meeting for Item C-8.}

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Item C-3
(Out of Sequence)

Adoption of an Ordinance Amending Sections 3.05.015.D and 3.05.015.F of the Culver City Municipal Code Relating to Exemptions to the Classified Service

This item was deferred to a future meeting.

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Order of the Agenda

There were no changes.

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Public Hearings

Item PH-1

Adoption of a Resolution (a) Approving the Certification of Conformance with the Congestion Management Program (CMP) for Los Angeles County and (b) Adoption of the CMP Local Development Report

MOVED BY COUNCILMEMBER O'LEARY, SECONDED BY VICE MAYOR SAHLI-WELLS AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL RECEIVE AND FILE THE AFFIDAVITS OF PUBLICATION AND POSTING OF NOTICE AND CORRESPONDENCE RECEIVED IN RESPONSE TO THE PUBLIC HEARING NOTICES.

Discussion ensued between staff and Councilmembers regarding whether cities are incentivized to increase the use of public transportation and any ties to such an incentive to state gas tax funds. Staff clarified that no such incentive was offered.

MOVED BY COUNCILMEMBER WEISSMAN, SECONDED BY COUNCILMEMBER O'LEARY AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL OPEN THE PUBLIC HEARING.

Mayor Cooper invited public input.

There was no response.

MOVED BY COUNCILMEMBER WEISSMAN, SECONDED BY COUNCILMEMBER O'LEARY AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL CLOSE THE PUBLIC HEARING.

MOVED BY COUNCILMEMBER WEISSMAN, SECONDED BY COUNCILMEMBER CLARKE AND UNANIMOUSLY CARRIED, THAT THE CITY COUNCIL: ADOPT A RESOLUTION FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM (CMP) AND ADOPTING THE CMP LOCAL DEVELOPMENT REPORT FOR 2013.

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Joint Action Item

Item JA-1

(1) Consideration of the Amount of In-Kind Assistance for and Possible City Sponsorship of the Los Angeles Antiques Art + Design Show Event; and (2) (If Desired) Approval of a Related License Agreement for the Event

Jeremy Green, Management Analyst, provided a summary of the material of record.

Discussion ensued between staff and Councilmembers regarding whether the event would go forward without City support; the partnership with the Culver Hotel; and activities in the downtown area to encourage patronage of local businesses.

Mayor Cooper invited public participation.

The following members of the audience addressed the City Council:

Rosemary Krieger, Dolphin Productions, discussed their association with the Culver Hotel; restaurant as well as convention and tourism traffic; and the event in conjunction with the Willow School.

Gordon Merkle, Dolphin Productions, indicated that they would donate one dollar of each admission to the Culver City Cultural Affairs Foundation.

Discussion ensued between Councilmembers and the speakers regarding encouragement to the speakers to work with the Downtown Business Association; the previous location in Santa Monica; rebranding of the event; the target audience; previous support for the event; past attendees; the need for financial assistance; participation of the City; exhibitors; the non-profit status of the organization; and the partnership with the Culver Hotel.

Additional discussion ensued between Councilmembers regarding regular requests for sponsorships; clarification that the organization is not a City entity; the limited resources of the City; the Oversight Board; implications of waiving rentals; the City being solicited as a sponsor for the advertising potential; event promotion; the importance of the arts and economic development; advertising value for the money spent; benefits to the arts district; the TOT tax; in-kind sponsorship; the process; directing overflow guests to other Culver City hotels; and appreciation to the event for choosing Culver City.

MOVED BY VICE MAYOR SAHLI-WELLS AND SECONDED BY COUNCILMEMBER CLARKE THAT THE CITY COUNCIL:

1. DETERMINE TO PROVIDE THE STAFF TIME NECESSARY TO THE 2013 LOS ANGELES ANTIQUES ART + DESIGN SHOW EVENT); AND,
2. DESIGNATE THE 2013 LOS ANGELES ANTIQUES ART + DESIGN SHOW EVENT AS A CITY SPONSORED EVENT.

THE MOTION FAILED BY THE FOLLOWING VOTE:

AYES: CLARKE, SAHLI-WELLS
NOES: COOPER, O'LEARY, WEISSMAN

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Action Items

Item A-1

Consideration of City Sponsorship of the 8th Annual EarthFest LA at West Los Angeles College on September 28, 2013 and Approval of Memorandum of Understanding Related thereto

Shelley Wolfberg, Assistant to the City Manager, provided an overview of the request from California Greenworks, Inc.

Discussion ensued between staff and Councilmembers regarding overall time spent plus the request; the \$1,000 threshold; and clarification that truck signage would be provided by California Greenworks.

Mayor Cooper invited public participation.

The following members of the audience addressed the City Council:

Mike Meador, California Greenworks, clarified that they did not hold a Culver City business license but were willing to get one.

Vice Mayor Sahli-Wells disclosed that she is an honorary co-chair of the event but was able to vote on the issue as there is no financial interest.

Discussion ensued between staff and Councilmembers regarding the process; in-kind services and banner placement; consistency; concern with staff time; dealing with sponsored events in a way that doesn't cost the City money; waiving the banner application fee; costs to hang the banners; worthiness of the event; the convoluted sponsorship process;

clarification that the organization and the event are not in Culver City; concern with money being directed outside of the City; the manner in which sponsorship requests are addressed; whether non-profits need a business license; environmental issues; upcoming storm water funding; where dollars are spent; a suggestion that organizers investigate grants to help support the event; and a request that City support of the event be cited as providing help to the environment.

MOVED BY VICE MAYOR SAHLI-WELLS AND SECONDED BY COUNCILMEMBER CLARKE THAT THE CITY COUNCIL:

1A. DESIGNATE THE 2013 EARTHFEST LA AS A CITY SPONSORED EVENT CONTINGENT UPON CALIFORNIA GREENWORKS AGREEING TO IDENTIFY THE CITY IN THEIR PROMOTIONAL ACTIVITIES AND DOCUMENTS AS A SPONSOR OF THE EVENT AND APPROVE A MOU RELATED THERETO; AND,

1B. AUTHORIZE THE CITY ATTORNEY TO REVIEW/PREPARE THE NECESSARY DOCUMENTS; AND,

1C. AUTHORIZE THE CITY MANAGER TO EXECUTE SUCH DOCUMENTS ON BEHALF OF THE CITY.

THE MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COOPER, CLARKE, O'LEARY, SAHLI-WELLS
NOES: WEISSMAN

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Item A-2

Discussion of Regulating Smoking in Multi-Unit Housing and Direction to Staff

Heather Baker, Assistant City Attorney, provided a summary of the material of record.

Mayor Cooper invited public input.

The following members of the audience addressed the City Council:

Mark Minichiello expressed opposition to any law that would ban or regulate smoking in multi-unit complexes; discussed

the Playa Pacific Homeowners Association; asserted that the HOA Board should vote on rules for their property; discussed current CC&Rs; enforcement; recent crime in the area; unintended consequences; medical marijuana; discriminating against a group of homeowners; and concern with improper intrusion of government into people's lives.

Esther Shiller, Smoke Free Apartment House Registry, discussed their mission and results of their research; no smoking policies; the difficulty of reselling condos that have been smoked in; safety; insurance discounts for non-smoking buildings; dangers of second and third-hand smoke; and damage to DNA.

Spencer Lyons, American Cancer Society Cancer Action Network, expressed support for a policy to protect residents from the harmful effects of second-hand smoke and urged the City Council to draft a strong ordinance.

Jeri Speed asked the City Council to protect residents from second hand smoke in their homes and to expand the nuisance provision of the Municipal Code; she discussed smoke residue; her experiences with a smoking neighbor; and chemical sensitivity.

Adam Lane discussed California laws that protect people in restaurants and at work and expressed support for an ordinance to regulate smoking.

Goran Eriksson expressed concern with blanket regulations to solve individual problems, and government interference; he discussed the right of smokers to smoke; and he felt that HOAs and building owners should be the ones to designate smoking rules.

Jeremy Green, Management Analyst, read a written comment submitted by:

Steven Schiffer

Discussion ensued between staff and Councilmembers regarding potential liability to the City for taking away smokers' rights; case history; bans in other cities; freedom to do what you want in your home if you are not harming others; rights of smokers vs. rights of non-smokers; smokeless tobacco; medical marijuana; defining homes; what is included

in the ban; the model ordinance; and the lack of action by Homeowners Associations (HOA).

Discussion ensued between Councilmembers and Mr. Minichiello regarding actions of his HOA and placing restrictions on certain areas.

Further discussion ensued between staff and Councilmembers regarding previous ordinances regarding smoking in public areas; protecting people from the involuntary intrusion of smoke in their lives; providing a place for people to smoke; the need for regulation; allowing HOAs to regulate themselves with City intervention if there is inadequate action; enforcement; limited City resources; taking an incremental approach; smoking distance requirements for public buildings; state law vs. City law; third-hand smoke; having HOAs make the determination regarding smoking in the building; a suggestion to require the landlord or HOA Board to pass a resolution every two years regarding smoking; the addictive nature of smoking; government intrusion; the responsibility of government to regulate; affects to non-smokers; the phase-in system: designating a percentage of units to be smoke-free; reporting; changes in ownership; marijuana smokers; public notification; sensitivity to smoke; other cities with similar bans; the California Apartment Association; limiting smoking in certain areas; and meeting turnout.

Responding to inquiry, Mr. Miniciello reported that one homeowner in his Association had brought up prohibiting smoking around the pool.

Responding to inquiry, Esther Shiller, Smoke Free Apartment House Registry, reported being contacted by condo owners frustrated by unsuccessful attempts to negotiate with the HOA; she discussed attorneys and property management companies that are not educated about the matter; and indicated that the organization goes door to door to educate residents.

Additional discussion ensued between staff and Councilmembers regarding whether it is legal to require that landlords and HOA Boards take a vote; self-policing; complaints based enforcement; concern with accommodating HOAs that did not come to the meeting and have not enforced restrictions for years; HOAs vs. landlords; concern with the length of the process; implementation; a suggestion to have

staff bring back an ordinance with options; the Santa Monica ordinance; having the percentages of smokers match the percentage of units; moving the problem to a different area; creating an ordinance to address second-hand smoke but creating a smokers area where butts can be captured; private citizen enforcement; education; including a phase-in plan; a suggestion to place the onus on the HOA; and the notification process for when the item comes back before the City Council.

The City Council, by consensus, directed the City Manager to return to the City Council at a future meeting with a draft ordinance that would include a menu of options.

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Public Comment - Items Not on the Agenda

Mayor Cooper invited public comment.

There was no response.

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Items from the City Council

Items from Councilmember Clarke

- Congratulated the Westside Baseball Westchester Babe Ruth Little League teams for winning the 2013 World Series.
- Announced that the Farmers Market would provide space for volunteers of non-profit organizations to display materials

Items from Mayor Cooper

- Noted that Nolan Martinez, the Most Valuable Player in the Little League World Series, is from Culver City

Items from Councilmember O'Leary

- Requested that issues with the Beer Garden at Fiesta La Ballona be addressed for next year

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Adjournment

There being no further business, at 9:51 p.m., the City Council adjourned its meeting to a meeting on Monday, September 9, 2013 at 7:00 p.m.

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Martin R. Cole
CITY CLERK of Culver City, California
EX-OFFICIO CLERK of the City Council
Culver City, California

JEFFREY COOPER
MAYOR of Culver City, California