

July 21, 1998

**MINUTES OF A REGULAR MEETING
OF THE TORRANCE CITY COUNCIL**

1. **CALL TO ORDER**

The Torrance City Council convened in a regular session at 5:37 p.m. on Tuesday, July 21, 1998, in the West Wing Commission Room at Torrance City Hall for the purpose of conducting a Cultural Arts Center Workshop to discuss proposed changes in the procedures and rate policies for the Center.

ROLL CALL

Present: Council members Cribbs, Lee, Messerlian, Nakano, O'Donnell, Walker and Mayor Hardison.

Absent: None.

Also Present: City Manager Jackson, City Attorney Fellows, City Clerk Herbers, and other staff representatives.

At 7:20 p.m., the Cultural Arts Center Workshop was adjourned, and the Council meeting reconvened at 7:28 p.m. in regular agenda order.

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2. **FLAG SALUTE/ INVOCATION**

The Pledge of Allegiance was led by Beach Cities Civil Air Patrol Cadet Squad #107.

City Clerk Herbers gave the invocation for the meeting.

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Mayor Hardison noted the sudden passing of Planning Director David Ferren and announced that his funeral services would be held at St. Lawrence Martyr Church on Thursday, July 23, 1998. She spoke of his many accomplishments and his contribution to the City's planned development and requested that the meeting be adjourned in his memory.

Council members expressed their admiration and affection for Mr. Ferren and offered their condolences to his family. City Manager Jackson commented on Mr. Ferren's positive influence on his colleagues and on the community.

Mayor Hardison requested that flags be flown at half-mast on Thursday, July 23, in Mr. Ferren's honor.

3. **AFFIDAVIT OF POSTING/WAIVE FURTHER READING**

Sue Sweet
Recording Secretary

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City Council
July 21, 1998

MOTION: Councilwoman Cribbs moved to accept and file the report of the City Clerk on the posting of the agenda for this meeting. The motion was seconded by Councilman Messerlian and, there being no objection, it was so ordered by Mayor Hardison.

MOTION: Councilwoman Cribbs moved that, after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Council member the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilman Messerlian, and, there being no objection, it was so ordered by Mayor Hardison.

4. **WITHDRAWN/DEFERRED ITEMS**

None.

5. **COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS**

City Clerk Herbers announced that applications for the Planning Commission vacancy would be accepted until Wednesday, July 22, 1998 at 5:30 p.m., with the City Council to make an appointment on Tuesday, July 28.

7. **CONSENT CALENDAR**

7a. **APPROVAL OF MINUTES - APRIL 28, JUNE 23, & JUNE 30, 1998
AND ENERGY DEREGULATION WORKSHOP OF APRIL 28, 1998**

7b. **JOB TRAINING PARTNERSHIP ACT EMPLOYMENT AND TRAINING
AGREEMENTS**

Recommendation

The Carson/Lomita/Torrance Private Industry Council (PIC) and the Human Resources Director of the City of Torrance recommend that City Council authorize the execution of agreements for employment training services with JagTag Enterprises, H.R. Solutions, Elizabeth S. Mohler & Associates, and Chapa Rehabilitation.

7c. **CONTRACT RE CONSTRUCTION OF SEWER PUMP STATIONS**

Recommendation

The Engineering Director recommends that City Council:

- (1) Accept the bid and award a standard public works agreement, approved as to form by the City Attorney, to Clarke Contracting Corporation in the amount of \$1,911,039.32;
- (2) Approve the amendment to the consulting services agreement with CBM Consulting, Inc. (CBM) to provide additional professional engineering services;
- (3) Approve the consulting services agreement with Geomatrix Consulting, Inc. for geotechnical services in the amount of \$16,668;
- (4) Authorize the Mayor to execute and the City Clerk to attest to these agreements on behalf of the City; and

(5) Appropriate \$687,000 from the Sewer Enterprise Fund for the construction and upgrading of sewer pump stations located at Madrona Avenue, Pennsylvania Avenue, Huber Avenue, Crenshaw Place and Henrietta Street.

7d. **PRAIRIE AVENUE STREET IMPROVEMENTS**

Considered separately, see page 4.

7e. **CONSTRUCTION OF ACCESS RAMP PROGRAM ALONG 190TH STREET, ANZA AVENUE, LOMITA BOULEVARD AND SEPULVEDA BOULEVARD**

Recommendation

The Engineering Director recommends that City Council approve a change order in the amount of \$12,744 to cover extra work performed under Public Works Contract (C98-89) for the construction of the Access Ramp Program along 190th Street, Anza Avenue, Lomita Boulevard and Sepulveda Boulevard.

7f. **MUSEUM ASSESSMENT PROGRAM III**

Recommendation

The Parks and Recreation Director recommends that City Council approve an appropriation of \$2,970 to conduct a planning and evaluation process of Museum Assessment Program III.

7g. **AGREEMENT WITH ICE CHALET RE ICE SKATING CLASSES**

Recommendation

The Parks and Recreation Director recommends that City Council approve an agreement with Ice Chalet to provide ice skating classes for the City of Torrance Parks and Recreation Department, for an amount not to exceed \$53,340.

MOTION: Councilwoman O'Donnell moved for the approval of Consent Calendar Item Nos. 7a, 7b, 7c, 7e, 7f and 7g. The motion was seconded by Councilman Walker and passed by unanimous roll call vote.

Consent Calendar Item No. 7d was considered at this time

7d. **PRAIRIE AVENUE STREET IMPROVEMENTS**

Recommendation

The Engineering Director recommends that City Council:

- (1) Waive all informalities in the bid of PALP, Inc. dba Excel Paving Company;
- (2) Award a standard Public Works Agreement, approved as to form by the City Attorney, to Palp, Inc. dba Excel Paving Company in the amount of \$2,224,627.30;
- (3) Authorize a 5% contingency in the amount of \$111,231.37; and
- (4) Authorize the Mayor to execute and the City Clerk to attest to said Agreement on behalf of the City for construction of improvements to Prairie Avenue from 0.4 miles south of 190th Street to Redondo Beach Boulevard. REF: B98-21.

Ms. Helen Doyle, 18626 Yukon Avenue, stated that she was pleased that Prairie Avenue was being improved, but requested that work on Prairie be delayed until the roadwork on Crenshaw Boulevard is completed.

Division Engineer Qureshi reported that problems with the disposal of slag found under the roadway have delayed the Crenshaw Boulevard project and that there is no firm date for completion at this time. He confirmed that staff's intention is to start the Prairie improvements after Crenshaw is completed.

Ms. Marilyn Throssel, 3905 176th Street, expressed her appreciation to Engineering Director Burt and his staff for their well-designed plan that will ameliorate many traffic problems in the area.

Mr. Jeff Burch, counsel for Sully-Miller Contracting Co., stated that he had submitted a letter to the Council protesting the staff's recommendation to award the contract to Excel Paving Company and summarized his concerns as follows: that Item No. 1 "Mobilization" on Excel's Bidder's Proposal was 5.6% of the total bid amount, exceeding the maximum amount of 4%; that this defect is not a waivable informality, but instead renders the bid nonresponsive; that Excel Paving also did not comply with the mandatory requirement to write the individual bid amounts in words; and that these defects gave Excel Paving Company an unfair competitive advantage, allowing them an opportunity to claim a clerical error and to be relieved of the bid if they so desired. Citing the case of Valley Crest Landscaping v. City of Davis, he stated that, if the contract is awarded to Excel Paving, it will be contrary to California law.

Mr. Ron Salcido, Vice President of Sully-Miller Contracting Co., noted that his company has been in business for 75 years and has done a lot of work for the City. He requested that the City Attorney review his bid protest and evaluate it before the Council makes an award on this project.

Mr. Bruce Flatt, representing Excel Paving Co., stated that Excel's mistakes are minor irregularities and did not afford them any unfair competitive advantage over Sully-Miller or any other bidder.

Referring to the bid protest letter received from Mr. Burch on behalf of the Sully-Miller Contracting Co. on July 20, 1998, City Attorney Fellows advised that the decision in Valley Crest Landscaping v. City of Davis, 41 Cal. App. 4th 1432, relies on an interpretation of a provision of the State's Public Contracts Code, a code that does not apply to the City of Torrance's award of contracts. He cited a decision in a subsequent case, Ghilotti Construction Company v. City of Richmond, 45 Cal. App. 4th 897, that he believes to be more appropriate. He noted that the conflicting decisions were issued by two different Districts of the California Court of Appeal, neither of which includes Los Angeles County, and Los Angeles courts would be free to choose either interpretation. He explained that the "Mobilization" item on the bid refers to up-front money required to stage equipment and begin construction and has no bearing on the final bid amount; stated that Excel Paving Company's bid is clear and is \$90,000 lower than Sully-Miller's; and advised that the City has a legally justifiable basis for waiving the irregularities in Excel Paving's bid and awarding them the contract.

In response to Councilman Lee's inquiry, Mr. Fellows advised that it's unlikely that an indemnification could be secured from Excel Paving Company and discussed the possible consequences in the event legal action is instituted against the City.

Councilman Lee suggested that it might be prudent to repeat the bidding process if time is not a concern.

Division Engineer Wisz reported that the schedule is very tight for these improvements and that the goal is to complete the work in front of Magruder Middle School before school starts in September.

Councilwoman O'Donnell related her preference to err on the side of caution and reject all bids and start over.

Councilman Walker and Councilman Lee voiced support for the staff's recommendation. Noting that Sully-Miller is a reputable firm that has worked for the City in the past and will probably do so in the future, Councilman Messerlian stated that the company would probably think long and hard before engaging the City in litigation.

MOTION: Councilman Walker moved to concur with the staff recommendation. The motion was seconded by Councilwoman Cribbs and passed by unanimous roll call vote.

12. **PERSONNEL MATTERS**

12a. **EXAMINATION RE STREET SERVICES DIRECTOR**

Recommendation

The City Manager, Civil Service Administrator and the Civil Service Commission recommend that City Council authorize an examination to fill the position of Street Services Director on a promotional basis.

MOTION: Councilwoman Cribbs moved to concur with the staff and the Commission's recommendation. The motion was seconded by Councilman Lee and passed by unanimous roll call vote.

13. **ADMINISTRATIVE MATTERS**

13a. **JOINT POWERS AGREEMENT FOR SOUTH BAY CITIES COUNCIL OF GOVERNMENTS**

Recommendation

The governing board of the South Bay Cities Council of Governments (COG) seeks City Council's approval of the proposed First Amended and Restated Joint Powers Agreement for the South Bay Cities Council of Governments. The proposed amendment would establish a mechanism by which the South Bay Cities Council of Governments' total voting membership for quorum and voting purposes would consist only of members on "active" status. A member agency would maintain active status by being current on its dues and by having its governing board representative or alternate representative present

at least every third month. Any member placed on inactive status could be immediately reactivated merely by bringing its dues current or by attending a meeting.

The Cog's governing board is submitting the proposed amendment because a quorum has not been present at a number of regularly scheduled meetings over the past several years. The longest period over which a quorum has not been present has been three months. Thus, in some instances, it has been impossible for the Cog to take necessary actions in a timely manner.

RESOLUTION NO. 98-87

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
APPROVING A FIRST AMENDED AND RESTATED JOINT POWERS
AGREEMENT FOR THE SOUTH BAY CITIES COUNCIL OF GOVERNMENTS
(A JOINT POWERS AUTHORITY) PROVIDING FOR THE ESTABLISHMENT
OF AN INACTIVE MEMBERSHIP STATUS AND MODIFYING THE
AUTHORITY'S QUORUM REQUIREMENT**

MOTION: Councilman Nakano moved for the adoption of Resolution No. 98-87. The motion was seconded by Councilman Walker and passed by unanimous roll call vote.

13b. **MEMORANDUM OF INTENT - TORRANCE PROFESSIONAL PARKS &
RECREATION EMPLOYEES ORGANIZATION (TPPREO)**

Considered out of order, see page 9.

13c. **MEMORANDUM OF INTENT - TORRANCE PROFESSIONAL AND
SUPERVISORY ASSOCIATION**

Considered out of order, see page 9.

13d. **MEMORANDUM OF INTENT - TORRANCE FIRE FIGHTERS ASSOCIATION**

Considered out of order, see page 9.

13e. **REVISED PROCEDURES AND RATE POLICIES AT THE TORRANCE
CULTURAL ARTS CENTER**

Recommendation

The City Manager recommends that City Council:

- (1) Review the revised procedures and rate policies for the Torrance Cultural Arts Center as submitted at the June 23, 1998 Council meeting;
- (2) Consider input from affected groups as brought forward at the July 14, 1998 study session;
- (3) Amend the plan based on input; and
- (4) Direct the City Manager to bring amended plan forward to City Council for approval.

Mayor Hardison noted that a Cultural Arts Center Workshop on this item had been held earlier in the evening and invited members of the audience who had not had an opportunity to be heard at the workshop to come forward.

Seeing no one, Mayor Hardison invited comments from Council members.

Councilman Lee pointed out that the City-run programs at the Center are administered by the Parks and Recreation Department and they have their own subsidies through that department, and that the \$775,000 budgeted subsidy is in addition to the approximately \$1 million bond debt, for a total of \$1.75 million annually. Recognizing the difficulty of turning down requests for further support, he stated that it becomes a question of prioritizing and allocating the City's limited resources in an equitable manner. He indicated that he was inclined to support the proposed plan with the modification of using the Operations staff for custodial service rather than hiring City Custodians, and called for strong controls and reports on a monthly basis to ensure that budget targets are being met. He stated that the Torrance Unified School District had brought up some valid points and expressed the hope that this mutually beneficial relationship can be maintained.

Councilwoman Cribbs stated that the proposed plan assumes that if subsidized events are limited, other organizations are eager to fill those vacancies, and questioned whether there is a list of potential users who have been turned down in the past. She voiced support for a phasing in of increases and requested that staff return with several options, presenting different ways of structuring the rate increases and detailing the financial impact of using Custodial versus Operations staff. She indicated that she has no objection to limiting subsidized events to four a week, but suggested that by exploring alternatives it might be possible to arrive at a compromise.

Commenting on past budgetary shortfalls, Councilwoman Cribbs requested realistic budget projections and detailed monthly financial reports.

Mayor Hardison noted that the general consensus of Council members seemed to be as follows: that the subsidy should be limited to the current budgeted amount; that their preference was for a part-time custodial crew; that they would like to see several alternative plans; and that they prefer a the phasing in of fee increases, particularly in regard in non-revenue users and non-profit groups utilizing the Theatre, so that these groups can prepare and budget for the increases. She pointed out that during the budgetary process the position adjustments were presented in a way that did not involve rate increases and she expressed an interest in looking at that again. She summarized the concerns expressed at the Workshop by Charter Clubs, the Torrance Unified School District, and non-profit residential groups; and noted that no opposition was expressed regarding the decrease in the hours of operation, and the increase in recreation fees for early morning exercise classes was acceptable to participants, as long as fees are not increased again in the near future.

Councilman Lee noted that the proposed 1998-99 Cultural Arts Center Budget shows a net income (including subsidy) of \$119,000, stated that it's difficult to explain the need for the usage limitations and fee increases when an income of that size is projected, and indicated that he would like to see a tighter budget.

Councilman Messerlian concurred with Councilman Lee, but commented on how quickly a \$119,000 cushion can disappear. He pointed out that the elimination of non-revenue users in

the Theatre is expected to generate only an additional \$20,000 and expressed strong support for continuing to fully subsidize these organizations. He reiterated the suggestion he made at the Workshop regarding gradual fee increases for the three categories of users, and recommended that the Center work toward the goal of achieving funding by a ratio of 60% revenue/40% subsidy.

City Manager Jackson related his understanding of the Council's concerns and advised that staff would return with budget options holding to the current subsidy level, using a part-time custodial crew, and providing alternative strategies for fee increases, such as a phasing in process. He noted that other areas of concern that need to be explored and brought back to Council include resolution of the Charter Club needs, the implications of changes to the school district's free use arrangement, and the financial impact of continuing to allow certain organizations the free use of the Theatre. He agreed to provide monthly financial reports.

Mayor Hardison requested that the financial information for the fourth quarter be provided so that the Council can look at the totals for the entire 1997-98 fiscal year. She voiced support for school children's use of the Theatre, but noted that there seems to be a fairly large number of users of the meeting rooms for school-related functions that were formerly held at schools.

Councilwoman Cribbs requested information about the Performing Arts Consortium's members and policies.

18. **ADDENDUM MATTERS**

None.

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At 8:50 p.m. the Council met as the Torrance Redevelopment Agency. The meeting was adjourned at 8:51 p.m. and the meeting resumed in regular agenda order.

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19. **ORAL COMMUNICATIONS**

19a. City Manager Jackson announced that the Planning Department would be closed on Thursday, July 23, 1998, to allow staff to attend the funeral of Mr. Ferren.

19b. Councilman Messerlian introduced Jim Mills, Assistant Transit Manager, Operations.

19c. Mr. Dan Domonoske, Vice President of Potential Industries, made remarks to clarify, for the record, events that have occurred during the past year in the course of the company's business relationship with the City.

20. **EXECUTIVE SESSION**

At 8:55 p.m., pursuant to California Government Code Sections 54957.6 and 54957 the Council recessed into a closed session to confer on matters listed on the meeting agenda.

The Council returned to Council Chambers at 9:44 p.m. No formal action was taken on any matter heard in closed session

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Agenda Item Nos. 13b, 13c, and 13d were considered together at this time.

13b. **MEMORANDUM OF INTENT - TORRANCE PROFESSIONAL PARKS & RECREATION EMPLOYEES ORGANIZATION (TPPREO)**

Recommendation

The City Manager recommends that the City Council concur in principle with the Memorandum of Intent (MOI) for the Torrance Professional Parks & Recreation Employees Organization.

13c. **MEMORANDUM OF INTENT - TORRANCE PROFESSIONAL AND SUPERVISORY ASSOCIATION**

Recommendation

The City Manager recommends that the City Council concur in principle with the Memorandum of Intent (MOI) for the Torrance Professional and Supervisory Association.

13d. **MEMORANDUM OF INTENT - TORRANCE FIRE FIGHTERS ASSOCIATION**

Recommendation

The City Manager recommends that the City Council approve in concept the Memorandum of Intent (MOI) with the Torrance Fire Fighters Association.

MOTION: Councilman Lee moved to concur with the staff recommendations for Agenda Item Nos. 13b, 13c, and 13d. The motion was seconded by Councilwoman Cribbs and passed by unanimous roll call vote.

21. **ADJOURNMENT**

At 9:45 p.m., the Council adjourned to Tuesday, July 28, 1998, at 5:30 p.m. with the regular meeting commencing at 7:00 p.m.

****** Adjourned in Memory of David Ferren ******