

In the Matter of the Calculation of Final Compensation of:

Bruce Malkenhorst, Sr., Respondent,
and
City of Vernon, Respondent

OAH Case No. 2013080917

CalPERS Case No. 2012-0671

EXHIBIT M (6 PAGES)

MINUTES OF THE CITY COUNCIL MEETING OF THE
CITY OF VERNON HELD NOVEMBER 3, 1987, AT
5:00 P.M. IN THE COUNCIL CHAMBERS OF THE
CITY HALL LOCATED AT 4305 SANTA FE AVENUE,
VERNON, CALIFORNIA

MEMBERS PRESENT: Malburg, Ybarra, Gonzales, Davis, McCormick

MEMBERS ABSENT: None

The meeting was called to order by Mayor Malburg.

It was moved by Ybarra, seconded by Davis, that the minutes of the City Council meeting held October 20, 1987, be approved and adopted. Motion carried.

RESOLUTION NO. 5439 - A Resolution of the City Council of the City of Vernon Amending Section 22, Subsection (e), and Exhibit "A", Schedule II, Page 13 of Resolution No. 5405 Which Fixed The Compensation for Certain Employees of Said City and Authorized Certain Expense Allowances, was presented.

It was moved by Gonzales, seconded by Davis, that Resolution 5439 be approved and adopted. Motion carried.

The City Clerk advised the Council that Mr. Leonard Gonzales, who is now completing 35 years of service to the City was in the audience. The Mayor congratulated Mr. Gonzales and asked him if he would like say a few words.

Leonard Gonzales came before the Council and stated that it has been a pleasure working for the City all these years and he will sincerely miss being part of the organization as he will be retiring at the end of the year. The Council members congratulated Mr. Gonzales for his continuous service to the City and wished him well in his retirement.

At this time the Mayor called a short recess, the time being 5:07 p.m.

The Council reconvened in regular session all members present before the recess again being present.

Police Department Activity Log for the period October 16, thru 31, 1987, was presented.

It was moved by Ybarra, seconded by McCormick, that Police Department Activity Log for the period October 16 thru 31, 1987 be received and filed. Motion carried.

Fire Department Activity Report for the period October 16, thru 31, 1987, was presented.

It was moved by Davis, seconded by McCormick, that the Fire Department Activity Report for the period October 16 thru 31, 1987, be received and filed. Motion carried.

Continuation of the Public Hearing in the matter of the proposed construction and operation of a 120 KW Engine/Generator to be located at 6062 Alcoa Avenue, Vernon (continued from October 13, 1987 meeting).

At this the City Attorney advised that he had received a communication from an attorney on behalf of American Private Power and suggested to the Council that this Public Hearing be continued to the next meeting as there is still some information needed from American Private Power with regard to their proposed system.

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It was moved by Ybarra, seconded by McCormick, that the Public Hearing in the matter of the proposed construction and operation of a 120 KW Engine/Generator be continued to the next meeting. Motion carried.

At this time the Mayor asked if there was anyone in the audience who wished to address the Council on any matters listed on today's agenda.

Mr. Paul Sablock, an attorney representing Mrs. O'Keefe with regard to her property located in Vernon, and Mr. O'Keefe came before the Council to address the matter of the requirements needed for her building located at 4807 East 49th Street.

Communication from Mr. Thomas J. O'Keefe, dated October 19, 1987, was presented, sent on behalf of his mother, Mrs. Thomas A. O'Keefe, owner of three interconnecting buildings located on the northerly side of 49th Street between Gifford and District Blvd. (4807-4827 East 49th Street). The 7,500 square ft. building at 4807 East 49th is presently vacant and there is an earnest prospective tenant; however, due to a new city ordinance they would have to deepen the truck well from 30' to 65' which would extend more than 50% into the depth of the building disrupting its use. This would also amount to a severe financial hardship, as these buildings were also damaged to some extent by the recent earthquakes. The prospective tenant advises us that he would seldom have a 65' truck delivery (possibly one per month) and being that there is little traffic on 49th Street Mr. Thomas O'Keefe respectfully request that these buildings be allowed to continue in their present state as long as there is no substantial change in the nature of their use.

It was moved by Gonzales, seconded by Davis, that the communication from Mr. O'Keefe be received and filed. Motion carried.

Communication from Bruce V. Malckenhorst, Director of Personnel, dated October 29, 1987, was presented, transmitting the agenda for the Personnel Committee Meeting to be held November 2, 1987, and recommending approval of recommendations contained thereon.

It was moved by Gonzales, seconded by Davis, that the actions listed on the Personnel Committee Agenda be approved as recommended. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated October 19, 1987, was presented, requesting authority and funds for Gloria Orosco, Chief Deputy City Clerk, to attend the League of California Cities Election Law and Administration Seminar in Monterey, California, December 2 thru 4, 1987, with an expense allowance of \$599.

It was moved by Ybarra, seconded by McCormick, that authority be granted to issue Gloria Orosco a warrant in the amount of \$599 for attendance to the League of California Cities Election Law Seminar in Monterey, December 2 thru 4, 1987. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated October 28, 1987, was presented, advising of a request from Mobil Oil Corporation for a variance from City Code, Article VI (Fire Prevention Code); Section 7.63 (establishment of limits of Districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited). Mobil Oil wishes to replace an existing steel riveted gasoline tank, built in 1928, with a new welded steel tank on the same location, which will have provisions for leak detection and monitoring, and a foam fire protection system. This request has

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been reviewed by both the Fire Department and the Health Department, and it is hereby recommended that said variance be granted.

It was moved by Gonzales, seconded by Ybarra, that the variance for Mobil Oil Corporation from City Code, Article VI (Fire Prevention Code), Section 7.63 be granted. Motion carried.

Communication from Victor Vaits, Director of Community Services, dated October 22, 1987, was presented, requesting authority and funds for George Burgess, Civil Engineering Associate, to attend the ICBO Seminar in Inglewood on November 4 and 5, 1987, with an expense allowance of \$60.00.

It was moved by Ybarra, seconded by Davis, that authority be granted to issue warrant to George Burgess in the amount of \$60 for his attendance to the ICBO Seminar in Inglewood, November 4 & 5, 1987. Motion carried.

Communication from Bruce V. Malikenhorst, City Clerk, dated October 26, 1987, was presented; requesting authority and funds for Sharon Duckworth to attend the League of California Cities 1987 Financial Management Seminar in Monterey, California, December, 2 thru 4, 1987, with an expense allowance of \$599.

It was moved by Davis, seconded by Gonzales, that authority be granted to issue warrant to Sharon Duckworth in the amount of \$599 for her attendance to the League of California Cities 1987 Financial Management Seminar in Monterey, California, December 2 thru 4, 1987.

Communication from Bruce V. Malikenhorst, City Clerk, dated October 22, 1987, was presented, regarding the previous request presented to City Council from Interamerican Public Distribution Corporation for a variance from City Code Section 7.56 (Barriers) wherein they proposed to remove an existing 30 inch high barrier along the street line opposite the existing loading docks, and construct a new driveway. This item was referred back to the Director of Community Services for further study at the request of Interamerican Public Distribution Corporation. At this time no further contact has been made by said company and based on the information previously submitted it is hereby recommended that the request for variance be denied.

It was moved by Ybarra, seconded by Davis, that the request of Interamerican Public Distribution Corporation for a variance from City Code Section 7.56 be denied. Motion carried.

Communication from Bruce V. Malikenhorst, City Clerk, dated October 27, 1987, was presented, advising of a request from Kal Kan Foods, Inc., to construct, use, and maintain a 3' x 12' sensor loop at a driveway opening in 44th Street. This request has been reviewed by the Director of Community Services and it is hereby recommended that said request be approved and the Mayor and City Clerk be authorized to execute Encroachment License Agreement No. 367 on behalf of the City.

It was moved by Ybarra, seconded by Gonzales, that the request from Kal Kan Foods, Inc., for the construction, use and maintenance of a 3' x 12' foot sensor loop at the driveway opening of 44th Street be approved and the Mayor and City Clerk be authorized to execute Encroachment License Agreement No. 367. Motion carried.

Communication from a Nancy Miller of 6308 Coldwater Canyon, North Hollywood, requesting permission to operate a palm reading space at the swap meet located at 4601 S. Soto Street, was presented.

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It was moved by McCormick, seconded by Davis, that the request of Ms. Nancy Miller be denied based on it being in violation of Ordinance No. 755, Section 1. Motion carried.

Warrant Register No. 728 covering claims and demands presented during the period of October 16 thru 31, 1987, which includes Demand Nos. 14899 thru 15035 (inclusive) excluding void Demand Nos. as listed below, excluding Light & Power Demands drawn on the First Interstate Bank totaling \$164,072.19 (accounting period November 1987), was examined and audited.

14912	14915	14918
14913	14916	14919
14914	14917	

It was moved by Ybarra, seconded by Davis, that Warrant Register No. 728 be approved and payment authorized for Demand Nos. 14899 thru 15035, excluding void Demand Nos. as listed above, in the amount of \$290,867.68, with no other exceptions. Motion carried.

Warrant Register No. 728 covering claims and demands presented during the period of October 16 thru 31, 1987, which includes Light & Power Demand Nos., as listed below, drawn on the First Interstate Bank totaling \$584,449.99 (accounting period November 1987), was examined and audited:

14907	14933	14955	14979	14996	15014
14910	14935	14960	14984	15000	15018
14911	14944	14963	14992	15007	

It was moved by McCormick, seconded by Gonzales, that payment be authorized for Light & Power Demand Nos. as listed above in the amount of \$584,449.99 (with no other exceptions). Councilman Davis abstained from voting on the above motion and disqualified himself because it's reasonably foreseeable that the decision will have a material financial effect on his source of income.

Communication from Bruce v. Malckenhorst, City Clerk, dated October 29, 1987, was presented, advising that Fry Steel Company, owner of two adjoining parcels (5675 & 5701 Boyle Avenue), has requested an adjustment to the common boundary between the parcels. The boundary would be moved southerly approximately seven feet, changing the offset property line to one of a straight line. Said request is in accordance with the California Subdivision Map Act and the General Plan of the City, and has been reviewed by the Director of Community Services and the City Attorney. It is hereby recommended that the Lot Line Adjustment be approved.

It was moved by Gonzales, seconded by Davis, that the request of Fry Steel Company for a lot line adjustment be approved and that said communication be received and filed. Motion carried.

RESOLUTION NO. 5430 - A Resolution of the City Council of the City of Vernon Approving "Lot Line Adjustment" Requested by Fry Steel Company, was presented.

It was moved by Ybarra, seconded by McCormick, that Resolution No. 5430 be approved and adopted. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated October 29, 1987, was presented, advising that H & P Associates located at 4900 East 50th Street, (corner of 50th & District) has requested a variance from City Code Section 7.52: Loading Space Required. They are proposing to recess the

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westerly dock 65 feet from the property line in order to provide two loading spaces that will meet Vernon's code and restrict the use of the easterly portion of the dock to trucks not larger than thirty-five feet. This request has been reviewed by the Director of Community Services and it is hereby recommended that the variance be granted contingent upon the following conditions:

1. The next easterly dock be recessed sixty-five feet from the property line;
2. the next two easterly docks be permanently closed.

It was moved by Ybarra, seconded by Gonzales, that the request from H & P Associates for a variance from City Code Section 7.52 be approved contingent upon the above listed conditions. Motion carried.

Communication from Victor Vaits, Director of Community Services, dated October 29, 1987, was presented, advising that a draft general plan and a proposed zoning ordinance has been prepared for the City and transmitting for consideration a Preliminary Environmental Check List for the proposed General Plan and the proposed Zoning Ordinance. Mr. Vaits recommends to City Council to receive the submitted documents and on the basis of the environmental information approve a Notice of Intent to adopt a Negative Declaration in compliance with the California Environmental Quality Act, stating that the proposed General Plan and proposed Zoning Ordinance will not have a significant effect on the environment.

It was moved by Gonzales, seconded by Davis, that the communication from Victor Vaits regarding the the proposed General Plan and the proposed zoning ordinance be received and filed and approve the Notice of Intent to adopt a Negative Declaration. Motion carried.

Communication from L. Espinoza, Chief of Police, dated October 29, 1987, was presented, requesting authority and funds for Officers Andre Howard and Radames Gil to attend a Field Training Officers' Course in Redondo Beach, November 9 to 13, 1987, with an expense allowance of \$644.90. This course is P.O.S.T. reimbursable and after completion of said course the total cost to the City will be \$58.90.

It was moved by Ybarra, seconded by McCormick, that authority be granted to issue warrants to officers Andre Howard and Radames Gil in the amount of \$644.90 for their attendance to the Field Training Officers' Course in Redondo Beach, November 9 to 13, with an expense allowance of \$644.90. Motion carried.

It was moved by Ybarra, seconded by McCormick, that the City Council recess to Closed Session pursuant to Government Code Section 54956.9(a) to meet with its attorney regarding pending litigations, the time being 6:45 p.m. Motion carried.

All persons with the exception of the City Clerk and the City Attorney were excluded from Closed Session.

The Mayor ordered all communications to and from Closed Session deemed privileged and confidential.

Councilman Davis was excused at 7:18 p.m.

Councilman Davis resumed his seat on the Council at 7:38 p.m.

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It was moved by Ybarra, seconded by Davis, that the Council go out of Closed Session and Resume Regular Session, the time being 7:39 p.m..

It was moved by McCormick, seconded by Gonzales, that the claim of Michelle Calderon and Valerie Taylor (a minor) for an accident occurring on June 9, 1987 on Atlantic Blvd., be denied. Motion carried.

The City Attorney indicated that his office had been in settlement discussions with the Southern California Edison Company in an attempt to arrive at a partial settlement of several issues that will arise in connection with Edison's previous filing of a rate proceeding in PERC Docket No. ER87-483-000, or in subsequent filing where these issues may be contested. He indicated that the final details of the Partial Settlement Agreement had been arrived at that afternoon and, therefore, was a matter that arose after the posting of the agenda. It is necessary that the City take action on this Partial Settlement Agreement in order to preserve the benefits of the settlement for the City of Vernon. Therefore, he advised that the need to take action arose after the Agenda was posted in accordance with Government Code Section 54954.2 (b) (1) and (2). The City Attorney advised of the necessity of the City Council approving by a two-thirds majority the addition of this item to the Agenda. He further indicated that this partial settlement had been negotiated with the assistance of Arnold Fieldman, Vernon's Washington counsel for PERC matters.

It was moved by Gonzales, seconded by Ybarra that consideration of the Partial Settlement Agreement between the City of Vernon and the Southern California Edison Company is placed on the Agenda. Motion approved by four votes and one abstention. Motion carried. Councilman Davis is abstaining from voting on the above motion and is disqualifying himself because it is reasonably foreseeable that the decision will have a material financial effect on his source of income.


The City Attorney recommended that the City Council approve the Partial Settlement Agreement and authorize the Mayor to execute said Partial Settlement Agreement with the Southern California Edison Company.

It was moved by McCormick, seconded by Ybarra, that the City Attorney's recommendation be approved and the Mayor be authorized to sign said Partial Settlement Agreement. Motion carried. Councilman Davis abstained from voting on the above motion and disqualified himself because it is reasonably foreseeable that the decision will have a material financial effect on his source of income.

There being no further business to come before the Council, it was moved by McCormick, seconded by Gonzales, that the meeting adjourn. Motion carried.

ATTEST:


Leonis C. Malburg, Mayor


Bruce V. Malckenhorst
City Clerk

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