

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 O (9 PAGES)

MINUTES OF AN ADJOURNED REGULAR CITY COUNCIL
MEETING OF THE CITY OF VERNON HELD NOVEMBER
8, 1988 AT 5:00 P.M. IN THE COUNCIL CHAMBERS
OF THE CITY HALL LOCATED AT 4305 SANTA FE
VERNON, CALIFORNIA

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

MEMBERS ABSENT: None

The meeting was called to order by Mayor Malburg.

It was moved by Ybarra, seconded by Gonzales, that the minutes of the Adjourned City Council meeting held October 25, 1988 be approved as submitted and adopted. Motion carried.

Service Pin Award:

Ray Groom, Water & Power Department - 20 years

Lewis Adams, Director of Water & Power, accepted a 20 year Service Pin from Mayor Malburg on the behalf of Ray Groom who was not able to be present.

Police Department Activity Log for the period October 16, thru 31, 1988, was presented.

It was moved by McCormick, seconded by Davis that the Police Department Activity Log for the period October 16, thru 31, 1988, be received and filed. Motion carried.

Fire Department Activity Report for the period October 16, thru 31, 1988, was presented.

It was moved by Ybarra, seconded by Gonzales, that the Fire Department Activity Report for the period October 16, thru 31, 1988, be received and filed. 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 other than with regard to the Public Hearings.

There was no one present in the audience who wished to address the Council on any matter listed on the agenda.

It was moved by Ybarra, seconded by Davis, to open the Public Hearing to Amend the Interim Comprehensive Zoning Ordinance No. 976 of the City of Vernon, the time being 5:08 p.m. Motion carried.

Victor Vaits briefly summarized the Engineer's Report of the proposed Ordinance.

Mayor Malburg asked if there was anyone wished to address the Council on this matter.

William Ross, representing Central City South Association, and Richard Newton, representing Vernon Central Warehouse and Sweetener Products, addressed the Council and advised of their support to amend the Interim Zoning Ordinance by adoption of Ordinance No. 978.

It was moved by McCormick, seconded by Gonzales to close the Public Hearing, the time being 5:15 p.m. Motion carried.

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Communication from Bruce V. Malckenhorst, City Clerk, dated November 1, 1988, was presented, transmitting proposed Ordinance No. 979 Amending the Interim Comprehensive Zoning Ordinance No. 978 and the Engineer's Report, dated November 1, 1988, detailing the proposed amendment, and recommending the Engineer's report and the Notice of Exemption be accepted as evidence and Ordinance No. 979 be approved for a First Reading.

It was moved by Gonzales, seconded by Ybarra, that the communication from the City Clerk transmitting a proposed Ordinance No. 979 be received and filed; and the Engineer's Report submitted by the Community Services Department be accepted as evidence; and the Notice of Exemption prepared by the Community Services Department be approved and the City Clerk be instructed to file the Notice of Exemption from the California Environmental Quality Act with the County Clerk's office after Ordinance No. 979 receives its second and final reading. Motion carried.

ORDINANCE NO. 979 - An Ordinance of the City Council of the City of Vernon Amending the Interim Comprehensive Zoning Ordinance No. 978 to Allow the Continuation of Non-Conforming Warehouses and to Clarify Provisions for Access and Parking for Non-Conforming Truck Terminals and for Trade Schools, was read by title for a First Reading.

It was moved by Gonzales, seconded by McCormick, that Ordinance No. 979 be approved for a First Reading. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated September 15, 1988, was presented, advising that Sam Ferricone & Seymour Owens (owners of property located at 2850-2950 Vernon Avenue) have requested an adjustment of the common boundary between the parcels. This would move the common boundary easterly approximately 82 feet. This request has been reviewed by the Director of Community Services and is in accordance with the California Subdivision Map Act and the General Plan of the City. It is hereby recommended that the Lot Line Adjustment be granted (deferred from the City Council Meeting held October 25, 1988).

Victor Vaits briefly summarized the Lot Line Adjustment request for the City Council.

It was moved by McCormick, seconded by Davis, that the communication from the City Clerk regarding the request for a Lot Line Adjustment of the common boundary by Sam Ferricone and Seymour Owens be received and filed. Motion carried.

RESOLUTION NO. 5554 - A Resolution of the City Council of the City of Vernon Approving the Lot Line Adjustment Requested by Sam Ferricone and Seymour Owens (deferred from the October 25, 1988), was presented.

It was moved by Ybarra, seconded by Gonzales, that Resolution No. 5554 be approved and adopted. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated September 15, 1988, was presented, advising that Sam Ferricone & Seymour Owens (owners of property located at 2850-2950 Vernon) have requested a variance from the 1985 Edition of the Uniform Building Code, Table No. 17-A. They are proposing to subdivide an existing building into two (2) separate buildings each approximately 50,000 sq. ft. by utilizing an existing four-hour fire resistive wall on the proposed property line in place of separate four-hour fire resistive walls for each building. Each building will be on an individual lot and the separation wall will be a common wall. This request has been reviewed by the Director of Community Services and the Fire Department and it is hereby recommended that said variance be granted (deferred from the City Council meeting held October 25, 1988).

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It was moved by Gonzales, seconded by Ybarra, that the aforementioned communication from the City Clerk be received and filed, and the request from Sam Ferricone and Seymour Owens for a variance from the 1985 Edition of the Uniform Building Code, Table No. 17-A be granted. Motion carried.

Communication from Bruce V. Malckenhorst, Director of Finance dated November 3, 1988, was presented, transmitting the agenda for the Adjourned Finance Committee Meeting to be held November 7, 1988, for your approval of the recommendations contained therein.

It was moved by McCormick, seconded by Davis, that the actions listed on the agenda for the Adjourned Finance Committee meeting held November 7, 1988 be approved as indicated. Motion carried.

Communication from Bruce V. Malckenhorst, Director of Personnel, dated November 3, 1988, was presented, transmitting the agenda for the Adjourned Personnel Committee Meeting to be held November 7, 1988, for your approval of the recommendations contained therein.

It was moved by Ybarra, seconded by Gonzales, that the actions listed on the agenda for the Adjourned Personnel Committee Meeting held November 7, 1988, be approved as indicated. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated November 2, 1988, was presented, advising we are in receipt of a communication from Tony Roman, dated November 2, 1988, regarding the conditions placed upon the Conditional Use Permit previously granted them; specifically to install a traffic signal at the intersection of 48th and Santa Fe Avenue. Mr. Roman advises that they are able to pay \$20,000 towards this installation and Interlines, Inc., the present owner of the property, has agreed to contribute \$20,000 for a total of \$40,000 towards the cost of the installation of the signal.

Mr. Roman is asking, on the behalf of Rolo Transportation, that the City reconsider its decision and take into consideration their present offer. He also advises they desire to become a member of the Vernon industrial community and look forward to the Council's re-evaluation of this condition of the Conditional Use Permit.

The City Administrator indicated that he and the Director of Community Services recommend that the Council agree to contribute a portion of the costs of installing a traffic signal at the intersection of 48th Street and Santa Fe Avenue which was required in the Conditional Use Permit previously granted to Rolo Transportation. Rolo Transportation and Interlines, Inc., have proposed that they each contribute 20,000 for a total of \$40,000 with the City paying any costs in excess of \$40,000 to construct the traffic signal at the intersection of 48th Street and Santa Fe Avenue.

It was moved by Ybarra, seconded by Davis, that the City agrees that Rolo Transportation and Interlines, Inc., each contribute \$20,000 for a total \$40,000 towards the cost of installing a traffic signal at the intersection of 48th Street and Santa Fe Avenue and that the City pay any costs in excess of \$40,000 for said installation. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated October 18, 1988, was presented, requesting authority and funds for Sharon Duckworth, Supervising Accountant, to attend the League of California Cities Financial Management Seminar in Long Beach, November 30 to December 2, 1988, with an expense allowance of \$105.

It was moved by McCormick, seconded by Gonzales, that authority be granted to issue warrant to Sharon Duckworth in the amount of \$105.00 for her attendance to the above mentioned seminar. Motion carried.

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Communication from Luis Espinosa, Police Chief, dated October 14, 1988, was presented, requesting authority and funds for Lt. Don Green and Sgt. Steve Towles to attend a CPR/First Aid Instructors Update Course at Rio Hondo College, November 15 to November 17, 1988, with an expense allowance of \$85.50 each.

It was moved by Davis, seconded by Ybarra, that authority be granted to issue warrants to Lt. Don Green and Sgt. Steve Towles in the amount of \$85.50 each for their attendance to a CPR/First Aid Instructors Update Course at Rio Hondo College on November 15 to 17, 1988. Motion carried.

WARRANT REGISTER NO. 752 covering claims and demands presented during the period of October 16 thru 31, 1988, which includes Demand Nos. 19883 thru 20051 (inclusive), excluding Void Demand Nos. 19908 thru 19913 (inclusive) and excluding Light & Power Demands drawn on the First Interstate Bank totaling \$657,174.23 (Accounting Period November, 1988), was examined and audited.

It was moved by Ybarra, seconded by Gonzales, that Warrant Register No. 752 be approved and payment authorized for claims and demands totaling \$657,174.23 excluding Light & Power Demands. Motion carried.

WARRANT REGISTER NO. 752 covering claims and demands presented during the period of October 16 thru 31, 1988, which includes Light & Power Demand Nos., as listed below drawn on the First Interstate Bank totaling \$292,951.77 (Accounting Period November, 1988), was examined and audited.

18884	19828	18965	19993	20024	20060
18897	19929	19968	19997	20025	
19901	19931	19972	20002	20032	
19903	19938	19979	20008	20037	
19906	19942	19984	20013	20042	
19907	19955	19987	20015	10043	
19916	19956	19992	20023	20045	

It was moved by McCormick, seconded by Gonzales, that Warrant Register No. 752 be approved and payment authorized for claims and demands listed above totaling \$292,951.77. Motion carried. Councilman Davis abstained from voting and disqualified himself because it is reasonably foreseeable that the decision will have a material financial effect on his source of income.

Communication from David B. Brearley, City Attorney, dated November 3, 1988, was presented, respecting a letter agreement amending the Firm Transmission Service Agreement by and between the City of Vernon and Southern California Edison Company which permitted Vernon to transmit capacity and energy from the Department of Water Resources of the State of California.

It was moved by Ybarra, seconded by Gonzales, that the communication from the City Attorney regarding the letter agreement amending the Firm Transmission Service Agreement by and between the City of Vernon and Southern California Edison Company be received and filed. Motion carried. Councilman Davis abstained from voting and disqualified himself because it is reasonably foreseeable that the decision will have a material financial effect on his source of income.

RESOLUTION NO. 5566 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of a Letter Agreement Amending the Firm Transmission Service Agreement By and Between the City of Vernon and the Southern California Edison Company, was presented.

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It was moved by Gonzales, seconded by McCormick, that Resolution No. 5588 be approved and adopted. Motion carried. Councilman Davis abstained from voting and disqualified himself because it is reasonable foreseeable that the decision will have material financial effect on his source of income.

Communication from David B. Brearley, City Attorney, dated November 3, 1988 was presented, respecting a Surplus Power and Energy Agreement by and between the City of Vernon and the United States of America, Department of Energy, Acting by and through the Bonneville Power Administration which enables Vernon to buy capacity and energy from the Bonneville Power Administration for 20 years.

RESOLUTION NO. 5587 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of a Surplus Power and Capacity Agreement By and Between the City of Vernon and the United States of America, Department of Energy, Acting By and Through the Bonneville Power Administration.

It was moved by Ybarra, seconded by Davis, that the above communication respecting a Surplus Power and Energy Agreement and Resolution No. 5587 be deferred to the next City Council meeting. Motion carried.

RESOLUTION NO. 5584 - A Resolution of the City Council of the City of Vernon Amending Section 21, Subsection (e) and Exhibit "A", Schedule II, Page 16 of Resolution No. 5531 which Fixed the Compensation for Certain Employees of Said City and Authorized Certain Expense Allowances, was presented.

It was moved by McCormick, seconded by Davis, that Resolution No. 5584 be approved and adopted. Motion carried. Mayor Malburg abstained from voting.

ORDINANCE NO. 980 - An Ordinance of the City Council of the City of Vernon Accepting the Requirements of Sections 13522 and 13525 of the Penal Code Relating to Training of Public Safety Dispatchers, was read by title for a First Reading.

It was moved by Ybarra, seconded by Gonzales, that Ordinance No. 980 be approved for a First Reading. Motion carried.

RESOLUTION NO. 5585 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of a Settlement Agreement and Release with the Central City South Association, was presented.

It was moved by McCormick, seconded by Davis, that Resolution No. 5585 be deferred to Closed Session. Motion carried.

Communication from Victor Vaits, Director of Community Services, was presented, dated November 3, 1988, transmitting a proposed Agreement for Improvement of Railroad Crossings with Union Pacific Railroad for District Blvd. at Downey Road, Exchange Avenue at Downey Road, and two spur lines across Downey Road just north of Leonis Blvd, and recommending that the proposed Agreement be accepted and the Mayor and City Clerk be authorized to execute same.

Victor Vaits briefly summarized the work that was going to be performed and the agreement.

It was moved by Ybarra, seconded by Davis, that the communication regarding railroad crossing improvements be received and filed and the Agreement for Improvement of Railroad Crossings with Union Pacific Railroad be accepted and authority be granted for the Mayor and City Clerk to execute same. Motion carried.

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RESOLUTION NO. 5568 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of an Agreement for the Improvement of Railroad Crossings By and Between the City of Vernon and the Los Angeles & Salt Lake Railroad Company and Its Lessee the Union Pacific Railroad Company, was presented.

It was moved by Davis, seconded by McCormick, that Resolution No. 5568 be approved and adopted. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated November 3, 1988, was presented, advising that the Director of Community Services has advised that the City of Huntington Park is proposing to resurface their portion of Boyle Avenue between Slauson Avenue and Randolph Street. The City boundary is on the centerline and it would be advantageous to resurface Vernon's portion of Boyle Avenue at the same time. Huntington Park has proposed to include our portion in their contract and charge Vernon for the actual work performed, and it is hereby recommended that their offer be accepted and the City Attorney be authorized to prepare the required agreements.

Victor Vaits briefly summarized this matter and his recommendation regarding same.

It was moved by Ybarra, seconded by Gonzales, to accept the offer from the City of Huntington Park regarding resurfacing Boyle Avenue and authorize the City Attorney to prepare the necessary agreements. Motion carried.

Communication from Lewis Adams, Director of Water & Power, dated November 3, 1988, was presented, advising that the Source Testing and Monitoring Branch of SCAQMD tested Engine #1 on August 12, 1988, and on October 13, 1988 issued a citation for being out of compliance with Rule 404(a) Particulate. In order to continue to operate, it is necessary to ratify his application for a variance from the SCAQMD to continue operation of Engine #1.

It was moved by Ybarra, seconded by Gonzales, that the application for a variance from the SCAQMD to continue operation of Engine #1 is hereby ratified. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated November 3, 1988, was presented, transmitting an Encroachment License Agreement wherein Owens-Illinois has requested permission to maintain, use and operate a telephone cable above Fruitland Avenue. The company has deposited the required fees including the first annual renewal fee. This request has been reviewed by the Director of Community Services and the City Attorney and it is hereby recommended that the Agreement be approved and authority granted for the Mayor and City Clerk to execute same.

It was moved by Ybarra, seconded by Davis, that the above referenced Encroachment License Agreement be approved and authority granted for the Mayor and City Clerk to execute same.

At this time, 6:10 p.m., it was moved by McCormick, seconded by Ybarra, that the Council recess to Closed Session pursuant to Government Code Section 54857. Motion carried.

All persons with the exception of the Police Chief, Police Captain, the City Clerk and the City Attorney were excused from Closed Session.

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

It was moved by McCormick, seconded by Ybarra, that the Council go out of closed session and resume regular session, the time being 6:35 p.m. Motion carried.

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It was moved by Ybarra, seconded by Davis, that the Council recess to closed session pursuant to Government Code Section(s) 54956.9(a) and 54956.9(b)(1), the time being 6:36 p.m. Motion carried.

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

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

Victor Vaits was excused from Closed Session the time being 6:45 p.m.

Councilman Davis was excused from Closed Session the time being 6:50 p.m.

Councilman Davis resumed his seat on the council the time being 7:45 p.m.

It was moved by Ybarra, seconded by McCormick, that the Council go out of closed session and resume regular session, the time being 7:47 p.m. Motion carried.

It was moved by Gonzales, seconded by McCormick, that disciplinary action as indicated below be issued to Officers Gilman, Santana, Lindstrom, and Guy for their violating Section 400.26 (Court Attendance) of the Manual of Policy, Ethics and Procedures of the Police Department. Motion carried.

Officer Norman Lindstrom - A written reprimand placed in his personnel file, and two days suspension without pay to be held in abeyance to be issued if another such incident occurs;

Officer Michael Gillman - A written reprimand placed in his personnel file, and two days suspension without pay to be held in abeyance to be issued if another such incident occurs;

Officer David Guy - A written reprimand placed in his personnel file, and one day suspension without pay to be held in abeyance to be issued if another such incident occurs;

Officer Rudy Santana - A written reprimand placed in his personnel file, and one day suspension without pay to be held in abeyance to be issued if another such incident occurs.

Communication from the Director of Personnel dated November 7, 1988, advising that Officer James J. Williams submitted a letter of resignation dated November 1, 1988, and hereby recommends that said resignation be rejected based on his being in violation of Sections 4 and 9 of his 36 month Employment Agreement executed by him and the City of Vernon on September 2, 1986, was presented.

It was moved Ybarra, seconded by Davis, that the resignation of Officer James Williams be rejected due to his intention to violate his 36 month Employment Agreement executed on September 2, 1986. Motion carried.

Communication from Bruce V. Malikenhorst, City Clerk, dated November 8, 1988, advising that Officer Andre Howard submitted a letter of resignation dated November 3, 1988 and recommending that said resignation be rejected based on his being in violation of Sections 4 and 9 of his 36 month employment agreement executed on September 2, 1986, was presented.

It was moved Ybarra, seconded by Davis, that the resignation of Officer Howard be rejected due to his intention to violate his 36 month Employment Agreement executed on September 2, 1986. Motion carried.

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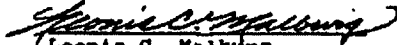
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RESOLUTION NO. 5565 - A Resolution of the City Council of the City of Varnon Approving and Authorizing the Execution of a Settlement Agreement and Release with the Central City South Association, (deferred from earlier time during this meeting).

It was moved by McCormick, seconded by Ybarra, that Resolution No. 5565 be approved and adopted. Motion carried.

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


Leonis C. Malburg
Mayor

ATTEST:


Bruce V. Malckenhorst
City Clerk

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ORDER OF ADJOURNMENT OF MEETING
OF THE CITY COUNCIL OF THE CITY OF VERNON

I HEREBY CERTIFY THAT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF VERNON, TO BE HELD TUESDAY, NOVEMBER 1, 1988 AT 5:00 P.M. IN THE COUNCIL CHAMBERS OF THE CITY HALL, LOCATED AT 4305 SANTA FE AVENUE, VERNON, CALIFORNIA, WAS ADJOURNED BY ORDER OF THE CITY CLERK (QUORUM NOT PRESENT) UNTIL TUESDAY, NOVEMBER 8, 1988 AT 5:00 P.M. IN THE COUNCIL CHAMBERS OF THE CITY HALL, LOCATED AT 4305 SANTA FE AVENUE, VERNON, CALIFORNIA.

Bruce V. Malkenhorst
Bruce V. Malkenhorst
City Clerk

BY: Gloria J. Prosko
Gloria J. Prosko
Chief Deputy City Clerk