

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 DD (9 PAGES)

MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF VERNON HELD DECEMBER 3, 1996
AT 5 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 Gonzales, that the Minutes of the City Council Meeting held November 19, 1996, be approved as submitted and adopted. Motion carried.

The Mayor presented a Five Year Service Pin to Dawn Solis, Engineering Aide, and extended congratulations on behalf of the entire City Council.

Joseph Binstein, Water and Power Dispatcher, was unable to attend the meeting and his Five Year Service pin was accepted by the Director of Light and Power.

The Mayor called a recess at 5:14 p.m.

The Council reconvened at 5:15 p.m., all members present before the meeting again being present.

Police Department Activity Log for the period November 16 thru 30, 1996, was presented.

It was moved by McCormick, seconded by Gonzales, that the Police Department Activity Log for the period November 16 thru 30, 1996, be received and filed. Motion carried.

Fire Department Activity Report for the period November 16 thru 30, 1996, was presented.

It was moved by Ybarra, seconded by Davis, that the Fire Department Activity Report for the period November 16 thru 30, 1996, be received and filed. Motion carried.

The City Clerk announced that now was the time for anyone in the audience to address the Council on any matter listed on the Agenda other than with regard to any Public Hearings that may be listed.

The Mayor asked if there was anyone in the audience wishing to address the Council.

There was no one wishing to do so at this time.

ORDINANCE NO. 1044 - An Ordinance of the City Council of the City of Vernon Amending the Code of the City of Vernon, California, 1959, by Amending Sections 13.27, 13.43, 13.46, 13.49 and 13.51, and by Adding Article VI to Chapter 13 of Said Code Regarding a Certified Unified Program Agency and Repealing All Ordinances or Parts of Ordinance in Conflict Therewith, was read by title by the City Clerk for a second and final reading.

It was moved by McCormick, seconded by Davis, that Ordinance No. 1044 be approved and adopted. Motion carried.

Ayes: Malburg, Ybarra, Davis, Gonzales, McCormick
Noes: None
Absent: None

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A PROCLAMATION of the Mayor and the City Council of the City of Vernon Renewing Its Commitment to the "Buckle Up for Life" Program of the Greater Los Angeles Chapter National Safety Council and Declaring November 1, 1996 Through 1997 as the "BUCKLE UP FOR LIFE CHALLENGE" was presented.

It was moved by Ybarra, seconded by Gonzales, that the aforementioned proclamation be approved. Motion carried.

Communication from Police Chief Louis Rosenkrantz, dated November 6, 1996, was presented, requesting authority and funds for Sgt. Michael Chavez to attend the Training Management Course in Santa Rosa, January 20-24, 1997, with an expense allowance of \$1160.57 of which \$927.08 will be reimbursed by POST.

It was moved by McCormick, seconded by Davis, that authority be granted for Sgt. Michael Chavez to attend the aforementioned course with an expense allowance of \$1160.57. Motion carried.

Communication from Bruce V. Malckenhorst, City Clerk, dated November 19, 1996, was presented, advising that the Light and Power Department is being requested to provide two 2500 kVA Padmount Transformers and one subsurface switch in order to increase the electrical power for United Food Company due to their expansion on Vernon Avenue. Bid No. 1359 for various transformers was recently approved and awarded, in part, to Pauwels c/o Southcoast Utility Sales for a 2500 kVA transformer. Pauwels has agreed to sell the transformers at the same cost as that bid (\$24,052.06 each), and a quotation was received from Matzinger-Keegan for the subsurface switch in the amount of \$26,331.81. These items were included in the budget and due to the urgency of the order, it is hereby recommended that the purchase of two 2500 kVA Padmount Transformers from Pauwels at an approximate cost of \$48,104.13 and one subsurface switch from Matzinger-Keegan at a cost of approximately \$26,331.81 be approved.

It was moved by Ybarra, seconded by McCormick, that pursuant to Section 2.27 of the Vernon City Code, the City Council hereby finds that it is in the public interest and necessity to waive the formal contract procedures set forth in Section 2.28 in order to provide the electrical equipment to meet the needs of the City's electrical customer, United Food Company. Motion carried.

It was moved by McCormick, seconded by Gonzales, to approve the purchase of two 2500 kVA Padmount Transformers from Pauwels at an approximate cost of \$48,104.13 and one subsurface switch from Matzinger-Keegan at a cost of approximately \$26,331.81. Motion carried.

Communication from Lewis Pozzebon, Director of Environmental Health, dated November 20, 1996, was presented, requesting authority and funds for Environmental Health Specialist Paul Manasjan to attend the Organic Material Recycling Odor Control Workshop in San Bernardino on December 4, 1996, with an expense allowance of \$111.50.

It was moved by Ybarra, seconded by McCormick, that authority be granted for Paul Manasjan to attend the aforementioned workshop with an expense allowance of \$111.50. Motion carried.

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Communication from Bruce V. Malckenhorst, City Clerk, dated November 21, 1996, was presented, advising that California Warehouse Company, located at 4455 Fruitland Avenue, was recently issued a plumbing permit for the installation of a sewer line from their facility to the property line on Loma Vista Avenue. The City is installing a new sewer main in Loma Vista Avenue as part of the Redevelopment Agency's Contract No. 0001-RA, and California Warehouse would like the City to install their sewer line as part of the Agency's contract rather than hiring a contractor. A check in the amount of \$2,090 has been deposited with the City for the estimated cost of the work. This has been reviewed by the Director of Community Services and the City Attorney, and it is hereby recommended that Public Improvements Agreement No. 15 be approved and executed.

It was moved by Gonzales, seconded by Ybarra, that the communication from the City Clerk dated November 21, 1996, be received and filed, and that his recommendation be approved. Motion carried.

RESOLUTION NO. 6883 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of Public Improvements Agreement No. 15 By and Between the City of Vernon and California Warehouse Company, was presented.

It was moved by McCormick, seconded by Davis, that Resolution No. 6883 be approved and adopted. Motion carried.

Communication from Kevin Wilson, Director of Community Services, dated November 20, 1996, was presented, advising that the street sweeping contract with R.F. Dickson Company expires December 31, 1996. The contract provides for a one year extension by mutual agreement under the Special Provisions, and the company would like to continue under the present contract which is currently \$4,165.70 per month. This has been reviewed by the City Attorney, and it is hereby recommended that Contract No. 478 be extended to December 31, 1997 with a price adjusted to 75% of the Consumer Price Index from January 1996 to January 1997.

It was moved by Gonzales, seconded by Ybarra, that the communication from the Director of Community Services dated November 20, 1996, be received and filed, and that his recommendation be approved. Motion carried.

RESOLUTION NO. 6884 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of a One-Year Extension of Contract No. 478 By and Between the City of Vernon and R.F. Dickson Company, Inc., was presented.

It was moved by Davis, seconded by McCormick, that Resolution No. 6884 be approved and adopted. Motion carried.

Communication from Kevin Wilson, Director of Community Services, dated November 21, 1996, was presented, advising that Contract No. 531, (Revised) Vernon Avenue Sewer Rehabilitation has been completed. The total contract amount is \$36,355.50 and a final partial payment totaling \$32,719.95 is now due, with the remaining ten percent, \$3,635.55, due thirty-five days after acceptance. It is hereby recommended that the work be accepted and authority granted to pay the contractor, Inasituform Southwest, 9445 Ann Street, Santa Fe Springs, CA 90670.

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It was moved by Ybarra, seconded by Gonzales, that the communication from the Director of Community Services dated November 21, 1996, be received and filed, and that his recommendation be approved. Motion carried.

RESOLUTION NO. 6886 - A Resolution of the City Council of the City of Vernon Accepting the Work of Insituform Southwest, in Accordance with Contract No. 531 (Revised) of the City of Vernon, was presented.

It was moved by McCormick, seconded by Davis, that Resolution No. 6886 be approved and adopted. Motion carried.

Communication from Bruce V. Malkenhorst, City Clerk, dated November 26, 1996, was presented, advising that the Finance Committee, at their meeting held November 12, approved the purchase of a 1500 GPM Pumper for the Fire Department contingent upon the City Attorney's approval of the purchase contract with Seagrave Fire Apparatus. The contract has been reviewed by the City Attorney, and it is hereby recommended that said contract be approved and executed.

It was moved by Ybarra, seconded by Gonzales, that the communication from the City Clerk dated November 26, 1996, be received and filed, and that his recommendation be approved. Motion carried.

RESOLUTION NO. 6882 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of a Contract Between Seagrave Fire Apparatus and the City of Vernon to Purchase a 1500 GPM Custom Pumper and All Necessary Equipment and Accessories to the Vernon Fire Department, was presented.

It was moved by McCormick, seconded by Davis, that Resolution No. 6882 be approved and adopted. Motion carried.

Communication from Kevin Wilson, Director of Community Services, dated November 26, 1996, was presented, transmitting a fully executed grant deed, for street purposes, from Leonis C. Malburg for a portion of land (approximately 536 square feet) on the northwest corner of Santa Fe Avenue and 38th Street. This has been reviewed by the City Attorney, and it is hereby recommended that the Grant Deed be accepted and the Certificate of Acceptance be approved and executed.

It was moved by Gonzales, seconded by Ybarra, to accept the grant deed from Leonis C. Malburg, and that the Certificate of Acceptance be approved and executed. Motion carried. (Mayor Malburg abstained from voting.)

Communication from Police Chief Louis Rosenkrantz, dated November 26, 1996, was presented, requesting authority and funds for Sgt. Alfred Jaime to attend the Supervisory Course in Santa Ana, January 6 thru 17, 1997, with an expense allowance of \$393 of which \$262 will be reimbursed by POST.

It was moved by McCormick, seconded by Ybarra, that authority be granted for Sgt. Alfred Jaime to attend the aforementioned course with an expense allowance of \$393. Motion carried.

Communication from Bruce V. Malkenhorst, City Clerk, dated November 27, 1996, was presented, advising that Los Angeles County Metropolitan Transit Authority, located at 4462 Pacific Boulevard, has requested an extension of their existing trailer permit. They have stated that construction of their warehouse

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will be completed no later than October, 1997 at which time the trailer will be removed from the premises. It is hereby recommended that said trailer permit be extended to October 11, 1997.

It was moved by Davis, seconded by Gonzales, to extend the trailer permit granted to the Los Angeles County Metropolitan Transit Authority to October 11, 1997. Motion carried.

Communication from Bruce V. Malkehhorst, Director of Personnel, dated November 27, 1996, was presented, transmitting the Agenda for the Personnel Committee Meeting to be held December 2, 1996, for approval of the recommendations contained therein.

It was moved by Ybarra, seconded by Gonzales, to approve the recommendations contained in the Agenda for the Personnel Committee Meeting held December 2, 1996. Motion carried.

WARRANT REGISTER NO. 952 covering claims and demands presented during the period of November 15 thru 27, 1996, drawn on Wells Fargo Bank totaling \$448,086.91, which includes Demand Nos. 59378 thru 59558 (inclusive), excluding Light and Power Demands and Void Demands Nos. 59411, 59429, 59444, 59445 and 59479 (accounting period December, 1996), was examined and audited.

It was moved by Davis, seconded by McCormick, to approve Warrant Register No. 952 and authorize payment for claims and demands totaling \$448,086.91, excluding Light and Power Demands. Motion carried.

WARRANT REGISTER NO. 952 covering claims and demands presented during the period of November 15 thru 27, 1996, drawn on Wells Fargo Bank totaling \$2,307,040.07, which includes Light and Power Demand Nos. as listed below (accounting period December, 1996), was examined and audited:

59384	59388	59399	59425	59430	59434	59457	59496
59385	59394	59400	59426	59431	59443	59458	59514
59386	59396	59404	59427	59432	59446	59488	59522
59387	59397	59405	59428	59433	59451	59493	59535

It was moved by Gonzales, seconded by Ybarra, that Warrant Register No. 952 be approved and payment authorized for claims and demands totaling \$2,307,040.07. Motion carried. Councilman Davis abstained from voting and disqualified himself because it is reasonably foreseeable that the decision may have a material financial effect on his source of income.

The City Clerk advised that the following matter should be deferred to the next meeting.

RESOLUTION NO. 6868 - A Resolution of the City Council of the City of Vernon (I) Authorizing the Establishment of a Power Resource Cost Reduction Account Within the Light and Power Department Fund, (II) Providing Procedures for Deposits To and Withdrawals From Such Account, (III) Authorizing Certain Related Actions and (IV) Authorizing the City Treasurer To Do All Other Things Deemed Necessary or Advisable Concerning Such Account. (Deferred from the City Council Meeting held November 19, 1996.)

It was moved by Ybarra, seconded by Davis, that the aforementioned matter be deferred to the next City Council Meeting. Motion carried.

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The City Attorney advised that the following matter should be deferred to the next meeting.

RESOLUTION NO. 6847 - A Resolution of the City Council of the City of Vernon Authorizing the Termination of the Agreement to Form Association and to Conduct Litigation. (Deferred from the City Council Meeting held November 19, 1996.)

It was moved by Ybarra, seconded by Gonzales, that the aforementioned matter be deferred to the next City Council Meeting. Motion carried.

Consideration and discussion of Memorandum of Understanding for L.A. Impact, the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force, as submitted by the Chief of Police November 13, 1996. (Deferred from the City Council meeting held November 19, 1996.)

The Mayor asked if there were any questions or comments on this matter.

The Police Chief said the main reason for this is so that the City would be in sync with the other agencies when the need to acquire property arises.

It was moved by Gonzales, seconded by Ybarra, to approve the City's participation in the L.A. Impact program, and that the Memorandum of Understanding be approved and executed. Motion carried.

RESOLUTION NO. 6885 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of a Memorandum of Understanding Providing for the Participation of the City in the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (L.A. Impact), was presented.

It was moved by McCormick, seconded by Ybarra, that Resolution No. 6885 be approved and adopted.

Consideration of compensation and benefits review for the City Administrator/City Clerk.

It was moved by Gonzales, seconded by Ybarra, to approve compensation and benefits for the City Administrator/City Clerk as recommended. Motion carried.

RESOLUTION NO. 6887 - A Resolution of the City Council of the City of Vernon Amending Schedule II, Exhibit "B", Page 15 of Resolution No. 6811 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. 6887 be approved and adopted. Motion carried.

Consideration of entering into a consulting agreement with Post, Buckley, Schuh & Jernigan, Inc. to perform various traffic congestion studies relating to the Alameda Corridor.

It was moved by Ybarra, seconded by Gonzales, that an agreement for services with Post, Buckley, Schuh & Jernigan, Inc., be approved and executed. Motion carried.

RESOLUTION NO. 6888 - A Resolution of the City Council of the City of Vernon Approving and Authorizing the Execution of a Professional Service Agreement By and Between the

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City of Vernon and Post, Buckley, Schuh & Jernigan, Inc. to Provide Traffic Engineering Services Relating to the Construction of the Alameda Corridor, was presented.

It was moved by Gonzales, seconded by Davis, that Resolution No. 6888 be approved and adopted. Motion carried.

Consideration of entering into a consulting agreement with David Cobb relating to funding for the Atlantic Boulevard and Bandini Boulevard interchange reconfiguration on Route 710.

It was moved by Ybarra, seconded by McCormick, that an agreement for services with David Cobb DBA as Global Stratagem Group be approved and executed. Motion carried.

RESOLUTION NO. 6889 - A Resolution of the City Council of the City of Vernon Approving and Authorizing a Letter Agreement By and Between the City of Vernon and David Cobb DBA "Global Stratagem Group" Relating to the Funding of Transportation Infrastructure Improvements, Including the Construction of the Atlantic Boulevard and Bandini Boulevard Interchange Project, was presented.

It was moved by Gonzales, seconded by Davis, that Resolution No. 6889 be approved and adopted. Motion carried.

The Mayor called a recess at 5:34 p.m.

The Council reconvened in regular session at 5:40 p.m., all members present before the recess again being present.

It was moved by Ybarra, seconded by McCormick, to go into Closed Session to confer on Item No. 1 listed below, the time being 5:41 p.m. Motion carried.

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

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

1. With respect to every item of business to be discussed in Closed Session pursuant to Government Code Section 54957.

a. EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

The Fire Chief was excused from the Closed Session at 5:52 p.m.

It was moved by Gonzales, seconded by Davis, that the Council go out of Closed Session and resume regular session, the time being 5:52 p.m. Motion carried.

It was moved by Ybarra, seconded by Gonzales, that the Council go into Closed Session to confer on Items No. 2 and 3 listed below, the time being 5:55 p.m. Motion carried.

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

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

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2. With respect to every item of business to be discussed in Closed Session pursuant to subdivision (a) of Government Code Section 54956.9.

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
Name of Cases:

- (a) City of Vernon vs. Central Basin Municipal Water District, LASC No. BC 121124;
- (b) City of Vernon vs. Central Basin, etc., Zastrow, et al., LASC No. BC 130693; 2CIV B098203;
- (c) City of South Gate, et al. vs. City of Los Angeles, et al., LASC No. BC 129447; 2CIV B100019;
- (d) City of Vernon v. Board of Harbor Commissioners of the City of Long Beach, et al., LASC Case No. BC 158591; (Pier T)
- (e) The Atchison, Topeka and Santa Fe Railway vs. City of Vernon; LASC No. BC 123510; 2CIV B102025;
- (f) The City of Vernon v. The Atchison, Topeka and Santa Fe Railway, CPUC Case No. 96-01-019;
- (g) CPUC Docket No. A.93-09-006 (SoCalGas) (BCAP);
- (h) CPUC Docket No. A.91-03-039 (SoCalGas) (BCAP);
- (i) SoCalGas v. Vernon LASC No. BS 017468; 2 CIV B088723;
- (j) Vernon v. Southern California Gas Company, CPUC No. 96-05-038;
- (k) Johnson & Vincent v. Vernon, LASC BS 039646;
- (l) Allstate, etc. et al. v. Vernon, Case No. VCO22411;
- (m) FERC Docket No. OA-96-76 (Open Access);
- (n) FERC Docket Nos. EC96-19-000, ER96-1633 and EL96-48 (Restructuring);
- (o) Gonzalez, etc., et al v. U.S. Customs Services, et al., USDC CV96-4361 RJK (Jrx);
- (p) Lynwood v. Vernon, Case Number Unknown);
- (q) Howard Stolan v. Vernon, WCAB Case No. 82 BG 072526
- (r) Andrew Beltowski v. Vernon WCAB Nos. ANA 0265141; ANA 0265142; ANA 308241; ANA308243; 89 VEN 07311; 85 VE53019

3. With respect to every item of business to be discussed in Closed Session pursuant to subdivision (c) of Government Code Section 54956.9.

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CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED
LITIGATION

Initiation of litigation: Two (2) potential
cases

The Mayor was excused from the Closed Session at 5:59
p.m.

The Mayor returned at 6:03 p.m.

It was moved by Ybarra, seconded by Davis, that the
Council go out of Closed Session and resume regular session, the
time being 6:04 p.m. Motion carried.

It was moved by Ybarra, seconded by Davis, that both
Fire Engineers be disciplined as recommended by the Fire Chief.
Motion carried.

It was moved by Ybarra, seconded by Gonzales, that
the Fire Captain be disciplined as recommended by the Fire Chief.
Motion carried.

It was moved by McCormick, seconded by Davis, that
settlement in the matter of Howard Stolan v. Vernon, WCAB Case
No. 82 BG 072526 be ratified. Motion carried.

It was moved by Ybarra, seconded by McCormick, that
settlement in the matter of Andrew Beltowski v. Vernon WCAB Nos.
ANA 0265141; ANA 0265142; ANA 308241; ANA308243; 89 VEN 07311;
85 VE53019 be ratified.

It was moved by Gonzales, seconded by Davis, that the
City Attorney be authorized, on behalf of the City of Vernon, to
file an Amicus Brief in the matter of Metropolitan Water District
of Southern California v. Francis N. Domenigoni et al. Motion
carried.

It was moved by McCormick, seconded by Gonzales, that
the City Attorney be authorized to intervene in CPUC Application
No. 95-10-038. Motion carried. (Mayor Malburg abstained from
voting on this matter.)

It was moved by Gonzales, seconded by Ybarra, that
the City Attorney be authorized to file a petition for Writ of
Review in the California Supreme Court in the matter of the City
of South Gate et al. vs. City of Los Angeles et al. LASC BC
129447, 2CIV B100019. Motion carried.

It was moved by Ybarra, seconded by Gonzales, that
Tuesday, December 24th and Tuesday, December 31, be deemed
additional holidays in observance of Christmas and New Years, for
all miscellaneous personnel and non-emergency personnel as long
as it does not have an adverse effect on the operations of the
City. Motion carried.

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

ATTEST:


Bruce V. Malckenhorst, City Clerk


Leonis C. Malburg, Mayor

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