

Council Meeting Wrap-Up

March 9, 2004

CONSENT CALENDAR Council formally approved emergency expenditures of \$391,400 for repairs following the January 1, 2004 water main break at Lincoln and Colorado; approved a contract with Matrix Consulting Group to evaluate the city's permit, plan check, inspection and code enforcement processes; and adopted a resolution for paying and reporting the value of employer-paid contributions to the California Public Employees' Retirement System.

CLOSED SESSION In open session the Council voted to settle a business license/zoning-related dispute with Advantage Santa Monica, as discussed in closed session.

APPEAL The Council upheld an appeal of a Planning Commission technical denial of an ordinance text amendment that would have allowed short-term rental housing in commercial zones under certain conditions. The Council held first reading on an ordinance, as amended, to limit the development of short-term rental housing, thereby controlling its impact on residential neighborhoods.

ORDINANCES The Council held second reading and adopted an ordinance clarifying the authority of the Finance Director and Risk Manager to settle disputes and passed a resolution to amend the contract between the California Public Employees' Retirement System and the city.

NAMING OF STREET After reviewing a list of names suggested by the public over the past few months for renaming the PCH-to-Ocean connector road formerly known as State Route 187, the Council directed staff to investigate the suggestion "Moomat Ahiko Way" to confirm that the words are correct Chumash meaning "Breath of the Ocean," and if so, to return with a resolution for Council action.

COMMEMORATIONS IN PARKS Council returned the item to staff and the Recreation and Parks Commission for further analysis and review, including alternatives for allowing some placement of plaques in parks (e.g., at the base of dedicated trees).

PET GUARDIANSHIP Council received and filed a report on options for substituting the term "guardian" for pet "owner" in the Municipal Code (i.e., no action was taken).

LITTERING In response to a resident request, Council directed staff to review signage and enforcement issues related to littering, including getting input on other cities' experiences, and provide information to Council.

APPOINTMENTS Council appointed *Marilyn Korade Wilson* to the Commission for the Senior Community.

Appointments to the Personnel Board and Social Services and Recreation and Parks Commissions were continued.

COUNCILMEMBER ITEMS Council continued for two weeks an item related to formula retail on the Promenade, to allow staff to obtain an update on the Bayside District's work on the same issue. Council directed staff to cross-reference the list of buildings on the Historic Inventory with the list of rent-controlled housing units and to include this information when incentives to designate structures as landmark buildings are examined this spring.

SCHOOL FUNDING At Council request, City Manager Susan E. McCarthy reported back on progress to-date regarding the Council directive to explore stable school-funding strategies, including certain property transactions (4th & Pico, Fisher Lumber site, Madison Campus, 16th Street district headquarters) and longer-term agreements for city payments for use of school facilities. Increasing the city's ongoing commitment to the schools would require additional cuts, beyond what was already cut last year and is planned to be cut from the city budget in the coming year, or development of a new revenue stream (e.g., increasing the transient occupancy tax). Council stressed the need for school board participation in finding solutions to the district's financial woes and directed staff to report back on progress at regular intervals. Council also directed staff to continue public outreach and education efforts on the municipal budget, particularly where the city budgeting process intersects with the school district's.

The Mayor mentioned that a resident asked him what she could do about rescinding her signature from an initiative petition. City Clerk Maria Stewart replied that anyone who wishes to have his or her name removed from a petition simply needs to make the request to the Clerk's office at City Hall in writing. Call 458-8211 for more information.

The meeting was adjourned in memory of *Talmage Burke*, who served on the Alhambra City Council for 52 years including 15 terms as Mayor; and *Dorothy Koutouratsas*, long-time Santa Monica public school and PTA volunteer and supporter.

Specifics from this agenda are included in the staff reports posted with the agenda on the city's website at: <http://santa-monica.org/cityclerk/council/agendas/2004/> (click on the March 9 agenda link).

The next meeting of the Santa Monica City Council is scheduled for Tuesday, March 9, 2004 beginning at 5:45 p.m. in the Council Chamber at City Hall, 1685 Main Street, which is accessible to wheelchairs. To request a disability-related accommodation (such as sign language interpreting or other assistance to make the meeting accessible), please call the City Clerk's Office at (310) 458-8211 at least 3 business days before the meeting.

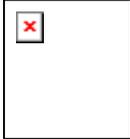
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NOTE: This wrap-up is not an official record of Council action. The official record is posted by the City Clerk on this website at <http://santa-monica.org/cityclerk/council/agendas/2004/> as soon as possible after the meeting.

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City Council Meeting 3-9-04 Santa Monica, California

TO: Mayor and City Council

FROM: City Staff

SUBJECT: Options for Responding to Request Made by Proponents of Animal Guardianship

Introduction

Last September, representatives of the group In Defense of Animals asked the Council to adopt an ordinance amending the Municipal Code by substituting the term “guardian” for pet “owner.” In response, Council directed staff to return with advice on options for an ordinance. This report fulfills that request.

Background

California law empowers property owners to take, hold and dispose of their property as they see fit, and it classifies animals as personal property. State law assigns different rights and responsibilities to guardians than to owners, including the responsibility to act in their “wards” best interests.

In Defense of Animals has advocated, throughout the state, for changes in local laws, which would replace the concept of pet ownership with pet guardianship. The group asserts that this change would promote the recognition of animals as individuals (not things), enhance respect and compassion for animals, reduce breeding at “puppy mills,” and decrease abuse and abandonment of animals. Opponents of “animal guardianship” disagree. They claim, among other things, that substituting the word “guardian” for “owner” will not reduce animal abuse and will, instead, make it more difficult for veterinarians and shelters to care for them because the change in terminology will create legal ambiguities.

Cities have responded in various ways to the animal guardianship proposal. For instance, West Hollywood amended its code to substitute the word “guardian” for “owner” in provisions relating to the control of dogs and other animals. San Francisco took a different approach, adding the word “guardian” but maintaining the word “owner” in municipal code provisions relating to animals, excluding fish.

In contrast, the Los Angeles City Council declined to amend its code to introduce the concept of pet guardianship. This decision came after the City Attorney’s office produced a written opinion warning that the proposed change would create confusion among animal owners, veterinarians, regulatory personnel and others about rights and responsibilities. The written opinion also acknowledges that “current law does not prohibit the proposed change.” Moreover, the opinion states that state law would preempt any attempt to impose a new legal relationship between pets and owners; so, the proposed change would be symbolic rather than legal and would be akin to an “advisory policy.” A copy of the Los Angeles City Attorney’s opinion is attached to this report.

In every city where the issue has been raised, significant controversy ensued. This City has been no exception.

Discussion

After the Council gave direction, printed material poured into the City Attorney’s office from various groups, most of which appear to have opposed the proposal wherever it surfaced. Groups supplying materials and viewpoints include the California Veterinary Medical Association, the Southern California Veterinary Medical Association,

Actors and Others for Animals, the Civil Justice Association of California, the American Kennel Club and the Animal Issues Movement. All of these groups, except Actors and Others for Animals, either oppose pet guardian laws or argue that more study is needed. Copies of material supplied by proponents and opponents are attached so that the Council may evaluate the controversy.

If the Council wishes to take action, it has various options. It could substitute the word "guardian" for "owner," add the word "guardian," make a different policy statement in support of respect for animals, or take no action and await developments.

The Santa Monica Police Department, which operates the City's Animal Shelter, recommends against use of the term "guardian" because that change could cause confusion and legal disputes, including whether Animal Control workers had the rights and responsibilities of owners or guardians. If the word "guardian" is, nonetheless, to be used, legal staff suggests that it be used in conjunction with language specifying that its use does not alter rights and responsibilities imposed by state and local law. Such language would make clear that the change is symbolic and would guard against the change adversely affecting the care of animals. Also, if the Council wishes to add the concept of animal guardianship to the Municipal Code, consideration should be given to the scope of the term's application. That is, would the term "guardian" apply to all animals, "pets," or only companion animals?

Financial/Budget Impact

Policy direction for an ordinance will have no impact. Substituting the word "guardian" for "owner" could have an indirect impact on the City's costs of animal control if the change fosters legal disputes.

Recommendation

Staff recommends that the Council consider the information provided with this report and in conjunction with the public hearing decide whether to give staff further direction.

PREPARED BY: Marsha Jones Moutrie, City Attorney

[ATTACHMENT](#)

<http://santa-monica.org/cityclerk/council/agendas/2004/20040309/s2004030908-C-1.pdf>

The LookOut news

What's In A Name?

By Blair Clarkson

Staff Writer

March 11 -- Sorry Fido, but your fight for species-equality here in Santa Monica is a lost cause.

In a narrow decision that is sure to raise the dander of certain animal activists, while appeasing those grown weary of the City's need to champion every social cause, the City Council voted Tuesday night not to change the Municipal Code by substituting the word "guardian" for pet "owner."

"We live in a very strange society where corporations are given the constitutional rights afforded to individuals," said Mayor Pro Tem Kevin McKeown, who voted for the name change, "and meanwhile, living companion creatures are considered mere objects."

Tuesday's action came six months after the animal rights organization, In Defense of Animals, asked the City to adopt an ordinance requiring an official name change.

Changing "pet owner" to "guardian," they argued, would promote the recognition of pets as individuals and not things, enhance respect and compassion, reduce breeding at "puppy mills" and decrease abuse and abandonment.

The request, however, unleashed a flood of letters to the City Attorney's office from various individuals and groups opposing the change.

Opponents -- who included the Southern California Veterinary Medical Association (SCVMA) -- feared the name change would result in legal ambiguity that would hurt, rather than help, animals.

Opponents worried that “guardians” could have their pets taken away without judicial review and lose the right to make medical decisions on behalf of their pets, as well as the right to legally sell or give them away. They were also concerned that medical care could be delayed or denied because “guardians” wouldn't have legal responsibility.

"We are opposed to changing it," said Richard Holden, of the SCVMA. "There is considerable concern that changing the terminology from a legal point of view could lead to confusion down the road," specifically in the identification of property and animal control.

"Changing the name and saying you're a guardian, not a pet owner, really doesn't change people's attitudes," said Holden of the problem of animal abuse. "That's what needs to be changed."

Local veterinarian Robert Goldman cited fears that shelters and animal hospitals could be forced to withhold treatment for seriously ill or terminally suffering animals because of liability issues.

"The trial lawyers association has listed veterinarians as an untapped profit center, which means that we would have actual dog and cat ambulance chasers," he said.

As a result, insurance rates would skyrocket and "the average cost for vets to stay in business to treat your cat would make it such that you couldn't afford to come in for an office call."

City Attorney Marsha Moutrie viewed the change as largely symbolic, but said it was too early to tell if similar laws in West Hollywood, Berkeley and San Francisco would create a legal liability.

"From a legal perspective, my own viewpoint is that the change is largely symbolic," Moutrie said. "It is possible that it could make it more confusing, but it's not clear to me that actual rights and responsibilities would change.

"Nonetheless," she added, "it's difficult to tell, because the changes in law made in other places were made so recently that there isn't a particularly long history" to show whether the fears about making such a change have been realized.

In addition to veterinarians, the Santa Monica Police Department, Animal Issues Movement and the American Kennel Club also opposed the name change.

"When dogs are considered property, owners have a responsibility to provide humane care and treatment," wrote Kennel Club representative Kortni Campbell in a letter to the council. "Referring to owners as 'guardians' will not make them more humane."

Heated public debate over the proposed ordinance has centered on whether animals should be elevated to the status of humans.

"Our cats are like children," said resident Jerry Rubin. "We're like their parents. Having a cat or a dog is not the same as owning a television set."

"I have a receipt for the purchase of my dogs," Nick Santora wrote in an email to the City. "This makes the dogs my possession and thus me the owner."

While opponents acknowledge there is no denying that many beloved pets have become family "members," they argue that they are still animals, and to impose human values and rights upon them is obscene and cruel.

The proposed ordinance, which was narrowly defeated by a 3 to 2 vote on Tuesday, also split the Council, with Mayor Richard Bloom and Council members Ken Genser and Herb Katz voting against it, while Michael Feinstein and McKeown supported it. Council members Pam O'Connor and Robert Holbrook were not present.

"The use of the word 'guardian' as an education tool is really important," said McKeown. "I think guardian is the right word, and we should be using it."

Feinstein compared the current debate to the gender-neutrality discussions that led to the changing of the term "grandfathered" to "grandparented." The proposal, he said, "is an attempt to remind us that animals are living beings and we share the planet with them.

"Our City has taken those sorts of tacts in the past to change language," Feinstein said. "We are well accustomed in this community to the importance of symbolism in language."

"I don't recall us ever changing the law regarding the word 'grandfathered' or 'grandparented,'" responded Genser. "It was simply consciousness in one's conversation. Nothing will prevent anyone from using the word 'guardian' in conversation if they so choose."

Regardless of the Council's decision, that the issue was debated at all has irked some residents who felt the City could be spending its time and money more usefully.

"The economy is still a wreck, budget cuts are coming and homelessness is out of control," complained one woman who asked to remain anonymous. "And they're wasting taxpayer money on this?"

"Did anybody ask the dogs and cats if they care?"

In a separate naming issue, the council voted to call the connector road between Pacific Coast Highway and Ocean Avenue, formally known by the snappy name State Route 187, "Moomat Ahiko Way."

The formal renaming of the road is dependant on confirmation of the Chumash phrase's translation to "Breath of the Ocean." The Chumash were one of the Native groups to inhabit the area.

Among other suggested names on the list were: Bum Blvd., Socialist Agenda Drive, Hasta La Vista Blvd., Homeless Haven Hill, Runoff Road and What Street.

"The public clearly had more fun with this than we expected," said McKeown, who wondered whether the short incline even needed a name.

"What's next, naming our freeway ramps?"

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Council to Discuss Suit to Halt Late-night Meetings

By Olin Ericksen
Staff Writer

March 10 -- The real action at Tuesday night's City Council meeting could well take place behind closed doors, where the council will discuss how to fend off an unprecedented lawsuit filed against the City by two of its own members.

The class action lawsuit -- initiated nearly four months ago by Council members Bob Holbrook and Herb Katz -- seeks to shorten unrelenting late-night council meetings, which often go beyond the 11 p.m. curfew and sometimes stretch to 3 a.m.

The suit alleges the late night meetings bring "irreparable harm" to the plaintiffs and deprives the public in general of the right to "address their local legislative representatives" during "reasonable hours," according to a complaint filed with the LA Superior Court.

More than 50 meetings continued past 11 p.m. between Jan. 2001 and Aug. of 2003 in violation of California labor laws and the Brown Act, according to the plaintiffs' briefs. The suit seeks a court order to halt proceedings at 11 p.m. sharp, unless extended by council vote.

While the council now routinely votes to extend meetings past 11 p.m., under a court order, breaking curfew could result in sanctions for violating the Brown Act, "unless a it's a serious matter that must be passed that night," said Rosario Perry, the plaintiffs' attorney.

The issue has effectively split the council into factions.

Mayor Richard Bloom said the suit is "silliness that could cost the City a lot of time and money" and is simply a means to force the rest of the council to negotiate with Holbrook and Katz on meeting hours.

"I'll shave my head if this case goes to court," said Bloom. Holbrook and Katz, he said, "are just acting out, and have no legal basis in bringing this case. It's going to be thrown out of court. The entire case is a can of corn."

Bloom admits that the meetings should be restructured, but litigation should not be used so readily.

Holbrook and Katz "don't like having to stay late for council meetings, and everyone on the council agrees with them," said Bloom. "We could bring any number of changes in the way the City hears its business, such as meeting during the day, but they brought this lawsuit instead. It's an entirely inappropriate way to handle the situation."

Bloom likened the dispute to a family feud and said "every once in a while, each of us gets carried away. Hopefully Herb and Bob see that this is not the right way to meet their goal."

Katz agrees the situation is family feud, but the way he sees it, "the family is the council, the staff and the public."

"We have to think, not only how this affects us, but our staff and the public too," Katz said. "Many times, staff will show up late the day after a council meeting because they are all so tired from the night before. It affects city business."

This issue, Katz said, has come up a number of times in the last two years, and he has suggested many ways the council can cut down on late-night meetings.

"We could try meeting with staff before the meeting, or limit the amount of public speaking time," said Katz. "The public could write as many letters as they want to give their input instead of taking up meeting time."

"Another option is to meet every Tuesday," he said. "We used to meet every Tuesday, now we only meet every other Tuesday."

A February 6 news report by The Lookout highlights at least one attempt by the Council to reconcile their differences. (["Finding Solutions for Late Night Meetings," Feb. 6, 2002](#))

Yet Katz said the council has refused to institute any changes and feels the lawsuit is the only way to roll back the meeting hours.

"It's not about money and we're not asking for money," said Katz. "I would drop the

lawsuit in five minutes if I felt I could reach a compromise.”

The lawsuit puts the City Attorney’s office in an interesting legal position during the closed-door session, because the council members she normally advises are both the plaintiffs and the defendants.

There is also the issue of whether Council members Holbrook and Katz can sit in on the session, or whether they have a conflict of interest.

The City Attorney’s office refused to comment on such questions because the litigation is pending. However, Bob Myers, who was City Attorney from 1981 to 1992, gave his assessment of the case.

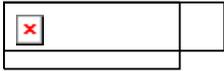
“They clearly have a conflict-of-interest and can’t go into the closed session on this particular issue,” said Myers. “Nothing rises more to a conflict of interest than being involved in litigation” against the City.

Myers also questioned the merits of the lawsuit, calling it “silly.”

“It strikes me as it having no merit to it,” Myers said. “The biggest problem with this lawsuit is that it’s silly.”

Despite the dust-up, both Mayor Bloom and Council member Katz said they have an amiable professional and personal relationship.

Council member Holbrook is recovering from surgery and could not be reached for comment. He is not expected to attend this tonight’s council meeting.



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