



The Municipal League of Beverly Hills

Since 1962 - The Residents' Voice

NEWSLETTER DECEMBER 2014

How the City Council Voted on Key Issues

ISSUE	COUNCILMEMBER	VOTED
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EVEN MORE INCREASED HEIGHT FOR BEVERLY HILTON/WALDORF ASTORIA HOTEL EXPANSION

(voted on September 23, 2014)

In a controversial 2008 referendum, including credible allegations of voter fraud, Beverly Hills voters narrowly approved a significant height and density increase for the hotel expansion. In a zone whose maximum allowable height is 60 feet, voters approved an increase to 160 feet, 100 feet more than permitted by code.

Bosse	YES
Brien	YES
Gold	YES
Krasne	YES
Mirisch	NO

Despite this, the Hilton recently applied for still further benefits, including a new mezzanine (i.e. a separate floor), expanded outdoor dining area, and an additional 4 feet in height throughout the project.

At its Study Session, the City Council majority declined to review the matter, ignoring (i) a request by the Planning Commission to evaluate the impacts of the height increase; (ii) a request by the Architectural Commission for information that had been refused by staff; (iii) the presentation of preliminary evidence of Ethics Ordinance lobbying violations; and (iv) process objections by the Municipal League in the face of multiple compelling issues warranting scrutiny by the Council.

The League's position was in support of the Planning Commission, of Councilmember Mirisch and others who petitioned for a careful, open analysis of impacts from the Hilton's request. However, the Council majority declined to review the matter and permitted a single city staff member to unilaterally acquiesce to the Hilton's requirements.

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CONTINUAL WATER RATE INCREASES

(voted January 21, 2014)

While Beverly Hills residents have for many years protested the continuous and ongoing increases in what the City charges for water, staff has consistently advocated for such increases, and the Council majority is in too many instances inclined to approve whatever staff recommends.

Bosse	YES
Brien	YES
Gold	YES
Krasne	YES
Mirisch	NO

The League has noted that while the Council majority has been unwilling to give residents relief from or mitigate its high water charges, they are frequently unconcerned with economizing or exercising restraint when spending taxpayer funds (i.e., Other People's Money), apparently because the City's general revenues are so high and is at present capable of sustaining many indulgences.

On August 5th, 2014, the Council majority approved another 2% water rate increase for the 2014 / 2015 fiscal year, with water revenues projected to reach almost \$38 million during this period.

ISSUE	COUNCILMEMBER	VOTED
<p align="center">UNFUNDED LIABILITIES - TAXPAYER ASSUMPTION OF CITY EMPLOYEE'S SHARE OF PENSION COSTS (voted on August 12, 2014, et seq.)</p> <p>Several years ago, many residents were shocked to learn of the salaries and other compensation paid to City staff when those actual figures were published by the Beverly Hills Courier, which reported at the time:</p>	Bosse	YES
	Brien	YES
	Gold	YES
	Krasne	YES
	Mirisch	NO

“City compensation per position is about double the pay for equivalent jobs in the private sector, not even counting retirement benefits. Finally, note that every City worker has at least 13 weeks off with pay—meaning these salaries and benefits paid to each City worker for only nine months of actual service.”

While the looming burden of staggering accumulated pension costs, projected to have disastrous consequences for state and local governments, has continued to dominate media headlines, some Beverly Hills Councilmembers incredibly felt that their duty was not to protect the taxpayers they purportedly represent, but instead to liberally share the City’s revenue windfalls with its staff “partners.” Doing what would be unthinkable were they spending their own private funds, the Council majority nevertheless ‘gave away the store’ gratuitously in recognition of their symbiotic protective relationship with staff, granting another grand gesture of magnanimity with the assets of others.

Prior to its posted agenda announcement, in private closed door meetings from which the public was excluded, the Council agreed to negotiation parameters which acquiesced to the City’s various employee collective bargaining units’ demands - giving them essentially everything they wanted. Such instructions were kept concealed from the public, ostensibly to avoid undermining the Council’s delicate “negotiation strategy” purportedly on behalf of taxpayers.

By the time the council’s private commitments were publicly disclosed, both the deals and the Councilmembers’ positions had been firmly cemented, rendering the required public hearings a mere facade of the democratic process and substantively meaningless. Moreover, the Council was informed by its outside Labor Negotiator, that

“Public comment before adoption of a proposed MOU [memorandum of understanding with the employees’ labor unions], even comment that criticizes the provisions of the proposed MOU, does not allow the City to engage in regressive bargaining [i.e., reduce compensation and other terms which have already been informally agreed upon].”

In other words, the commitments made in closed session were binding regardless of the public hearings.

Almost all City staff received an unprecedented 11% retroactive compensation increase, along with a structure which enabled them to reduce personal tax liability on their earnings. This included a further commitment for Beverly Hills taxpayers to continue unabated their longstanding obligation to pay not only the employer’s share of pension costs, but also the employee share of pension costs. This means that the City pays 100% of those employees’ retirement, while the employee beneficiaries themselves pay nothing.

Councilmember Brien, explaining one of the reasons for his vote to approve the compensation increase, reasoned that it wouldn’t be fair for staff members to pay their own employee share of pension costs because doing so would result in less take home pay for them and their families - this in spite of California’s Public Employee Pension Reform Act (PEPRA) requiring that each staff member pay their own employee share of pension costs.

The League appeared in support of livable wages for City employees, plus cost of living adjustments based on inflation, asking that the Council follow PEPPRA requiring that each staff member pay their own employee share of pension costs. It further argued that the Council's first obligation is to protect Beverly Hills residents, voters and taxpayers, and to fulfill the promises made during election campaigns to be fiscally responsible and address pension reform.

Nevertheless, on August 12th, 2014 and at subsequent parallel meetings, the Council voted as shown to the left.

ISSUE	COUNCILMEMBER	VOTED
<p>ADDITIONAL MEDICAL USE FOR 8767 WILSHIRE BOULEVARD AT THE SOUTHEAST CORNER OF ROBERTSON BOULEVARD (voted January 21, 2014)</p> <p>This commercial building, a source of controversy and continuous, conspicuous vacancy after its completion, was initially applied for and granted permission to build for conventional office use. The applicant was a real estate developer whose inventory consisted almost entirely of medical office buildings, for which Beverly Hills has a well-documented overabundance.</p>	Bosse	NO
	Brien	YES
	Gold	YES
	Krasne	YES
	Mirisch	NO

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The developer later asked to convert part of the building to medical use. When that was denied, it filed a lawsuit against the City alleging improprieties by a former City Manager and claiming it was damaged by an inability to lease its office space to tenants. The trial court later found in the City's favor.

After a denial by the Planning Commission, the City Council held a public hearing to reconsider the developer's application to convert its building to medical use. Neighborhood residents opposed the conversion, citing high traffic impacts, parking problems from destination point demands, and recognized low tax revenue generation for the City from medical offices. As the developer had threatened to appeal its trial court loss, and even though the probability of reversal was very low, a special liaison committee to was permitted to "negotiate" a settlement, which required substantial acquiescence by the City to accommodate the developer's demands. The settlement negotiation committee consisted of Councilmembers Brien and Gold, both of whom were medical doctors at Cedars-Sinai Medical Center, which institution was reportedly interested in acquiring space in the building once medical use was approved by the Council.

On January 21st, 2014, the Council majority voted to acquiesce to the developer's demands, the City receiving no reimbursement for the costs of litigation sustained by Beverly Hills taxpayers.

ISSUE	COUNCILMEMBER	VOTED
<p>PREMATURE DESTRUCTION OF PUBLIC RECORD E-MAIL MESSAGES (voted on April 2, 2013)</p> <p>At the request of then Mayor John Mirisch, the City Council was asked to consider extending the retention period for messages contained in the City's e-mail system from 30 days to a full two years. The Municipal League appeared and argued in favor of government openness and transparency, the long-term maintenance of public records, and public access to information vital to the democratic process.</p>	Bosse	YES
	Brien	NO
	Gold	NO
	Krasne	YES
	Mirisch	YES

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BEVERLY HILLS IN THE LEGAL ARENA

The City of Beverly Hills and the Beverly Hills Unified School District have become embroiled in highly contentious litigation with potentially far-ranging consequences.

THE MTA

In May of 2012, Metro approved the Westside Subway Extension Project to extend the Metro Purple Line in Los Angeles by approximately nine miles from Downtown Los Angeles to the Pacific Ocean. Expected to open in 2035, the \$5,600,000,000 subway is designed to bring fast, reliable mass transit to some of Los Angeles' busiest destinations including the Miracle Mile, Beverly Hills, Century City and Westwood.

Beverly Hills was in favor of the project until Metro decided to alter the route from Santa Monica Boulevard to a location in Century City that would require it to tunnel under Beverly Hills High School. The new route was selected despite higher ridership projections by Metro for the initial station to be situated one block north in Century City.

After it became evident that Metro's change of heart in relocating the route was made to benefit developers in Century City, the battle lines were drawn. Lawsuits were filed by the City of Beverly Hills and the Beverly Hills Unified School District in State and Federal Court challenging Metro's plan as unsafe, not in conformity with environmental requirements, based on faulty data, capable of precipitating methane gas explosions and possibly resulting in subsidence from tunneling operations. It was also pointed out that the new location would cost an additional \$200,000,000 – which constitutes a blatant waste.

Worse, if the subway is permitted to tunnel through Beverly Hills as presently contemplated,

75 homes and 21 businesses will be subject to permanent easements resulting in a significant decrease in property values.

Moreover, permitting the plan to proceed may damage the structure of Beverly Hills High School, which will be exposed to the constant presence of vibrations. Also, the District will be prevented from building an underground parking garage and implementing the revitalization, new construction and improvements to the High School authorized by the passage of the \$334,000,000 Measure K bond.

The claimed justification for changing the location advanced by Metro was thoroughly debunked by experts who painstakingly evaluated the geologic conditions at the Beverly Hills High School Site and determined that the faults identified by Metro on the campus either do not exist or are inaccurate – which was verified by the California Geological Survey; and, that the faults Metro noted along Santa Monica Boulevard – which was the preferred route between Beverly Hills and Westwood – should be classified as inactive because they have not ruptured in the past 11,000 years.

Recently, in an effort to resolve the dispute, the parties entered into a voluntary Mediation, and even though a tentative deal was struck, the Metro Board rejected the compromise that had been agreed to by its representatives.

As such, the parties will return to court with both sides expected to appeal any decision in which they are not the prevailing party.

KAREN CHRISTIANSEN

Several years ago, Karen Christiansen filed a lawsuit on behalf of herself and Strategic Concepts, LLC against the Beverly Hills Unified School District alleging that her contract was improperly terminated in connection with the renovation and construction projects she was to oversee that were to be financed by the \$334,000,000 Measure K Bond.

The fee for these services was to be 6-1/2% of the Bond amount which translates into a payoff of more than \$16,000,000.

Immediately before the case was to be tried, Karen Christiansen was arrested and charged with four counts of conflict of interest in the performance of her services on behalf of the Beverly Hills Unified School District. A jury convicted Karen Christiansen on all four counts

which resulted in a prison sentence of four years and four months being imposed as well as a Court Order requiring her to reimburse the Beverly Hills Unified School District for the amount it had paid her aggregating \$3,539,991.

The Court of Appeal reversed the conviction on a technicality, but ruled that its decision would not have any bearing on the civil lawsuit which had been stayed pending the outcome of the criminal case. The matter is now pending in the Los Angeles County Superior Court and will probably be tried some time next year.

The Beverly Hills Unified School District has denied that it has any liability to Karen Christiansen or Strategic Concepts, LLC based on their numerous conflicts of interest and receipt of money to which they are not entitled.

CARTER PAYSINGER

On July 16, 2014, Carter Paysinger filed a lawsuit against the Beverly Hills Unified School District and Board member Lewis Hall alleging that during his tenure as the Principal of the High School, he has been subjected to discrimination, retaliation and a violation of his civil rights – which claims are premised on his “information and belief” rather than specific facts.

As a result, Lewis Hall’s attorneys have filed an anti-SLAPP Motion which asserts that there is no factual basis to support the charges levied by Carter Paysinger. For example, it is claimed by Carter Paysinger that Lewis Hall persuaded the Board of the Beverly Hills Unified School District to initiate a knowingly meritless investigation of his involvement in the Beverly Hills Sports Academy – even though the inquiry was based on more than 70 e-mails Lewis Hall received questioning Carter Paysinger’s actions.

Second, Carter Paysinger argues that he did not have a conflict of interest in his management and operation of the Beverly Hills Sports Academy. However, during his relationship with the Beverly Hills Sports Academy, Carter Paysinger allegedly received money that was not properly reported.

Third, Carter Paysinger has asserted that he has been underpaid. However, his salary is fixed by a compensation schedule applying to all employees of the District and he recently received a raise.

The tragedy of this lawsuit is that every dollar being expended to defend the case takes away money that would otherwise be allocated to our students

What's Happening at the Wallis

The Wallis Annenberg Center for the Performing Arts, named for philanthropist Wallis Annenberg whose \$25 million donation helped launch the Center, began its second season with a change in leadership. Lou Moore, former Executive Director who spent over ten years developing and raising money for the Center, resigned in July 2014 citing a differing vision for programming from that of the board.

Rather than replacing Moore with a new executive director, the Wallis has named a trio of executives: Tania Camargo, managing director; Patricia Wolff, interim artistic director; and James D'Asaro, interim producing director.

The most recent public financial statements show that as of 2013 the Wallis owed nearly \$21 million in construction related costs and had cash revenues of \$2.3 million. Wallis executives say the loan balance is now \$15 million, of which \$9 million has been raised. This year's budget is about \$8 million, comparable to that of last

year. The city of Beverly Hills leases the property to the Wallis for \$100 dollars a year and remains responsible for the exterior.

Wallis Annenberg, in a recent letter to the Los Angeles Times, took issue with an article that appeared in the Times citing that a challenge for the Wallis is to establish itself as a performing arts destination when Westside audiences already have an abundance of other live theater venues to choose from including the Broad Stage, Kirk Douglas Theater, UCLA, Geffen Playhouse etc.

With its main theater 500 seat capacity and a second 150 seat theater, the Wallis is at a disadvantage compared to larger auditoriums that can sell more tickets. When the Cultural Center was in the talking stages experts warned that smaller venues are challenging to operate and it was likely the center would not generate sufficient operating capital and would face deficit financing.

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