



The Municipal League of Beverly Hills

Since 1962 - The Residents' Voice

NEWSLETTER JANUARY 2016

YOU'RE INVITED TO A TOWN HALL MEETING

on public health and safety, and Beverly Hills city staff accountability.

Our community's recent exposure to airborne arsenic from disrupted soil caused by the unauthorized clear-cutting of 196 trees on public and private property along Santa Monica Boulevard raises many questions.

What can residents expect from our City government?

Wednesday, January 27, 2016 at 7:00 p.m.

Beverly Hills City Hall, City Council Chamber

Refreshments will be served.

SPONSORED BY

The Beverly Hills North Homeowners Association in cooperation with the Beverly Hills City Council and co-sponsored by The Municipal League of Beverly Hills.

Profit, Arsenic and Negligence

On November 21st and 22nd, 2015 members of the City staff allowed Lyn Konheim, principal of The Beverly Hills Land Company, an owner of the former railroad right-of-way between Santa Monica Boulevard and Civic Center Drive, to illegally cut down 196 trees on both public and private property.

City staff failed in their obligation to protect City-owned property from being despoiled by not verifying the developer's claim that he had the right to do so, which is specifically contrary to official notices which had been received by the City. Had staff conducted normal fact checking, they would have known that the California Department of Toxic Substance Control (DTSC) had issued restrictive written instructions to the City and the property owners, and had not subsequently given permission, as the owner claimed, to enter the property with heavy equipment and crews, cut down the trees, and disturb hazardous arsenic-laden soil.

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Photo by Lionel Ephraim

Staff would also have learned that many of the trees cut down were either entirely or partially located on property which is owned by the City (i.e., two feet and twenty feet respectively on the property's north and south borders) and, thus, entirely or partially owned by the City, requiring a public process before any trees could be removed.

As a result of the illegal actions of the developer, aided by the negligence of staff, residents and visitors were put at risk of arsenic contamination. Additionally, residents facing Santa Monica Blvd. have lost the trees that shielded them from the sites, noise, and dust created by the heavy traffic on Santa Monica Blvd. This will be worsened by the massive and long-term reconstruction of the roadway which is scheduled to start this summer.

The December 1ST City Council meeting saw an outcry of angry residents protesting both the developer's and City staff's actions. This resulted in the Council directing City Manager, Mahdi Aluzri, to undertake a full and detailed investigation and report back to the council on January 5TH. Although the council was asked to include at least one independent member on the investigating committee so that this would not be a case of those being investigated investigating themselves. No independent member was included. Not surprisingly, the report of Assistant City Attorney, Carol Lynch, on the mishandling of the matter cannot be construed as anything but a whitewash.

The report acknowledged that mistakes were made by unnamed staff members, but there was no mention of anyone being held responsible or accountable, no matter how serious the damage caused by that

misconduct. There was also no mention of what is to be done to repair the damage.

The report showed a staff handicapped by an ineffective system with some senior staff members lacking in management skills, and made suggestions for procedural adjustments to prevent things like this from happening in the future.

There have been numerous violations of California state law that will have to be addressed with DTSC as well as other state agencies and these will have to be resolved before this fiasco is over. This will not be a short-term process.

To residents, the most important questions are:

1. What public health and safety risks were Beverly Hills residents and others exposed to?
2. What is going to be done to restore our trees?
3. When is the City Council going to move ahead with purchasing Lots 12 and 13, the old railroad right of way, along Santa Monica Blvd. between Doheny and Civic Center Drive?
4. What will be done to raise the performance of City staff to the highest professional level, which the residents of Beverly Hills are paying for and have a right to expect?

The City's insufficient answer to the first question was to claim that 12 to 14 days after the toxic exposure occurred, its hired experts found no airborne elevated levels of arsenic in the adjacent Farmers' Market area, and they claimed that the wind carried contamination "only into the residential area" north of the property.

Muni League Uncovers Millions In Ongoing City Losses

The City Council was recently surprised to learn that Beverly Hills has lost approximately \$2.4 million, which should have been received over the last 30 years. During a Council study session last September; the Municipal League appeared during a sales presentation to challenge the practices of an advertising company, which has been using City property for decades without paying for it.

Legal Update: Christiansen Cases

Outfront Media/JCDecaux, a global advertising company, had interested Mayor Julian Gold personally in their proposal to install numerous high-tech public transit shelters along Beverly Hills bus routes, for which the City would be entitled to share in revenues when corporate advertising appeared on shelter digital display screens. However, when the presentation was agendaized by Mayor Gold for the full Council's preliminary review, the company got more than it bargained for.

The League's advance research had found that Outfront Media/JCDecaux was the successor to CBS Advertising, which had obtained City permission in 1981 to install three transit shelters for a six month trial period, after which their use of City property was required to end. Instead, CBS Advertising (and later Outfront Media/JCDecaux) continued after the expiration of the ground lease to generate advertising revenue, which it then kept for itself to the exclusion of the City and the detriment of taxpayers.

After the representative from JCDecaux made his presentation, Thomas White, Board Chairman of the Municipal League of Beverly Hills, addressed the Council. He explained the history of the existing shelters (which the staff had not disclosed to the Council) and the unseemliness of its contemplation of entering into a new expanded agreement when the prior contract had been so flagrantly violated.

Councilmember Lily Bosse first confirmed the previously undisclosed facts with City staff, then commented, "I have no idea how Mr. Thomas White knew it, but I'm glad he did," and Vice Mayor Mirisch said, "Shocking that it was a six month permit that expired in 1981."

After a lengthy discussion of the issues, Mayor Gold expressed the Council's consensus: to look into adding additional shelters for some part of the city's existing 60 bus benches, and possibly adding amenities such as wi-fi or USB access, but without advertising.

City staff, which is responsible for administering its contracts, and which had allowed the revenue losses to exist under its nose and to persist for such an extended period, was directed to discuss the collection of the unpaid revenue with Outfront Media/JCDecaux. After another three months of rent-free operations, and a reminder from the League, staff finally caused the three freeloading transit shelters to be removed. No City losses were recovered, and staff made no efforts to do so.

After Karen Christiansen's criminal conviction for violating California Government Code 1090 was overturned by the Court of Appeal, she filed a lawsuit for malicious prosecution, fraud and related claims against certain members of the Beverly Hills School Board as well as the law firms involved in initiating the complaint against her.

The attorneys for the School District filed an anti-SLAPP motion (Strategic Lawsuit Against Public Participation) challenging the claim, and the trial court agreed. In response to this decision, Karen Christiansen filed an appeal, but on January 8, 2016, the Court of Appeal affirmed the trial court's ruling – ending the case.

In a separate action which was filed before the criminal case, Karen Christiansen and Strategic Concepts, LLC sued the Beverly Hills Unified School District (BHUSD) claiming that it improperly terminated the 2008 Agreement entitling them to receive a percentage of the \$334 million bond amount previously approved by Beverly Hills voters to refurbish, reconstruct and remodel the schools. In defending the litigation, BHUSD argued that the 2008 Agreement was void due to a conflict of interest as defined in California Government Code Section 1090, because both Karen Christiansen and Strategic Concepts, LLC could and did influence the Board to award them this agreement in which they would achieve a return in the millions of dollars. The trial judge ruled that Government Code Section 1090 did not apply, and further, that BHUSD had improperly terminated the Agreement based on that Code section, which allowed Karen Christiansen and her company to receive the balance which they claimed was due. The jury returned a verdict of approximately \$20 million, which is now on appeal.

Since the date the appeal was filed, two Courts of Appeal have specifically found that California Government Code Section 1090, involving conflicts of interest, applies to individuals and corporations like Karen Christiansen and Strategic Concepts, LLC, who act as consultants to a public agency like the BHUSD. Based on these decisions, it is highly likely that the jury verdict will be reversed and the case will be retried.



Photo by Woody Clark

BH Planning Commission Stops LA's Overreach

Residential persistence paid off when the Beverly Hills Planning Commission considered a developer's plans for the buildings and land at 332-336 N. Oakhurst Drive. The property is partially in Beverly Hills and partially in the City of Los Angeles, which had already approved the project for demolition.

Prior to an October 8, 2015 hearing, Beverly Hills City staff granted the developer a permit to erect a fence around the Oakhurst properties, in anticipation of Planning Commission approval of the project. The fence installation would have been automatically followed by a demolition permit, but a neighbor was successful in having the Beverly Hills portion of the fence removed, thus blocking demolition.

At the October 8 hearing, the Commission agreed unanimously that the proposed project, a new multi-family residential condominium building with 31 units, did not conform to the General Plan, and rejected the staff recommendation to allow the developer to proceed. The staff's precipitous action demonstrated their routine preference to favor developers' interests above those of neighborhood residents.

The BH Planning Commission is now awaiting new plans from the developer, after which a newly-created Sub-Committee will hear from both the developers and community members, in a public meeting, with ideas and suggestions on how to go forward with these properties.

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The Municipal League of Beverly Hills is a non-profit California corporation founded in 1962 by Beverly Hills residents. Its purposes are to promote good government, residential quality of life and high educational standards in the public schools. Membership is open to all Beverly Hills residents who subscribe to the purposes of the organization.



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