

**CITY COUNCIL
CITY OF WEST HOLLYWOOD
MINUTES
MONDAY, AUGUST 7, 1995
WEST HOLLYWOOD PARK
647 N. SAN VICENTE BOULEVARD**

7:00 P.M. - REGULAR MEETING

CALL TO ORDER: Mayor Heilman called the meeting order at 7:12 p.m.

PLEDGE OF ALLEGIANCE: John Altschul led the Pledge.

ROLL CALL:

PRESENT: Councilmembers Guarriello, Land, Martin, Koretz and Mayor Heilman
ALSO PRESENT: City Manger Brotzman, City Attorney Jenkins, City Clerk Love and
Assistant City Clerk Thompson

REPORT OF CLOSED SESSION AGENDA: City Attorney Jenkins stated that approximately 6:00 p.m. the Mayor called the meeting to order and the City Council by a unanimous vote added the following items to the Closed Session Agenda: Liability Claims of Jones and Sharp; Personnel Evaluation of a Code Enforcement Officer; and Pending Litigation of Bijan v. West Hollywood. City Attorney Jenkins added that the City Council recessed into a Closed Session to discuss the items on the Closed Session Agenda, no items of action to report.

APPROVAL OF AGENDA: Mayor Heilman pulled item 2.K., and hearing no other changes the Agenda was approved by a consensus of the City Council.

PRESENTATIONS: Mayor Heilman proclaimed August 4, 1995 as Jeffrey Day in the City of West Hollywood. The City Council presented plaques to Jeff Richmond for his service on the Planning Commission, and Augustus Higginson for his service on the Cultural Heritage Advisory Board. Councilmember Martin adjourned the meeting in memory of Alfred Rodriguez. Mayor Heilman adjourned the meeting in memory of Nicholas Mark Crumpton.

1. CITIZEN COMMENTS:

FRED PIEGONSKI, WEST HOLLYWOOD, stated he was un-happy with the additional pavement installed and the green space removed at Santa Monica Boulevard and Crescent Heights.

GEORGE MOULTON, LOS ANGELES, REPRESENTING BEVERLY HILLS CAB COMPANY, stated that four cab companies are willing to take over, expand and improve the social service programs offered by Community Taxi if the Council takes action tonight.

REVERAND JOHN VONDOURIS, WEST HOLLYWOOD, in favor of the Committee on Disabilities to be formed as soon as possible, problems with bus passes sold by mail, un-happy about budget cuts for Section 8 housing and HUD.

ROBERT DAVIS, WEST HOLLYWOOD, stated he is against placing a "drop in" center at 7506 Santa Monica Boulevard.

DAN DYDZAK, LOS ANGELES, ATTORNEY FOR BIJAN ENTERPRISES, stated that Bijan Enterprises is involved in a "sale of assets" with Checker Cab, and asked the City Council for a continuance of the public hearing for Bijan.

ANDREW ALENICK, PRESIDENT ACM CONSULTANT FOR BIJAN, asked the City Council for a continuance of the public hearing due to "asset sale" and prohibiting Bijan from operating would be a drastic loss in service.

JEANNE DOBRIN, WEST HOLLYWOOD, stated she saw a crane on Sunset. She commented on comments made by Mr. Koretz in the West Hollywood Independent regarding parking citations.

DONNA VEGA, WEST HOLLYWOOD, stated she is a disabled person and is very angry about the lack of support or action for the Committee on Disabilities.

MARK HEINEMANN, WEST HOLLYWOOD, stated he will be going to court for the second time on Thursday and Rent Stabilization has not helped him with his landlord problem.

CITY MANAGER'S REPORT: None.

FISCAL IMPACT ON CONSENT CALENDAR: Assistant City Clerk Thompson stated that the Fiscal Impact on the August 7, 1995 Consent Calendar as amended is \$931,410. in expenditures and zero potential revenue.

2. CONSENT CALENDAR:

ACTION: Approve items 2A, B, C, D, E, F, G, H, I, J, L, M, N, O, P, Q and R. This is to include the revised staff report for item 2.D. Motion Councilmember Land, seconded by Councilmember Guarriello and unanimously carried.

A. POSTING OF AGENDA: The agenda for the meeting of Monday, August 7, 1995 was posted at City Hall, Plummer Park, the Sheriff's Station and at the West Hollywood Library on Friday, August 4, 1995.

RECOMMENDATION: Receive and file. Approved as part of the Consent Calendar.

B. APPROVAL OF MINUTES:

RECOMMENDATION: Approve the minutes of Monday, July 24, 1995.
Approved as part of the Consent Calendar.

C. WAIVER OF FURTHER READING:

RECOMMENDATION: After the City Attorney has read the title of any ordinance on tonight's agenda, the further reading thereof shall be waived.
Approved as part of the Consent Calendar.

D. CLAIMS ADMINISTRATION:

RECOMMENDATION: Deny the claims of: Barbara A. Cameron, Lyubov Okopnik, City of Los Angeles, USAA subro: Robert J. Ziegler, Lea Anne Bacon Cole, Ricardo Izquierdo, Carola Hausberger, Nicole Jones, Melonoie Sharp and Kathryn Kennedy & Estates of Joseph Gladestone without comment and refer to the City's Claims Adjuster for action. Approved *as amended adding and denying the Claims of Nicole Jones and Melonoie Sharp* as part of the Consent Calendar.

E. DEMAND REGISTER NO. 299, RESOLUTION NO. 95-1471:

RECOMMENDATION: Approve Demand Register No. 299 and adopt Resolution No. 95-1471, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD ALLOWING AND APPROVING FOR PAYMENT DEMANDS PRESENTED ON DEMAND REGISTER NO. 299."
Approved as part of the Consent Calendar.

F. APPROVAL OF MAINTENANCE AGREEMENT LANSYSTEMS:

RECOMMENDATION: (1) Approve the Maintenance Agreement with Lansystems, Inc. in the amount of \$18,238 and authorize the City Manager to execute the agreement; and (2) Authorize the Director of Finance to carry forward fiscal year 1994-95 savings to the fiscal year 1995-96 budget to cover the contract costs. Approved as part of the Consent Calendar.

G. RESIGNATION OF CULTURAL HERITAGE ADVISORY BOARD MEMBER:

RECOMMENDATION: (1) Accept with regret the resignation of William Scott Field. Approved as part of the Consent Calendar.

H. 1995-96 SOCIAL SERVICE CONTRACT EXTENSION FOR LOS ANGELES FREE CLINIC:

RECOMMENDATION: (1) Approve the 1995-96 contract extension for Los Angeles Free Clinic in the amount of \$ 136,329 for General Services contract and in the amount of \$25,110 for the HIV Day Center contract; (2) Authorize staff to negotiate budgets and scopes of services; and (3) Authorize the City Manager to sign the agreement. Approved as part of the Consent Calendar.

- I. REJECTION OF BID FOR DROUGHT TOLERANT DEMONSTRATION GARDEN AT CRESCENT HEIGHTS TRIANGLE AND AUTHORIZATION TO RE-BID THE PROJECT:**
RECOMMENDATION: (1) Reject the bid submitted by Green Coast Construction and Landscaping for the Drought Tolerant Demonstration Garden (C.I.P. #251) at the Crescent Heights Triangle; and (2) Authorize staff to re-bid the project. Approved as part of the Consent Calendar.
- J. NOTICE OF COMPLETION FOR THE SIDEWALK ACCESS RAMP CONSTRUCTION PROJECT (CIP 9507):**
RECOMMENDATION: Accept the work and authorize the: (1) Filing a Notice of Completion by the City Engineer; (2) Final payment to the contractor at the end of the 25 day lien period; and (3) Release of the Performance Bond and Payment Bond. Approved as part of the Consent Calendar.
- K. DESIGNATION OF FIFTEEN MINUTE PARKING SPACES IN WEST HOLLYWOOD PARK PARKING LOT:**
This item was removed and appears under Excluded Consent Calendar.
- L. REQUEST FOR COMMERCIAL LOADING ZONE IN FRONT OF 825 NORTH SAN VICENTE BOULEVARD, WEST HOLLYWOOD:**
RECOMMENDATION: Adopt Resolution No. 95-1473, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DESIGNATING A PORTION OF THE WEST SIDE OF SAN VICENTE BOULEVARD, NORTH OF SANTA MONICA BOULEVARD AS A COMMERCIAL LOADING ZONE." Approved as part of the Consent Calendar.
- M. APPROVE CONTRACT EXTENSION WITH JL ASSOCIATES TO PROVIDE PARKING ENFORCEMENT SERVICES:**
RECOMMENDATION: (1) Approve a one (1) year contract extension with JL Associates to provide parking enforcement services in an amount not to exceed \$710,000.; and (2) Authorize the City Manager to sign the agreement. Approved as part of the Consent Calendar.
- N. PROPOSED 3-WAY STOP CONTROL INTERSECTION AT VISTA STREET AND LEXINGTON AVENUE:**
RECOMMENDATION: (1) Adopt Resolution No. 95-1474, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DESIGNATING THE INTERSECTION OF VISTA STREET AND LEXINGTON AVENUE AS A THREE-WAY STOP CONTROL INTERSECTION;" (2) Direct staff to erect appropriate signs and markings; and (3) Install curb extension at the intersection. Approved as part of the Consent Calendar.

O. PROPOSED 4-WAY STOP CONTROL INTERSECTION AT WESTMOUNT DRIVE AND SHERWOOD DRIVE:

RECOMMENDATION: (1) Adopt Resolution No. 95-1475, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DESIGNATING THE INTERSECTION OF SHERWOOD DRIVE AND WESTMOUNT DRIVE AS A FOUR-WAY STOP CONTROL INTERSECTION;" and (2) Directing staff to erect appropriate signs and markings. Approved as part of the Consent Calendar.

P. PROPOSED RESOLUTION SUPPORTING THE CALIFORNIA POLICE CHIEF'S ASSOCIATION, INC. ADOPTION OF A POSITION PAPER SUPPORTING GREATER HANDGUN REGULATION:

RECOMMENDATION: (1) Adopt Resolution No. 95-1476, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD SUPPORTING THE CALIFORNIA POLICE CHIEFS ASSOCIATION, INC. ADOPTION OF A POSITION PAPER SUPPORTING GREATER HANDGUN REGULATION;" and (2) Direct staff to send a copy of this Resolution to the CPCA, the California Attorney General Lungren, and to the City's Representatives in the State Legislature. Approved as part of the Consent Calendar.

Q. APPROVAL OF PROGRAM SUPPLEMENT NO. 005 OF THE STATE-LOCAL AGREEMENT FOR STATE-SHARE FUNDS ON THE FAIRFAX AVENUE STREET IMPROVEMENT PROJECT (CIP 9503):

RECOMMENDATION: (1) Adopt Resolution No 95-1477, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD APPROVING PROGRAM SUPPLEMENT NO. 005 FOR STATE SHARE FUNDS ON PROJECT SP95-5440(004), FAIRFAX AVENUE IMPROVEMENT PROJECT (CIP 9503);" (2) Authorize the City Manager to sign Program Supplement No. 005 of State-Local Transportation Partnership Program Agreement No. SLPT-5440; and (3) Direct the City Clerk to submit two copies of the signed Agreement and a copy of the resolution to Caltrans' Local Assistance Branch. Approved as part of the Consent Calendar.

R. PROPOSED RESOLUTION IN SUPPORT OF THE MAINTENANCE OF FAMILY PLANNING FUNDING IN THE STATE BUDGET:

RECOMMENDATION: (1) Adopt Resolution No. 95-1478, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD IN SUPPORT OF MAINTAINING ALL FAMILY PLANNING FUNDING IN THE PROPOSED 1995-96 STATE BUDGET;" and (2) Forward copies of this Resolution to the appropriate members of the California State Assembly and Senate and to Governor Pete Wilson. Approved as part of the Consent Calendar.

3. PUBLIC HEARINGS:

A. EXTENSION OF MORATORIUM ON ESTABLISHMENT OF NEW ADULT BUSINESSES IMPOSED BY ORDINANCE NO. 95-441U FOR TEN MONTHS AND FIFTEEN DAYS:

City Attorney Jenkins provided background information as outlined in the staff report dated August 7, 1995. City Attorney Jenkins added that this was an Urgency item and requires a four-fifths vote.

Assistant City Clerk Thompson stated this Public Hearing was published in the *West Hollywood Independent* on July 26, 1995.

Mayor Heilman opened the Public Hearing. No speakers coming forward to testify, Mayor Heilman closed the Public Hearing.

RECOMMENDATION: Adopt Ordinance No. 95-443U; "AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD EXTENDING THE MORATORIUM ON ESTABLISHMENT OF NEW ADULT BUSINESSES AND DECLARING THE URGENCY THEREOF."

Motion Councilmember Guarriello, seconded by Councilmember Land and unanimously carried.

B. IMPLEMENTATION OF REQUIREMENTS OF THE PARKING AND BUSINESS IMPROVEMENT AREA LAW OF 1989 (HOTEL MARKETING BENEFIT ZONE):

Rhonda Sherman, Economic Development Specialist provided background information as outlined in the staff report dated August 7, 1995.

Assistant City Clerk Thompson stated this Public Hearing was published in the *West Hollywood Independent* on July 26, 1995, and all Hotels in the Benefit Zone were mailed notice on July 18, 1995.

The public hearing was opened.

ELAINE MUTCHNIK, BOARD MEMBER CONVENTION AND VISITORS BUREAU, thanked the Council for their support for the Convention and Visitors Bureau. She stated they have established a heightened awareness for the City of West Hollywood and encouraged Council approval.

TONY MELIA, CHAIR OF CONVENTION AND VISITORS BUREAU, he outlined the activities of the Bureau. He thanked the Council for their past support and commended Allyne Winderman and the Economic Development staff.

No other speakers coming forward, Mayor Heilman closed the Public Hearing.

Mayor Heilman commented positively on the "West Hollywood Guide" which is being well received by the residents. He indicated that some of the smaller hotels need economic development help versus the marketing. Mayor Heilman directed Allyne Winderman, Housing and Economic Development Manager to work with the small hotels on Economic Development relief.

Councilmember Martin added that the Convention and Visitors Bureau has improved over the years. He commented positively on the new agreement.

RECOMMENDATION: (1) Adopt Resolution No. 95-1472, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD LEVYING A CHARGE (ASSESSMENT) IN CONNECTION WITH THE WEST HOLLYWOOD BUSINESS IMPROVEMENT AREA FOR FISCAL YEAR 1995-96 AND CONFIRMING THE REPORT OF THE ADVISORY BOARD FOR FISCAL YEAR 1995-96;" and (2) Authorize the City Manager to execute a contract with the West Hollywood Marketing Corporation (DBA West Hollywood Convention and Visitors Bureau) to set forth a scope of activities and budget for the 1995-96 fiscal year.

Motion Councilmember Land, seconded by Mayor Pro Tem Koretz and carried with Councilmember Guarriello voting no.

C. APPEAL OF THE TRANSPORTATION COMMISSION'S DECISION TO DENY A TAXICAB OPERATOR'S LICENSE TO BIJAN ENTERPRISES, INC.:

Assistant City Clerk Thompson stated that the Appellant was mail notice *via Certified Mail* on July 28, 1995 and Notice was posted on July 28, 1995 in all places required by law.

Lucy Dyke, Transportation and Transit Manager, provided information regarding a continuance. She stated the Applicant has had adequate notice for the hearing. Ms. Dyke stated the Applicant has been subject of a revocation hearing before the Transportation Commission and was delayed several times because of "pending transfer of assets." She added that in West Hollywood a transfer of licenses is not permitted, this hearing is for a permit that has been expired since June, 30 1995, and it would not be appropriate to allow Bijan to continue to operate past the expiration date so that they may sell assets to another company when the City does not allow the permit to be sold.

Councilmember Martin stated for clarification that the assets can be sold however, the permits cannot, and any decision made by the Council should not effect the sale of assets.

Mayor Heilman asked the Attorney representing Bijan Enterprises to present to the Council his grounds or arguments why the City Council should allow a continuance.

DAN DYDZAK, LOS ANGELES, ATTORNEY FOR BIJAN ENTERPRISES, stated he had just been substituted as legal council for Bijan. He stated he does not want to go into court, but that will have to be done because of the effect of the Council's decision to make a determination that goes against Bijan, and puts them out of business, which would jeopardize the sale of assets. He added there has been no lapse in insurance coverage, and a continuance would not jeopardize the City. He stated that Checker has a good reputation and Bijan Enterprises will not have management control of Checker. If a continuance is not granted his client will have no choice but to go into court tomorrow and seek a temporary restraining order.

Councilmember Heilman clarified Mr. Dydzak as Attorney of record, and stated he did represent Bijan in earlier Commission Hearings.

Ms. Dyke recapped the issues: the accusation that Mr. Dydzak was new Council, he has represented Bijan at the hearings; she stated this is a hearing on the record, and the applicant has had a complete record; this is about arguments if the record supports the Commission findings; she is unclear about the sale of "telephone lines" and what effect the hearing would have on the "sale of telephone lines." Staff is currently processing an application from LA Checker for more vehicles, that Hearing will be before the Commission at the earliest possible time.

Councilmember Martin asked Mr. Dydzak if the reason he is asking for the 30 day continuance so they may sell the assets, or if they are interested in renewing the permit.

Mr. Dydzak responded that they are only interested in 30 days to sell the assets. He added that the phone lines and good will are the assets, and if they do not get a continuance, they go out of business, and the deal with Checker will fall apart.

Ms. Dyke stated that the earliest the Commission would be able to hear the new application would be September, the City has received an application but it is not complete.

Mr. Dydzak stated that Ms. Dyke has rushed Bijan through the entire appeal process.

Mayor Heilman clarified that Bijan's license expired June 30, 1995 and they are currently operating without a license, and they are continuing to operate during

this period without a license. He stated that the issue before the Council is whether or not, to grant them a new license.

Mr. Dydzak indicated that no one was present from Checker Cab to indicate a sale will go through, but they would be happy to provide the Council with the buy/sale agreement, which he does not have here with him.

City Attorney Jenkins stated that the code allows a "stay" during the pendency of an appeal. He added if there is no appeal pending there is no "stay." They have 10 days under the code in which to file an appeal of a decision of the Transportation Commission. During that 10 day period if they do not file the appeal, they have no "stay" of the Commission's decision which takes effect immediately upon its adoption. Accordingly if they waited 10 days to file the appeal, they would have to cease their operation, because the license would have been denied. Ms. Dyke informed them that it was necessary for them to get on file an appeal in order to trigger the "stay" or they would have to cease their operations. They were told that they did not have to produce all of the written grounds or arguments for the appeal at that time, that as long as they filed a one paragraph or one sentence appeal, that would trigger the "stay" and they would be entitled to file any arguments or grounds that they wish in writing to support and that the filing of that information would relate back in time to the date they filed the notice of appeal. City Attorney Jenkins says this has been characterized as "rushing" them into the appeal.

Mayor Heilman asked if there was interest in continuing the public hearing.

Mayor Pro Tem Koretz stated that although staff acted within the law about the notification process it would probably have been best to give a little more notice. Secondly, he stated the situation is currently a lose/lose situation and would rather see a 30 day continuance to allow the sale.

Councilmember Land indicated that they had adequate notice, and they should have known what the process is. She added that this Company in the past has informed the City they were selling its assets, and it never happened. She is concerned that this is a company that has not provided the service that we as a community have asked for, the Commission has made findings to support that, and after reading the record she thinks action should be taken.

Councilmember Martin stated he would like to save the City money by granting a continuance, however, the arguments do not support granting a continuance, and would like to go forward tonight.

Mayor Heilman stated he would normally be more agreeable to grant a continuance but it is difficult for him to assess the request given the record before

him, including misrepresentation of Mr. Dydzak, and that this is not the first time the company has used "sale of assets" as an argument. He added that things that have happened in terms of service to the public is not acceptable including lawsuits not being paid in a timely manner, bad checks, avoiding judgments. This is not the kind of cab company we want to operate in the City for 30 or 60 days.

ACTION: Councilmember Martin moved to deny the request for a continuance, seconded by Councilmember Guarriello and carried with Mayor Pro Tem Koretz voting no.

Mayor Heilman stated that this is an "on the record" appeal, the Council is limited to the record before it, to determine if there was sufficient evidence before the Transportation Commission to deny the Applicant a license.

Lucy Dyke, Transportation and Transit Manager, provided background information as outlined in the staff report dated August 7, 1995.

Mayor Heilman asked Ms. Dyke about the record of arrests of cab drivers in the City of Los Angeles for operating without a permit, and noted it would be unfair for the Council to consider arrests without records of conviction.

Ms. Dyke reported she received a report from George Katrell, Chief Transportation Investigator, of the City of Los Angeles, and provided a list of the arrests and their dispositions: eight were found guilty, one was scheduled for jury, and one scheduled with the Court and two records could not be located at the time of request.

The public hearing was opened.

Mayor Heilman noted this is a hearing on the record and there were several speaker slips turned in and asked for clarification from City Attorney Jenkins.

City Attorney Jenkins stated that he would recommend to ask the representative for Bijan whether he needs to introduce any new evidence that with due diligence could not have been introduced before the Transportation Commission, if they do the Council will need to hear why it could not have been submitted; if they do not wish to introduce new evidence then they could go into their argument and they could divide their argument among themselves, but the hearing is not open to general members of the public who had an opportunity to testify before the Transportation Commission.

Mayor Heilman asked Mr. Dydzak if he had new evidence to submit.

DAN DYDZAK, ATTORNEY FOR BIJAN ENTERPRISES, stated he has not had sufficient time to prepare, and he considers this a lack of due process. He stated that the evidentiary issues have been addressed at the Transportation Commission. He indicated that the comments made in the report are based on hearsay and the Council should be aware of that. He does not have any new evidence to present. Mr. Dydzak indicated all speakers are part of his appeal presentation.

MR. MIKE MILLER, ABI INSURANCE, stated he attended the Transportation Commission and feels that the information he submitted to the Commission was sufficient to qualify for their insurance. He stated there was no lapse in coverage and it is in force.

Mayor Heilman asked, about a Notice of Cancellation which we received from Empire indicating insurance was terminated.

Mr. Miller stated the Notice of Cancellation was sent by Empire and was effective April 2 or 3. The City received a notice from the premium finance company which stated the cancellation date was March 10. The City acted properly but had someone called Empire Marine the true date of cancellation would have been the April 2nd date. Bijan in the meantime attempted to go out and replace that coverage and there was duplication of coverage for 2 weeks. It wasn't until March 15th before they could get the insurance bound and sent. He indicated he took over the management of the insurance in March and could not address the previous activity. When the City reacted to the March 10 cancellation date, the cab company went out and solicited insurance from two other brokers, one went to the Assigned Risk plan and one went to Progressive.

GARY ELBERT, VENICE, driver for Community Taxi for the last eight months, stated he does not know all the politics and stated it is a good company to drive for. He indicated that Council's action will essentially put 64 lease operators out of business. He stated cab drivers are independent contractors.

ANDREW ALENICK, stated Bijan Enterprises was always insured. He addressed the comments by Councilmember Land regarding the sale of Bijan to Bell Cab which never happened. He stated they tried hard, and it didn't work. The new company has committed itself in writing to an asset sale. He asked the Council to modify the license for 60 days to allow this company to survive so the sale can go through. He added that there are ways for this asset sale to proceed, if the Transportation Department would cooperate, but unfortunately over the past few years there has not been much cooperation.

Councilmember Martin asked if a modified license was granted would Bijan drop all litigation without prejudice.

Mr. Alenick responded absolutely and stated they would be willing to sign an agreement to that effect. Bijan Enterprises will absolutely guarantee that their only goal is to liquidate, and they have no intention of remaining in business here in West Hollywood.

Councilmember Land asked what happens to the 64 independent contractors when the sale goes through.

Mr. Alenick responded that they will work for Checker.

MAHMMOD BABAEIAN, BURBANK, stated they have tried to respond to all issues of concern of the City Council. He clarified the insurance issue to the City Council from his perspective. Mr. Babaeian stated they have done everything they can, to provide the kind of service the City needs, with regards to the suspension, the radios were shut off, and all the drivers were informed that the Company was under suspension, the driver that was stopped was a "flag down," Management did all they could do to cooperate with the City and the suspension.

Mayor Heilman asked Mr. Babaeian to clarify his position with the Company, and asked if he had signed any documents as President of the company.

Mr. Babaeian responded he is a consultant to this family businesses, his brother is Hamid Babaeian, he has voluntary given his time to this business, he has not signed any documents.

Ms. Dyke indicated that some insurance documents were sign by somebody with the same last name, but it was not Mahmood Babaeian.

Mayor Heilman asked if he is actively involved in the company, and if he previously was a part of Century Transit.

Mr. Babaeian responded that he has limited responsibility. Mr. Babaeian indicated he was a principal but not an owner of Century Transit.

Mayor Heilman indicated he has a personal concern because Mr. Babaeian was a principal of a company which filed bankruptcy with \$2 million in liabilities and is now involved in this company, and this has some bearing on the fiscal responsibility on this company.

Mr. Babaeian closed by saying for the size company they have done a lot and could do more, but they did deliver amount everything that was promised. He urges the Council tonight to license Bijan, maybe for a temporary time, with full probation,

until the completion of the asset sale to Checker. Granting a 30 day license is not going to put anybody in jeopardy.

Ms. Dyke clarified issues regarding some documents on page 18 to 21 and page 23 and the discrepancies between all the documents and the owners of the various companies. She added that a driver was arrested, the City was told that this driver would no longer be working with the company, then the company re-hired that driver and did not notify the City. Ms. Dyke stated that in the Resolution passed by the Commission it does not state the insurance was lapsed, however it does indicate that Bijan did fail to make timely payment to its insurance company, and that Bijan actually testified that it did happen, and the insurance was not provided independently but paid and owned by Bell Cab co-op, and that Bijan has failed to provide clear insurance information for parties wanting to file claims, and provided false, fraudulent, and misleading certificates to the City.

City Attorney Jenkins stated that ordinarily he would make a few comments once the hearing is closed. He indicated he would like to make comments now so Mr. Dydzak could respond. This is an appeal on the record. What that means is the City Council reviews the entire record of the proceedings of the Transportation Commission to support the decision of the Commission, as reflected in the findings made by the Commission in its resolution. The entirety of the record of the Transportation Commission is before you and the focus is whether or not the Commission had sufficient evidence to justify the denial of the license. This hearing was complicated by the request for the continuation. Bijan requested a continuation to give it addition time to sell and liquidate itself. There is no legal basis for this request and it is unrelated to the appeal and unrelated to the matters brought before the Commission. The second ground that has been alleged for a continuance is denial of due process. Simply stating does not make it true or correct. They have alleged due process violation, they must do more than just allege it, and they cannot create their own due process problems by coming to the appeal hearing un-prepared. In Mr. Dydzak's declaration which was filed along with his complaint he states he was personally involved with plaintiff for two years, and represented the plaintiff on several occasions and have witnessed the ongoing struggle with the City of West Hollywood, the Transportation Commission, Ms. Lucy Dyke, Division Manager, and Michael Jenkins, City Attorney. Consequently, it seems Mr. Dydzak is very familiar with Bijan and its current predicament. There is no explanation why Mr. Lehman is no longer involved and it appears to be a matter of choice by Bijan. He indicates in his own declaration he spent one day to prepare a 27 page document which refutes on a point by point basis the various findings of the Transportation Commission's Resolution. Finally, he noted that all the time requirements related to notice were fully complied with. It clearly appears that there is not substance to the mere allegation of a denial of due process.

MR DIAZAK, ATTORNEY, indicated he is not going to engage in a lengthy discussion regarding his comments in his declaration. This issue is a question of fairness and equity. What the Council has the discretion to do is to grant a provisional license to allow the sale of assets to go through. This is a question of fairness to allow the company to complete the sale of the company. Mr. Jenkins is probably correct that the City Council is not legally obligated to grant the continuance. He addressed the issue of documents which Ms. Dyke brought forth which were questionable. He indicated he feels there is a basis for the litigation. Mr. Alenick stated for the record that Bijan does not wish to go through litigation and are willing to drop all litigation with prejudice if they are granted the additional 30-day or 60 day period.

Mayor Heilman indicated he will close the public hearing.

Mayor Pro Tem Koretz asked that the public hearing remain open to allow for questions.

Mayor Heilman stated he will leave the public hearing open.

City Attorney Jenkins indicated there are two ways to address this issue. First would be to continue this hearing which would allow Bijan to continue to operate until such time the Council made its decision; second would be to grant a license for a limit period subject to certain conditions that the license would expire whether a sale of assets took place or not with the delivery of a dismissal of litigation with prejudice and a release of liability, be provided to the City.

Councilmember Martin stated he would like to confirm the Transportation Commission's denial and grant a 30-day provisional license with the provisions: that by 4:30 tomorrow a dismissal with prejudice be delivered, duly executed agreement not to appeal, pay all outstanding parking tickets to City of West Hollywood, and pay outstanding judgment due from small claims court to Phillip Allen.

Mayor Heilman asked that we take a break here and ask that our City Attorney meet with their Attorney and staff to see if a settlement can be worked out, if the entire Council approved.

Joan English, Transportation Director, stated that Mr. Alenick indicated their most important asset is their telephone line and therefore the time frame could be shorter.

Councilmember Land stated that she feels the tone of some of the appellants is offensive. She feels that this company continually does not meet their obligations and they have a history of doing things their own way.

Mayor Heilman asked the City Attorney to meet with the staff and the applicant.

The City Council recessed at 9:55 p.m.

The City Council reconvened at 10:15 p.m, and by consensus of the Council moved to item 4A, until the City Attorney and the Applicant return with a proposed settlement.

COUNCILMEMBER COMMENTS: None.

4. UNFINISHED BUSINESS:

A. REQUEST FOR STOP CONTROLS AT THE INTERSECTIONS OF PHYLLIS AVENUE AND CORY AVENUE AND PHYLLIS AVENUE AND CAROL DRIVE:

Lucy Dyke, Transportation and Transit Manger, provided background information as outlined in the staff report dated August 7, 1995.

ERIC HUGHES, WEST HOLLYWOOD, stated he is concerned that there should be a stop sign for both directions at Phyllis Drive or at the least speed bumps.

Mayor Heilman asked why there is not a stop sign recommended for that corner.

Ms. Dyke indicated that the configuration is unusual and was originally recommended. The Luckmans were opposed to it as it was so close to their driveway and property.

Mayor Heilman clarified that this recommendation is a compromise with Mr. Luckman. Therefore, if this is only for six months we could review and consider the stop sign at that time.

RECOMMENDATION: Adopt Resolution 95-1479, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DESIGNATING THE INTERSECTION OF PHYLLIS AVENUE AT CORY DRIVE AND PHYLLIS AVENUE AT CAROL DRIVE AS STOP CONTROLLED AND REQUESTING PERMISSION FOR APPROPRIATE SIGNAGE TO BE INSTALLED IN THE CITY OF BEVERLY HILLS." 2) directed staff to return in 6 months.

Councilmember Martin stated he feels the recommendation is flawed by not putting in the south bound stop control at Cory.

Motion Mayor Pro Tem Koretz to approve for a six month trial period. Seconded by Councilmember Land and unanimously carried.

5. NEW BUSINESS:

A. DESIGNATION OF VOTING DELEGATE AND VOTING ALTERNATE FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE, OCTOBER 22 THROUGH OCTOBER 25, 1995 IN SAN FRANCISCO:

Mayor Heilman provided background information as outlined in the staff reported dated August 7, 1995, and opened the floor for nominations.

RECOMMENDATION: (1) Designate Abbe Land as Voting Delegate and Paul Brotzman, Alternate for the League of California Cities Annual Conference in San Francisco; and (2) Direct the City Clerk to send Certification of action.

Approved by consensus of the City Council.

B. COMMISSION AND BOARD APPOINTMENTS:

Mayor Heilman provided background information as outlined in the staff report dated August 7, 1995.

ACTION: Councilmember Land appointed Tai Glenn to the vacancy of the Rent Stabilization Commission for a term ending May 31, 1997. Mayor Heilman requested that his appointment to the Planning Commission be tabled until the next agenda on August 21.

EXCLUDED CONSENT CALENDAR:

2.K. DESIGNATION OF FIFTEEN MINUTE PARKING SPACES IN WEST HOLLYWOOD PARK PARKING LOT:

Mr. Don Korotsky provided background information as outlined in the staff report dated August 7, 1995.

Mayor Heilman commented that the Council Offices have heard a stream of complaints he feels that a detailed comprehensive plan is needed. He would like to delay action on this item and give direction to staff.

Councilmember Martin stated some specific issues related to the parking at West Hollywood Park, staff parking spaces, CATV staff parking, and garbage storage.

Mayor Pro Tem Koretz stated that the staff spots should not be the ones closest to the facility. He also concurred with most of the comments by Councilmember Martin.

Councilmember Land directed staff to investigate enforcement, and Park use, while considering this plan.

The Council directed the staff to return when they have addressed all the issues raised.

CITIZEN COMMENTS: None.

6. LEGISLATIVE:

A. PROPOSED ORDINANCE AMENDING THE PAY TELEPHONE REGULATIONS:

Jim Sweeny, Deputy to Councilmember Guarriello, provided background information as outlined in the staff reported dated August 7, 1995.

RECOMMENDATION: Introduce on first reading Ordinance No. 95-444, "AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD AMENDING THE CITY'S PAY TELEPHONE REGULATION ORDINANCE AND AMENDING THE WEST HOLLYWOOD MUNICIPAL CODE."

Motion Mayor Pro Tem Koretz, seconded by Councilmember Land and unanimously carried.

COUNCILMEMBER COMMENTS:

Councilmember Land commended public safety staff for the work they did on National Night Out.

Councilmember Guarriello thanked Rosalyn Krauss and Stan Lothridge for their hard work and block event for National Night Out.

Mayor Heilman stated the positive comments he heard concerning National Night Out were directed at the work being done by the public safety staff and Public Safety Commission and the positive effect they are having.

Councilmember Martin addressed comments relative to the Rent Stabilization legislation. Councilmember Land added that notices are being mailed to residents which explains the legislation.

Councilmember Martin asked that staff be directed to bring back a discussion on the expansion of the Fine Arts Board. He also commended Lucy Dyke and Janis Rhodes for the professional meeting held relative to Cedars Sinai parking.

The City Council recessed at 10:45 p.m. to Closed Session to discuss pending litigation of Bijan v. City of West Hollywood pursuant to Government Code Section 54956.9(a).

The City Council reconvened at 11:05 p.m, and continued Item 3.C.


Mayor Heilman announced by a consensus of the City Council the Public Hearing of the Appeal of the Transportation Commission by Bijan Enterprises will be continued to Monday, August 21, 1995.

City Attorney Jenkins asked Mr. Dydzak to state for the record that he agrees that this matter be continued for two weeks, that the court appearance that he gave notice for today, that is scheduled to tomorrow morning will be taken off calendar, and no other action will be taken relative to the complaint until we come back in two weeks time at the next regular meeting and resolve this issue one way or another.

DAN DIAZAK, ATTORNEY FOR BIJAN ENTERPRISES, stated it was so stipulated.

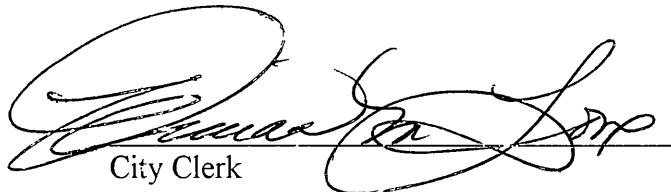
ADJOURNMENT: The City Council adjourned at 11:07 p.m., in memory of Nicholas Mark Crumpton and Albert Rodriquez and to their next regular meeting on Monday, August 21, 1995 at 7:00 P.M. at West Hollywood Park, 647 N. San Vicente Boulevard.

APPROVED BY MOTION OF THE CITY COUNCIL THIS 21st DAY OF AUGUST, 1995.



MAYOR

ATTEST:



City Clerk