

**MINUTES
CITY COUNCIL MEETING
DECEMBER 11, 1989
WEST HOLLYWOOD PARK
647 N. SAN VICENTE BOULEVARD
7:00 P.M.**

CALL TO ORDER: Mayor Land called the meeting to order at 7:11 p.m..

PLEDGE OF ALLEGIANCE: The Pledge was led by Captain Burgess.

ROLL CALL: PRESENT: Albert, Heilman, Koretz, Mayor Land
(Schulte arrived at 7:20 p.m.)
ALSO PRESENT: City Attorney Jenkins

APPROVAL OF AGENDA: ACTION: Move Item 7 forward, between Items 2 and 3, and approve the agenda as amended. Motion Albert second Koretz. Hearing no objection it was so ordered.

PROCLAMATION: Supporting the United Farm Workers Grape Boycott.

1. CITY MANAGER'S REPORT: This time has been set aside for the City Manager to report to the City Council on any or all matters of importance. There was no report.

2. CONSENT CALENDAR: The following routine matters were acted upon by one motion to approve with the consent of the Council.

a. Posting of Agenda: The agenda for the meeting of December 11, 1989, was posted at City Hall, Plummer Park, the West Hollywood Library and the Sheriff's Station on Thursday, December 7, 1989.

ACTION: Receive and file.

Approved as part of the Consent Calendar prior to the arrival of Councilmember Schulte.

b. Extension of Contract for Taxi-Coupon Service:

ACTION: Extend the contract with City of Los Angeles to June 30, 1990 and increase the maximum payment by West Hollywood under this contract by \$260,472 for the additional six months.

Approved as part of the Consent Calendar prior to the arrival of Councilmember Schulte.

c. Authorization to Sign Agreement with Columbia Pictures Television: In order for the City to receive a copy of an episode of Designing Women (subject: pornographic

ORIGINAL

materials and First Amendment Rights), we must sign an agreement with Columbia Pictures Television regarding non-exclusive licensing and indemnification. ACTION: To authorize the Mayor to sign an agreement with Columbia Pictures Television so that the City can have a copy of this tape to be used for educational purposes for West Hollywood constituents.

Approved as part of the Consent Calendar prior to the arrival of Councilmember Schulte.

d. Assignment of Contract with Alternative Living for the Aging to Gardner Apartments Limited Partners: ACTION: To approve assignment of the regulatory agreement from Alternative Living for the Aging, Inc. to Gardner Apartments Limited Partners.

Approved as part of the Consent Calendar prior to the arrival of Councilmember Schulte.

HEARINGS

3. HEARING ON APPEAL - MASON ENTERPRISES DBA CIRCUS OF BOOKS BOOKSTORE, 8320 SANTA MONICA BLVD., WEST HOLLYWOOD: Tom Hamlett reported that this is an appeal of the conditions of approval decided upon by the Business License Commission for the renewal of an existing Bookstore business license. On November 20, 1989, the Council decided to 1) accept all evidence, exhibits and a full and true transcript of record of the hearing before the Business License Commission held on September 5 and 19; 2) grant a hearing on appeal and set Dec. 22 as the hearing date; 3) accept any new evidence and/or testimony **only** if such evidence or testimony could not have been presented to the Business License Commission in the course of the renewal hearing, because such evidence or testimony was not available at the time of the hearing. The appellant has submitted a notice of their intent to present limited additional new evidence.

Mike Jenkins, City Attorney stated that the Council chose to hear this appeal on the record, meaning that it is not a de novo hearing. That the Council is going to rely on making its decision on the record of the proceedings before the Business License Commission and is going to determine whether or not there is substantial evidence in the record to justify sustaining the actions of the Business License Commission or whether the Commission's decision should be modified or reversed. The record that has been provided to the Council consists of the transcript of the proceedings before the Commission as well as all documentary evidence that was presented to the Commission, as well as the letter of appeal of the business and a subsequent letter of November 29, 1989, requesting the introduction of additional evidence. All of the documentary evidence that makes up the record is deemed to be a part of the record of the proceedings before the

City Council and is hereby made part of the record of this proceeding. The first issue that the City Council should consider is whether or not to accept new evidence. After the City Council makes that determination, it would then proceed either to hear or not to hear the evidence and then to hear arguments on the basis of the record. In the past the City Council has established a precedent of only hearing new evidence that could not otherwise have been presented to the Business License Commission, and it has placed the burden on the proposed presenter of that new evidence to explain why the evidence could not have been presented to the Business License Commission and why it should be submitted to the City Council in what is otherwise a proceeding on the basis of the record. A letter has been transmitted to the City dated November 29, 1989, from the attorney for the appellant, indicating a desire to present new evidence as to new measures that have been taken by the appellants, since the hearings before the Business License Commission, to alleviate the problems in the neighborhood. They have also asked to submit new evidence on the measures the City has taken in the area of law enforcement, and finally, they have requested the opportunity to present a petition of persons who are supporting the appellant in this proceeding. This would be the appropriate time for the City Council to discuss whether or not it wishes to hear this new evidence. The Council may wish to allow the attorney for the appellant a brief opportunity to argue in favor of submitting additional evidence. I have reviewed the request. It does not contain any particular explanation as to why the evidence could not have been submitted previously, why the measures that have been taken since the Business License Commission proceedings could not have been taken before that proceeding in light of the appellant's knowledge of problems in the neighborhood for a considerable period of time. It also does not contain any indication why the petitions could not have been obtained prior to the Business License proceeding, and, finally, it is not clear to me that evidence of City measures in the allocation of City law enforcement resources is particularly relevant one way or the other. If it is perceived that the business is a cause of the problems that gave rise to the proceedings to begin with, the Council may, however, have concerns and may wish to hear anything additional. I would say, if the Council desires to accept any of the proposed new evidence, that it would be required to consider evidence from other interested parties, and that, therefore, the hearing would have to be open to a limited extent to consider evidence on both sides of the issue.

At this point in time the Council gave Mark Lehman, attorney for the appellant, a short time to argue why the evidence should be admitted.

Lehman: I think the issue here is what would the proceedings

actually taking place before the Business License Commission and the issue at that point in time was renewal of their license. None of these particular items that have subsequently been accomplished by the appellant, who relative to the existing conditions of their license, back there their license had no such conditions, I don't think they were relevant at that point necessarily to the issue. I'm not saying that they couldn't have done some of these measures earlier, and maybe if they were a little bit more savvy as far as community issues, they might have done that. But, I think that clearly here they were not necessarily an issue and certainly not _____ issue per se, nor had the City requested them to take these measures. In fact, what I want to show tonight, actually contrary to what you suppose it to be, is that these measures although they affect our store, do not affect the problem that exists in the area surrounding the store. And that's frankly why I wanted to point them out, to show we had done basically everything that we think that we can in respect to our own premises and our own business, but that those measures will not effect the problem that is ongoing in the community, the neighborhood, the parking lot or the streets that are not on our property. That's really the issue here.

Councilmember Schulte: So, let me just.... if I can be clear. You want to persuade us that on the basis of the merits of the measures the book store has taken, not necessarily in terms of what the City has done in conjunction with this.

Lehman: Well, the bottom line, and we all know this, is this has been discussed by the City Council. Not many measures yet have been instituted by the City. We've talked a lot, and we've had a program developed, but they haven't been instituted, so obviously I can't - in fact, what I was saying in my letter, Mike, was just I wanted to raise those issues which I assume the Council probably will discuss anyway, _____, I just was referring to that fact, there is no evidence really, except the fact that those measures have not yet been instituted with the exception, to some limited degree, of partial street closure on a number of occasions.

Schulte: Okay, Mark, I'm unclear then. Are you saying that the measures that the book store has taken has not made a difference and, therefore, is not relevant?

Lehman: They have made a limited and, I think, a positive effect on our business and the problem immediately surrounding the vicinity of our business, but, the point I am making is what we are doing within the store and the store's operations will not, can not, substantially correct the problem that exists that is a community-wide problem. Yes,

we've had a positive effect in our own store and on our own property, but we don't think that will definitively ameliorate the problem that exists outside of our property.

Councilmember Heilman: May I clarify something with you? You said the City measures that had been proposed or discussed, had not been taken?

Lehman: That is correct.

Heilman: Okay, so in essence there is not really nothing to introduce into evidence on that?

Lehman: That is correct.

Heilman: Okay, so for me, that answers the question about the petitions; that answers the question about the City measures, the only thing outstanding is the measures that you have taken, the store itself has taken.

Lehman: That is correct and frankly I hope the measures can be discussed probably in two minutes - it's just a matter of just making you aware of various things that they have done within and outside the store.

Heilman: So, can you discuss those in your argument?

Lehman: Yes, I can.

Heilman: Okay. I don't think we really need sworn testimony.

Lehman: No, I don't believe sworn testimony is necessary. I could just discuss that as one of my arguments.

Heilman: Is that acceptable with everyone?

(All councilmembers noted approval.)

Mayor Land announced that the Council would not take new testimony and would hear this case on the record. The appellant was then granted 10 minutes to make a presentation to the Council. The speakers being Mark Lehman and the owner, Karen Mason.

City Attorney, Mike Jenkins: Something that is referred to in the letter of appeal and something that we did advise the Business License Commission and something that I want you to be aware of, and that is that, because this is a business that sells books and not a business that sells fruits and vegetables, there is a constitutional implication here. This constitutional implication was addressed before the Business License Commission. We advised the Commission at that time

that if it found that the evidence supported the conclusion that the book store was, in fact, a contributing cause of the problem, that it had to devise the most narrowly tailored and least restrictive means of resolving the problem in the imposition of conditions on the bookstore. The Commission felt that nothing short of a closure during the late night/early morning hours would solve this particular problem despite the other measures that were either imposed or proposed to be imposed and that, therefore, in its estimation, the closure was, in fact, the least restrictive and absolutely most necessary and narrowly tailored means of solving this particular problem. In making your motion and in considering whether to affirm or to modify the Commission's actions, I would ask that you keep that burden in mind and be specific about that in view of the evidence that is contained in the record.

Councilmember Heilman: I agree with Mike, there certainly are constitutional limitations on us and I agree with the Business License Commission that nothing less than the closure during the morning hours will address the problem. As the record reflects, there is ample evidence that throughout the morning hours there are people who are coming from the book store who are engaging in activities in the neighborhood that are illegal - there is evidence of urination/defecation on lawns, on private property; there is evidence of sexual activity taking place on public and private property - all of that activity caused, in part, by patrons of the book store. I think we can meet the constitutional requirements that we have to, and I don't think any of us have gone into this with any less than that concern in mind.

ACTION: That the City Council uphold the Business License Commission decision and renew the existing Bookstore business license for Circus of Books with the following conditions: 1) That Circus of Books' hours of operation be limited to the hours of 6 a.m. to 2 a.m. seven days a week; 2) That Circus of Books remove the two pay phones located at the front of the building; 3) That Circus of Books keep the facade and sidewalk surrounding the store clean and free of litter; 4) delete the requirement for a full time security officer and modify to require the officer from 6:30 p.m. to 2:30 p.m. 5) a six (6) months review by the Business License Commission. This action will take effect immediately and staff will bring back a resolution for the meeting of January 2, 1990.

AYES: Albert, Heilman, Schulte, Koretz, Mayor Land

NOES: None

ABSTAIN: None

ABSENT: None

Councilmember Heilman requested that staff provide the owner with information on the City's facade improvement program.

4. PUBLIC HEARING - CAVENDISH CLUB - REQUEST TO EXPAND BUSINESS LICENSE: City Attorney Jenkins reported that a proposal had been received from the Cavendish Club to expand their current business license to operate as a full-fledged card club and to amend the various relevant City Ordinances so as to permit the playing of all card games legal within the State of California. The Councilmembers have reviewed the proposal and it has been made available for public review prior to the hearing tonight. He further reported on the legal requirements under State law including the necessity for placing this item on the ballot if the Council so chooses. City Clerk reported that this hearing was advertised in the Post Newspaper in a display ad and posted in the three required places, plus at City Hall. Mayor Land opened the public hearing and announced that she was in receipt of a petition against any form of gambling in the City containing approximately 110 signatures of West Hollywood residents, and a letter of objection to the proposal from City National Bank. At this point in time the following persons came forward to speak in favor of the proposal:

Bruce Decker, Attorney for the Cavendish Club
Jerry Gould, Partner and General Manager
Maxine Sonnenburg, West Hollywood
Mallory Freeman, Shanti
Lee Fernandez, West Hollywood
Rick Reidy, West Hollywood
Daniel Warner, Los Angeles
Marla Troncoso, Los Angeles
David Menhes, Los Angeles
William Eisentraut, Los Angeles
Harry E. Weiss, West Hollywood
Martin Gordon, Los Angeles
Robert Davies, West Hollywood
Richard Dear, Los Angeles
F. Peter Freed, West Hollywood

The following persons addressed the Council in favor of further study or placement of proposal on the ballot:

Tom Larkin, West Hollywood
Budd Kops, West Hollywood
Paul Morgan Fredrix, West Hollywood
Steve Smith, West Hollywood
Norman Chramoff, West Hollywood

The following persons addressed the Council in opposition to the proposal:

Diana Brueggemann, for Councilman Mike Woo, Los Angeles
Eli N. Feinberg, West Hollywood
Harriet Segal, West Hollywood

Rodney F. Williams, West Hollywood
Gary Fleishman, West Hollywood
Anne Ceazan, West Hollywood
David Weissfeld, West Hollywood
Sander Stone, West Hollywood
Barbara Lazaroff, Spago, West Hollywood
Wolfgang Puck, Spago, West Hollywood
Joan Satt, Los Angeles
Dr. Jerry Tepperman, Los Angeles (expert on pathological gambling)
Jane Lancet, West Hollywood
Maurice Chez, West Hollywood
Seymour Fabrick, West Hollywood
Allan A. Sigel, Los Angeles
Shelly Balloon, Los Angeles
Gerry Sinclair, West Hollywood
Dan Markowitz, West Hollywood
Mildred Younger, Beverly Hills
Irving Schoenfeld, Los Angeles
Rev. John W. Von Douris, West Hollywood
Danny Arnold, West Hollywood
Villis Randall, Los Angeles
Trish Roth, Beverly Hills
Rev. Colleen Walsh
Sibyl Zaden, West Hollywood
Gloria Vassy, West Hollywood
Jeanne Dobrin, West Hollywood
David Behr, West Hollywood
Florence Delbarian, West Hollywood
Francesca Daniels, West Hollywood
Babette Lang, West Hollywood
John Altschul, West Hollywood

A report was given by the Sheriffs Department and Mr. Decker, Attorney for the Cavendish Club gave his rebuttal.

Mayor Land called a recess at 10:00 P.M.

The meeting was reconvened at 10:15 P.M.

Council Discussion was held concerning the lack of community support, present problems that need to be handled, the Councils obligation to hear the proposal and the proponents ability to use the initiative process.

Mayor Land closed the public hearing.

ACTION: Deny the request to place on the ballot. Motion Heilman second Albert.

AYES: Albert, Heilman, Schulte, Koretz, Mayor Land

NOES: None

Motion carried.

CITIZEN COMMENTS: This time has been set aside for the public to address the Council on any item of interest except for the Public Hearings. The following persons came forward to address the Council:

Scott Forbes, Studio One, requested that the Council allow the Clubs in the City to stay open until 3:00 A.M., with liquor consumption to stop at 2:00 A.M., on New Years Eve.
Jeanne Dobrin, West Hollywood - Ashkenazy problems.

COUNCILMEMBERS COMMENTS: This time has been set aside for the Councilmembers to direct comments to staff and/or the public on any and all matters of interest.
Councilmember Schulte asked Lt. Stevens about the Sheriffs patrols on the East end of the City and at Plummer Park. Lt. Stevens stated that there is a deputy in the park from 4:00 P.M. to midnight every evening and in addition there is foot patrol from La Jolla east.

Councilmember Koretz asked about enforcement on shopping carts and sleeping in the parks.

ACTION: Place an urgency item on the agenda concerning bar closing time on New Years Eve as it came up after the required posting of the agenda. Motion Koretz second Schulte.

AYES: Albert, Heilman, Schulte, Koretz

NOES: Mayor Land

Motion carried.

ACTION: Allow the nightclubs to stay open until 3:00 A.M. on New Years Eve, following previous procedures. Motion Koretz second Schulte. At this time Jeanne Dobrin spoke against the motion and Alex Pittman spoke in favor.

AYES: Albert, Heilman, Schulte, Koretz

NOES: Mayor Land

Motion carried.

Councilmember Koretz requested that staff look into the vandalism in Permit Parking District No. 5 since the tow-away provisions have been enacted.

UNFINISHED BUSINESS

5. APPOINTMENT OF GREATER WEST HOLLYWOOD FOOD COALITION TASK FORCE: The staff report was given by Paul Koretz. The following persons came forward to address the Council:

Mike Radcliffe, West Hollywood

Rev. John W. Von Douris, West Hollywood

David Enos, West Hollywood

Tad Bright, West Hollywood

Ron Goins, West Hollywood

Edward Riney, West Hollywood

Mike Dean, Food Coalition
Rev. Colleen Walsh

ACTION: That Council approve the recommendations which are set forth in the staff report with regard to the following: appointment of a five-member committee to select a cross-section from the community to serve on a 17-member Ad Hoc Food Coalition Task Force; composition of the Task Force; programatic elements to minimize the impacts of the Food Coalition Program; developing alternative sites; developing broader community support for a food program; direction that Task Force be selected no later than Dec. 15, with final recommendations due back to Council no later than Jan. 16, 1990. Motion Schulte second Koretz. Hearing no objection it was so ordered.

NEW BUSINESS

6. WEST HOLLYWOOD'S LONG-TERM CAPITAL IMPROVEMENT PROGRAM:
Councilmember Schulte gave the staff report. The following persons came forward to address the Council:

Roslyn Krause, West Hollywood - swimming pool
Gloria Vassy, West Hollywood - swimming pool
Sal Guarriello, CES, West Hollywood - priorities
G. Bruce Traub, West Hollywood - setting limits
Edward Riney, West Hollywood - adopt a park
Rochelle Sommers Smith, West Hollywood - priorities
Jeanne Dobrin, West Hollywood - water lines.

ACTION: Direct staff to present a report to City Council within 60 days on the following:

- 1) Prepare a list of proposed capital outlays for major city operated facilities. For each facility, identify costs, potential sources of funding, and the status of program and scheduling considerations. The list should include, but not be limited to, a City hall, a replacement for Fire Station No. 7, a Senior Center, library expansion/renovation, aquatics center, a city parks master plan, adult day care facility, a civic auditorium, and parking structures;
- 2) Develop an overview of the City's fiscal resources available to finance capital projects for the next 3-5 years;
- 3) Develop recommendations for a process and schedule allowing for extensive community review of CIP priorities by the appropriate City boards and commissions and residents;
- 4) Prepare specific implementation recommendations, including time frames, costs, funding sources, and site selection, for a City Hall and Fire Station No. 7.
- 5) Develop the framework for developing a long-range City parks masterplan.

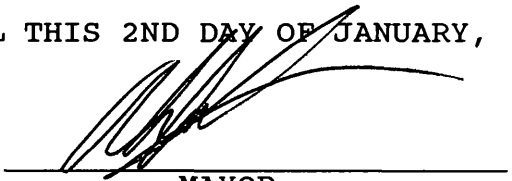
6) Address the questions of infrastructure and on-going maintenance and expenditures on housing. Motion Schulte second Heilman. Hearing no objection it was so ordered.

LEGISLATIVE

7. **ORDINANCE ADOPTING THE 1988 UNIFORM BUILDING CODE INCLUDING ALTERNATIVE AND REVISIONS (URGENCY ORDINANCE FOR ADOPTION):** THIS ITEM WAS HEARD FOLLOWING THE CONSENT CALENDAR, BUT IS LISTED HERE FOR CLARITY. ACTION: To adopt Ordinance No. 248U, "AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD ADOPTING BY REFERENCE THE UNIFORM BUILDING CODE, 1988 EDITION, AND AMENDMENTS THERETO; LOS ANGELES COUNTY CODE, ELECTRICAL CODE, TITLE 27; THE UNIFORM PLUMBING CODE, 1988 EDITION, AND AMENDMENTS THERETO; THE UNIFORM MECHANICAL CODE, 1988 EDITION, AND AMENDMENTS THERETO; ADOPTING AMENDMENTS TO SAID CODE, READOPTING PORTIONS OF ARTICLE VII OF THE WEST HOLLYWOOD MUNICIPAL CODE AND DECLARING THE URGENCY THEREOF." Motion Heilman second Albert. Hearing no objection it was so ordered.

ADJOURNMENT The meeting was adjourned at 12:10 A.M. to a closed session on Wednesday, December 13, 1989 at 4:00 P.M., for the purpose of discussing matters pertaining to litigation, potential litigation, personnel, and/or claims.

APPROVED BY MOTION OF THE CITY COUNCIL THIS 2ND DAY OF JANUARY, 1990.



MAYOR

ATTEST:



CITY CLERK