

*Approved,*  
*2-16-88*

**CLOSED SESSION  
5:30 P.M.  
CITY MANAGER'S OFFICE  
CITY HALL  
8611 SANTA MONICA BOULEVARD**

**MINUTES  
JANUARY 19, 1988  
CITY COUNCIL MEETING  
WEST HOLLYWOOD PARK  
647 N. SAN VICENTE BLVD.  
6:30 P.M.**

**CALL TO ORDER:** Mayor Viterbi called the meeting to order at 6:40 P.M.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Joyce Hundal.

**ROLL CALL:** Present: Albert, Heilman, Land, Schulte, Mayor Viterbi  
Absent: None  
Also Present: City Manager Brotzman  
City Attorney Jenkins

**APPROVAL OF AGENDA:** Move the approval of the Consent Calendar to before the continued hearing on appeal, Beverly Hills Massage Parlor. Motion Heilman, second Schulte. Hearing no objection it was so ordered.

**CONSENT CALENDAR:** ACTION: To approve items 2a, b, c, d, e, f, g, h, i, j, k, l, and m. Motion Heilman second Schulte. Hearing no objection it was so ordered.

At this time Mayor Viterbi announced that the City Council had met in closed session at 5:30 p.m. to consider an item of personnel.

**The City Council sitting as the License Appeals Board to hear the continued public hearing on Beverly Hills Massage Parlor convened at 6:45 p.m.**

**CONTINUED HEARING ON APPEAL:** Twentieth Century Travel Advisors, Inc., dba "Beverly Hills Massage Parlor", 8574 Santa Monica Blvd., West Hollywood - Hearing on appeal of revocation of license by the Business License Commission, continued from the meeting of January 11, 1988.

The following persons were present for the hearing:

- Hal Mintz, Licensee
- Anthony Glassman, Attorney for licensee
- Jan Plum, Principal Deputy County Counsel
- Early Lincoln, Sheriff's Department
- Mike Jenkins, City Attorney
- Michele Beal Bagneris, Attorney
- Paul Self, Code Enforcement - Business License

**OPTIONS:** 1. Uphold the decision of the Business License Commission. 2. Modify the decision of the Commission. 3. Reverse the decision of the Commission.

City Attorney Jenkins presented Mr. Glassman with Deputy Anderson's handwritten notes on his police report which Mr. Glassman had requested at the prior hearing. Mayor Viterbi stated that it was now appropriate for Mr. Glassman to call any witnesses he had present for rebuttal on count number 7, to which he replied that he had reviewed the testimony and decided to close and simply proceed to argue the case. Mayor Viterbi asked if there was anything he wished to do about the handwritten police report he had received. Mr. Glassman replied that he had just received the report, and he would need time to review it to see if he desired to have the notes admitted into evidence. At this time they will proceed with the arguments, and after review, if anything is in the handwritten report that is at variance with the typewritten report, he will move to re-open and have the notes admitted as evidence. City Attorney Jenkins stated that that would be fine and asked if, "as far as your rebuttal and your response to count 7 and your desire to introduce any additional testimony or evidence, you have rested". Mr. Glassman replied, "We have rested and decided to rest on the report itself and cross-examination before the City Council last week". He further stated that there was no additional evidence at this point in time, but he might ask the Council to take judicial notice of two additional documents, blank forms used by the Sheriff's Department, in his final arguments.

Arguments were then taken, with a 30 minute time limit, first from Mr. Plum, Principal Deputy County Counsel, and then from Mr. Glassman, Attorney for the Licensee, who reviewed the record and argued various points of law. Mr. Glassman also requested judicial notice of a Citizens' Complaint Form and Deputies' Daily Work Sheet and a newspaper article from West Hollywood, USA.

Five minute rebuttals were then heard, first from Mr. Plum, and then a rebuttal of the rebuttal, from Mr. Glassman.

**ACTION:** No objection to considering the Citizens' Complaint Form and the Deputies' Daily Work Sheet; however, the newspaper article is not admissible. Motion Heilman second Schulte. Hearing no objection it was so ordered.

Council discussion centered on specific criteria and the standard for revocation. City Attorney Jenkins stated the the specific criteria was contained in Exhibit 10 and the revocation was as called for in the Business License Ordinance No. 7.08.150

**ACTION:** To uphold the Business License Commission on count 4 and not consider count 4. Motion Heilman second Land. Hearing no objection it was so ordered.

City Attorney Jenkins stated, for the record:

"The appellant made a number of other arguments in his written brief and in his oral arguments. We touched on one earlier dealing with the issue of what is the standard. There were several others. I just want to say, for the record, that I don't believe any of the others are supportable. There is a case cited, the Tarbocks case, with the proposition that an owner or a

licensee should not be held responsible for actions of his independent contractors or employees; in fact, the Tarbocks case stands for the proposition that a licensee may not be held responsible for the actions of patrons and that case involved evidence of arrests of patrons in a movie theater, not arrests of employees or independent contractors presumably working for and with the licensee. There is ample authority, most particularly in the area of alcoholic beverage licenses, where the actions of independent contractors and employees of a licensee are directly attributed to that licensee and alcoholic beverage licenses are no less important to the operation of a business than a business license. Appellant made an argument that we are estopped from revoking the license by virtue of having permitted the business to be operating and it is my judgment that there is no basis here for an estoppel argument. The criteria required for an estoppel simply do not exist. The city has never taken any action upon which the appellant has relied to his detriment to give rise to an estoppel. Such an argument would essentially prevent a governmental entity from enforcing its ordinances when evidence came to its attention of illegal behavior. In point of fact, the City is only 3 years old and we have just begun to put our Business License appeals into effect. During the beginning part of the City, particularly the years of 1984-85, all licenses were renewed on a regular basis simply to allow businesses to continue operating in the city while the city organized its Business License Commission and began conducting hearings. There is really no basis whatsoever to conclude that our acceptance of a Business License fee and issuance of a permit or license would somehow estop us from considering evidence of illegality.

Numerous allegations have been made regarding the denial of due process. I don't want to get too much into those other than to say, you have all read the record, the record is before you, and it is evident there was substantial opportunity given for examination and cross-examination of witnesses; objections were numerous, the record is replete with objections and rulings upon objections. The Commission gave wide latitude in the submission of all evidence, other than that deemed to be so irrelevant and so far beyond the scope of the proceeding that it would have been a waste of time or would have been inappropriate to hear it. The technical rules of evidence were not adhered to. Many matters which would not have been admitted in a court of law were admitted and both sides had ample opportunity to submit evidence. There were one or two areas where the appellant was not permitted to go involving procedures in other cities and other communities, which were deemed simply irrelevant for what the City of West Hollywood does in connection with its own hearings of this kind."

**ACTION:** Uphold the Business License Commission's decision and also find count 7 true and with sufficient grounds to uphold the revocation. Staff to come back with the appropriate resolution. Motion Heilman second Land.

**FURTHER ACTION:** Amend the motion by deletion of Section e from being included in the motion except as it applies to employees and not necessarily to the licensee. Motion Schulte second Viterbi.

**VOTE ON THE AMENDMENT:**

AYES: Albert, Schulte, Mayor Viterbi  
NOES: Heilman, Land  
ABSENT: None  
ABSTAIN: None

Motion carried.

**VOTE ON THE MAIN MOTION:**

AYES: Albert, Heilman, Land, Schulte, Mayor Viterbi  
NOES: None  
ABSENT: None  
ABSTAIN: None

Motion carried.

The Resolution memorializing the above action will be brought back at the next Council meeting on Monday, February 1, 1988. This Resolution revoking the license and ordering the closure of the business will take effect immediately upon adoption of the resolution, which will be the Council's final action in this matter.

**MAYOR VITERBI ADJOURNED THE LICENSE APPEALS BOARD AND CALLED A RECESS AT 8:40 P.M.**

The City Council reconvened at 8:55 P.M., and the meeting was dedicated to the memory of Martin Luther King, Jr.

**PROCLAMATIONS AND COMMENDATIONS:**

Mayor Viterbi presented commendations to Ruth Richards, UCLA School of Public Health, and Sean Collinswood, Sheriff's Deputy, for the physical fitness training program for City Employees and Sheriff's Department employees.

Councilmember Albert presented commendations for a job well done to the members of the Women's Issues Task Force: Abby Leibman, Jean Conger, Ellen Faun, Dorothy Huebel, and Carol Przybycien.

**1. CITY MANAGER'S REPORT:** This time has been set aside for the City Manager to report on any and all matters to the City Council, but was deferred until after the Council Comments later in the agenda.

**2. CONSENT CALENDAR:** The following routine matters were acted upon by one motion prior to the Hearing Appeals Board, but are listed here for clarity.

**a. Posting of Agenda - Report by City Clerk:** The agenda for the meeting of January 19, 1988 was posted on Wednesday, January 13, 1988, at City Hall, Plummer Park, the Sheriff's Station and the San Vicente Library. ACTION: Receive and File. Approved as part of the Consent Calendar.

**b. Demand Register No. 78 - Resolution No. 399:** ACTION: To approve Demand Register No. 78 and adopt Resolution No. 399. Approved as part of the Consent Calendar.

**c. Minutes - December 21, 1988:** ACTION: Approve the minutes of the December 21, 1988, City Council meeting. Approved as part of the Consent Calendar.

**d. Claims:** Bryce Davies  
Betty Jaffee  
Julianna L. Linn  
Allen R. Curtis

ACTION: Deny the claims of Davies, Jaffe and Curtis without comment and refer to the City's Claims Adjustor. Deny the claim of Linn without comment and refer to the West Hollywood Marketing Corporation, the City's Attorney and the City's Claims Adjustor. Approved as part of the Consent Calendar.

**e. Motion to Waive Further Reading:** ACTION: After the City Attorney has read the title of any ordinance on tonight's agenda the further reading thereof be waived. Approved as part of the Consent Calendar.

**f. Le Parc Hotel - On Street Parking Regulations - Resolution No. 277:** This will establish two 15-minute time limit zones to accommodate the hotel's needs for registration and loading and unloading of luggage. ACTION: Adopt Resolution No. 277, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD ESTABLISHING A PARKING TIME LIMIT ON A PORTION OF WEST KNOLL DRIVE". Approved as part of the Consent Calendar.

**g. Kings Road, Olive Drive - Parking Regulations - Resolutions 393 and 394:** ACTION: 1) Adopt Resolution No. 393, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING THE REGULATION ESTABLISHING A PARKING TIME LIMIT ON A PORTION OF KINGS ROAD"; and 2) Adopt Resolution No. 394, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING THE REGULATION ESTABLISHING A PARKING TIME LIMIT ON A PORTION OF OLIVE DRIVE". Approved as part of the Consent Calendar.

**h. Furniture Bid:** Bids were opened January 13, 1988 at 4:00 P.M. ACTION: Award the bid to Coordinated Resources and authorize the City Manager to sign the purchase order for Colorline furniture and Danwood panels as per the proposal in the amount of \$22,502.26. Approved as part of the Consent Calendar.

**i. Award of Contract for Developer Exaction Program Analysis:** On December 21, 1987, the City Council authorized staff to negotiate a contract with Hamilton, Rabinovitz and Alschuler, Inc., for a Developer Exaction Program Analysis (Phase II). ACTION: Approve the contract with the consulting firm of Hamilton, Rabinovitz and Alschuler for a Developer Exaction Program Analysis in the amount of \$25,000. Approved as part of the Consent Calendar.

**j. Resolution on McDonalds appeal:** ACTION: Adopt Resolution No. 392, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DENYING THE APPEAL OF MCDONALD'S CORPORATION AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO REQUIRE THE REMOVAL OF A POLE SIGN AS PART OF THE APPROVAL OF DEVELOPMENT PERMIT 87-66 FOR 1133 N. LA BREA AVENUE, WEST HOLLYWOOD. Approved as part of the Consent Calendar.

**k. Resolution on San Vicente Parking Lot:** ACTION: Adopt Resolution No. 397, "A RESOLUTION OF THE CITY OF WEST HOLLYWOOD MODIFYING TEMPORARY USE PERMIT 87-18 ON AN APPLICATION OF INTERNATIONAL BUSINESS PROPERTIES FOR 365 NORTH SAN VICENTE BOULEVARD, WEST HOLLYWOOD". Approved as part of the Consent Calendar.

**l. Approval of Contract for Transit Service Evaluation and Implementation Plan:** ACTION: Approve the contract with the consulting team of Schimpeler-Corradino Associates and the Evaluation and Training Institute for a Transit Service Evaluation and Implementation Plan study in the amount of \$42,597. In addition, staff recommends that the Council approve the membership of the informal Transit Study Advisory Committee. Approved as part of the Consent Calendar.

**m. Inspection Contract, Sherman Storm Drain (CIP #801):** Harris and Associates has been retained to perform construction inspection services on this contract and it is anticipated that these services will exceed the agreement dollar limit of \$10,000 ACTION: Approve the Services Addendum to the contract services agreement for staff engineering services for Sherman Area Storm Drain Construction Inspection. Approved as part of the Consent Calendar.

#### **PUBLIC HEARINGS**

NONE

**CITIZEN COMMENTS:** This time has been set aside for the public to address the City Council on any item on the agenda except for the public hearings. At this point in time the following person came forward to address the Council:

Paul Webber, West Hollywood (homeless), protested closure of West Hollywood Park; requested help for the homeless; presented photos to Council of the homeless in West Hollywood Park.

**CITY COUNCILMEMBERS COMMENTS:** This time has been set aside for Councilmembers to direct comments to staff or the public on items of interest.

Councilmember Land announced that her appointment to the Rent Stabilization Commission (Woody McBairty) is resigning because he is moving out of town. ACTION: To accept the resignation with regret and direct the City Clerk to advertise the vacancy. Motion Land second Heilman. Hearing no objection it was so ordered.

City Manager Brotzman announced that next week the City will be closing escrow on a 28-unit apartment building on Fountain Avenue. The City Manager also announced that the City now collects revenues from parking meters, rather than the County doing the collecting, and due to more frequent collections, the revenues have increased by one-quarter million per year.

#### **NEW BUSINESS**

**3. REPORT ON IMPACT OF CITY REGULATIONS & REQUIREMENTS ON SMALL BUSINESSES:** Debbie Potter, Economic Development Manager, reported that the City Council has adopted the goal of enhancing the small business climate within the City. The report on the impact of city regulations and requirements on small businesses is presented for review and approval, and staff recommends that the Council approve the report in concept and refer certain recommendations to the appropriate commissions for review and action.

Coming forward to speak in opposition to any lessening of the restrictions on outdoor dining and parking and also on liquor licenses was:  
Jeanne Dobrin, West Hollywood

**ACTION:** Strike recommendation No. 1 concerning a revenue raising Business License and recommendation No. 6 concerning zone clearances instead of minor CUP's for liquor licenses for restaurants. Approve in concept, recommendations 2, 3, 4, 5, and 7, refer to the appropriate Commissions and Task Forces for review and return to Council within 180 days. Motion Schulte second Land. Hearing no objection, it was so ordered.

**4. POTENTIAL LOSS OF FEDERAL REHABILITATION FUNDING:** Councilmember Land reported that President Reagan's new budget would prevent cities with rent control laws from receiving federal grants for the repair of rental housing. This action would restrict or destroy West Hollywood's Residential Improvement Program. **ACTION:** Adopt Resolution No. 398, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DEPLORING PRESIDENT REAGAN'S PROPOSAL TO RESTRICT REHABILITATION FUNDS TO CITIES WITH RENT CONTROL", and direct staff to communicate these concerns to the appropriate elected officials and organizations, including the National League of Cities and the United States Conference of Mayors. Motion Land second Albert. Hearing no objection it was so ordered. Councilmember Heilman stated that his office and Councilmember Land's office would be doing the follow-up on this item.

**5. 90-DAY WORK PROGRAMS:** The 90-day work programs for all City departments for January-March, 1988 were presented for discussion with Council and staff. The following are changes requested by the Council.

Public Information - brochures on planning and zoning process - work with Community Development and not print items that will be changed with the adoption of the General Plan and changes that will follow in the Interim Zoning Ordinance.

Public Safety - upgrade broad-based citizen participation to a higher priority that will require a lot of work this quarter.

Administrative Services - Finance - Pick-up truck for Public Works that was approved in the budget to be brought back for Council approval prior to purchase.

Mayor Viterbi requested that a set of procedures for financial analysis for Council agenda items be supplied to all departments by the finance department.

Community Development - Transportation - add consideration of expanding Commercial Permits in District 1 and improved signage to work program.

Inclusionary Housing - move limited equity co-ops to A priority.

Code Enforcement - would like extra effort put forward on hiring the Sr. Code Enforcement Officer and requirements may need to be modified.

Planning - cataloging of all conditions of approval of new CUP's - bring forward as A priority.

Human Services - CATV/Arts - add time to deal with the Cable TV Company issue and start franchise revocation if necessary.

Social Services - attention to Senior Programs.

Councilmember Land requested that Human Services and Rent Stabilization prepare a report on what our lobbyists are doing and an evaluation of the whole lobbying program.

Public Works - Director to prepare a report on the impact of public works projects, inconveniences, pluses and minuses for a two year period, and that the City Manager schedule for presentation to the Council in the next 45-60 days (maybe at a study session).

Building and Safety - prepare information for the public on what kind of permits people need to pull when doing different kinds of work on homes.

#### **LEGISLATIVE**

**6. AN AMENDMENT TO THE RENT STABILIZATION ORDINANCE RELATING TO TENANT RELOCATION COUNSELLING FEES:** Richard Dorsey Muller reported that the Rent Stabilization Ordinance requires landlords to pay the City a fee to cover the cost of tenant counselling and relocation assistance associated with a no fault eviction. Based on the cost of such services, the Commission recommends that two fee levels be established, \$200 to cover the cost of developing, printing, distributing and updating a general information packet and 2 hours of counselling to help dislocated tenants assess current housing needs and explore various options, and \$300 for the special needs category. After discussion the Council amended Section 6413 g, adding "13".



**ACTION:** Introduce on first reading, as amended, Ordinance No. 179, "AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD AMENDING THE WEST HOLLYWOOD MUNICIPAL CODE", relating to counselling for certain displaced tenants. Motion Land second Albert. Noting the no vote of Councilmember Schulte it was so ordered.

**7. RECYCLING OF WINE AND SPIRIT COOLER CONTAINERS:** Councilmember Heilman reported that the recycling system bill (AB 2020) does not include wine or spirit cooler containers in its list of recyclables. Since these coolers constitute a substantial percentage of beverage containers, an Ordinance is necessary to ensure their recycling. **ACTION:** Introduce on first reading Ordinance No. 178, "AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD ESTABLISHING A REDEMPTION VALUE FOR WINE COOLER AND SPIRIT COOLER CONTAINERS AND AMENDING THE WEST HOLLYWOOD MUNICIPAL CODE"; support AB 612 and direct staff to write on behalf of AB 612; and to work with the local supermarkets to implement the ordinance when the effective date draws near. Motion Heilman second Land. Hearing no objection it was so ordered.

**CLOSED SESSION:** The City Council adjourned to closed session to discuss matters pertaining to litigation, potential litigation, personnel matters, and/or claims against the City at 10:17 P.M.

The City Council reconvened at 10:55 P.M.. Mayor Viterbi announced that they had discussed personnel and potential litigation. Direction was given to staff to pay the towing on three claims; Kathleen O'Leary, Ek Khalsa and Steven Holcombe; also contact Sgt. Sherman and request the court to waive the fine.

**ADJOURNMENT** The City Council meeting was adjourned at 10:57 P.M. to a regular adjourned meeting on February 1, 1988 at West Hollywood Park at 7:00 P.M.