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TORRANCE CITY COUNCIL – JANUARY 11, 2011

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At 8:01 p.m., the meeting was adjourned to Tuesday, January 25, 2011 at 5:30 p.m. for an executive session, with the regular meeting commencing at 7:00 p.m. in the Council Chambers. **Tuesday, January 18, will be a Council dark night.**

January 11, 2011

**MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL**

1. CALL TO ORDER

The Torrance City Council convened in an adjourned regular session at 5:35 p.m. on Tuesday, January 11, 2011 in City Council Chambers at Torrance City Hall.

ROLL CALL

Present: Councilmembers Barnett, Brewer, Furey, Numark, Rhilinger, Sutherland, and Mayor Scotto.

Absent: None.

Also Present: City Manager Jackson, City Attorney Fellows, City Clerk Herbers, and other staff representatives.

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Agenda Item 18 was considered out of order at this time.

18. EXECUTIVE SESSION

The City Council immediately recessed to closed session to confer with the City Manager and City Attorney on agenda matters listed under 18A) Conference with Labor Negotiator and 18B) Real Property – Conference with Labor Negotiator, pursuant to California Government Code §54957.6 and 54956.8.

The City Council reconvened at 7:02 p.m. No action was taken on any matter considered in closed session.

2. FLAG SALUTE/INVOCATION

The flag salute was led by Girl Scout Troop No. 865.

The non-sectarian invocation was given by Councilmember Rhilinger.

3. REPORT OF CITY CLERK ON POSTING OF THE AGENDA / MOTION TO WAIVE FURTHER READING

City Clerk Herbers reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Friday, January 7, 2010.

MOTION: Councilmember Sutherland moved that after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

4. WITHDRAWN, DEFERRED OR SUPPLEMENTAL ITEMS

Agenda Item 8E was removed from the Consent Calendar and considered as Item 12D and the hearing on Item 13A was opened and continued to the February 1, 2011 City Council meeting.

5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS

Councilmember Brewer announced that a joint meeting of the Citizen Development and Enrichment Committee and the Torrance Unified School District would

be held on Wednesday, January 19, at 4:30 p.m. at the Cultural Arts Center Garden Rooms A and B.

City Clerk Herbers announced that the last day to register to vote in the Special Election on February 15 to fill the 28th District State Senate seat is January 31. She noted that additional Information can be found at the L.A. County Registrar website www.LAVote.net or check the City Clerk webpage for links at www.TorranceCA.gov.

Mayor Scotto asked that the meeting be adjourned in memory of Ray Krank who passed away January 3, 2011 and a moment of silence was observed in his honor.

6. COMMUNITY MATTERS

6A. RESOLUTION NO. 2011-02 RE FRANK RIZZARDI

RESOLUTION NO. 2011-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE HONORING **FRANK RIZZARDI** FOR THIRTY-FOUR YEARS OF DEDICATED SERVICE AS A CITY COMMISSIONER

MOTION: Councilmember Numark moved to adopt Resolution No. 2011-02. The motion was seconded by Councilmember Furey and passed by unanimous roll call vote.

To be presented at a later date.

6B. RESOLUTION NO. 2011-03 RE BRENDA MOHR

RESOLUTION NO. 2011-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE HONORING **BRENDA MOHR** UPON HER RETIREMENT FROM THE CITY OF TORRANCE AFTER TWENTY-NINE YEARS OF SERVICE

MOTION: Councilmember Numark moved to adopt Resolution No. 2011-03. The motion was seconded by Councilmember Furey and passed by unanimous roll call vote.

To be presented at a later date.

7. ORAL COMMUNICATIONS #1

None.

8. CONSENT CALENDAR

8A. APPROVAL OF MINUTES

Recommendation

Recommendation of the City Clerk that City Council approve the City Council minutes of November 16 and November 23, 2010.

8B. APPROVAL OF LIBRARY COMMISSION MEETINGS AT BRANCH LIBRARIES

Recommendation

Recommendation of the Community Services Director that City Council approve of the Library Commission convening five regularly scheduled meetings in 2011 at the branch libraries rather than at the Katy Geissert Civic Center Library.

8C. FEE AGREEMENT FOR LEGAL SERVICES

Recommendation

Recommendation of the City Attorney that City Council approve a fee agreement with Liebert Cassidy Whitmore to provide legal services to the City pertaining to police personnel matter #009530, for a total contract amount not to exceed \$35,000.

8D. FEE AGREEMENT FOR LEGAL SERVICES

Recommendation

Recommendation of the City Attorney that City Council approve a fee agreement with The Law Office of Robert D. Acciani to provide legal services to the City in the case of Jeffrey Totten v. City of Torrance, et al., USDC Case No. CV10 7050 ODW (PLAx), for a total contract amount not to exceed \$60,000.

8E. FEE AGREEMENT FOR LEGAL SERVICES

Considered as Item 12D, see pages 5-7.

MOTION: Councilmember Barnett moved for the approval of Consent Calendar Items 8A through 8D. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

12. ADMINISTRATIVE MATTERS

12A. LOS ANGELES METROPOLITAN TRANSIT AUTHORITY 2011 CALL FOR PROJECTS GRANT APPLICATIONS

Recommendation

Recommendation of the Community Development Director that City Council authorize the City Manager to submit on behalf of the Community Development Department the Los Angeles County Metropolitan Transportation Authority (Metro) 2011 Call for Projects grant applications.

Transportation Planning Manager Semaan reported that the grant applications are for three median landscaping projects totaling \$1.75 million.

MOTION: Councilmember Sutherland moved to concur with the staff recommendation. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

12B. RESOLUTIONS RE ENGINEERS AND TORRANCE FISCAL EMPLOYEES ASSOCIATION MOU AND CALPERS

Recommendation

Recommendation of the City Manager that City Council:

- 1) Adopt a Resolution pursuant to Memorandum of Understanding setting forth the hours, wages, and working conditions for employees represented by the Engineers and Torrance Fiscal Employees Association for the period of December 14, 2010 through June 30, 2011, and repealing Resolution No. 2010-17; and
- 2) Adopt a California Public Employees Retirement System (CalPERS) Resolution to reduce employer paid member contribution (EPMC).

Assistant to the City Manager Sunshine reported that the MOU for the Engineers and Torrance Fiscal Employees Association includes one major change, which provides that employees hired after the effective date of the MOU will contribute the 7% employees' portion to the CalPERS retirement system pursuant to City Council action in June 2010.

MOTION: Councilmember Sutherland moved to concur with the staff recommendation. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

RESOLUTION NO. 2011-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE SETTING FORTH HOURS, WAGES, AND WORKING CONDITIONS FOR EMPLOYEES REPRESENTED BY THE ENGINEERS AND TORRANCE FISCAL EMPLOYEES ASSOCIATION AND REPEALING RESOLUTION NO. 2010-17

MOTION: Councilmember Numark moved to adopt Resolution No. 2011-05. The motion was seconded by Councilmember Furey and passed by unanimous roll call vote.

RESOLUTION NO. 2011-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE IMPLEMENTING GOVERNMENT CODE SECTION 20636(C))(4) PURSUANT TO SECTION 20691 RELATING TO EMPLOYER PAID MEMBER CONTRIBUTIONS TO PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS) FOR ENGINEERS AND TORRANCE FISCAL EMPLOYEES ASSOCIATION

MOTION: Councilmember Numark moved to adopt Resolution No. 2011-06. The motion was seconded by Councilmember Furey and passed by unanimous roll call vote.

12C. RESOLUTION AMENDING EXECUTIVE AND MANAGEMENT EMPLOYEES RESOLUTION RE WORKERS' COMPENSATION MANAGER POSITION

Recommendation

Recommendation of the Human Resources Director that City Council adopt a Resolution amending Resolution No. 2010-75A for Executive and Management Employees implementing the recommended salary range to the Workers' Compensation Manager position. Expenditure: \$22,228.

Human Resources Director Winer stated that staff has been unable to attract a qualified candidate to fill this vacant position and was recommending an adjustment in the salary range to provide greater flexibility when negotiating salary during the next recruitment process.

Councilmember Brewer asked about the possibility of contracting with an outside agency to handle this function.

Risk Manager Sellers reported that the City has been able to dramatically reduce workers' compensation costs and would prefer to keep the program in-house.

Councilmember Numark suggested that there may be potential candidates in the private sector who would find the current salary attractive, but lack experience in the public sector and related his belief that this aspect of the job could be learned without putting the City at risk.

Human Resources Director Winer explained that a significant percentage of the City's workers' compensation claims involve safety personnel with specialized benefits and staff believes that expertise in this area is vital to the position.

MOTION: Councilmember Sutherland moved to concur with the staff recommendation. The motion was seconded by Councilmember Rhilinger and passed by a 6-1 roll call vote, with Councilmember Numark dissenting.

RESOLUTION NO. 2011-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
AMENDING RESOLUTION NO. 2010-75A SETTING FORTH CHANGES
REGARDING THE HOURS, WAGES, AND WORKING CONDITIONS FOR
EXECUTIVE AND MANAGEMENT EMPLOYEES

MOTION: Councilmember Brewer moved to adopt Resolution No. 2011-07. The motion was seconded by Councilmember Furey and passed by a 6-1 roll call vote, with Councilmember Numark dissenting.

12D. FEE AGREEMENT FOR LEGAL SERVICES RE WAL-MART CEQA ACTION

Recommendation

Recommendation of the City Attorney that City Council approve a fee agreement with the law firm of Rutan & Tucker, LLP to defend the California Environmental Quality Act (CEQA) action, Building an Economically Sound Torrance et al. v. City of Torrance et al., LASC Case No.BS129420, and approve an Indemnity and Reimbursement Agreement with Wal-Mart Real Estate Business Trust, to cover any expenses the City might incur in defense of the action. The total contract amount will not exceed \$50,000, subject to full reimbursement from Wal-Mart.

City Attorney Fellows stated that he was recommending that the Council approve the following agreements: 1) Fee agreement with the law firm of Rutan & Tucker to defend the City in the CEQA action filed against the City regarding the Wal-Mart project on Hawthorne Boulevard, and 2) Indemnity and Reimbursement Agreement, in which Wal-Mart agrees to reimburse the City for expenditures associated with the lawsuit.

Responding to questions from the Council, City Attorney Fellows confirmed that it was customary for the City to require an Indemnity and Reimbursement Agreement in this type of action; clarified that \$50,000 is the maximum amount the City will pay at one time pending reimbursement from Wal-Mart; and noted that the agreement requires that Wal-Mart reimburse the City for the cost of any settlement or judgment awarded to the plaintiff, as well as attorney fees so the total cost could be substantially higher.

Mayor Scotto invited public comment.

Patricia Goar, Torrance, related her belief that residents should have a voice in whether or not Wal-Mart locates in Torrance and urged the Council to reject both of these agreements.

Mayor Scotto explained that the City would have to pay the cost of defending this lawsuit if the Indemnity and Reimbursement Agreement is not approved.

Sandra Munoz, Los Angeles (Torrance mailing), questioned why Torrance residents were allowed no input on the Wal-Mart project.

City Attorney Fellows advised that Ms. Munoz's question was outside the scope of this agenda item and offered to have staff meet privately with her to explain the process.

Councilmember Numark expressed concerns that having a Wal-Mart across the street from Del Amo Fashion Center was contradictory to the City's goal of attracting premiere retailers to this area and would ultimately end up hurting City revenues. Noting that the project was approved administratively on the basis that it was "like for like" replacing one retail establishment with another, he related his belief that Wal-Mart, as the largest retailer in the world, is different and that the Wal-Mart funds should be used to determine whether the project would have an adverse impact on traffic.

Councilmember Brewer asked about the possibility that the lawsuit could be settled. City Attorney Fellows reported that a mandatory settlement conference was held last week and the plaintiff declined to settle and the matter has been scheduled to be heard the third week in February. He briefly discussed the City's legal position on the case and possible ramifications.

Councilmember Furey suggested that the lawsuit may be the result of Wal-Mart's failure to do any community outreach, noting that he has never spoken with a Wal-Mart representative or seen the project. Voicing support for the staff recommendation, he related his belief that Rutan & Tucker was well qualified to represent the City in this matter and that it would be foolhardy not to seek reimbursement from Wal-Mart for legal expenses.

Expressing support for the staff recommendation, Mayor Scotto stated that regardless of whether one is for or against the Wal-Mart project, City taxpayers should not have to bear the cost of defending this lawsuit.

Councilmember Numark suggested that an alternative would be to accede to the petitioner's requests, in which case there would be no lawsuit.

City Attorney Fellows advised that acceding to the petitioner's requests would leave the City vulnerable to a lawsuit from Wal-Mart because approvals for the project would have to be withdrawn.

MOTION: Councilmember Brewer moved to concur with the staff recommendation. The motion was seconded by Councilmember Rhilinger and passed by a 6-1 roll call vote, with Councilmember Numark dissenting.

13. HEARINGS

13A. MOD10-00008: 5404 190TH STREET – ROBERT SADEGHI

Recommendation

Recommendation of the Community Development Director that City Council open and continue the hearing to February 1, 2011 City Council meeting regarding Modification on property located in the C3-PP Zone at 5404 190th Street as requested by the applicant. **MOD10-00008 (CUP68-32, PRE05-00047 & MOD05-00014): ROBERT SADEGHI**

Mayor Scotto announced that this was the time and place for a public hearing on this matter and City Clerk Herbers confirmed that the hearing was properly advertised.

Community Development Director Gibson reported that staff was recommending that the hearing be continued to the February 1, 2011 City Council meeting at the request of the applicant.

MOTION: Councilmember Sutherland moved to continue the hearing to February 1, 2011. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

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The Council met as the Redevelopment Agency from 7:51 p.m. to 7:53 p.m.

17. ORAL COMMUNICATIONS #2

17A. Councilmember Numark announced that the Taiwanese United Fund in conjunction with the Torrance Symphony Association will be presenting "Taiwan Night," a concert featuring the music of Taiwanese composer Dr. Tyzen Hsiao conducted by Frank Fetta, on Saturday, January 15, at 8:00 p.m. at the Armstrong Theatre.

17B. Councilmember Numark announced that there will be a workshop at the Katy Geissert Civic Center Library on Monday, January 24, from 7:00-9:00 p.m. on the South Bay Bicycle Master Plan.

17C. Councilmember Numark expressed sympathy to U.S. Congresswoman Giffords and other victims of the recent shooting in Tucson and encouraged people to be more civil when engaging in political discourse.

17D. Councilmember Brewer invited the public to attend the dedication of the new Seaside Heroes Park located at 22851 Anza Avenue on Saturday, January 22, 2011 at 10:00 a.m.

17E. Mayor Scotto stated that several weeks ago with the Council's concurrence, he requested that meetings of the Ethics and Integrity Committee be suspended due to the need to replace several members and since that time he has realized how difficult it would be for the reconstituted committee to complete the committee's work plan by the end of the summer. In order to have a policy in place by the next election cycle, he proposed that the Ethics and Integrity Committee be dissolved and a new Election and Candidates Ethics Committee be created, comprised of the two remaining members of the Ethics and Integrity Committee and the chair of the Blue Ribbon Committee on Ethics, with a sunset date of nine months after the committee's formation. Hearing no objection, he directed staff to prepare an agenda item for the Council's consideration. He emphasized that the Council was very pleased with the Ethics and Integrity Committee's accomplishments.

17F. Keith Montoya, chair of the Ethics and Integrity Committee, indicated that he supports Mayor Scotto's proposal and thanked those who have served on the committee along with City staff.

18. **EXECUTIVE SESSION**

Considered earlier in the meeting, see page 1.

19. **ADJOURNMENT**

At 8:01 p.m., the meeting was adjourned to Tuesday, January 25, 2011 at 5:30 p.m. for an executive session, with regular business commencing at 7:00 p.m. in the Council Chambers. **Tuesday, January 18 will be a Council dark night.**

***Adjourned in Memory of
Ray Krank***

Attest:

/s/ Frank Scotto

Mayor of the City of Torrance

/s/ Sue Herbers

Sue Herbers
City Clerk of the City of Torrance

Approved on March 1, 2011