

**CITY OF LONG BEACH
MINUTES OF THE SPECIAL MEETING
OF THE COMMON COUNCIL
HELD DECEMBER 7TH, 2020**

A regular meeting of the City Council of the City of Long Beach was held on Monday, December 7th, 2020.

Present were Council President Bendo and Council Members Delury, Mandel, McInnis and Treston.

Deputy Corporation Counsel Richard Berrios and City Manager Donna Gayden were also present.

Because of the COVID-19 pandemic, public attendance was suspended for this meeting. The following notice was posted prior to the meeting:

In light of current health concerns and as per Gov. Cuomo's Executive Order 202.1 we are making the following changes for this Council Meeting:

- **Public attendance for this meeting will be suspended.** A live Stream of the meeting will be available on our YouTube channel. Please visit longbeachny.gov/councilmeetings for the link to our YouTube channel.
- Anyone wishing to directly participate in the meeting was provided with a link to the Zoom meeting

The calendar items were read by the City Clerk

#1 – Resolution Authorizing Settlement of an Action Brought by Wenger Construction Company, Inc. against the City of Long Beach.

Deputy Corporation Counsel, Rich Berrios noted that this matter stemmed from a construction contract for the rehabilitation of the West End Fire House and there had been a number of discussions regarding this resolution and the settlement terms were straight forward and simple. He also noted that \$750,000 would be paid to the plaintiff on or before March 1, 2021.

Roy Lester (72 Boyd St) – asked for clarification on whether or not the city sued Wenger Construction for over \$1 million.

Mr. Berrios replied no and that the company sued us and the city filed counter claims.

A discussion continued between Mr. Lester and Mr. Berrios regarding the settlement and Mr. Lester asked what the cost was for using outside counsel in this matter.

Mr. Berrios replied that he did not have that figure available at the time.

Mr. Lester continued questioning the payment of \$750,000 made by the city and wanted to know how this was in the best interest of the city.

Council President Bendo stated that Mr. Lester was not part of the case or the mediation sessions and counsel thought this was to the city's advantage.

Mr. Lester questioned the reason for not releasing information since this was a settled case.

Mr. Berrios explained that this was a proposal for settlement and it had not been settled yet.

A discussion continued regarding explaining why the city was settling on \$750,000.00 and why certain information could not be disclosed.

Eileen Hession – noted that there had been a lot of complaints about the work being done at the West End Fire House and was curious to know why the city was being held liable when the contractor did the bad work.

Mr. Berrios replied that at this point, the city was not liable but settling the matter before it goes to trial and noted that he could not comment much more on the item.

Ms. Hession asked who the outside counsel was that handled this case.

Mr. Berrios replied Ed McCabe.

#2 – Resolution Authorizing Settlement of an Action Brought by Herzel Alon against the City of Long Beach

Deputy Corporation Counsel, Mr. Rich Berrios described this as a personal injury action regarding an incident that occurred at the Lifeguard headquarters bathroom on National Blvd. at the beach in the amount of \$200,000 from the initial \$500,000.00 demand.

Roy Lester (72 Boyd St) – asked if outside counsel handled this case.

Mr. Berrios replied that this was handled in-house by Charles Geiger.

Mr. Lester mentioned that according to the judge, the plaintiff had an expert witness and asked if the city had an expert witness that rebutted their expert witness.

Mr. Berrios stated that he was unsure and would have to check with Mr. Geiger.

Mr. Lester continued to question how someone could win a summary judgment motion.

Mr. Berrios replied that this case had been discussed prior to being determined or decided and was discussed with the council members numerous times before, based on the facts of the case and the severity of the injury.

Mr. Lester stated that the council never discussed any of this case with the public and that this was the only chance to ask questions about spending the resident's money.

#3 – Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for the Cost of Payment of Settled Claims Against the City in the Matter of Wenger Construction Company, Inc. v. City of Long Beach, Stating the Estimated Total Cost Thereof is \$750,000,

Appropriating Said Amount Therefor, and Authorizing the Issuance of Not to Exceed \$750,000 Bonds of Said City to Finance Said Appropriation.

This item is for publication only and a hearing will be held on December 15th at 7pm.

#4 – Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for Phases I and II of the Flood Protection for Major Critical Infrastructure Project, Stating the Estimated Total Cost Thereof is \$33,500,395, Appropriating Said Amount Therefor, Authorizing the Issuance of Not to Exceed \$33,500,395 Bonds of Said City to Finance Said Appropriation, and Further Authorizing Any Amounts Received from the United States of America and/or the State of New York to be Expended Towards the Cost of Such Project, or Redemption of any Notes and Bonds Issued Therefor or to be Budgeted as an Offset to the Taxes for Payment of the Principal of and Interest on Said Bonds and Any Notes Issued in Anticipation Thereof..

This item is for publication only and a hearing will be held on December 15th at 7pm.

#5 – Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for Various Capital Projects in and for the City, Stating the Estimated Total Cost Thereof is \$6,330,000, Appropriating Said Amount Therefor, Including the Expenditure of \$1,450,000 Expected to be Received in State or Federal Aid, Authorizing the Issuance of Not to Exceed \$4,880,000 Bonds of Said City to Finance the Balance of Said Appropriation; and Further Authorizing Any Amounts Received from the United States of America and/or the State of New York to be Expended Towards the Cost of Certain of Such Capital Projects as Indicated Herein, or Redemption of any Notes and Bonds Issued Therefor or to be Budgeted as an Offset to the Taxes for Payment of the Principal of and Interest on Said Notes and Bonds

This item is for publication only and a hearing will be held on December 15th at 7pm.

#6 – Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for the Cost of Payment of Settled Claims Against the City in the Matter of Herzel Alon v. City of Long Beach, Stating the Estimated Total Cost Thereof is \$200,000, Appropriating Said Amount Therefor, and Authorizing the Issuance of Not to Exceed \$200,000 Bonds of Said City to Finance Said Appropriation

This item is for publication only and a hearing will be held on December 15th at 7pm.

The voting portion of the meeting was then begun.

Council Member McInnis introduced and moved the adoption of the following resolution, seconded by Ms. Treston, and it was duly adopted, all five council members present voting in the affirmative.

(RES. #110/20)

Resolution Authorizing Settlement of an Action Brought by Wenger Construction Company, Inc. against the City of Long Beach.

Council Member Delury introduced and moved the adoption of the following resolution, seconded by Pres. Bendo, and it was duly adopted, all five council members present voting in the affirmative.

(RES. #111/20)

Resolution Authorizing Settlement of an Action Brought by Herzel Alon against the City of Long Beach

Council Member McInnis introduced and moved the adoption of the following resolution, seconded by Ms. Treston, and it was duly adopted, all five council members present voting in the affirmative.

(RES. #112/20)

Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for the Cost of Payment of Settled Claims Against the City in the Matter of Wenger Construction Company, Inc. v. City of Long Beach, Stating the Estimated Total Cost Thereof is \$750,000, Appropriating Said Amount Therefor, and Authorizing the Issuance of Not to Exceed \$750,000 Bonds of Said City to Finance Said Appropriation.

Council Member Mandel introduced and moved the adoption of the following resolution, seconded by Mr. Delury, and it was duly adopted, all five council members present voting in the affirmative.

(RES. #113/20)

Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for Phases I and II of the Flood Protection for Major Critical Infrastructure Project, Stating the Estimated Total Cost Thereof is \$33,500,395, Appropriating Said Amount Therefor, Authorizing the Issuance of Not to Exceed \$33,500,395 Bonds of Said City to Finance Said Appropriation, and Further Authorizing Any Amounts Received from the United States of America and/or the State of New York to be Expended Towards the Cost of Such Project, or Redemption of any Notes and Bonds Issued Therefor or to be Budgeted as an Offset to the Taxes for Payment of the Principal of and Interest on Said Bonds and Any Notes Issued in Anticipation Thereof..

Council Member Delury introduced and moved the adoption of the following resolution, seconded by Ms. McInnis, and it was duly adopted, all five council members present voting in the affirmative.

(RES. #114/20)

Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for Various Capital Projects in and for the City, Stating the Estimated Total Cost Thereof is \$6,330,000, Appropriating Said Amount Therefor, Including the Expenditure of \$1,450,000 Expected to be Received in State or Federal Aid, Authorizing the Issuance of Not to Exceed \$4,880,000 Bonds of Said City to Finance the Balance of Said Appropriation; and Further Authorizing Any Amounts Received from the United States of America and/or the State of New York to be Expended Towards the Cost of Certain of Such Capital Projects as Indicated Herein, or Redemption of any Notes and Bonds Issued Therefor or to be Budgeted as an Offset to the Taxes for Payment of the Principal of and Interest on Said Notes and Bonds

Council Member Delury introduced and moved the adoption of the following resolution, seconded by Ms. McInnis, and it was duly adopted, all five council members present voting in the affirmative.

(RES. #115/20)

Resolution Authorizing Publication for Hearing of an Ordinance Authorizing Financing for the Cost of Payment of Settled Claims Against the City in the Matter of Herzel Alon v. City of Long Beach, Stating the Estimated Total Cost Thereof is \$200,000, Appropriating Said Amount Therefor, and Authorizing the Issuance of Not to Exceed \$200,000 Bonds of Said City to Finance Said Appropriation

There being no further business before the Council, Council Member Treston made a motion to close the meeting. It was seconded by Pres. Bendo and was duly closed, all five council members present voting in the affirmative.

Dated: December 8, 2020

David W. Fraser
City Clerk