

# City of Manhattan Beach

1400 Highland Avenue  
Manhattan Beach, CA 90266



## Meeting Minutes - Draft

Tuesday, September 2, 2014

6:00 PM

Regular Meeting

City Council Chambers

5:00 PM Adjourned Regular Meeting - Closed Session

### City Council

*Mayor Amy Howorth*  
*Mayor Pro Tem Wayne Powell*  
*Councilmember Mark Burton*  
*Councilmember Tony D'Errico*  
*Councilmember David J. Lesser*

**PLEASE NOTE THAT THE CITY ARCHIVES THE VIDEO RECORDINGS OF ALL REGULAR CITY COUNCIL MEETINGS AND THE VIDEO FOR THIS MEETING IS HEREBY INCORPORATED BY THIS REFERENCE. FOR A COMPLETE RECORD OF THIS CITY COUNCIL MEETING, GO TO [www.citymb.info/city-officials/city-clerk/city-council-meetings-agendas-and-minutes](http://www.citymb.info/city-officials/city-clerk/city-council-meetings-agendas-and-minutes)**

#### **A. PLEDGE TO THE FLAG**

*Karen Komatinsky led the Pledge of Allegiance.*

#### **B. ROLL CALL**

**Present:** 5 - Mayor Howorth, Mayor Pro Tem Powell, Councilmember Burton, Councilmember D'Errico and Councilmember Lesser

#### **C. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING**

*City Clerk Liza Tamura confirmed the meeting was properly posted.*

#### **D. APPROVAL OF AGENDA AND WAIVER OF FULL READING OF ORDINANCES**

**A motion was made by Councilmember Lesser, seconded by Mayor Pro Tem Powell, to approve the agenda. The motion carried by the following vote:**

**Aye:** 5 - Howorth, Powell, Burton, D'Errico and Lesser

#### **E. CEREMONIAL CALENDAR**

*None.*

*Mayor Howorth announced that the City Council reorganization will take place at the next City Council meeting.*

*Councilmember Burton congratulated Mayor Howorth on a job well done.*

#### **F. CITY MANAGER REPORT**

*City Manager Mark Danaj announced the authorization for taxicab agreements on the Consent Calendar and an important part of the negotiations will be the new taxicab parking restrictions. City Manager Danaj provided a brief update of the parking restrictions, signage and implementation. City Manager Danaj announced that a trial period for the Dial-a-Ride week-end service has begun, and a new exhibit at the Creative Arts Center featuring Natalie Arnoldi "West of Manhattan" will begin on September 4, 2014. In conclusion, City Manager Danaj reported the return of Dr. Lowe from California State University Long Beach, to discuss his research on sharks on September 18, 2014, at 6:30 PM at the Joslyn Community Center.*

City Manager Danajl responded to City Council questions, stated that there is no change in the status of the Manhattan Village Mall Project, and clarified that the draft protocols from the retreat will be on a future City Council Agenda in early October.

## **G. CITY ATTORNEY REPORT**

City Attorney Quinn Barrow reported on the 900 Club (Item No.3 on the Consent Calendar) stating that there have been non-substantive changes to Condition 9, which requires an Entertainment Permit within 30 days and some clean-up in the language.

City Attorney Barrow stated that the City has received e-mails regarding the fitness center Level 10, but it is not agendized and cannot be discussed. For clarification purposes there are no civil or criminal charges against Level 10. The City Prosecutor is monitoring other prosecutions, the Police Department will continue to respond to calls and take enforcement action when appropriate, and the City has received information about a dispute between the tenant and landlord, but that is a civil matter.

## **H. CITY COUNCIL ANNOUNCEMENTS AND REPORTS**

Councilmember Burton inquired if people are in attendance, can they give comments on Level 10.

Mayor Howorth responded in the affirmative, but the City has no jurisdiction over the issues involved.

Mayor Pro Tem Powell announced the free paper shredding event at the National Guard Armory on Saturday, September 6, 2014, from 10 AM to 1 PM.

Councilmember Lesser reported on a meeting with Southern California Edison on September 9, 2014, at 6 PM, at the Joslyn Community Center regarding proposed upgrades of power delivery systems in Manhattan Beach.

## **I. COMMUNITY ANNOUNCEMENTS REGARDING UPCOMING EVENTS**

Don Gould, Manhattan Beach Library, gave an update on the new library and library activities.

## **J. PUBLIC COMMENT ON NON-AGENDA ITEMS**

Tom Raftcan, Sport Fishing Conservancy, thanked the City Council for working with the state, coastal commission, department of wildlife, and for calling in Chris Lowe for information on sharks.

Yury Gurvich, resident, spoke of unsafe conditions on the bike path.

Hashem Nahid, United Fishing Anglers, presented City Council with a book on Pier Fishing in California by Ken Jones, and spoke about pier fishing and surfers.

Steve Packwood, resident, welcomed the new City Manager and stated his hopes for getting into a new strategic planning process, questioned protocol on the Manhattan Village Mall project and allegations from a former employee.

Mike Matthews, Manhattan Beach Unified School District Superintendent, emphasized the great job done by the City on the Slurry Seal Projects for the school facilities.

Karen Komatinsky, President of the School Board, echoed the praises by Superintendent Mike

*Matthews and thanked the City for the fantastic job.*

*Meredith Miller, owner of Level 10, spoke of her problems with two neighbors.*

*Keith Arnold, resident and client of Level 10, spoke of verbal altercation and problems.*

*Jeremy Akers, client of Level 10, alleged threats and assaults occurring at the fitness center.*

*Cory Mendelson, owner of residence behind Level 10, explained his problems with the fitness center.*

*Peggy Curry, resident, indicated that she and her daughters feel unsafe because of alleged actions occurring around the fitness center and verbal abuse.*

*Alex Curry, resident, reiterated her mothers comments of feeling unsafe.*

*Bill Goldblum, resident, thinks neighbors' behavior is irrational and wants something done.*

*Jeanne Vetter, South Bay resident, stated that she has filed a restraining order against the neighbors and still fears there is no protection.*

*Bill Victor, property owner, disappointed in the police department and the price of the SWAT vehicle.*

## K. CONSENT CALENDAR

*Bill Victor pulled Item Nos. 3,5, and 6.*

*Councilmember Lesser pulled Item No. 4.*

*Councilmember Burton pulled Item No. 8.*

**A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton, to approve the Consent Calendar with the exception of Item Nos. 3,4,5,6,and 8. The motion carried by the following vote:**

**Aye:** 5 - Howorth, Powell, Burton, D'Errico and Lesser

1. Formally Accept the Hardware and Software Upgrades to the Novar [14-0381](#) HVAC Controls Project as Complete, Authorize Final Payment in the Net Amount of \$34,732.00, and Release of Retention in the Amount of \$1,828.00 to Building Control Center and (Public Works Director Olmos).

### **APPROVE**

**The recommendation for this item was approved on the Consent Calendar.**

2. Resolution Withdrawing Membership from the Los Angeles Regional [RES 14-0058](#) Communications System (LA-RICS) Joint Powers Authority (Police Chief Irvine).

### **ADOPT RESOLUTION NO. 14-0058**

**The recommendation for this item was approved on the Consent Calendar.**

3. A Resolution of the Manhattan Beach City Council Approving, Subject [RES 14-0060](#)

to Conditions, a Modified and Restated Use Permit for an Existing Restaurant/Bar ("Eating and Drinking Establishment") at the Property Located at 900 Manhattan Avenue (900 Club and Red Room) (CEQA Categorical Exemption) (Community Development Director Thompson).

**ADOPT RESOLUTION UPHOLDING PLANNING COMMISSION  
DECISION WITH REVISED CONDITIONS**

This item was removed from the Consent Calendar and heard later under Item No. N. Items removed from the Consent Calendar.

4. Authorization to Negotiate New Five Year Taxicab Franchise Agreements (Finance Director Moe). [14-0403](#)

**APPROVE**

This item was removed from the Consent Calendar and heard later under Item No. N. Items removed from the Consent Calendar.

5. Request for Proposal for Skate Park Planning Services to Provide Community Outreach and Propose Skate Park Locations, Type of Skate Park and Funding Options (Parks and Recreation Director Leyman). [14-0405](#)

**APPROVE**

This item was removed from the Consent Calendar and heard later under Item No. N. Items removed from the Consent Calendar.

6. Contract with Messina & Associates in the Amount Not to Exceed \$55,000 for Succession Planning Development, Team Building, Coaching and Career Counseling for multiple City Departments (Human Resources Director Hanson). [14-0406](#)

**APPROVE**

This item was removed from the Consent Calendar and heard later under Item No. N. Items removed from the Consent Calendar.

7. Consideration of Five-Year Fiber Optic Maintenance Agreement with Time Warner Cable with an Estimated Annual Value of \$52,800 (Finance Director Moe). [CON 14-0044](#)

**WAIVE FORMAL BIDDING, APPROVE**

The recommendation for this item was approved on the Consent Calendar.

8. Request for Proposal to Assess Current Tree Program and Develop a Comprehensive Street Tree Master Plan (Public Works Director Olmos) [14-0356](#)

**RECEIVE AND FILE**

This item was removed from the Consent Calendar and heard later under Item No. N. Items removed from the Consent Calendar.

9. Minutes: [14-0340](#)  
This item contains action minutes of City Council meetings which are

presented for approval. Staff recommends that the City Council, by motion, take action to approve the action minutes of the:

a) City Council Adjourned Regular Meeting-Closed Session of August 12, 2014

b) City Council Regular Meeting of August 12, 2014  
(City Clerk Tamura).

**APPROVE**

The recommendation for this item was approved on the Consent Calendar.

**L. PUBLIC HEARINGS**

10. Appeal of Planning Commission Approval of a Master Use Permit Amendment for Modifications to the Shade Hotel on the Metlox Site at 1221 North Valley Drive (Community Development Director Thompson).

[14-0386](#)

**CONDUCT PUBLIC HEARING AND DIRECT STAFF TO PREPARE A RESOLUTION UPHOLDING THE PLANNING COMMISSION'S DECISION TO AMEND THE MASTER USE PERMIT**

*Mayor Howorth introduced Planning Manager Laurie Jester who gave an update on the handout distributed and provided a PowerPoint Presentation.*

*Planning Manager Jester and City Attorney Barrow responded to City Council questions.*

*At 7:46 PM City Council recessed and reconvened at 7:56 PM with all Councilmembers present.*

*Don McPherson, appellant, read his objections into the record and introduced Chuck Delao, Retired Building Official and Consultant. Mr. Delao showed photos via the document reader. Nate Hubbard, appellant, presented video clips from Planning Commission Meetings, but they were inaudible, and he summarized by saying the Shade Hotel was operating under the 2005 CUP that only allowed breakfast service on the Terrace. Wayne Partridge, appellant, spoke of the noises on the Terrace. The appellants' responded to City Council questions.*

*Mike Zislis, Operator and Owner of the Shade Hotel, gave his presentation and reiterated that there were 41 conditions imposed on the Master Use Permit. Mr Zislis responded to City Council questions.*

*Milo Bassett, resident and father-in-law of Mike Zislis, spoke of being respectful of neighbors and that he wants to resolve this issue once and for all.*

*Don Behrins, Manhattan Beach resident and Principal of Behrins and Associates, Acoustic, Noise and Vibration Engineers, responded to City Council questions.*

*Mayor Howorth opened the Public Hearing for public comment.*

*Stephanie Hubbard, resident, expressed concerns for adding more people on the patio, stating that there will be more noise, she further stated that she wants to work it out so it is safe and quiet.*

*Cheryl Lynn, resident, spoke about sound measurements and questioned the viability because the measurements were taken at atypical times.*

*Victoria Muir, resident, lives four houses from the Hubbard's, stated that she has never heard*

*any noise and she is here to support the Shade Hotel.*

*Neil Boyer, resident, doesn't want to approve 2 AM alcohol and stated that he is amazed how this has changed from a "Bed and Breakfast" to a "Hotel and Bar".*

*Esther Besbris, resident, focused on the transition of a word and what the word "Shade" has come to mean.*

*Bill Victor, property owner, spoke of his frustrations with the Community Development Department.*

*Joan Muller, resident, stressed that her main concern was the hours of operation although noted that it's the people leaving the Shade that are the problem.*

*Andrea Newmark, resident, doesn't have a problem with noise from the Shade.*

*Mike Zislis, clarified some of the mitigation measures he has taken and agreed that the public parking lot on Valley is the key problem.*

*Mayor closed the Public Hearing and the public comment period.*

*Community Development Director Richard Thompson and City Attorney Barrow responded to City Council questions.*

*Discussion continued with all City Council regarding the conditions that need to be added to the Master Use Permit.*

**A motion was made by Councilmember Burton, seconded by Councilmember D'Errico, to accept the Planning Commission recommendations with the exception of the Green Room hours to be the same as the Zinc Bar and language be changed from "may" to "shall" come back to the Planning Commission in one year and stipulation tonight on Condition 37.**

*Mike Zislis would not stipulate to these conditions unless he would go back to City Council and not the Planning Commission, agreed to the Green Room closing time, but stated he would come back to the City Council after six months of work completed and that City Council could consider giving back the hour later closing on the Zinc Terrace- when the work is done on sound mitigation.*

*Councilmember Burton withdrew his motion.*

*City Attorney Barrow clarified the new motion.*

*Mike Zislis stipulated to the conditions for the record.*

**A motion was made by Councilmember Burton, seconded by Councilmember D'Errico to accept the Planning Commission recommendations with the exception of the Green Room hours the same as the Zinc Bar, language being changed from "may" to "shall" come back to the City Council for review six months after the completion of the improvements (which are to be implemented within five months and to the satisfaction of the Community Development Director) and the City Council may consider giving back the hour of closing for the Green Room. the motion carried by the following vote:**

**Aye:** 5 - Howorth, Powell, Burton, D'Errico and Lesser

City Attorney Barrow stated that the resolution would come back to the next City Council Meeting with the draft for City Council consideration.

At 10:11 PM City Council recessed and reconvened at 10:20 PM with all Councilmembers present.

Councilmember Lesser commented that he would like to acknowledge all of the work done by Community Development Staff to resolve this issue.

11. Appeal of the Planning Commission's Approval of an Amendment to [14-0385](#) an Approved Coastal Development Permit and Minor Exception to Construct a Roof Deck on an Existing Single Family Residence with a Non-Conforming Front Setback at 121-20th Street (Plache) (Community Development Director Thompson).

**CONDUCT PUBLIC HEARING, UPHOLD THE PLANNING COMMISSION'S DECISION**

Councilmember Burton explained that he requested the appeal for this item because of vacation schedules and the inability to meet with Community Development Director Thompson before the hearing and he showed a photo on the document reader of the narrow distance between the properties that might cause a problem.

Mayor Howorth introduced Community Development Director Richard Thompson and Assistant Planner Jason Masters who presented some slides from a PowerPoint Presentation and they responded to City Council questions.

Mayor Howorth opened the Public Hearing and the floor for public comment.

Jessica Vernachi, one of the project architects, presented a PowerPoint Presentation and spoke about the fence on the property line and explained it has nothing to do with the minor exception.

John Putnam, manager and owner of the adjacent property, submitted photos and a letter for the record. Mr. Putnam conveyed that his main concern was the fence or wall between the property.

City Attorney Barrow clarified that Mr. Putnam was not an appellant and it was explained that his issue was not relevant to the minor exception.

Judy Foreman, resident of the property to the east, stated that her frustration is a lack of neighborliness, and her concern that the project has grown in scope.

Steven Plache, owner of the property, spoke about his project and his desire to be neighborly.

Mayor Howorth closed the Public Hearing and the public comment period.

Community Development Director Thompson and City Attorney Barrow responded to City Council questions.

**A motion was made by Mayor pro Tem Powell, seconded by Councilmember Lesser, to approve the minor exception and adopt the Planning Commissions findings and City Council would be receptive to staff working with all the parties on the issues. The motion carried by the following vote:**



**Aye:** 5 - Howorth, Powell, Burton, D'Errico and Lesser

*City Attorney Barrow clarified that City Council requested staff to look into noticing requirement and the issue with potential amendments for open space and minor exceptions be a part of the process.*

## **M. GENERAL BUSINESS**

- 12.** Consideration of Bagging of City Parking Meters During the Holiday Season to Encourage Local Shopping (Finance Director Moe).

[14-0394](#)

### **APPROVE**

*Mayor Howorth introduced Finance Director Bruce Moe who gave a PowerPoint Presentation and responded to City Council questions.*

*Mayor Howorth opened the floor for public comment.*

*Mike Zislis, President of the Business Improvement District (BID), spoke about the history of the parking meters and lots.*

*Seeing no further requests to speak, Mayor Howorth closed the public comment period.*

*Councilmember Lesser stated that he could support bagging the parking meters for two to three weeks, but this goodwill gesture does impact the Parking Fund, turnover in parking for cars leads to more revenue for businesses and there will be an inevitable downturn in revenues.*

*Discussion continued and Police Chief Eve Irvine responded to City Council questions.*

**A motion was made by Councilmember Burton, seconded by Mayor Howorth, to approve bagging meters for four weeks, this year only, and to direct staff to look at what is appropriate regarding bagging of meters in the new Downtown Plan or Specific Plan. The motion carried by the following vote:**

**Aye:** 4 - Howorth, Powell, Burton and D'Errico

**Nay:** 1 - Lesser

*Councilmember Lesser remarked that he was opposed because he feels it is shortsighted and not consistent with economic development and other reasons previously stated.*

## **N. ITEMS REMOVED FROM THE CONSENT CALENDAR**

*Due to the late hour, City Council discussed whether to hear all items removed from the Consent Calendar.*

**After consideration, City Council decided to hear Item No. 4 and subsequently continue Item Nos. 3, 5, 6, and 8..**

- 3.** A Resolution of the Manhattan Beach City Council Approving, Subject to Conditions, a Modified and Restated Use Permit for an Existing

[RES 14-0060](#)

Restaurant/Bar (“Eating and Drinking Establishment”) at the Property Located at 900 Manhattan Avenue (900 Club and Red Room) (CEQA Categorical Exemption) (Community Development Director Thompson).

**ADOPT RESOLUTION UPHOLDING PLANNING COMMISSION  
DECISION WITH REVISED CONDITIONS**

This item was removed from the Consent Calendar and subsequently moved to a later meeting.

4. Authorization to Negotiate New Five Year Taxicab Franchise Agreements (Finance Director Moe).

[14-0403](#)

**APPROVE**

*Councilmember Burton pulled this item from the Consent Calendar and inquired about the last time an RFP was done and what taxicab companies operate out of LAX or the Century City Corridor.*

*Finance Director Moe responded to City Council questions.*

*Mark Osoto, South Bay Yellow Cab, was asked to respond to a question regarding the cab companies operating in the surrounding corridors and the setting of fares.*

*City Attorney Barrow responded to City Council questions regarding Transportation Network Companies.*

*Mayor Howorth opened the floor to public comment.*

*Seeing no requests to speak, Mayor Howorth closed the public comment.*

**A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to authorize staff to negotiate a new five-year taxicab franchise agreement with direction to include protections for the City and within the individual agreements of the independent owners.**

**Councilmember Lesser added a friendly amendment to insure that language that contemplates the possibility of regulating the transportation network companies be included. The motion carried by the following vote:**

**Aye:** 5 - Howorth, Powell, Burton, D'Errico and Lesser

5. Request for Proposal for Skate Park Planning Services to Provide Community Outreach and Propose Skate Park Locations, Type of Skate Park and Funding Options (Parks and Recreation Director Leyman).

[14-0405](#)

**APPROVE**

This item was removed from the Consent Calendar and subsequently moved to a later meeting.

6. Contract with Messina & Associates in the Amount Not to Exceed \$55,000 for Succession Planning Development, Team Building, Coaching and Career Counseling for multiple City Departments (Human Resources Director Hanson).

[14-0406](#)

**APPROVE**

This item was removed from the Consent Calendar and subsequently moved to a later meeting.

8. Request for Proposal to Assess Current Tree Program and Develop a Comprehensive Street Tree Master Plan (Public Works Director Olmos) [14-0356](#)

**RECEIVE AND FILE**

This item was removed from the Consent Calendar and subsequently moved to a later meeting.

**O. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS**

*None.*

**P. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS, FUTURE DISCUSSION ITEMS**

*Councilmember Lesser requested approval from City Council to waive the fees at the Joslyn Community Center for a Mayor's Youth Council Symposium and to discuss this issue at a future City Council Meeting and Mayor Howorth concurred.*

*Mayor Pro Tem Powell related that the City has received complaints of water waste at the Farmer's Market and inquired if the City has control because it is on City property.*

*City Manager Danaj responded to City Council questions.*

**Q. RECEIVE AND FILE ITEMS**

13. Financial Reports: [14-0374](#)  
a) Schedule of Demands: August 14, 2014  
b) Investment Portfolio for the Month Ending July 31, 2014  
c) Financial Reports for the Month Ending July 31, 2014  
(Finance Director Moe).

**RECEIVE AND FILE**

*Mayor Howorth opened the floor to public comment.*

*Seeing no requests to speak, Mayor Howorth closed the floor to public comment.*

**A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton, that this item be Received and Filed. The motion carried by the following vote:**

**Aye:** 5 - Howorth, Powell, Burton, D'Errico and Lesser

**R. ADJOURNMENT**

*Mayor Howorth re-announced that Item Nos. 3, 5, 6 and 8 will be continued to a future City Council Meeting.*

*At 12:20 AM Mayor Howorth adjourned the meeting to the 5:00 PM Adjourned Regular City Council Meeting (Closed Session) followed by the 6:00 PM Regular City Council Meeting on Tuesday, September 16, 2014, in said City.*

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**Matthew Cuevas**  
**Recording Secretary**

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**Amy Thomas Howorth**  
**Mayor**

**ATTEST:**

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**Liza Tamura**  
**City Clerk**