

06/0801.13 Consideration of Utility Underground Assessment District Issues:

- a) Approval of a 22% Reduction in Assessments for District 05-2 and Adoption of a Resolution Determining the Revised Unpaid Assessments for District 05-2 of \$4,545,000
- b) Presentation of Survey Results for Proposed Utility Underground Districts 7-14
- c) Discussion Regarding Proposed Districts 7-10
- d) Discussion Regarding Proposed Districts 11-14
- e) Discussion Regarding Procedures for Forming New Districts
- f) Discussion Regarding District 4a

a) Reduction in Assessments for District 05-2

Finance Director Bruce Moe explained that, after receiving the open market bids for Utility Underground Assessment District 2, it was determined that the project can be completed for approximately 22% less than the original estimate, which will result in reduced assessments of between \$7,400 and \$12,900. He advised that, per the Bond Counsel, proposed Resolution No. 6050 reflects the lower assessment amounts necessary in order to proceed with the Utility Undergrounding in District 2.

The following individual spoke on this item:

- Myron Pullen, 1400 Block of 19th Street

Senior Civil Engineer Stephanie Katsouleas clarified that the previous assessment amounts were estimates provided by the utility companies for voting purposes, and that the lower cost is a reflection of open market bids obtained after District 2 was approved.

Mayor Pro Tem Tell added that Southern California Edison (SCE) originally bid the project as a hard cost item, meaning they did not intend to go out for open market bids prior to finalizing an invoice to the City. However, during several meetings with SCE, that he and Councilmember Fahey attended, it was discovered that a significant contingency was built into SCE's bid for District 2 and they are required to go out for open market bids, resulting in a cost reduction. Mayor Pro Tem Tell noted that he and Councilmember Fahey will continue to meet with both SCE and Verizon in hopes of achieving cost reductions for District 6 and further cost reductions for District 2.

MOTION: Councilmember Fahey moved to adopt Resolution No. 6050 determining the revised unpaid assessments due to a 22% reduction construction costs for District 05-2. The motion was seconded by Mayor Pro Tem Tell and passed by the following unanimous roll call vote.

Ayes:	Aldinger, Montgomery, Fahey, Tell and Mayor Ward.
Noes:	None.
Absent:	None.
Abstain:	None.

RESOLUTION NO. 6050

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MANHATTAN BEACH, CALIFORNIA, DETERMINING
UNPAID ASSESSMENTS FOR UNDERGROUND UTILITY
ASSESSMENT DISTRICT NO. 05-2**

- b) Presentation of Survey Results for Proposed Utility Underground Districts 7-14
- c) Discussion Regarding Proposed Districts 7-10
- d) Discussion Regarding Proposed Districts 11-14

With the aid of a PowerPoint presentation, Senior Civil Engineer Katsouleas shared background information on the formation of the Utility Underground Assessment Districts (UUADs). She highlighted the following: the status of the proposed UUADs 7-14; the pricing for Districts 2, 4 and 6; the results of the surveys for future Districts 7-14 and estimated assessment costs related thereto; the issues to consider when deciding whether to proceed with Districts 7-10, for which the City has already initiated and spent funds; the issues to consider when deciding whether to proceed with Districts 11-14; the time frame for accepting utility underground petitions; whether or not to allow district boundaries to be modified; the sizing of districts; whether an opt-out policy is needed or whether mitigating measures could be established; and the parameters for reinitiating failed districts.

Senior Civil Engineer Katsouleas related that staff recommends that the Council: confirm the petition threshold needed for districts to form; determine if a new threshold would retroactively apply to Districts 7-14 (if they do not move forward based on discussion this evening); set a time frame for a petition drive; establish a policy for boundary modifications during a petition drive; establish a policy for district sizing; decide against forming an opt-out policy; set criteria for reinitiating failed districts; and decide if such criteria should be the same as or different from newly formed districts.

The Council discussed that their original Utility Undergrounding policy included a requirement that 60% of the total households in a proposed district must sign petitions in favor Undergrounding and that it is important to be consistent when considering the statistics gathered.

City Attorney Robert Wadden verified that the Utility Undergrounding policies previously established by the Council are documented according to minute action by the Council.

The following individuals spoke on this item:

- Bev Morse, 900 Block of 1st Street
- Esther Besbris, No Address Provided
- Brian Sweeney, District 8
- Emma Collier, District 13
- Robert Bush, District 9
- Greg Sharp, District 12
- Julia Tedesco, District 13
- Margo Woodard, District 13
- Unidentified Speaker, No Address Provided
- Karol Wahlberg, No Address Provided
- Myron Pullen, 1400 Block of 19th Street
- Viet Ngo, No Address Provided
- Frank Matranga, District 2
- Bob Rupkey, District 7
- Myron Klafter, District 12
- Bill Bloomfield, No Address Provided
- Patrick McBride, 5th Street & Peck Avenue
- Irl Cramer, 100 Block of North Dianthus
- Dick May, No Address Provided
- Joe Moore, No Address Provided
- Steve Morse, No Address Provided
- John Roehl, Duncan Avenue
- Robert Freedman, 1000 Block of 1st Street
- Loretta Wells, Marine Avenue
- Lee Berouty, No address Provided

1 The Council clarified that Utility Undergrounding is not proposed east of Sepulveda Boulevard.

2 **RECESS AND RECONVENE**

3 At 8:37 p.m. the Council recessed and reconvened at 8:50 p.m. with all Councilmembers present.

4 Council discussion included the following: the funds already expended on Districts 7-10 and the
5 anticipated amount yet to be spent relative to those districts; the title insurance associated with the
6 Utility Undergrounding Loan Program; and the idea of returning interest along with the refunds
7 that will be given for pre-paid assessments as a result of the lower open market bids for District 2,
8 as discussed earlier in the meeting.

7 The Council agreed that moving Utility Undergrounding Assessment Districts 7, 9, 10 and 11
8 forward should not be continued at this time because over 70% of the property owners in those
9 districts do not support Utility Undergrounding.

9 **MOTION:** Councilmember Aldinger moved to deny moving forward with Utility Underground
10 Assessment Districts 7, 9, 10 and 11. The motion was seconded by Councilmember Fahey and
11 passed by unanimous roll call vote as shown below:

11 Ayes: Aldinger, Montgomery, Fahey, Tell, Mayor Ward.

12 Noes: None.

13 Absent: None.

14 Abstain: None.

14 Offering information on the City's ballot distribution procedures, Senior Civil Engineer
15 Katsouleas affirmed that only one ballot per household was counted using unique parcel numbers.

16
17 Council discussion continued regarding the following: that the Council could consider not
18 pursuing Districts 7 through 14 because none of them meet the 60% threshold; that proponents in
19 Districts 8, 12, 13 and 14 apparently did not understand that 60% was necessary for the Utility
20 Undergrounding to move forward; that, in looking at Districts 8, 12, 13 and 14, it appears there
21 is support for Utility Undergrounding when the price is reasonable (approximately \$20,000 or
22 less); that, because property owners in Districts 8, 12, 13 and 14 believe they were insufficiently
23 notified of the percentage necessary to move forward, a new survey could be distributed for an
24 extended period of time; and that the Utility Undergrounding Subcommittee could meet to
25 develop recommendations for future Utility Undergrounding processes.

22
23 Should the Council agree to extend the time period for gathering signatures in Districts 8, 12, 13
24 and 14, Senior Civil Engineer Katsouleas related staff's recommendation that two letters be sent
25 to property owners – one informing those who did respond the status of the survey effort, and
26 another requesting participation from those who did not previously respond.

25 Council discussed the 60% threshold concurring that for the survey; the threshold should be 60%
26 of the total households.

27 She noted that the Edison design plans for District 8 are completed; that pricing for District 8
28 should be available for consideration in the very near future should it move forward; and that if it
29 does, the ballots for District 8 could be distributed in November or December of this year. She
30 explained the reasons for varying costs in different Utility Undergrounding Districts, the cost of
31 Undergrounding utilities in the future; and the goal of requiring the utility companies to obtain
32 open market bids before balloting procedures rather than just providing cost estimates.

31 A majority of the Council agreed to continue the survey process in Districts 8, 12, 13 and 14 with
32 a 90-day response period and the following motion was offered:

MOTION: Councilmember Montgomery moved to approve that new surveys for Utility Underground Assessment Districts 8, 12, 13 and 14 be distributed with the stipulation that there shall be a 90-day response period. The motion was seconded by Councilmember Fahey and passed by the following roll call vote:

Ayes: Aldinger, Montgomery, Fahey and Tell.
Noes: Mayor Ward.
Absent: None.
Abstain: None.

Mayor Ward explained his dissenting vote due to his belief that Utility Underground Assessment Districts 8, 12, 13 and 14 should be dissolved.

e) Discussion Regarding Procedures for Forming New Districts

The Council extensively discussed procedures for forming new Utility Underground Assessment Districts, including the pros and cons of increasing the percentage of the actual Prop 218 votes required for a district to be approved by City Council and the immediate distribution of surveys after petitions (with the required percentages) are received.

MOTION: Mayor Ward moved to approve that the percentage of the actual ballot vote required for a Utility Underground Assessment District to move forward shall be increased to a minimum of 60%. The motion was seconded by Councilmember Fahey and passed by the following roll call vote.

Ayes: Montgomery, Fahey and Mayor Ward.
Noes: Aldinger and Tell.
Abstain: None.
Absent: None.

The Council clarified that the actual Prop 218 ballot vote required was increased to 60%.

RECESS AND RECONVENE

At 10:03 p.m. the Council recessed and reconvened at 10:14 p.m. with all Councilmembers present.

After the break, there was additional Council discussion as to whether the increased percentage to 60% of the actual ballot vote approved by the Council this evening, prior to the recess, should apply only to future Utility Underground Assessment Districts, or to proposed Districts 8, 12, 13 and 14 as well.

MOTION: Councilmember Montgomery moved to approve that the newly approved percentage of 60% of the actual vote shall not retroactively apply to Utility Underground Assessment Districts 8, 12, 13 and 14. The motion was seconded by Mayor Pro Tem Tell and passed by the following roll call vote.

Ayes: Aldinger, Montgomery and Tell.
Noes: Fahey and Mayor Ward.
Absent: None.
Abstain: None.

The Council clarified that the percentage of the actual ballot vote required for proposed Districts 8, 12, 13 and 14 to move forward will be determined at the time those Districts come before the Council.

1 Senior Civil Engineer Katsouleas shared information on the duration of previous petition drives
2 and related staff's recommendation that modifications during petition drives be reviewed on a
3 district-by-district basis by a small subcommittee and then brought forward for the Council's
4 consideration if desired. She called attention to the cumbersome effect of an opt-out policy,
5 particularly in the Hill Section, and noted the difficulty of determining which areas should be
6 allowed to opt out. She suggested that boundaries and modification procedures be established at
7 the beginning of a petition drive and prior to the City expending funds on the formation of a
8 district in lieu of an opt out policy

9 **MOTION:** Councilmember Aldinger moved to approve setting a six-month time frame for
10 initiating and completing a petition drive; to allow the morphing of boundary modifications
11 during a petition drive and prior to such time as the City expends funds; to not sent a limit on the
12 size of a Utility Underground Assessment District; to not allow the creation of an opt-out policy
13 once a district is initiated, to confirm the implementation of procedures that negate the need for an
14 opt-out policy at the onset of district formation; and to require a one year period before petitions
15 can be re-initiated. The motion was seconded by Mayor Pro Tem Tell seconded and passed by the
16 following unanimous roll call vote:

17 Ayes: Aldinger, Montgomery, Fahey, Tell and Mayor Ward.
18 Noes: None.
19 Abstain: None.
20 Absent: None.

21 *f) Discussion Regarding District 4a*

22 Background information regarding proposed District 4a was presented by Senior Civil Engineer
23 Katsouleas. She noted modifications made to the petition for proposed District 4a; related staff's
24 understanding that the 60% threshold to approve the petition for District 4a has been reached; and
25 recommended that the Council discuss whether the previously-established policies, or those
26 approved this evening, should apply to proposed District 4a. Senior Civil Engineer Katsouleas
27 then reviewed the boundaries for proposed District 4a, expressing staff's viewpoint that they do
28 make sense.

29 The following individuals spoke on this item:

- 30 • Unidentified Speaker, No Address Provided
- 31 • Unidentified Speaker, No Address Provided
- 32 • Unidentified Speaker, No Address Provided
- 33 • Bev Morse, 900 Block of 1st Street
- 34 • Esther Besbris, No Address Provided

35 In response to an audience member's comment that Mayor Pro Tem Tell should recuse himself
36 from this discussion due to owning property in District 4a, City Attorney Wadden advised that,
37 since the discussion will be general in nature, and not determine whether District 4a should be
38 formed etc., it is not necessary for Mayor Pro Tem Tell to recuse himself.

- 39 • Robert Friedman, 1000 Block of 1st Street

40 Mayor Pro Tem Tell left the meeting at 11:18 p.m.

- 41 • Karen Westover, 200 Block of South Dianthus
- 42 • Steve Morse, No Address Provided
- 43 • Viet Ngo, No Address Provided
- 44 • Patrick McBride, 5th Street & Peck Avenue
- 45 • Lee Berouty, No Address Provided
- 46 • Joe Moore, District 4
- 47 • Dick Wilden, 100 Block of South Poinsettia
- 48 • Robert Bush, District 9
- 49 • Jacque May, No Address Provided

The Council debated whether District 4a should be considered a new district and, if so, whether property owners supporting the District were previously misled by the Council. A majority of the Council agreed that District 4a should be treated as a new Utility Underground Assessment District and that the boundaries for District 4a should be as contiguous as possible.

City Attorney Wadden advised that a tie vote would equate to no action, which would mean that District 4a would fall under the new district policies approved this evening. He further advised that the Council's vote in December 2005 in favor of allowing the formation of District 4a did not deal with the issue of the vote threshold in Proposition 218.

MOTION: Councilmember Fahey moved to approve distributing surveys if a petition in favor of District 4a is verified by staff and staff determines that the boundaries are reasonable, and that it be considered as a new district. The motion was seconded by Mayor Ward and the following roll call vote was recorded.

Ayes:	Fahey and Mayor Ward.
Noes:	Aldinger and Montgomery.
Abstain	Tell.
Absent:	None.

Prior to the vote, City Attorney Wadden explained that if the vote ends in a 2-2 tie, ultimately District 4a would fall under the new District classification.

Deputy City Manager Sherilyn Lombos recapped the decisions made by the Council this evening with regard to Item No. 13: that Districts 7, 9, 10 and 11 shall be dissolved; that new surveys shall be distributed for Districts 8, 12, 13 and 14, with the stipulation that there shall be a 90-day period to get 60% of the total households to support Undergrounding; that the future ballot vote requirement shall be increased to 60%, which does not apply to proposed Districts 8, 12, 13 and 14 (which will maintain the 50% minimum threshold); that there shall be a six-month time frame for initiating and completing petitions; that modifications to district boundaries shall be allowed during the petition process and before the City has expended funds; that there shall be no limit on district sizes; that there shall be no opt-out policy; that a minimum of one year shall pass before a petition can be re-initiated; that District 4a shall be treated as a new district and thus surveys confirming support for District 4a shall be distributed as soon as possible after the validity of the petition and boundaries for District 4a are verified by staff.

AUDIENCE PARTICIPATION

06/0801.18 Bill Bloomfield Re Undergrounding

Bill Bloomfield, No Address Provided, emphasized that the Council's decision to require that future Undergrounding districts meet a 60% (of the number of households – not of the number of returns) approval for petitions and surveys is nearly impossible and will “kill” all future Undergrounding.

06/0801.19 Bev Morse Re Undergrounding

Bev Morse, No Address Provided, emphasized that the opponents in District 4 did not get to vote on Mr. Bloomfield's petition; that her husband was denied the right to circulate a petition; and that the matter should have been brought to a vote of the entire City.

06/0801.20 Steve Morse Re Democratic Process

Steve Morse, No Address Provided, stressed that the democratic process was not used when the Council gerrymandered District 4a and questioned who the Council is doing this for.

1 In response to comments by Mr. Morse and others, Councilmember Fahey emphasized that she and
2 the Council represent all citizens of Manhattan Beach, not just those in the audience and that they
3 don't make decisions based on what their legacy may be. She spoke of how the Council has gone
4 out of their way to be available to meet with residents to discuss Undergrounding and that surveys
5 were sent out in order to determine what residents really want. She expressed her disappointment
6 over the hostility and divisiveness that have come out of this issue and the inappropriateness of those
7 people who have threatened to recall the Council before the issue was even discussed.

8 06/0801.22 Patrick McBride Re New Wires

9 Patrick McBride, 5th Street & Peck Avenue, spoke about the new wires that Verizon has been
10 installing and how big and ugly they are. He spoke about complaints he has made to the City's
11 Public Works Department regarding Verizon's poor quality work and that perhaps someone needs
12 to follow them around and keep track of what they are doing. He also suggested that the City look
13 into wireless communication technologies.

14 06/0801.23 Myron Pullen Re Thanks to the Council

15 Myron Pullen, 1400 Block of 19th Street, thanked the Council for the job they do; however,
16 stated that putting up with things such as the "Recall the Council" signs that were displayed
17 tonight is part of the job and "if you can't stand the heat; you should get out of the kitchen".

18 06/0801.24 Dave Wachtfogel Re

19 Dave Wachtfogel, No Address Provided, commented that "if other cities had a Council like
20 Manhattan Beach's, they would think they died and went to heaven". He remarked that he does
21 not always agree with decisions made by the Council, but they are always fair.

22 06/0801.25 Jacque May Re Undergrounding

23 Jacque May, No Address Provided, stressed that the Council allowed District 4a to opt in, yet
24 they won't allow any other District to opt out.

25 06/0801.26 Scott Gobble Re Southern California Edison Rate Increase

26 Scott Gobble, Southern California Edison (SCE), encouraged the community to continue to
27 conserve energy wherever possible especially between the hours of noon and 7:00 p.m. He
28 forewarned the community that there will be a price increase for those residents who pay from
29 Tier 4 (residences whose electric bills are over \$300 a month) and that this would be the perfect
30 time to buy energy efficient appliances. He encouraged residents to contact SCE at (800) 655-
31 4555 or at their web site at www.sce.com.

32 CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

06/0801.27 Councilmember Aldinger Re Conference

Councilmember Aldinger announced that he recently attended the League of California Cities
conference in Monterey and participated in sessions on commissions and upcoming propositions.

06/0801.28 Councilmember Montgomery Re Democracy

Councilmember Montgomery thanked Councilmember Fahey for her earlier comments;
commented that it is unrealistic for anyone to think that the entire Council will be "on the same
page" for each issue; and that there is no finer example of democracy in action than tonight's
Council meeting.