

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Draft

Tuesday, February 18, 2014

6:00 PM

Regular Meeting

City Council Chambers

4:30 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

A. PLEDGE TO THE FLAG

Melissa Messner, Manhattan Beach Children's Librarian 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 that the meeting was properly posted.

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

Interim City Manager John Jalili requested to remove Item No. 10 from the agenda (Social Media Policy, E- Comment and MB Forum) noting its importance and ensuring that it is done correctly. The matter will be brought back to City Council at a later date.

Councilmember Burton requested to advance Item No. 11 (Update on Policy Governance Initiative and Authorize Request for Proposals for Professional Services) to be heard immediately after Item No. 7.

Councilmember Lesser expressed concerns with moving items on the agenda particularly when there is a light agenda.

Councilmember Burton responded that this is one of the most important items on the agenda and that it is more respectful of a Council Subcommittee to have the matter heard first.

Discussion followed regarding the matter being a General Business item.

A motion was made by Councilmember Burton, seconded by Councilmember D'Errico, to approve the agenda as modified, continuing Item No. 10 to a future City Council meeting, moving Item No. 11 forward to be heard immediately after Item No. 7, and waive full reading of Ordinances. The motion carried by the following vote:

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

E. CEREMONIAL CALENDAR

1. Presentation of a Certificate of Completion from the League of California Cities to Mayor Pro Tem Powell for attaining the Advanced Leadership (Level II) Status. **14-0080**

PRESENT

Jeff Kiernan, Regional Public Affairs Manager of the League of California Cities, presented a Certificate of Completion to Mayor Pro Tem Powell for attaining the Advanced Leadership (Level II) status. He provided a description of the program, listed Mayor Pro Tem Powell's accomplishments and commended him for his efforts.

2. Presentation of a Commendation to Manhattan Beach Children's Librarian Melissa Messner for her outstanding contributions to the County of Los Angeles, the South Bay and to the City of Manhattan Beach. **14-0085**

PRESENT

Mayor Howorth, on behalf of City Council, presented a commendation to Manhattan Beach Children's Librarian Melissa Messner for her outstanding contributions to the County of Los Angeles, the South Bay and the City of Manhattan Beach.

Councilmember Lesser commended Children's Librarian Messner on her service to the City.

F. CITY MANAGER REPORT

Interim City Manager John Jalili reported on items that have recently been heard by the Planning Commission. He stated that on February 12, 2014, the Planning Commission considered various mitigation measures to reduce noise levels related to the Shade Hotel. The matter was continued to March 12, 2014, and the Planning Commission directed staff to review the mitigation measures with all relevant City departments to ensure that the conditions are enforceable. He added that related to the 900 Club, staff had a constructive meeting with management where the club manager expressed willingness to resolve all issues including windows, installing additional sound-proofing, restricting the use of the back door and security. He added that the Public Hearing scheduled for February 26, 2014, is intended to provide a forum for residents to express their views. No decision will be made on that date, but staff will recommend continuing the hearing to April 9, 2014, and the Commission will provide direction to staff if additional conditions are necessary.

In response to Mayor Howorth's inquiry, Interim City Manager Jalili noted that it will be a revocation hearing.

Interim City Manager Jalili reported that at its January 22, 2014, meeting, the Planning Commission unanimously approved a new office retail building at 865 Manhattan Beach Boulevard. Notice was provided to all property owners within 500 feet of the site and there were two Public Hearings held. He added that no appeals were filed and that the City Attorney believes these types of items can be listed under the City Manager's weekly updates instead of a more formalized process, as requested by City Council.

Councilmember Burton referenced the forecasting agenda for the Planning Division and stated that the Manhattan Village Shopping Center project will be heard April 1, 2014, and requested an update report at the next City Council meeting with a description of what can be anticipated. Additionally, he noted that the Sepulveda Bridge widening project will be before City Council next week and Interim City Manager Jalili confirmed that it will be so. Councilmember Burton reported receiving a letter from a resident and asked that staff develop a process where a report is presented logging direction or action from City Council.

In response to an inquiry from Councilmember D'Errico regarding the 900 Club revocation hearing, Interim City Manager Jalili reported that a hearing has been scheduled for February 26, 2014, and that the Commission's desire is to hear the matter at that time, but not make a decision.

Mayor Pro Tem Powell noted that the Strand stairs project will be addressed at the next City Council meeting and Interim City Manager Jalili responded affirmatively.

G. CITY ATTORNEY REPORT

City Attorney Quinn Barrow reported that earlier this evening, City Council met in Closed Session to discuss the matter listed in the Closed Session agenda and there was no reportable action taken.

Councilmember Burton commented on the new process involving use permits and variances and asked whether a report will be presented in the future.

City Attorney Barrow responded that he is drafting an ordinance that will include the process and the City's code which will be presented to City Council at a future meeting.

H. CITY COUNCIL ANNOUNCEMENTS AND REPORTS

Mayor Pro Tem Powell commented on the "Dine and Discover" lunch for senior adults to be held this Thursday from 11:30 AM to 1:00 PM and where the subject of discussion will be Senior Scam Stoppers. In addition, he announced that a commercial shredder will be available from 10:00 AM to 12:00 PM.

Councilmember Burton announced that the South Bay Council of Governments will be holding its General Assembly on Friday, February 28, 2014, from 8:30 AM to 2:30 PM. Additionally, he announced that the Mira Costa High School Rugby Team won the State Championship.

Councilmember D'Errico announced a Neighborhood Watch meeting on February 25, 2014, at 7:00 PM at the Lutheran Church.

Mayor Howorth announced that Mira Costa High School students attended a National Model U.N. Conference in Georgetown and received the Outstanding Large School Delegation award.

I. COMMUNITY ANNOUNCEMENTS REGARDING UPCOMING EVENTS

Kate Nelson, Member of the Senior Advisory Committee, commented on the availability of a commercial shredder for residents to use at the upcoming "Dine and Discover" lunch event. In addition, she announced the California State Dominguez Hills Lecture Series to be held on Friday, February 21, 2014, from 10:00 AM to 12:00 PM in the Joslyn Center.

Steve Whitsitz, President of the Manhattan Beach Grand Prix, thanked City Council and staff for helping in setting a new date for this year's Grand Prix, set for July 6, 2014. He added that the professional race will be held on that date and expressed his appreciation for the City's assistance.

Veronica Zendejas, Office of State Senator Ted Lieu, commented on the upcoming "Dine and Discover" lunch, encouraged those attending to RSVP and thanked the City and staff for their help and support. She addressed the importance of learning about scams and added that Manhattan Beach Police Detective Sean Thompson will also be there to talk about property crimes in the City.

Viet Ngo commented on an upcoming election for California State Senator of District 26 and encouraged those interested to apply.

Don Gould, Manhattan Beach Library, commented on the Children's reading program at the Library and the departure of Melissa Messner noting that it will be a lengthy process to find her replacement. Additionally, he reported receiving a lot of positive comments regarding the progress of construction of the new Library.

Russ Samuels, Member of the Manhattan Beach Rotary, announced a project in partnership with Vision to Learn, where participants visit neighboring, less-affluent communities will be trained in prescreening for vision and in participation with eye doctors, will distribute glasses for needy children.

J. PUBLIC COMMENT ON NON-AGENDA ITEMS

Robert Bush commented on the attributes of the City and negative traits of its residents and their lack of participation in solving the problems with which the City is confronted. He addressed the percentage of voter turnout in local elections and commented on the Manhattan Village Shopping Center project and illegal street-sweeping fees as well as Southern California Edison outages and noted that residents should fight for the safety of the City.

Bill Victor commented on the upcoming Scam Stoppers program and hoped it would address protecting seniors from alleged elder abuse by employees of the City. He commented on the importance of access to computers in the new Library and noted that his previous request regarding the IT Department's budget was responded to, quickly. However, he complained that his access to certain websites was immediately blocked and opined that it may border on alleged "elder abuse". He stated he will carefully focus on the IT budget and asked that City Council look into the matter.

Viet Ngo stated that City Council has not complied with the elimination of the appointment of the City Manager or Interim City Manager. He alleged violations of the City's Municipal Code relative to the termination of Geoff Dolan without a vote. He invited Mayor Howorth and Mayor Pro Tem Powell to go with him to the FBI and the District Attorney's office to resolve allegations of racketeering, corruption and favoritism in the City. He commented on a book (Robert's Rules of Order) gifted to Mayor Howorth by a resident and stated that it was a form of bribery. Additionally, he alleged falsification of records by Interim City Manager Jalili.

Mayor Howorth stated that she will bring the book back and that it will be a City Council copy.

K. CONSENT CALENDAR

Councilmember Burton pulled Item No. 6 from the Consent Calendar for separate discussion and consideration.

No other requests were made to pull items from the Consent Calendar by City Council or the public.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton, to approve the Consent Calendar Items 3 - 5 with the exception of Item No. 6, which was pulled for separate discussion and consideration. The motion carried by the following vote:

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

3. Upgrades to the Police Department's Video Security System from Am-Tec Total Security in the Amount of \$55,996.22 (Finance Director Moe).

CON 14-0011

APPROVE

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

4. Contract with BBI Commercial Office Interiors, Inc., to Provide and Install Modular Office Furniture for an Amount Not-to-Exceed \$21,566.34 (Public Works Director Olmos). **14-0061**
APPROVE

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

5. Budget Adjustment and Appropriation of \$20,000 from the General Fund for Routine Traffic Engineering Services with Willdan Engineering (Community Development Director Thompson). **14-0073**
APPROVE, APPROPRIATE \$20,000 FROM THE GENERAL FUND

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

L. PUBLIC HEARINGS

None.

M. GENERAL BUSINESS

7. Public Input on City Manager Characteristics, Traits and Attributes
(Interim City Manager Jalili).

14-0087

RECEIVE PUBLIC COMMENT

Interim City Manager John Jalili provided details of the staff report addressing background, retained consultant and solicitation of public input regarding the desired qualifications, characteristics, traits and attributes of potential candidates. Additionally, he commented on a proposed survey and addressed noticing and promotion and the remaining steps in the recruitment process as well as timelines.

Councilmember Burton asked if residents will have other opportunities to provide input and respond to the survey and Interim City Manager Jalili responded affirmatively.

Mayor Howorth opened the floor for public comment.

Craig Cadwalder, representing the South Bay Chapter of Surfriders Foundation and as a resident, stated that he would like to see a trait in a City Manager as exhibited in a previous meeting by Interim City Manager Jalili in terms of taking something away or adding something in later if needed; not breaking down an ordinance but trying it to see if problems arise and if so, adjusting the ordinance as necessary. He felt that the suggestion was simple and brilliant and hoped that future City Manager candidates would have that trait.

Patrick McBride commented positively on Interim City Manager's Jalili's traits noting that he listens, pays attention and responds to City Council with intelligent answers. He would also like to see a City Manager who believes in openness as the best way to run government adding that few people believe in openness and transparency.

Kelly Stroman, Downtown Business Association, stated she would like to clone Interim City Manager Jalili. She commented on the need to make a specific plan for the downtown area and would like the incoming City Manager to have experience and knowledge on how to create a useful specific plan for the downtown area as well as knowledge in land-use policies and development. Additionally, the City Manager should focus on capital improvement in order to keep the City beautiful and should have an affinity for digital technology and be genuine and sincere with a sense of pride.

Phil Reimert stated that the ideal candidate would be well-rounded, and in terms of having experience in other areas besides public service, be able to provide fresh ideas and be open to cross-training. With respect to staff, the City Manager should be a coach that will train staff to do the utmost and best job that they can for the City.

Robert Bush commented on the time limitations for public comments and stated there is no transparency in that the previous City Manager was dismissed without cause.

Mayor Howorth explained that the topic for discussion at this time is regarding the desired and preferred traits of a new City Manager.

Mr. Bush commented on previous problems in the City in terms of former City Managers, closed meetings and the Public Records Act and stated that the City should learn from the past. He added the need for honesty and for someone that is fiscally responsible and will help the City move forward.

Viet Ngo commented on the need for City Council to obey and uphold the law as well

as to comply with equal-opportunity employment. He stated that this should be a public process and expressed concerns with City Council meeting in closed sessions. Additionally, he stated that City Council cannot tell the public what to say when providing comments. He alleged violations of the Municipal Code and felt that candidates for City Manager should disclose their resumes.

Councilmember D'Errico stressed this is a discussion about characteristics and traits and noted that Mr. Ngo has not presented any.

Mr. Ngo opined that the candidate should be familiar with the laws of the State of California and that this should be a public process with a candidate chosen based on experience, knowledge of the law and background.

Bill Victor stated that history has a bearing on the present discussion and commented positively on the qualities and capabilities of Interim City Manager Jalili. He added that he is a mentor and a model of what he hoped to see in the future and that he is a solutions person and gentleman. Mr. Victor stressed the need for someone like Interim City Manager Jalili, who listens and has good ideas. He commented positively on the City Council's choice of a recruiter but indicated that the meeting could have been better publicized. Additionally, he thanked City Council for what it has done so far in this regard.

Mayor Howorth closed public comments.

Mayor Pro Tem Powell indicated that the matter comes down to hiring someone that is passionate about public engagement, openness and inclusiveness, integrity, honesty, sincerity, fiscally responsible and with financial expertise.

Councilmember Lesser agreed with Mayor Pro Tem Powell's comments and expressed appreciation to members of the public offering their input. He encouraged those interested to email Council or attend subsequent meetings on this subject to provide their feedback.

Councilmember D'Errico hoped that more members of the public will communicate with the City regarding this matter and provide their input. He stated that the important thing for him is hiring a leader who understands that the City is a service organization and who understands that residents and visitors to the City are its customers. Additionally, he stressed the importance of making values visible and viral.

Councilmember Burton commented on Brown Act "Safe Harbor" provisions noting that many of them are personnel decisions. In terms of public employment appointment, City Council is entitled to have confidential discussions. He added that this City Council has learned from the past evident by its selection of Interim City Manager Jalili who has taught everyone what a top-notch City Manager should be. He reported speaking with staff from the City of Santa Monica who related to him how Interim City Manager Jalili kept staff and City Council informed and is a model of what a City Manager should be.

Mayor Howorth provided testimony regarding her experience on the School Board and commented on the need for someone who is secure in their knowledge, is not threatened by new ideas and listens and responds appropriately. She added that the preferred candidate would be intelligent, open and transparent and would be committed to the environment. Additionally, it should be someone who is willing to be a part of the community, embrace the community and who understands technology.

Councilmember Burton reported that he has seen great leaders and they all share the quality of intuitiveness. He added that they are bright and have value getting the job done while acknowledging the need for quick turnaround.

Councilmember Lesser expressed appreciation for the level of specificity offered by Council colleagues. He commented positively on the community and its amenities and commented on the need for a leader who could integrate and take advantage of the City's and the community's assets. He agreed with making the process as open and transparent as possible. Additionally, he commented on tensions between personnel matters and the public process and commented positively on the City's efforts in bringing the public into the decision-making process in this regard.

The following item was heard at this junction per City Council action.

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

11. Update on Policy Governance Initiative and Authorize Request for Proposals for Professional Services (Senior Management Analyst Biggs).

14-0069

RECEIVE THIS REPORT AND AUTHORIZE

Senior Management Analyst David Biggs introduced the item noting that he has been working with Councilmember D'Errico and Mayor Pro Tem Powell as a subcommittee and deferred to Councilmember D'Errico for a report.

Councilmember D'Errico addressed the subcommittee efforts and previous meetings including members of the public who have been vocal about governance and policy governance. He reported that with Senior Management Analyst Biggs' help, the RFP is ready to be distributed and noted that in terms of the RFP, it is preferable to not have too much detail so as not to eliminate good vendors from responding. The next stage of the process will address additional requirements and concerns and that at any point, a vendor can be raised to the top or eliminated.

Mayor Pro Tem Powell noted that policy governance is all about community engagement. He reported that City Council sets policy and that the City Manager and staff carry out those policies. Additionally, policy governance will lead the City to the next level, which will be the development of a strategic plan. The RFP will help in the approval of a consultant who in turn, will guide the City through the process and then to the strategic plan.

Senior Management Analyst Biggs commented on Policy Governance defining roles, responsibilities and expectations, understanding relationships and developing tools useful in reporting back to residents. He addressed research, a review of cities that have implemented policy governance models as well as non-profit and for-profit organizations and noted that in local government, the model must be "tweaked" to comply with the rules and regulations that local governments must follow. He noted that a key component of the RFP involves education for City Council, staff and the community. He addressed next steps in the process.

In response to Councilmember Lesser's inquiry regarding the timeframe of the process, Senior Management Analyst Biggs reported that it is a collaborative process with the main effort accomplished in approximately six months after selection of a firm. There will be on-going involvement from the firm regarding coaching and mentoring and guiding policy governance that would overlap the strategic planning portion. He added it could be a contract for over two years.

Councilmember Lesser commented positively on the matter but expressed concerns regarding migration to the new approach as well as interim steps. He noted the need to prioritize staff time and identify City Council priorities. He suggested the possibility of a study session to review updated goals for consideration in the transition.

Councilmember D'Errico responded to Councilmember Lesser's concerns and agreed with a need for a methodology to keep the strategic planning process and goals moving forward. He added that the present topic relates to the policies and processes upon how City Council governs as opposed to the strategic plan.

Councilmember Lesser expressed concerns with a statement that the strategic plan would follow the completion of the process.

Councilmember D'Errico noted that this will not happen overnight.

Interim City Manager John Jalili commented in support of initiating a strategic planning process noting that it will be timely with the selection of a new City Manager. He suggested moving early on the matter.

Mayor Pro Tem Powell concurred and suggested that the policy governance and strategic plan processes could be concurrent.

Brief discussion followed regarding consideration of the Stewardship model and the Representative model.

Senior Management Analyst Biggs stated they are referenced as a basis for Carver's Policy Governance model.

Councilmember D'Errico added that referenced the Carver model and its specific provisions and stated that the RFP explicitly indicates that no respondent who has a better way to accomplish the task will be eliminated.

Mayor Howorth suggested a special study session for a work plan meeting to clarify what City Council is currently working on.

Councilmember Burton noted that the CIP and budget process will determine City Council's work plan.

Mayor Howorth opened the floor for public comments.

Patrick McBride commented on the models referenced but stated no information was provided about them. He noted the need for policies but expressed confusion regarding the matter. He added that presentations need to be directed at the audience.

Bill Victor stated that the City is taking a huge risk without explaining the matter carefully to residents. He opined that this is a desperate move on behalf of City Council and questioned whether a consultant is needed for this process. He indicated that the issue is unclear and that the City has a duty to explain it to the community before paying for this or delaying other items of priority.

Viet Ngo spoke in opposition to hiring another consultant to tell the City Manager how to run the City. He stressed that the City does not need an outside person telling it how to run it and indicated that those who are incompetent should resign.

Mayor Howorth closed public comments.

Councilmember Burton stated that government consultants are used by elected officials as a way to become more efficient and effective in terms of what they do. He addressed types of City Managers and the differences between governance models. He commented on consultants aiding in institutionalizing a model within a municipality's current culture and commented positively on the timing of this matter together and the strategic plan. He stated that by moving ahead, this will allow City Council to move on to other things and truly represent residents.

Councilmember D'Errico explained previous consideration of this matter and reported that this agenda item is for the authorization to issue an RFP. He noted that the meaning of policy governance was discussed at a previous meeting. He indicated that governance, to some, can be complex but once it is understood, it is simple and offered to meet with those interested to discuss policy governance. He added that there is a provision within the RFP focusing on education and that solid governance

has the ability to resolve many issues. He stressed that this is not a huge risk nor is it a desperate move, but rather it is good common sense for how you run a business, whether it is a corporation or a city.

Mayor Pro Tem Powell referenced the staff report wherein a policy governance model is explained as the basis for highly effective and accountable governance and noted that it is all about metrics ensuring that the community is being served well.

Councilmember Lesser stated it is part of a dialogue amongst Councilmembers. He commented about the possibility of further educating the public regarding what policy governance is. He suggested that it could be defined better in terms of a municipal context.

Councilmember Burton stated that the RFP responses will provide a better definition of policy governance.

Councilmember D'Errico stated that it is understood that there needs to be extensive education and outreach to the community but stated he is not the one to do that. He suggested that as a consultant is selected, the engagement can be structured in a way that it starts with outreach and education.

Mayor Howorth spoke in support of professional development and asked regarding the problem to which a solution is being sought. She believed that policy governance is relatively simple but agreed with the need for help in developing a strategic plan. She noted that City Council and processes may improve, but complaints will still be voiced and asked regarding fiscal impacts related to the matter noting the need for improved definition.

Councilmember Burton stated this is not an issue of professional development but rather of the City's culture and turning it around.

Councilmember Lesser expressed concerns that without the full support of the public, the City is taking on expense and a huge project for City staff to change the culture. He stated that the public does not fully understand what this is and what the City is taking on, that there will be a great deal of staff time and that there are still very complex definitions.

Councilmember D'Errico reported that the subcommittee has no intent on selecting a winning bid. He added there will be an opportunity to withdraw from the project if it does not work. He listed the advantages of this process for improving the organization. He stressed the need for a structure that is people-independent and to manage accountability.

Mayor Pro Tem Powell reported that the subcommittee received many emails from the public in addition to the two residents that provided comments. All of the emails expressed support of a policy governance model. Some of the issues of the past were the result of not having a policy governance model which defines the roles within a municipality.

A motion was made by Councilmember Burton, seconded by Mayor Pro Tem Powell, to receive an update on the Policy Governance initiative from the Strategic Planning and Policy Governance Subcommittee and authorize a Request for Proposal for Professional Services.

A motion was made by Councilmember Burton, seconded by Mayor Pro Tem Powell, to receive an update on the Policy Governance initiative from the Strategic Planning and Policy Governance Subcommittee and authorize a

Request for Proposal for Professional Services.The motion carried by the following vote:

Aye: 4 - Powell, Burton, D'Errico and Lesser

Nay: 1 - Howorth

At 8:15 PM the City Council recessed and reconvened at 8:26 PM with all Councilmembers present.

M. GENERAL BUSINESS

8. 2014 Sculpture Garden Finalists (Parks and Recreation Director Leyman).

14-0007

APPROVE

Parks and Recreation Director Mark Leyman introduced the matter and deferred to staff for a report.

Cultural Arts Manager Gina Allen presented details of the staff report addressing the Sculpture Garden Program, Sculpture Garden Finalists and details of each of the pieces chosen as finalists and proposed sites for each.

Mayor Pro Tem Powell commented on the proposed timeline and extensions. It was noted that the pieces will be removed upon expiration of the time periods in which they are scheduled. In terms of the installations coming from the General Fund, Cultural Arts Manager Allen reported that the artist stipend is taking from the Public Art Fund and that any additional monies spent will also be funded by the Public Art Fund. She added that the Department of Public Works absorbs the installation costs. She added that expenses can be moved into the Public Art Fund if City Council so directs and that monies earmarked for the Sculpture Garden would not expire. She stated that undesignated funds can expire and that none are close to expiring at this time.

Mayor Pro Tem Powell commented on the Kelp sculpture Marquette and whether it is intended to look "corroded". Cultural Arts Manager Allen stated that the artist has indicated that it has a natural patina and that she is unsure whether the Marquette is of the same materials as the sculpture but stated that it should hold up to the elements of the ocean.

Councilmember Lesser commented on the maintenance of each of the pieces and asked whether there has been a safety assessment or potential liability assessment especially with kinetic pieces and securing them.

Cultural Arts Manager Allen reported that all of the sculptures will be mounted onto a stainless steel beam as the supportive mechanism.

Councilmember Lesser suggested that Public Works review the matter to ensure proper base support. In response to his inquiry, Cultural Arts Manager Allen commented on the purchase as well as extension of temporary art pieces but was unsure regarding the existence criteria for same.

Councilmember D'Errico asked whether the sculptures are fenced or roped off and how close the public can get to the sculptures.

Cultural Arts Manager Allen reported that the public can walk up to the sculptures and that each is set within a base.

Councilmember D'Errico expressed concerns with potential liability issues noting that some of the pieces have sharp, protruding edges and asked whether a liability assessment has been done.

Cultural Arts Manager Allen reported that each piece will be flush to the ground so that the base will create a perimeter around the piece.

Councilmember D'Errico recommended that the City Manager or City Attorney review the matter from a liability point of view.

Mayor Howorth opened the floor for public comments.

Bill Victor asked whether the Public Arts Fund help to recover the cost of staff salary.

Viet Ngo reported that Mayor Pro Tem Powell has a personal relationship with one of the subject artists.

Mayor Pro Tem Powell stated that he does not.

Mr. Ngo commented on the use of public funds and opined that it should be made clear as to whether the installation will be on public property.

Mayor Howorth clarified that the City is not buying the sculptures but rather that they are on loan to be temporarily placed on public property.

Jacque May noted that the works by some artists has been chosen repeatedly and asked regarding the process for choosing pieces.

In response to Mayor Howorth's inquiry, Cultural Arts Manager Allen stated that some artists have been repeated in the past and that staff will compile a list of artists for City Council.

Mayor Howorth closed public comments.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to approve the following entries recommended by the Cultural Arts Commission for the 2014 Sculpture Garden: 1. Chairman of the Board by Riemans 2. Swell Model by Alex Weinstein 3. Kelp Forest by Frank Mando 4. There, Now by Rebecca Lowry 5. Totem by Faducci - Solomon Bassoff and Domenica Mottarella.

Councilmember D'Errico added a friendly amendment to the motion that the City Manager or City Attorney assesses installation of the sculptures from a liability point of view.

The amendment was accepted by Councilmember Burton and Councilmember Lesser.

The motion carried by the following vote:

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

Councilmember Lesser commented positively on the program and thanked the Public Arts Commission and staff. He asked that in the future, a more robust staff report is prepared with added background and details.

At 8:55 PM the City Council recessed and reconvened at 9:05 PM with all Councilmembers present.

9. Award of Contract to Accela, Inc., in the Amount of \$340,267, for Citywide Permitting Software that will streamline permit processing, plan checking and inspections services in the Community Development Department, as identified in the City's Strategic and Information Systems Master Plans (Community Development Director Thompson).

CON 14-0005

WAIVE FORMAL BIDDING, APPROVE

Community Development Director Richard Thompson noted working on this project for a long time and stated he is committed to the project because he believes there is a different way of doing business. Staff has reviewed different software systems for over seven years. There are not many systems that can handle the tasks necessary in the City but Staff has identified several systems that could work, among them being Accela, Inc. After much research it was concluded that Accela, Inc. is the only company that can meet the City's needs. Community Development Director Thompson added that the item is budgeted and that it includes funds for additional support, if needed. He reported that the benefits are listed in the staff report and that the consultant is present to respond to questions from City Council.

Councilmember Lesser commended staff for including the public in the process for selecting the software. He expressed concerns regarding the rollout and asked if sufficient support is available for the day-to-day work while the new system is being integrated.

Community Development Director Thompson responded affirmatively and commented on a prior request for an additional staff person. He added that additional support staff will be accommodated as needed, throughout the process. He commented on IS support adding that building officials will take the lead in the project and that the IS Department will be the support staff and referenced the IS Master Plan which identified this as a priority project.

In response to Councilmember Lesser's request, Community Development Director Thompson summarized the anticipated benefits of the project including meeting the goal of a paperless process. He added that it will enable residents to access information from home and that contractors will be able to submit information electronically. Additionally, he reported that challenges are anticipated.

Mayor Pro Tem Powell commented on the ability to redline plans and asked whether the system has that capability.

Community Development Director Thompson reported that is the goal and that while it may not happen right away, the City will eventually get there and commented on available modules to the software.

In response to Mayor Pro Tem Powell's inquiry, Finance Director Bruce Moe reported that the system will not be integrated with the City's billing system but that staff will have the opportunity to export data from that to track activity. Regarding accessibility to the system by outside vendors, it was noted that the mobile action will have the same software that they will be able to use. He added that Code Enforcement and Residential Construction Officers will have access including information on zoning requirements. Other departments such as Fire and Police will also have access to the system.

City Attorney Barrow affirmed that the contract has been approved as to form. He reported that their attorney added the addendum regarding insurance and indemnity.

In response to Councilmember D'Errico's question, it was noted that the system will be cloud-based.

Dave Avila, Senior Representative for Accela, Inc. commented on backups and redundancies within the system.

Councilmember D'Errico commented positively on implementation of the new technology but expressed concerns that this is a large contract for a sole source and stated he sees no justification for it being sole-sourced.

Community Development Director Thompson reiterated that no other company was found that could provide the service, data and information that the City is required to have. He stated that staff did its due diligence as if there was an RFP and that many departments were involved in the process. He summarized the steps involved in assessing the various vendors.

Community Development Director Thompson noted that the City currently uses Accela, Inc. so that conversion will involve an upgrade so that the City will not be challenged in the conversion from one system to another.

Councilmember Burton expressed concerns regarding the sole-source contract and commented on the other vendors that were assessed.

Community Development Director Thompson indicated several other companies were contacted and provided public demonstrations.

Councilmember Burton commented on other vendors that are becoming actively involved in providing similar systems.

Councilmember Lesser asked regarding other regional cities that are using the system.

Community Development Director Thompson listed other cities including Culver City, Santa Monica and Torrance that are converting to this system. Regarding IT support and accessibility to support by the vendor's IT staff, he reported that his experience with Accela has been excellent. They are a proven company and have been very accessible to meet the City's needs and solve problems over the past eighteen years..

In response to Mayor Pro Tem Powell's inquiry regarding data conversion, Mr. Avila stated that the data conversion is a result of what exists today and that all the backup and materials would go as far back as the City desired and that anything that has been converted in the past will be carried over into the new system. He added that Accela has built its own migration tool from the current to the new system and is the only vendor that has done so.

In reply to Councilmember Lesser's question regarding the length of time that will be required to make up the migration costs, Interim City Manager John Jalili stated that at any time that staff reviews cost allocation plans and updates of permitting fees this will be taken into consideration.

City Clerk Tamura clarified that the conversion project referenced earlier did not have to do with Granicus but rather Liberty Net, which is the City-wide document imaging system.

Mayor Howorth opened the floor for public comments.

Seeing no requests to speak, Mayor Howorth closed public comments.

Interim City Manager Jalili referenced the benefits of implementing the system adding that regarding the Public Records Act requests, this system will make it easier with increased accessibility.

Mayor Howorth noted that it will help with transparency.

Councilmember Burton stated he is in full support of electronic permitting but that he would like to go out to bid because he believes the City will get a better product at a better price.

A motion was made by Councilmember Lesser, seconded by Mayor Howorth, to award the contract to Accela, Inc., in the amount of \$340,267, for Citywide Permitting Software that will streamline permit processing, plan checking and inspections services in the Community Development Department, as identified in the City's Strategic and Information Systems Master Plan.

Prior to the vote, City Council discussion continued.

Councilmember Lesser stated he respects the comments by Councilmember Burton noting that is the protocol that should be followed. However, in certain instances, there are specific vendors that offer something that is tested, has a track record and responds to very specific needs of the City. He believed this has gone through a process which makes him comfortable in moving forward with the project.

Councilmember Burton understood there are situations where sole-source is necessary but stated this is not one of those situations as there are other providers and the situation is not unique. He commented on an increased number of companies that are entering the field and are very competitive. He noted the need to test the system and go out to bid to ensure that the City gets the best product at the best price.

Councilmember D'Errico commented positively on Accela but stated that he is challenged by not having the proof that this is justified as a sole-source contract. He reported doing his own research and indicated there are a large number of companies offering similar products.

Interim City Manager Jalili reported that Finance Director Moe participated in the process and that he can shed light on some of the issues raised.

Mayor Howorth believed it would have been good to have had a previous discussion regarding this matter to justify sole-sourcing to Accela.

Finance Director Moe reported that software is a service and that services are not chosen based on cost and noted there are difficult things to quantify within specifications when an item is put out to bid. While there was no bid relative to this project, there was a process of negotiation as is done with any professional service. He added that the staff report was intended to provide a sense of where the other available systems were priced and that Accela's price is within the realm of what other systems would cost. He did not believe that by going out to bid, the City would have gotten better pricing than what it got.

Mayor Pro Tem Powell commented positively on the software package and the special data extraction tool that facilitates data conversion. He spoke in agreement with Councilmembers Burton and D'Errico and referenced a previous matter related to the waste management bidding process and how the vendor's rates were reduced when the item went out to bid. He added that because the matter did not go out to bid, it is unknown whether the price will be reduced.

Interim City Manager Jalili reported that the trash service was a straight bid while this is a hybrid between professional services and the bidding process. The two matters are not exactly comparable.

Councilmember Burton noted there is a lot of innovation going on and that it is not a big deal to go through an RFP process.

Interim City Manager Jalili added that this is a good learning experience for everyone and that he will need to determine the costs in terms of time, to go through an RFP process.

Councilmember Lesser noted the importance of a track record and vertical integration. In response to his questions, Finance Director Moe reported that formal specifications would need to be developed after which the RFP would be distributed.

He reported that it would be three (3) to four (4) months before the item would be presented to City Council once again.

Councilmember Burton noted that much of the work has already been done and suggested that the matter could be expedited

Finance Director Moe stated that typically, staff would create much more detailed requirements that the vendors would respond to as opposed to bringing vendors in to demonstrate their product.

Councilmember D'Errico expressed concerns that the City does not have the documentation of what it needs and what it is getting.

Finance Director Moe indicated that is not the case and stated that if a more formalized process is desired, he would be more comfortable with refining more of the details of how the system operates so that everyone is responding to the City's specific needs.

Councilmember Burton called for the question and Mayor Howorth noted there are still comments to be made.

Councilmember Lesser commented on policy governance and deferring to staff. Additionally, he stressed the importance of the system noting that the City is presently behind the times and that it needs this in order to become a full-service City. He questioned whether going out to bid would add value and savings, given the need.

Councilmember Burton agreed with the need to come to the 21st century and that the project has huge value. However, he stated that City Council needs to make an actual judgment to waive the formal bidding process and that while he respects staff, he does not believe that there is need to delay by going out to an RFP to get a better product at a better price.

Community Development Director Thompson reported there are twenty-four other government agencies that went sole-source and that City staff took an extra step by comparing all the companies that provide this service that meet the City's needs. He expressed concerns with "up-and-coming" new companies adding that he does not want to subject the City, staff and residents to a new company and convert to a brand new system. Staff did its research, but he added that the companies assessed needed to have the capacity to meet the City's needs.

Councilmember D'Errico commented on letting staff make the decision but noted this is a governance issue in that City Council's decision is whether this should be a sole-source contract.

Mayor Pro Tem Powell indicated this is about going forward and asked if the City did go out for competitive bid and liked the company with which it was currently doing business but they were not the lowest bidder, they could still be selected.

Finance Director Moe responded affirmatively.

Mr. Avila indicated that this is about using the system the City is currently using and deciding whether it is a sole source. He reported that Accela is the only company that provides transferring maintenance dollars into a new product and credits the City with its current investment. Accela is the only vendor that provides the tool to take existing data and move it to the new, upgraded system. He listed other cities with

precedent to sole-sourcing and noted documentation was provided in favor of sole-sourcing and noted that they have "sharpened their pencils" to allow the City to move to the web-based system and have provided zero upgrade costs to maintenance fees. He added that the RFP process is expensive and time-consuming. In terms of experience, they have over 500 clients, nationwide and he reported that they are the only vendor that is multilingual, out of the box and that provides the electronic plan check system included within the same product. He listed other apps included in the system and commented on their experience with the City.

The Mayor called for the vote.

A motion was made by Councilmember Lesser, seconded by Mayor Howorth, to award the contract to Accela, Inc., in the amount of \$340,267, for Citywide Permitting Software that will streamline permit processing, plan checking and inspections services in the Community Development Department, as identified in the City's Strategic and Information Systems Master Plan.

Aye: 3 - Howorth, Powell and Lesser

Nay: 2 - Burton and D'Errico

- 10.** Social Media Policy, E- Comment and MB Forum (*Continued from the November 19, 2013, City Council Meeting*) (Sr. Management Analyst Biggs) **13-0589**

DISCUSS AND PROVIDE DIRECTION

The aforementioned item was continued to a future City Council meeting at the request of Interim City Manager Jalili and as moved by City Council.

N. ITEMS REMOVED FROM THE CONSENT CALENDAR

6. Revision to the Municipal Code Removal Provisions Regarding the City Manager (City Attorney Barrow).

14-0088

WAIVE FURTHER READING AND INTRODUCE

Councilmember Burton requested a report on the aforementioned item.

City Attorney Barrow reported that periodically, staff reviews the City code to determine if there are any archaic items or items that are inconsistent with the law. He stated that in doing so, his office came upon removal provisions for the City Manager and that it is difficult to reconcile the City's code with the Brown Act. He added that since the provision was originally developed, all City Managers have contracts that spell out the rights and obligations of all parties. He recommended deleting the subject code section noting that in reviewing codes from other cities, they do not have the provision. He added that the recommended action will comply with current best practices.

Mayor Pro Tem Powell asked whether by going to a 4/5ths to a majority vote that would have an impact on recruitment.

Interim City Manager John Jalili responded that it would not as it is common practice at this time.

City Attorney Barrow reported that he has approved the matter, as to form.

Mayor Pro Tem Powell recommended consistency in the use of "his/her" within section 2.04.020.

A motion was made by Councilmember Burton, seconded by Councilmember D'Errico, to waive further reading and introduce a revision to the Municipal Code removing provisions regarding the City Manager.

Mayor Howorth commended Councilmember Burton for his efforts on this matter.

Mayor Howorth opened the floor for public comments.

City Attorney Barrow reported that Mr. Ngo has two minutes left for public comments.

Viet Ngo commented on the requirement of a 4/5ths vote and stated that any law adopted by the City must comply with State law and alleged violations by City Council of the Municipal Code. He noted the need for due process in the hiring of a City Manager and spoke in opposition to the term "at the pleasure of City Council" within the Municipal Code.

Mayor Howorth closed public comments.

City Attorney Barrow reported that the provisions are not inconsistent with the law.

Councilmember Lesser noted that the current version of the code has posed a challenge for City Council and that this will bring the code consistent with the common practices of other cities.

City Attorney Barrow read title to the ordinance.

Mayor Howorth called for the vote.

A motion was made by Councilmember Burton, seconded by Councilmember D'Errico, to waive further reading and introduce a revision to the Municipal Code removing provisions regarding the City Manager. The motion carried by the following vote:

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

It was noted that this item will return to the City Council on the March 4, 2014 agenda under the Consent Calendar.

O. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

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

- 11.** Update on Policy Governance Initiative and Authorize Request for Proposals for Professional Services (Senior Management Analyst Biggs). **14-0069**

RECEIVE THIS REPORT AND AUTHORIZE

The aforementioned item was heard previously on the agenda.

Q. RECEIVE AND FILE ITEMS

Seeing no requests to speak, the following motion was made:

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember D'Errico, to receive and file the Schedule of Demands for January 30, 2014, the Financial Reports for the Month Ending December 31, 2013 and the Commission minutes listed under Item 13. The motion carried by the following vote:

- 12.** Financial Reports: **14-0043**
 a) Schedule of Demands: January 30, 2014
 b) Financial Reports for the Month Ending December 31, 2013
 (Finance Director Moe).

RECEIVE AND FILE

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember D'Errico, that this item be received and filed. The motion carried by the following vote:

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

- 13.** Commission Minutes: **14-0081**
 This item contains minutes of City Council subcommittees and from other City commissions and committees which are presented to be received and filed by the City Council. Staff recommends that the City Council, by motion, take action to receive and file the minutes of the:

- a) Board of Building Appeals Meeting, September 11, 2013
 (Community Development Director Thompson)

RECEIVE AND FILE

- b) Board of Building Appeals Meeting, November 14, 2013
 (Community Development Director Thompson)

RECEIVE AND FILE

- c) Planning Commission Meeting, January 22, 2014
 (Community Development Director Thompson)

RECEIVE AND FILE

- d) Parking and Public Improvements Commission Meeting, January 23, 2014
 (Community Development Director Thompson)

RECEIVE AND FILE

- e) Board of Building Appeals Meeting, January 30, 2014
 (Community Development Director Thompson)

RECEIVE AND FILE

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember D'Errico, to receive and file the Schedule of Demands for January 30, 2014, the Financial Reports for the Month ending December 31, 2013, and the Commission minutes listed under Item 13. the motion carried by the following vote:

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

R. ADJOURNMENT

At 10:12 PM, the February 18, 2014, City Council Regular Meeting was adjourned to the 4:30 PM, Adjourned Regular City Council meeting of February 25, 2014, in the City Council Chambers.

Vida Barone
Recording Secretary

Amy Thomas Howorth
Mayor

ATTEST:

Liza Tamura
City Clerk