

City of Manhattan Beach

*1400 Highland Avenue
Manhattan Beach, CA 90266*



Meeting Minutes - Draft

Tuesday, August 18, 2015

6:00 PM

City Council Chambers

City Council Regular Meeting

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

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A. PLEDGE TO THE FLAG

Councilmember David Lesser led the Pledge of Allegiance

B. ROLL CALL

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

C. CEREMONIAL CALENDAR

2. Presentation of a City Plaque to the Shade Hotel for their Efforts to Improve the Quality of Life for their Neighbors through their Sound Mitigation Project. [15-0386](#)

PRESENT

This item was taken out of order.

Mayor Burton, on behalf of the City Council, presented a plaque to Mike Zislis of the Shade Hotel for their sound mitigation efforts.

1. Presentation of Employee Service Awards to Employees Attaining 20 Years of Service or More. [15-0362](#)

PRESENT

Mayor Burton introduced City Manager Mark Danaj who, on behalf of the City Council, recognized City Clerk Liza Tamura for attaining 20 years of service.

Mayor Burton reported that Fire Captain David Shenbaum was unable to attend the meeting.

D. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

Management Analyst Matthew Cuevas certified that the meeting was properly posted.

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

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

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

F. CITY COUNCIL AND COMMUNITY ORGANIZATION ANNOUNCEMENTS OF UPCOMING EVENTS (1 MINUTE PER PERSON)

Councilmember Powell announced that the Senior Art Show continues at the Manhattan Beach Arts Center through August 25, 2015, and computer training for older adults will begin at the Joslyn Community Center at the OASIS on August 27, 2015. He further mentioned the Manhattan Beach Open that was held this past week end.

Councilmember Howorth reported that school will be starting soon and to be aware of the children when driving.

Mayor Burton stated that the Downtown Business Association will have a sidewalk sale this coming weekend.

G. CITY MANAGER REPORT

City Manager Mark Danaj spoke of the success of the 56th Annual Manhattan Beach Open, noted that Shakespeare in the Park held two performances, there was a Concert in the Park at Polliwog Park and the Kids Extreme Event had a "Muddy Buddy" race. He further provided an update on the Manhattan Village Mall and reminded the residents of the August 30, 2015, "Kickoff Party" for the Sunday Library Hours.

H. CITY ATTORNEY REPORT

City Attorney Quinn Barrow provided an update on the Manhattan Village Mall lawsuit.

I. PUBLIC COMMENTS (2 MINUTES PER PERSON PER ITEM, A MAXIMUM OF 5 MINUTES IF A SPEAKER WANTS TO COMMENT ON MORE THAN ONE ITEM)

The following individuals provided public comment:

*Janet Murphy
Aneena Pokkamthanam
Esther Schiller
Steven Gallegos
Lidia Guerra
Raunda Frank
Claud Moradian
Phil Reimert
David Kissinger
Viet Ngo
Craig Cadwallader
Stephanie Robins
Maryanne Peterson
Diane Wallace
Bill Victor*

*Robert Bush
Tim Burton*

J. PLANNING COMMISSION QUASI-JUDICIAL DECISIONS (RECEIVE AND FILE)

None.

K. CONSENT CALENDAR (APPROVE)

A motion was made by Councilmember Howorth, seconded by Councilmember Powell, to approve the Consent Calendar Item Nos. 3-9 with the exception of Item No.6. (Summary Vacation of a Street Easement on the East Side of Ardmore Avenue, at 1800 North Ardmore Avenue) which will be heard later under Section N. New Business, as the first item. The motion carried by the following vote:

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

3. Award of Five-Year Contract to Duthie Power Services to Provide Auxiliary Power Generator Maintenance in the Amount of \$167,563 (Public Works Director Olmos). [CON 15-0044](#)

APPROVE

Attachments: [Agreement with Duthie Power Services](#)

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

4. Approve Three-Year Lease Agreement of Groundwater Rights from Chevron U.S.A., Inc. (Public Works Director Olmos). [CON 15-0043](#)

APPROVE

Attachments: [Water Lease Agreement](#)

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

5. Change Order No. 1 in the Amount of \$12,680.26 and Final Payment in the Amount of \$62,315.14 to Griffith Company; Formally Accept the Sepulveda Boulevard at Marine Avenue Intersection Improvements Project as Complete; and Authorize the Filing of the Appropriate Notice of Completion and Release of Retention in the Amount of \$22,273.96 (Public Works Director Olmos). [15-0360](#)

APPROVE

Attachments: [Budget and Expenditures](#)

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

6. Summary Vacation of a Street Easement on the East Side of Ardmore Avenue, at 1800 North Ardmore Avenue (Public Works Director Olmos). [RES 15-0050](#)

APPROVE

Attachments: [Resolution No. 15-0050](#)

[Exhibit A](#)

This item was removed from the Consent Calendar and heard later under Section N. New Business.

7. Fiscal Year 2014-2015 Budget Report for Fourth Quarter (Pre-Audit) [15-0357](#)
(Finance Director Moe).

RECEIVE REPORT

Attachments: [FY 2014-2015 Budget Report 4Q](#)

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

8. Minutes: [15-0022](#)

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 Regular Meeting of August 4, 2015
- b) City Council Adjourned Regular Meeting-Closed Session of August 10, 2015

(City Clerk Tamura).

APPROVE

Attachments: [City Council Regular Meeting Minutes of August 4, 2015](#)

[City Council Adjourned Regular Meeting-Closed Session Minutes of August 1](#)

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

9. Financial Reports: [15-0341](#)

- a) Schedule of Demands: July 16, 2015
- b) Investment Portfolio for the Month Ending June 30, 2015
- c) Preliminary Financial Reports for the Month Ending June 30, 2015

(Finance Director Moe).

APPROVE; RECEIVE AND FILE

Attachments: [Schedule of Demands for July 16, 2015](#)

[Investment Portfolio for the Month Ending June 30, 2015](#)

[Preliminary Financial Reports for the Month Ending June 30, 2015](#)

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

L. PUBLIC HEARINGS (2 MINUTES PER PERSON)

None.

M. OLD BUSINESS

None.

N. NEW BUSINESS

6. Summary Vacation of a Street Easement on the East Side of Ardmore Avenue, at 1800 North Ardmore Avenue (Public Works Director Olmos).

[RES 15-0050](#)

APPROVE

Attachments: [Resolution No. 15-0050](#)
[Exhibit A](#)

This item was removed from the Consent Calendar by Councilmember Lesser.

Management Analyst Matthew Cuevas introduced the item.

Mayor Pro Tem D'Errico recused himself from this item, due to a friendship with the property owner. He explained that he had no financial interest in the decision.

City Attorney Quinn Barrow noted that the record would reflect that Mayor Pro Tem D'Errico left the City Council Chambers at 7:03 PM.

There was no Staff presentation, but Public Works Director Tony Olmos responded to City Council questions.

Councilmember Lesser expressed confusion as to what is being vacated, why the City would voluntarily give up the easement and what is the precedent.

Councilmember Powell asked about the effects of the easement on other projects and the costs.

A motion was made by Councilmember Howorth, seconded by Mayor Burton, to approve the summary vacation of a street easement on the east side of Ardmore Avenue, at 1800 North Ardmore Avenue. The motion failed by the following vote:

Aye: 2 - Burton and Howorth

Nay: 2 - Lesser and Powell

Abstain: 1 - D'Errico

No action will be taken at this time.

Mayor Pro Tem D'Errico re-entered the City Council Chambers at 7:11 PM.

10. Youth Art Education Initiative (Art Lab) (Parks and Recreation Director Leyman).

[15-0370](#)

APPROVE

Attachments: [Manhattan Beach Art Lab](#)

Management Analyst Matthew Cuevas introduced this item and Parks and Recreation Director Mark Leyman introduced Cultural Arts Manager Martin Betz who provided the Staff presentation.

Cultural Arts Manager Betz responded to City Council questions.

Councilmember Powell noted that Option A was to fund from the Public Arts Trust Fund, not from the taxpayers. He further added that It appears to be more like an art camp and the City already has the after school recreation programs.

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to continue to research and develop collaborative Art Lab funding opportunities with the school district, foundations, and local universities. A friendly amendment, accepted by the maker, was to provide funding for the first year, from the General Fund. The motion carried by the following vote:

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

Nay: 1 - Powell

11. Water Conservation Update (Public Works Director Olmos). [15-0374](#)

RECEIVE REPORT; DISCUSS AND PROVIDE DIRECTION**Attachments:** [Water Conservation Tracker \(June - July\)](#)

Management Analyst Matthew Cuevas introduced the item and Public Works Director Tony Olmos provided the Staff presentation.

Public Works Director Olmos responded to City Council questions.

A motion was made by Mayor Burton, seconded by Councilmember Powell, to have a Public Hearing on Septemeber 1, 2015 and direct Staff to properly notice to consider changing from Stage 3 Drought Restrictions (which limited outdoor watering to one day per week) to Stage 2 (which would allow residents to water for two days per week, but will require more aggressive enforcement). The motion carried by the following vote:

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

At 7:44 PM City Council recessed and reconvened at 7:53 PM with all Councilmembers present.

12. Review Regulation of Smoking in Multi-Unit Housing, and Institution of a Tobacco Retail Licensing Program in Manhattan Beach (Public Works Director Olmos). [15-0375](#)

DISCUSS AND PROVIDE DIRECTION

Attachments:

- [Smokefree Air for Everyone Public Opinion Survey Report](#)
- [Draft Ordinance No. 15-0019, Regulating Smoking in Multi-Unit Housing](#)
- [Map of Multi-Unit Housing in Manhattan Beach](#)
- [Los Angeles County Public Health Non-Smoking Multi-Unit Housing Ordinance](#)
- [Draft Ordinance No. 15-0020, Tobacco Retail Licensing](#)
- [Map of Tobacco Retailers in Manhattan Beach](#)
- [Summary of TRL Fees in California](#)
- [SAFE Support Letter for Multi-Unit Housing](#)

Management Analyst Matthew Cuevas introduced the item and Public works Director Tony Olmos introduced Environmental Programs Manager Sona Coffee who provided the PowerPoint Presentation.

Environmental Programs Manager Coffee responded to City Council questions.

Councilmember Lesser stated that he does not support prohibiting smoking in multi-use facilities.

Mayor Pro Tem D'Errico agreed with Councilmember Lesser and reported that he was not in favor of prohibiting smoking inside someone's home, but would favor prohibition in common areas.

A motion was made by Councilmember Powell, seconded by Councilmember Howorth, to give direction to Staff to include in the definition of multi-housing, 3 or more attached units, consistent with the Zoning Ordinance, including Manhattan Village Properties, prohibit smoking inside units, common areas and buffer zones, with no designated smoking areas, look to set a phase-in date for the implementation of the smoke-free requirements, pursue the education program, and not allow electronic cigarettes. A friendly amendment, accepted by the maker, was to come back with detailed enforcement processes. The motion carried by the following vote:

Aye: 3 - Burton, Howorth and Powell

Nay: 2 - D'Errico and Lesser

City Attorney Barrow clarified that Staff would come back with a new ordinance to prohibit smoking in all multi-family residential uses (defined as 3 or more), includes Manhattan Village, there will be no designated areas for smoking, phase-out period will be open for discussion (now between one year and eighteen months), this ordinance will come back to the City Council and that is when official action will be taken. He further stated that the ordinance could be changed at the time of the vote.

Environmental Programs Manager Coffee continued the PowerPoint Presentation on Institution of a Tobacco Retail Licensing Program.

Environmental Programs Manager Coffee responded to City Councils questions.

A motion was made by Councilmember Powell, seconded by Councilmember

Lesser to come back with an ordinance addressing limiting youth access to tobacco products by restricting the sale of flavored tobacco products and provide existing retailers with an amortization period to comply with the ordinance. Staff will also return with information on proximity of existing retailers to parks and youth centers, definition of product flavors, and data on youth smoking in the region. The motion carried by the following vote:

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

13. Additional Open Government Initiatives and Department Head Employment Agreements (City Attorney Barrow).

[15-0376](#)

DISCUSS AND PROVIDE DIRECTION

Management Analyst Matthew Cuevas introduced this item and City Attorney Quinn Barrow provided the Staff presentation.

City Attorney Barrow responded to City Council questions.

Mayor Burton provided some background information and motions were made for each discussion item:

1. *Describe closed sessions for "anticipated litigation" with additional facts and circumstances justifying the closed session.*

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to direct the City Manager and the City Attorney to develop a policy that all Closed Session Agenda items for anticipated litigation include sufficient facts and circumstances to clearly notify the public of the nature of the anticipated litigation and report back to the City Council with said policy at the October 6, 2015, City Council Meeting. The motion carried by the following vote:

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

2. *Agendize settlement agreements as General Business items with discussion and voting done in public.*

City Attorney Barrow responded to City Council questions.

A motion was made by Mayor Burton, seconded by Mayor Pro Tem D'Errico, to direct the City Manager and City Attorney to develop a policy that all settlement agreements be placed on the City Council Agenda as General Business items for approval. A friendly amendment, accepted by the maker, that all settlement agreements be placed on the City Council Agenda as General Business items unless the City Council directs, based on the advice of the City Attorney, that public discussion or action could jeopardize the City, with the policy to be presented to the Council on October 6, 2015. The motion carried by the following vote:

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

3. *Require the City Clerk to be present for Closed Sessions to record any action or direction given and the votes taken.*

City Attorney Barrow responded to City Council questions and after discussion this item was withdrawn by the Mayor.

4. *Prohibit all electronic communications by City Councilmembers during meetings including, but not limited to the receipt of transmission by text, e-mail, Facebook, Twitter or other social media.*

Mayor Burton provided a brief overview of reasons for adopting this policy.

Councilmember Lesser stated that he prefers self-regulation.

A motion was made by Mayor Burton, seconded by Councilmember Powell, to direct the City Manager and the City Attorney to develop a policy prohibiting receiving or transmitting electronic messages by City Councilmembers during a City Council Meeting, with the provision for emergency contacts to City Councilmembers during City Council Meetings and report back to City Council with said policy at the October 6, 2015, City Council Meeting. The motion carried by the following vote:

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

Nay: 1 - Lesser

5. *Adopt a "Sunshine Policy".*

City Council discussion clarified that it was not a "Sunshine Ordinance", but a "Sunshine Policy" to incorporate all of the work that has been done and put it in to one document.

A motion was made by Mayor Burton, seconded by Mayor Pro Tem D'Errico, to direct the City Manager and the City Attorney to develop a comprehensive Sunshine Policy incorporating all of the previous "Sunshine Provisions" and to report back to the City Council with said policy at the City Council Meeting of October 6, 2015. City Attorney Barrow clarified that the Sunshine Policy might not be ready for the October 6, 2015 City Council Meeting and the City Council concurred that it would return at an appropriate time of Staff choosing in consultation with the Mayor. The motion carried by the following vote:

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

6. *Direct the City Attorney and City Manager to prepare employment contracts for all directors for execution by October 1, 2015.*

City Attorney Quinn Barrow and City Manager Mark Danaj responded to City Council questions.

A motion was made by Mayor Burton, seconded by Mayor Pro Tem D'Errico, to direct the City Manager and the City Attorney to develop employment contracts for Department Heads and to report back to the City Council with a draft of same at a future City Council Meeting (October 6, 2015, if possible). The motion carried by the following vote:

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

Nay: 1 - Howorth

14. City-Wide Civility Policy (City Attorney Barrow).

[15-0384](#)

DISCUSS AND APPROVE

Attachments: [Civility Policy](#)

Management Analyst Matthew Cuevas introduced this item and City Attorney Quinn Barrow gave a brief overview.

City Attorney Barrow responded to City Council questions

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to adopt the Civility Policy. The motion carried by the following vote:

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

15. Discussion of a Development Strategy for the Property Located on Parkview (City Council).

[15-0383](#)

DISCUSS AND PROVIDE DIRECTION

Management Analyst Matthew Cuevas introduced this item and City Manager Mark Danaj noted that there was not a Staff report, but Staff is available for questions.

Mayor Burton presented a brief report on the visioning for this property.

City Manager Danaj and City Attorney Barrow responded to City Council questions.

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to direct Staff to develop a Request for Proposal (RFP) for a five-star hotel and look at alternative sites for hotels throughout the City. A friendly amendment, accepted by the maker, was to broaden the term of hotel to "the potential of additional space development". The motion carried by the following vote:

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

O. CITY COUNCIL REPORTS, OTHER COUNCIL BUSINESS AND TRAVEL REPORTS, INCLUDING AB 1234 REPORTS (COMMITTEE REPORTS)

Councilmember Howorth attended the South Bay Cities Council of Governments (SBCCOG) Steering Committee Meeting and reported on the transportation issues that were discussed.

Mayor Pro Tem D'Errico reported that he attended the Board meeting for the Old Hometown Fair and noted that they are very well organized.

Councilmember Powell attended the Independent Cities Association Meeting (ICA) regarding how to solve regional problems and the upcoming installation dinner.

Councilmember Lesser stated that he is the new delegate for the Downtown Business and Professional Association and been unable to attend the meeting, but Mayor Burton had attended. He reported the concerns about the valet program being placed on hold. He further noted as a member of Los Angeles County Library Commission the current librarian is retiring and things are on a holding pattern.

P. FORECAST AGENDA AND FUTURE DISCUSSION ITEMS

16. Agenda Forecast (City Clerk Tamura).

[15-0389](#)

DISCUSS AND PROVIDE DIRECTION

Attachments: [August 12, 2015 Agenda Forecast](#)

Mayor Burton explained that he would like to bring back mansionization on the agenda and City Council concurred.

Mayor Burton asked for the construction rules to return to the agenda, along with surety bonds and mandatory third-party mediation.

Assistant City Manager Nadine Nader reported that wayfinding signs will come back in October in order to do more outreach.

Councilmember Howorth commented about having a Behavioral Health Symposium and also reported that she would like to review policies for drones.

City Attorney Barrow confirmed that there was a consensus to have an update on drones.

Councilmember Powell would like surety bonds and mediation as separate items.

City Attorney Barrow clarified that Construction Rules and Mansionization would be on the September 1, 2015, agenda and further discussion on surety bonds and mediation would be on the September 15, 2015, agenda.

Mayor Burton received consensus for a joint meeting with the Manhattan Beach Unified School District Board (MBUSD) and also with the Beach Cities Health District.

Mayor Burton further added that he would like Staff to look into reports that people are rummaging through trash and that he is especially concerned about the potential for stealing financial information.

Q. INFORMATIONAL ITEMS

17. Commission Minutes: [15-0388](#)
This Item Contains Minutes of the following City Commission Meetings: Cultural Arts Commission Meeting of July 14, 2015 (Parks and Recreation Director Leyman).

INFORMATION ITEM ONLY

Attachments: [Cultural Arts Commission Minutes of July 14, 2015](#)

This item is for information only and no City Council action is required.

R. CLOSED SESSION

S. ADJOURNMENT

At 10:15 PM Mayor Burton adjourned the August 18, 2015, Regular City Council Meeting in memory of Ed Nelson to the 6:00 PM, September 1, 2015, Regular City Council Meeting, in City Council Chambers, in said City.

Matthew Cuevas
Recording Secretary

Mark Burton
Mayor

ATTEST:

Liza Tamura
City Clerk