

City of Manhattan Beach

*1400 Highland Avenue
Manhattan Beach, CA 90266*



Meeting Minutes - Draft

Tuesday, October 18, 2022

6:00 PM

Regular Meeting

City Council Chambers and Zoom

City Council Regular Meeting

ELECTED OFFICIALS

Mayor Steve Napolitano

Mayor Pro Tem Richard Montgomery

Councilmember Joe Franklin

Councilmember Suzanne Hadley

Councilmember Hildy Stern

PLEASE NOTE THAT THE CITY ARCHIVES THE VIDEO RECORDINGS OF ALL REGULAR CITY COUNCIL MEETINGS AND THE VIDEO FOR THIS MEETING IS HEREBY INCORPORATED BY THIS REFERENCE. ALSO IN SUPPORT OF MORE TRANSPARENCY AND THE AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE, THE CITY OFFERS CLOSED CAPTIONING FOR REGULAR CITY COUNCIL MEETINGS. FOR A COMPLETE RECORD OF THIS CITY COUNCIL MEETING, GO TO:

www.manhattanbeach.gov/departments/city-clerk/city-council-meetings-agendas-and-minutes

A. CALL MEETING TO ORDER

Mayor Napolitano called the meeting to order.

B. PLEDGE TO THE FLAG

James Gill led the Pledge of Allegiance.

C. ROLL CALL

Roll Call by City Clerk Liza Tamura.

Present: 5 - Mayor Napolitano, Mayor Pro Tem Montgomery, Councilmember Franklin, Councilmember Hadley and Councilmember Stern

Mayor Napolitano read a prepared statement from Councilmember Hadley stating she had been diagnosed with Viral Laryngitis, had lost her voice, but would still be participating in the meeting.

D. CEREMONIAL CALENDAR

1. Presentation of Commendations to Manhattan Beach Historical Society [22-0375](#)
Outgoing President Gary McAulay and Manhattan Beach Historical
Society Pioneer Founder James Gill for Their Years of Dedicated
Service to the City of Manhattan Beach and the Manhattan Beach
Historical Society.

PRESENT

*Mayor Napolitano, on behalf of the City Council, presented Commendations to
Manhattan Beach Historical Society's Outgoing President Gary McAulay and Pioneer
Founder James Gill for their years of dedicated service to the City of Manhattan Beach
and the Manhattan Beach Historical Society.*

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

**A motion was made by Councilmember Hadley, seconded by Councilmember
Franklin, to approve the agenda and waive full reading of ordinances. The
motion carried by the following vote:**

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

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

Library Manager Josh Murray invited the community to visit with Mac Barnett and Jon Klassen as they read their book, Three Billy Goats Gruff, on October 23, 2022, at 1:00 PM.

Dan Humbert announced a local effort to stop retail pot shops in Manhattan Beach and encouraged residents to vote "No" on Measure MB. Interested parties can visit votenoomb.com

Cultural Arts Supervisor Erik Brinkman announced the following events: the opening reception of the "Fly High Dive Deep" exhibit, on October 21, 2022, at 5:00 PM; and the painting of the rainbow gazebo at Polliwog Park on October 29, 2022, at 10:00 AM.

Recreation Manager Jan Buike announced the "Be Our Guest" program, in collaboration with the Manhattan Beach Unified School District, which allows Older Adults (55+) to attend events put on by MBUSD for free.

Manhattan Beach CERT President Frank Chiella announced the Great Shake Out on October 20, 2022, at 10:20 AM; invited the community to watch a CERT exercise that will take place on October 22, 2022, at American Martyrs Church; and announced that on November 4-6, 2022, they will host their basic CERT class. Interested parties can sign up at mbcerta.org.

Parks and Recreation Director Mark Leyman announced the following events: the Halloween Carnival on October 22, 2022, from 1:00 PM - 5:00 PM at Manhattan Heights; the Pumpkin Races on October 30, 2022, from 12:00 PM - 5:00 PM; and the annual Veterans Day Ceremony on November 11, 2022, at 11:00 AM.

Public Works Senior Management Analyst Nicky Petroff announced that the City is not meeting its water reduction goals and encouraged residents to reach out to her for tips and information. She also announced that the West Basin Municipal Water District would be hosting a Water Harvest on October 22, 2022, and free rain barrel events on October 29, 2022, November 5, 2022, and November 19, 2022.

Police Chief Rachel Johnson invited the community to Trunk or Treat on October 27, 2022, at 5:00PM and to Tip a Cop at Tin Roof Bistro on November 3, 2022, at 5:00 PM.

Eric Quintero of Waste Management announced a free paper shredding event on October 22, 2022, from 9:00 AM to 11:00 AM, in the Mira Costa Parking Lot.

Councilmember Franklin announced the "Volley4Sound" charity event to raise hearing loss awareness which is being held on October 22, 2022, in Hermosa Beach. Interested parties can sign-up at Volley4Sound.org.

G. GENERAL BUSINESS (CONTINUED)

2. Consideration of Five Appeals of the Planning Commission's Decision to Affirm the Community Development Director's Approval of a Precise Development Plan, Coastal Development Permit, and Tentative Parcel Map for the Development of a 96,217 Square-Foot Multi-Family Residential Building Ranging 37 to 50 Feet in Height and Including 79 Rental Dwelling Units with the Developer Utilizing a Density Bonus Pursuant to State Law, Inclusive of Waivers and Concessions, at 401 Rosecrans Avenue and 3770 Highland Avenue (Continued from the August 16, 2022, City Council Meeting) (Community Development Director Tai).

[22-0432](#)

(Estimated Time: 2 Hrs.)

A) RESUME DELIBERATIONS**B) AFFIRM AND UPHOLD THE DECISION OF THE PLANNING COMMISSION**

Mayor Napolitano provided the process for public comments to the public.

City Attorney Quinn Barrow stated that members of the public questioned whether Mayor Napolitano and Mayor Pro Tem Montgomery had conflicts of interest about the agenda item. He provided information about the Political Reform Act and cited Government Code Section 87103 that states that if any Councilmember has received more than \$500.00 in the past 12 months from the applicant or the property owner, they would need to disqualify themselves from acting on the item.

Councilmember Montgomery provided further information about the allegations.

City Attorney Barrow reiterated that based on the Political Reform Act and the information provided by the Councilmembers, there was no conflict of interest for Mayor Napolitano or Mayor Pro Tem Montgomery.

Community Development Director Carrie Tai introduced the item, Associate Planner Ted Faturos, and Planning Manager Talya Mirzakhani.

Associate Planner Faturos provided the PowerPoint presentation.

Associate Planner Faturos, Planning Manager Mirzakhani, Applicant Frank Buckley, and City Attorney Barrow responded to City Council questions.

Mayor Napolitano opened the floor to public comments. The following individual(s) spoke:

*Jason Muller
Michael Curran
Philippe Fortis
Aaron Rosen
Phillip Cook
Elena Cecconi
Ronald Schendel
Ray Joseph
Gail Fortis*

Unknown Speaker
Alex Fortis
Kevin Covert
John Dumbacher
Sean Zee
Mitchell Chun
Rita Crabtree-Kampe
Mark Burton
Frank Chiella
Drew Ryan
Peter Kim
Will Arvizo
Evan Chuck
DeAndre Valencia
Lucia La Rosa Ames
Michael Zislis
Unknown Speaker
George Bordokas
Debbie Van Ness
Nancy Dunn
Julie Messino
Heather Kim
Steve Thomaidis
Audrey Kania

Seeing no further requests to speak, Mayor Napolitano closed the floor to public comments.

City Attorney Barrow responded to City Council questions and provided information regarding the Government Code that immunizes the City from issuing permits and Senate Bill 2011.

Planning Manager Mirzakhanian, Community Development Director Tai, and Hydrogeologist and Vice President of GSI Environmental Timothy Wood responded to City Council questions.

A motion was made by Mayor Napolitano to deny the project. The motion failed for lack of a second.

A motion was made by Councilmember Stern, seconded by Mayor Pro Tem Montgomery, to accept the project and adopt draft Resolution No. 22-0124, affirming and upholding the Planning Commission's decision to affirm the Community Development Director's approval of a precise development plan, Coastal Development Permit, and tentative parcel map for a 96,217 square-foot multi-family residential project with 79 rental dwelling units, with the applicant utilizing a density bonus pursuant to State Law, inclusive of waivers and concessions, at 401 Rosecrans Ave and 3770 Highland Ave (Highrose El Porto, LLC). The motion failed by the following vote:

Aye: 2 - Montgomery and Stern

Nay: 3 - Napolitano, Franklin and Hadley

City Attorney Barrow responded to City Council questions.

A motion was made by Councilmember Hadley, seconded by Councilmember Franklin, to deny the project. The motion carried by the following vote:

Aye: 3 - Napolitano, Franklin and Hadley

Nay: 2 - Montgomery and Stern

City Attorney Barrow inquired if the City Council would like staff to return with a resolution of denial and discussed if a resolution was required per City Council's decision regarding the project.

At 9:03 PM, the City Council recessed and reconvened at 9:21 PM with all City Councilmembers present

City Attorney Barrow clarified that pursuant to Municipal Code Section 10.100.030, the City Council would need to adopt a resolution regarding the project and requested a motion to reconsider the motion to deny the project.

City Attorney Barrow responded to City Council questions.

A motion was made by Councilmember Hadley, seconded by Councilmember Franklin, to reconsider the motion to deny the project. The motion carried by the following vote:

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

City Attorney Barrow provided clarification regarding the action needed from the City Council.

A motion was made by Councilmember Franklin, seconded by Councilmember Hadley, to have staff return with a resolution denying the project. The motion carried by the following vote:

Aye: 3 - Napolitano, Franklin and Hadley

Nay: 2 - Montgomery and Stern

City Attorney Barrow responded to City Council questions.

The City Council directed staff to return with the resolution at the end of the City Council meeting for further consideration and continued the item until that time.

H. PUBLIC COMMENTS (3 MINUTES PER PERSON)

Mayor Napolitano opened the floor to public comments. The following individual(s) spoke:

Dr. Dale Murnane

Seeing no further requests to speak, Mayor Napolitano closed the floor to public comments.

Mayor Pro Tem Montgomery encouraged residents to get out and vote in the November 8, 2022 Election.

UPDATES AND PRESENTATIONS:

3. Update on Resolution No. 22-0135 in Support of Measure V on the November 8, 2022, Election Ballot Readopting the City's Commercial Cannabis Prohibition, and Against Cannabis Industry Measure MB on the November 8, 2022, Election Ballot (City Manager Moe). [22-0434](#)
(Estimated Time: 10 Min.)

RECEIVE REPORT

Mayor Pro Tem Montgomery announced that he had no current or future financial interests in the agenda item but would continue to recuse himself from participating to avoid any potential conflicts at the recommendation of the City Attorney. Mayor Pro Tem Montgomery left the meeting at 9:29 PM.

Policy & Management Analyst Alexandria Latragna provided the Staff presentation.

Mayor Napolitano opened the floor to public comments.

Seeing no requests to speak, Mayor Napolitano closed the floor to public comments.

The City Council received the report.

At 9:33 PM, Mayor Pro Tem Montgomery returned to the meeting.

I. CONSENT CALENDAR (APPROVE)

A motion was made by Councilmember Hadley, seconded by Councilmember Stern, to approve the Consent Calendar.

City Attorney Quinn Barrow read the title of Ordinance 22-0010 into the record:

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH ADDING CHAPTER 4.88 TO TITLE 4 OF THE MANHATTAN BEACH MUNICIPAL CODE REGULATING SHORT-TERM RENTALS AND OTHER TRANSIENT USES WITHIN THE CITY OUTSIDE THE CITY'S COASTAL ZONE.

The motion carried by the following vote:

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

4. City Council Minutes: [22-0280](#)

This Item Contains Minutes of the Following City Council Meeting(s):

- a) City Council Regular Meeting Minutes of October 4, 2022
- b) City Council Adjourned Regular Meeting Minutes of October 10, 2022 (City Clerk Tamura).

APPROVE

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

5. Financial Reports: [22-0416](#)

- a) Schedule of Demands September 22, 2022 and September 29, 2022
- b) Investment Portfolio for the Month Ending August 31, 2022
- c) Month End Report for August 31, 2022 (Finance Director Charelian).

ACCEPT REPORTS AND DEMANDS

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

6. Declaration of a Proclamation for the Month of November as Family Court Awareness Month [22-0427](#)

PROCLAIM

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

7. Consideration of the Following: [22-0433](#)

- a) Resolution Setting Aside Ordinance Nos. 15-0010 and 19-0007 in Compliance with Peremptory Writ of Mandate, and
- b) Ordinance Regulating Short-term Rentals and Other Transient Uses Outside the Coastal Zone (City Attorney Barrow).

A) ADOPT RESOLUTION NO. 22-0150

B) INTRODUCE ORDINANCE NO. 22-0010

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

8. Consideration and Introduction of Two Ordinances to Amend Title 9 and Chapter 3.16 of the Manhattan Beach Municipal Code to Adopt the 2022 California Building Standards Code by Reference (Building Code; Residential Code; Fire Code; Electrical Code; Plumbing Code; Green Building Standards Code; Energy Code; Mechanical Code; Existing Building Code; Historical Building Code; Administrative Code; Referenced Standards Code) and Adopt Associated Local Amendments (Community Development Director Tai and Fire Chief Lang). [22-0093](#)

(Estimated Time: 15 Mins.)

A) INTRODUCE ORDINANCE NOS. 22-0008 AND 22-0009

B) SET PUBLIC HEARING FOR NOVEMBER 15, 2022

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

9. Consideration of a Resolution Approving a Professional Services Agreement with Black & Veatch Management Consulting, LLC in the Budgeted Amount of \$68,085 for the 2023 Wastewater Rate Study (Public Works Director Lee). [22-0359](#)

ADOPT RESOLUTION NO. 22-0147

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

10. Consideration of Accepting as Complete Work Performed by All American Asphalt Regarding the Slurry Seal Project Encompassing the Central Area of the Sand Section (Public Works Director Lee). [22-0330](#)

ACCEPT AND AUTHORIZE

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

11. Consideration of a Resolution Approving Amendment No. 2 With Merrimac Petroleum, Inc. dba Merrimac Energy Group for Bulk Fuel Purchases [22-0365](#)
(Public Works Director Lee).

ADOPT RESOLUTION NO. 22-0148

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

12. Consideration of a Resolution Approving Amendment No. 2 to the Agreement with Unifirst Corporation for Uniform and Safety Mat Services to Modify the Provisions Governing Unifirst Corporation's Compensation (Public Works Director Lee). [22-0398](#)

ADOPT RESOLUTION NO. 22-0149

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

J. ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

K. PUBLIC HEARINGS

13. Public Hearing *De Novo* to Consider a Proposed Use Permit Amendment to Allow an Expansion of an Existing 4,180 Square-Foot “Eating and Drinking Establishments” Use (Arthur J restaurant) with Full Alcohol Service, Into an Adjacent Vacant 1,141 Square-Foot Tenant Space (Formerly a Dry Cleaner) Within an Existing Commercial Building at 901 and 903 Manhattan Avenue in the Downtown Commercial (CD) Zoning District (Simms Restaurants Group/Arthur J) (Community Development Director Tai). [22-0385](#)

(Estimated Time: 1 Hr. 30 Mins.)

A) CONDUCT PUBLIC HEARING DE NOVO

B) DIRECT STAFF TO DRAFT A RESOLUTION MAKING AN ENVIRONMENTAL DETERMINATION OF CATEGORICAL EXEMPTION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND CONDITIONALLY APPROVING THE USE PERMIT AMENDMENT FOR CONSIDERATION AT A SUBSEQUENT COUNCIL MEETING

Planning Manager Talyn Mirzakhian provided the PowerPoint presentation.

City Attorney Quinn Barrow and Community Development Director Carrie Tai responded to City Council questions.

Mayor Napolitano opened the public hearing. The following individual(s) spoke:

Mark Burton

Seeing no further requests to speak, Mayor Napolitano closed the public hearing.

A motion was made by Mayor Pro Tem Montgomery, seconded by Councilmember Hadley, to direct staff to draft a resolution making an environmental determination of exemption under CEQA and approving the Use Permit Amendment subject to conditions. The motion carried by the following vote:

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

L. GENERAL BUSINESS

14. Consideration of Fire Department Staffing Levels and Authorization for Three Additional Full-Time Employees (2 Civilian Fire Prevention and 1 Sworn Employee) and the Over-Hiring of up to Three Additional Firefighter/Paramedics for Anticipated Vacancies (Fire Chief Lang and Human Resources Director Jenkins). [22-0431](#)

(Estimated Time: 45 Mins.)

DISCUSS AND PROVIDE DIRECTION

Fire Chief Michael Lang provided the PowerPoint presentation and responded to City Council questions.

Mayor Napolitano opened the floor to public comments. The following individual(s) spoke:

Frank Chiella

Seeing no further requests to speak, Mayor Napolitano closed the floor to public comments.

Fire Chief Lang responded to City Council questions.

A motion was made by Mayor Napolitano, seconded by Councilmember Hadley, to approve the proposed staffing and increase positions within the Fire Department as follows: Addition of (1) Fire Marshal (civilian); (1) Fire Inspector (civilian); and (1) Fire Captain/Paramedic (sworn); and change the position allocation of (1) Firefighter/Paramedic to Fire Captain/Paramedic (to be under-filled at the appropriate level at the Fire Chief's discretion). The motion carried by the following vote:

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

15. Consideration of Police Department Staffing Levels and Authorization for the Over-Hiring of Five Additional Police Officers (Police Chief Johnson and Human Resources Director Jenkins). [22-0435](#)

DISCUSS AND PROVIDE DIRECTION

Police Chief Rachel Johnson provided the PowerPoint presentation.

Mayor Napolitano opened the floor to public comments. The following individual(s) spoke:

Frank Chiella

Heather Kim

Seeing no further requests to speak, Mayor Napolitano closed the floor to public comments.

A motion was made by Mayor Napolitano, seconded by Mayor Pro Tem Montgomery, to authorize the over-hiring of up to five additional sworn Police Officers. The motion carried by the following vote:

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

16. Discuss Existing Regulations For Overhead String Lights Placed Above Walk Streets (Community Development Director Tai).

[22-0397](#)

(Estimated Time: 30 Mins.)

DISCUSS AND PROVIDE DIRECTION

Community Development Director Carrie Tai provided the PowerPoint presentation and responded to City Council questions.

Mayor Napolitano opened the floor to public comments. The following individual(s) spoke:

*Stefan Kampe
Rita Crabtree-Kampe*

Seeing no further requests to speak, Mayor Napolitano closed the floor to public comments.

A motion was made by Mayor Napolitano, seconded by Mayor Pro Tem Montgomery, to have staff return with guidelines regarding overhead string lights placed above walk streets in order to have the guidelines in place by 2023. The motion carried by the following vote:

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

At 10:27 PM, Mayor Napolitano requested a motion to extend the meeting to 11:30 PM.

A motion was made by Mayor Pro Tem Montgomery, seconded by Councilmember Franklin, to extend the meeting to 11:30 PM. The motion carried by the following vote:

Aye: 5 - Napolitano, Montgomery, Franklin, Hadley and Stern

2. Consideration of Five Appeals of the Planning Commission's Decision to Affirm the Community Development Director's Approval of a Precise Development Plan, Coastal Development Permit, and Tentative Parcel Map for the Development of a 96,217 Square-Foot Multi-Family Residential Building Ranging 37 to 50 Feet in Height and Including 79 Rental Dwelling Units with the Developer Utilizing a Density Bonus Pursuant to State Law, Inclusive of Waivers and Concessions, at 401 Rosecrans Avenue and 3770 Highland Avenue (Continued from the August 16, 2022, City Council Meeting) (Community Development Director Tai).

[22-0432](#)

(Estimated Time: 2 Hrs.)

A) RESUME DELIBERATIONS

B) AFFIRM AND UPHOLD THE DECISION OF THE PLANNING COMMISSION

City Attorney Barrow announced that the item had been continued earlier in the meeting and that the applicant was still present in Council Chambers at the time of its continuance. He recommended that the City Council enter all documents that were submitted in connection with the agenda item into the record.

Mayor Napolitano opened the floor to public comments.

Seeing no requests to speak, Mayor Napolitano closed the floor to public comments.

A motion was made by Councilmember Hadley, seconded by Councilmember Franklin, to adopt revised Resolution No. 22-0124, overturning the Planning Commission's decision to affirm the Community Development Director's approval of a precise development plan, Coastal Development Permit, and tentative parcel map for a 96,217 square-foot multi-family residential project with 79 rental dwelling units, with the applicant utilizing a density bonus pursuant to State law, inclusive of waivers and concessions, at 401 Rosecrans Avenue and 3770 Highland Avenue (Highrose El Porto, LLC). The motion carried by the following vote:

Aye: 3 - Napolitano, Franklin and Hadley

Nay: 2 - Montgomery and Stern

M. CITY COUNCIL REQUESTS AND REPORTS INCLUDING AB 1234 REPORTS

None.

N. FUTURE AGENDA ITEMS

Councilmember Hadley requested to agendaize a discussion to expedite the Council's discussion of coyotes. Councilmember Franklin seconded the request.

O. CITY MANAGER REPORT

None.

P. CITY ATTORNEY REPORT

None.

Q. INFORMATIONAL ITEMS

17. Agenda Forecast (City Clerk Tamura).
INFORMATION ITEM ONLY

[22-0377](#)

This item was received and filed by order of the Chair.

R. CLOSED SESSION

None.

S. ADJOURNMENT

At 10:34 PM, Mayor Napolitano adjourned the meeting, and notified the public that the next Council meeting is the October 19, 2022 Adjourned Regular Meeting at 5:00 PM.

Patricia Matson
Recording Secretary

Steve Napolitano
Mayor

ATTEST:

Liza Tamura
City Clerk