

City of Manhattan Beach

*1400 Highland Avenue
Manhattan Beach, CA 90266*



Meeting Minutes - Final

Tuesday, August 16, 2016

6:00 PM

Regular Meeting

City Council Chambers

City Council Regular Meeting

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

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A. PLEDGE TO THE FLAG

Melissa McCollum, Manhattan Beach Library Manager, led the Pledge of Allegiance.

B. ROLL CALL

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

C. CEREMONIAL CALENDAR

None.

D. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

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

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

A motion was made by Mayor Pro Tem Lesser, seconded by Councilmember Howorth, to move Item No. 14 before Item No. 13, Item No. 3 to be removed from the Consent Calendar and heard in Section M. Old Business after Item No. 8, and to approve the agenda and waive full reading of ordinances. The motion carried by the following vote:

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

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

Fred Manna member of the Cultural Arts Commission extended an invitation to attend the opening of the John Van Hammersveld Exhibit August 25th thru October 26, 2016, at the Cultural Arts Center.

Jason Shanks, Nikau Kai, announced that the movie "The Incredibles" will be shown Friday night August 19, 2016, behind the library and there will be a costume contest with individual and family categories.

Melissa McCollum, Manhattan Beach Librarian, reported on upcoming library events.

Councilmember Burton spoke of the school bond measures on the November ballot.

Councilmember Powell announced that the i-pad and i-phone training classes will be repeated on August 25, 2016, at 10:00 AM in the Joslyn Community Center.

G. CITY MANAGER REPORT

City Manager Mark Danaj introduced Management Analyst Kendra Davis who reported on the employee engagement program called MB Cares.

H. CITY ATTORNEY REPORT

None.

I. PUBLIC COMMENTS (3 MINUTES PER PERSON FOR ONE ITEM, A MAXIMUM OF 6 MINUTES IF A SPEAKER WANTS TO COMMENT ON MORE THAN ONE ITEM)

The following individuals provided public comment:

John Altamura, regarding opposition to Agenda Item No. 9.(Administration Citation Ordinance, Construction Rules Ordinance and Neighborhood Bill of Rights)

Paul Gross, regarding opposition to Agenda Item No. 9 (Distributed Handout).

Tami Zamrazil, regarding Agenda Item No. 9 and opposed to the Neighborhood Bill of Rights.

Bill Fournell, regarding the School Bond Update.

Michael Zislis requested that the City Council appeal the deadline of the TOT (Transient Occupancy Tax) Audit.

Kathy Clark, regarding oversized trucks in the downtown area.

Bill Victor, regarding opposition to Agenda Item No. 9.

Robert Bush spoke on picketing and the Gelson's Market.

Will Arvizo, regarding Prop 13/218 taxes, pension liability and Public Record Requests.

Blake Overend, regarding Agenda Item No. 9.

Doug Leach, regarding Agenda Item No. 9, requested to table this item to a later date.

Bryce Overend, regarding Agenda Item No. 9

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

1. Planning Commission Approval of a Use Permit for a New Mixed Use Building at 1762 Manhattan Beach Boulevard (Community Development Director Lundstedt).

BY ORDER OF THE CHAIR, RECEIVE AND FILE

By order of the chair, this item was received and filed.

K. CONSENT CALENDAR (APPROVE)

A motion was made by Councilmember Burton, seconded by Councilmember Powell, to approve the Consent Calendar with Item No.3 removed from the Consent Calendar and heard later under Section M. Old Business after Item No. 8. The motion carried by the following vote:

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

2. Completion of the Construction Contract for the 2013-14 Water Main Replacement Project (Interim Public Works Director Saenz).

APPROVE

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

3. Second Reading for Ordinance No. 16-0007 Amending the Municipal Code to Provide a Process for Modifying Construction Hours Under Limited Circumstances (Community Development Director Lundstedt).

SECOND READING AND ADOPT ORDINANCE NO. 16-0007

This item was removed from the Consent Calendar and heard later under Section M. Old Business after Item No. 8.

4. Second Reading for Ordinance No. 16-0015 to Amend Municipal Code Provisions Regulating the Retail Sale of Tobacco Products to Change the Minimum Smoking Age to 21 to be Consistent with State Law (Interim Public Works Director Saenz).

SECOND READING AND ADOPT ORDINANCE NO. 16-0015

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

5. Financial Report:

- a) Schedule of Demands: July 21, 2016
 - b) Investment Portfolio for the Month Ending June 30, 2016
 - c) Preliminary Month End Report for June 30, 2016
- (Finance Director Moe).

ACCEPT REPORT AND DEMANDS

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

6. City Council Minutes: City Council Regular Meeting Minutes of August 2, 2016 (City Clerk Tamura).

CONTINUE TO THE SEPTEMBER 6, 2016 CITY COUNCIL MEETING

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

L. PUBLIC HEARINGS (2 MINUTES PER PERSON)

7. Public Hearing To Consider Extending Interim Ordinance No. 16-0009-U Requiring a Use Permit for the Following Uses in the Downtown Commercial Zone: (1) Any Business or Professional Office; Bank and Savings & Loan; Catering Service; or Communications Facility Proposed to be Located on the Ground Floor Streetfront; and (2) Any Retail Sales Use Proposed to Have More Than 1,600 Square Feet of Buildable Floor Area; and Imposing Additional Use Permit Findings (Community Development Director Lundstedt).

**CONDUCT PUBLIC HEARING AND ADOPT URGENCY
ORDINANCE NO. ORD 16-0013U EXTENDING THE IZO FOR 10
MONTHS AND 15 DAYS**

Mayor D'Errico announced that he is going to recuse himself.

City Attorney Quinn Barrow clarified that Mayor D'Errico recused himself because he has two stores in the Manhattan Beach downtown area.

At 6:51 PM Mayor D'Errico left the dais.

Mayor Pro Tem Lesser introduced the item and Community Development Director Marisa Lundstedt provided the staff presentation for the Interim Zoning Ordinance (IZO).

Mayor Pro Tem Lesser opened the public hearing.

The following individuals provided public comment:

Tami Zamrazil read a letter on behalf of Carol Perrin, Chair of the Downtown Residents Group, voicing support for the ordinance.

Martha Andreani supports the ordinance, but requested additional changes.

Bill Victor voiced concerns about prohibiting banks on the ground floor.

Kelly Stroman, Executive Director for the Downtown Business and Professionals Association spoke on the purpose, the common ground and the unintended consequences of the IZO.

Seeing no further requests to speak, Mayor Pro Tem Lesser closed the public hearing.

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

City Attorney Barrow read the title of the ordinance into the record.

A motion was made by Councilmember Burton, seconded by Councilmember Howorth, to adopt Ordinance No. 16-0009U extending the Interim Zoning Ordinance for 10 months and 15 days. The motion carried by the following vote:

Aye: 4 - Lesser, Howorth, Powell and Burton

Abstain: 1 - D'Errico

City Attorney Barrow further added that the ordinance passed and goes into affect tonight.

Mayor D'Errico returned to the dais at 7:10 PM.

M. OLD BUSINESS

Item No.3 was removed from the Consent Calendar and heard under Section M. Old Business after Item No. 8.

8. Statement of Intent Process to Address Blight (City Attorney Quinn Barrow).

CONSIDER FIRST READING OF ABANDONED PROPERTY ORDINANCE NO. 16-0017

Mayor D'Errico introduced Community Development Director Marisa Lundstedt who provided the staff presentation.

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

City Attorney Barrow read the title of the ordinance into the record and clarified that it would return on the Consent Calendar in September.

A motion was made by Councilmember Powell, seconded by Councilmember Howorth, to introduce Ordinance No. 16-0017 an Ordinance of the City of Manhattan Beach adding Municipal Code Chapter 9.70 (Abandoned Property Abatement) to establish provisions for the abatement of abandoned properties and amending Chapter 9.86 (Nuisances) to regulate continuous public nuisances . The motion carried by the following vote:

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

3. Second Reading for Ordinance No. 16-0007 Amending the Municipal Code to Provide a Process for Modifying Construction Hours Under Limited Circumstances (Community Development Director Lundstedt).

SECOND READING AND ADOPT ORDINANCE NO. 16-0007

City Attorney Quinn Barrow provided clarification regarding the proposed draft ordinance and the strikethrough version. (The document was displayed to the public via the document reader.)

City Attorney Barrow responded to City Council questions.

Mayor D'Errico opened the floor to public comment.

Seeing no requests to speak, Mayor D'Errico closed the floor to public comment.

City Attorney Barrow read the title of the ordinance into the record: An Ordinance of the City of Manhattan Beach Amending Section 5.48.060 (Construction) of Chapter 5.48 (Noise Regulations) of the Manhattan Beach Municipal Code to allow the City Council and Director to modify Construction hours under limited circumstances.

A motion was made by Councilmember Howorth, seconded by Councilmember Burton to adopt Ordinance No. 16-0007 as amended, Amending the Municipal Code to Provide a Process for Modifying Construction Hours Under Limited Circumstances. The motion carried by the following vote:

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

9. Administration Citation Ordinance, Construction Rules Ordinance and Neighborhood Bill of Rights (Community Development Director Lundstedt).

**INTRODUCE ORDINANCE NO 16-0018, AN ORDINANCE
ESTABLISHING AN ADMINISTRATIVE CITATION PROCESS AND
PROVIDE DIRECTION REGARDING ROUGH DRAFT ORDINANCE
CODIFYING CONSTRUCTION RULES**

Mayor D'Errico stated that this item would be discussed as three separate items: Administration Citation Ordinance, Construction Rules Ordinance and Neighborhood Bill of Rights.

Community Development Director Marisa Lundstedt gave the staff presentation.

Community Development Director Lundstedt, City Attorney Quinn Barrow and City Manager Mark Danaj responded to City Council questions.

Mayor D'Errico opened the floor to public comment.

Seeing no requests to speak, Mayor D'Errico closed the floor to public comment.

City Attorney Barrow read the title of the ordinance into the record: An Ordinance of the City Of Manhattan Beach adding Chapter 1.06 (Administrative Citations) to Title 1 (General Provisions) of the Municipal Code to provide an alternate method of code enforcement compliance.

City Attorney Barrow clarified that the ordinance would return for second reading on a September agenda with a resolution establishing fees on the Consent Calendar and the hearing officer may be discussed at a later date.

A motion was made by Councilmember Burton, seconded by Councilmember Howorth to introduce Ordinance No. 16-0018 an Ordinance establishing an Administrative Citation Process. The motion carried by the following vote:

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

The next discussion was on the Construction Rules Ordinance without further Staff presentation.

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

Mayor D'Errico opened the floor to public comment.

Seeing no requests to speak, Mayor D'Errico closed the floor to public comment.

With the recommended changes, City Attorney Barrow requested that this item come back for first reading.

Councilmember Lesser asked the Community Development Director to notify again the building community when this item is returning to City Council .

A motion was made by Councilmember Burton, seconded by Mayor Pro Tem Lesser, for Staff to return with a Construction Rules Ordinance for first reading and give an explanation of Section 2 (Owner Builder) as to why it is included and why it is necessary. The motion carried by the following vote:

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

The final discussion was on the Neighborhood Bill of Rights.

Community Development Director Lundstedt, City Attorney Barrow and City Manager Danaj responded to City Council questions.

Mayor D'Errico opened the floor to public comment.

Seeing no requests to speak, Mayor D'Errico closed the floor to public comment.

City Manager Danaj clarified that Staff would be facilitating some stakeholders around potential improvements in our subterranean building guidelines, including max grading quantities, compile the feedback and bring it back to City Council.

Councilmember Burton added "at Staff's convenience".

Motion by Councilmember Burton, seconded Mayor D'Errico, to direct Staff to meet with builders, real estate agents and residents to come up with improvements to the City Codes regarding maximum grading quantity and other solutions regarding two/three story basements and to see if they have value. (Councilmember Burton clarified that he only wanted Staff to go to other cities to see what solutions other cities have and see if those improvements could be implemented by the City.) The motion carried by the following vote:

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

At 8:52 PM City Council recessed and reconvened at 9:03 PM with all Councilmembers present.

10. Consider Ordinance No. 16-0010 Prohibiting Targeted Residential Picketing (City Attorney Barrow).

CONSIDER ORDINANCE NO. 16-0010

Mayor D'Errico introduced the item and City Attorney Quinn Barrow provided the staff presentation.

Mayor D'Errico opened the floor to public comments.

Seeing no requests to speak Mayor D'Errico closed the floor to public comment.

City Attorney Barrow responded to City Council questions.

Councilmember Howorth stated that she wants to figure out the sensible versus the practical of the ordinance and to discuss this item because there have only been two cases in our community to date, but it feels like a different world and it may be necessary even though it doesn't impact a large number of people.

Councilmember Powell said that he has a problem with the ordinance, if there is a peaceful perceived injustice and the picketers are orderly and not disturbing. He further added that nuisances can be better addressed by the police department and distance requirements would be very difficult to enforce.

Mayor Pro Tem Lesser inquired about returning to the original ordinance because it was much simpler and more direct.

Councilmember Burton discussed the importance of the First Amendment and the right to convey your message in public by demonstrating or picketing. He further added that it is the City Councils responsibility to maximize the right of the First Amendment.

Mayor D'Errico spoke on the unintended consequences, such as moving the picketers in front of neighboring homes. There needs to be a distinction between "harassment" and "picketing" and it could be controlled by the monitoring of behavior.

Councilmember Howorth made a motion to adopt the language in the Santa Ana Ordinance.

Councilmember Howorth withdrew her motion and made a new motion to approve the Ordinance No. 16-0010 with the 150 foot distance, and it was seconded by Councilmember Lesser.

Councilmember Burton made a substitute motion.

A motion was made by Councilmember Burton, seconded by Mayor D'Errico, that this item be tabled. The motion carried by the following vote:

Aye: 3 - D'Errico, Powell and Burton

Nay: 2 - Lesser and Howorth

11. Award of Professional Services Agreement with Anderson Penna Partners, Inc. for Project Management Services for the Roundhouse Aquarium Project; Authorize the City Manager to Execute Agreement in the Amount of \$ 145,898; Authorize the City Manager to Approve a Professional Services Contingency in the Amount Not-to-Exceed \$14,590 (Interim Public Works Director Saenz).

APPROVE

Mayor D'Errico introduced this item and Interim Public Works Director Raul Saenz gave the staff presentation.

Interim Public Works Director Saenz introduced Anderson Penna Project Manager Dino Demelia who presented a PowerPoint Presentation and responded to City Council questions.

Mayor D'Errico opened the floor to public comment.

The following individual provided public comment:

John Roberts, Member of the Board of Directors of the Roundhouse Aquarium, voiced support for Anderson Penna Partners.

Seeing no further requests to speak, Mayor D'Errico closed the floor to public comment.

A motion was made by Councilmember Powell, seconded by Councilmember Howorth, to award a Professional Services Agreement with Anderson Penna Partners, Inc. for Project Management Services for the Roundhouse Aquarium Project; and to authorize the City Manager to execute an agreement in the amount of \$145,898; and authorize the City Manager to approve a Professional Services Contingency in the amount not-to-exceed \$14,590. The motion carried by the following vote:

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

N. NEW BUSINESS

12. Fiscal Year 2015-2016 Fourth Quarter Budget and Capital Improvement Plan Status Reports (Finance Director Moe/Interim Public Works Director Saenz).

RECEIVE REPORTS; APPROPRIATE

At 10:25 PM City Council advances to Item No. 14.

14. Establishment of a Pension Stabilization Trust Fund (Finance Director Moe).

ADOPT RESOLUTION NO. 16-0053; APPROPRIATE

Item No. 14 was heard before Item Nos. 12 and 13.

Mayor D'Errico introduced the item and Finance Director Bruce Moe provided the Staff presentation.

Finance Director Moe and City Manager Mark Danaj responded to City Council questions.

Mayor D'Errico opened the floor to public comment.

The following individuals provided public comment:

Will Arvizo commented on saving money and squeezing dollars.

Bill Victor stated that he would like to see the City Treasurer manage the trust.

Seeing no further requests to speak, Mayor D'Errico closed the floor to public comment.

A motion was made by Councilmember Burton, seconded by Councilmember Powell, that this item be returned for the September 13, 2016, Special City Council Meeting. The motion carried by the following vote:

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

12. Fiscal Year 2015-2016 Fourth Quarter Budget and Capital Improvement Plan Status Reports (Finance Director Moe/Interim Public Works Director Saenz).

RECEIVE REPORTS; APPROPRIATE

Mayor D'Errico stated that this item would return in the future.

Finance Director Bruce Moe announced that there were necessary appropriations which require City Council consideration tonight.

A motion was made by Councilmember Burton, seconded by Councilmember Powell, to appropriate \$1,320 for the AB2766 Air Quality Fund and \$368,649 for the Insurance Fund. The motion carried by the following vote:

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

13. Report on Southern California Gas Company's Capital Improvement Program (Interim Public Works Director Saenz).

RECEIVE REPORT

This item was continued to a future meeting.

O. CITY COUNCIL REPORTS, OTHER COUNCIL BUSINESS, AND COMMITTEE AND TRAVEL REPORTS

Councilmember Burton brought to City Council attention that SB1298 introduced by Senator Bob Hertzberg which would define sewer service which has been exempted from voter approval requirements for tax increases and also two townhall meetings on Future Fire Services in Hermosa Beach on August 24, 2016, and September 26, 2016.

Councilmember Howorth reported that SBCCOG(South Bay Cities Council of Governments) had talked about the Hertzberg Bill and recommended that individuals comment on it. Also she would like to place a letter under other City Council Reports that would be submitted to the SBCCOG re metro proposed tax increases and storm water issues that will be on the ballot.

P. FORECAST AGENDA AND FUTURE DISCUSSION ITEMS

15. Agenda Forecast (City Clerk Tamura). DISCUSS AND PROVIDE DIRECTION

Councilmember Burton would like Item No. 17 Support and Endorse the Projects to be Implemented Through Fiscal Year 2016-17 of the South Bay Measure R Highway Program Project List Including \$14.4 Million for the City of Manhattan Beach to be moved to the first item of New Business.

Councilmember Powell requested more detail on Item No. 12 Bi-Annual Construction Contingency Report.

Councilmember Burton asked to have a date to agendize the City Council Retreat.

Mayor D'Errico stated that the proper place holders for dates for the annual review for the City Manager and the City Attorney should be on an October Agenda..

A motion was made by Councilmember Burton, seconded by Councilmember Howorth, to consider the item on the waiver of the TOT Tax process appeal and place on the next agenda. The motion carried by the following vote:

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

Q. INFORMATIONAL ITEMS

16. Commission Minutes: This Item Contains Minutes of the following City Commission Meeting: Planning Commission Action Minutes of July 27, 2016 (Community Development Director Lundstedt). INFORMATION ITEM ONLY

This item was received by order of the Chair.

R. CLOSED SESSION

None.

S. ADJOURNMENT

At 10:58 PM the meeting was adjourned.

Martha Alvarez
Recording Secretary

Tony D'Errico
Mayor

ATTEST:

Liza Tamura
City Clerk