

City of Manhattan Beach

*1400 Highland Avenue
Manhattan Beach, CA 90266*



Meeting Minutes - Draft

Tuesday, September 4, 2012

6:30 PM

City Council Chambers

City Council Meeting

*Mayor Wayne Powell
Mayor Pro Tem David J. Lesser
Councilmember Amy Howorth
Councilmember Richard P. Montgomery
Councilmember Nicholas W. Tell, Jr.*

The City Council minutes are prepared and ordered to correspond to the City Council Agenda. Agenda items can be taken out of order during the meeting.

Agenda items were considered in the order presented here.

A. PLEDGE TO THE FLAG

1 **12-0123** Recognition of Thomas Suarez as a Distinguished Youth Recipient of the Mayor's I♥MB Award.

PRESENT

Mayor Powell, on behalf of the City Council, presented a certificate to Thomas Suarez as a Distinguished Youth Recipient of the Mayor's I Heart MB Award for leading the Pledge of Allegiance.

B. NATIONAL ANTHEM

2 **12-0165** Recognition of Police Lieutenant Ryan Small as a Recipient of the Mayor's I♥MB Award.

PRESENT

Mayor Powell, on behalf of the City Council, presented a certificate to Police Lieutenant Ryan Small as a Recipient of the Mayor's I Heart MB Award for singing the National Anthem.

C. ROLL CALL

Present: 5 - Councilmember Montgomery, Councilmember Tell, Councilmember Howorth, Mayor Pro Tem Lesser and Mayor Powell

D. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

Senior Deputy City Clerk Aliabadi confirmed the meeting was properly posted.

E. CLOSED SESSION ANNOUNCEMENT

The City Attorney explained that due to a posting mistake, the City Council re-noticed and re-conducted two closed sessions that were originally held on August 21, 2012, to proactively cure the procedural defect. The City Attorney announced that pursuant to the applicable Brown Act Sections, the City Council met in closed session at 5:30pm to discuss the same two items: a conference with legal counsel regarding anticipated litigation, and the public employment evaluation of the City Manager. The City Council gave direction to the City Attorney, and there was no other reportable action taken.

The City Attorney further announced, that pursuant to the applicable Brown Act Sections, there were two other closed session items: conference with its labor negotiator, and conference with legal counsel regarding Eccles v. Manhattan Beach. The City Council gave direction to the City Attorney with respect to those items. There was no other reportable action taken.

F. CEREMONIAL CALENDAR

3 **12-0140** Recognition of the Joslyn and Manhattan Heights Senior Clubs as Distinguished Older Adult Service Club Recipients of the Mayor's I♥MB Award.

PRESENT

City Manager Carmany responded to audience member that Joslyn and Manhattan Heights should be open by the end of the month.

Mayor Powell, on behalf of the Council, presented certificates to the Joslyn and Manhattan Heights Senior Clubs as Distinguished Older Adult Service Club Recipients of the Mayor's I Heart MB Award.

4 **12-0126** Recognition of "Walk With Sally" as a Distinguished Organization Recipient of the Mayor's I♥MB Award.

PRESENT

Mayor Powell, on behalf of the City Council, presented a certificate to "Walk With Sally" as a Distinguished Organization Recipient of the Mayor's I Heart MB Award.

G. CONSENT CALENDAR (ITEM NOS. 5 - 25)

Councilmember Tell pulled Item Nos. 11,12, 18, 20 and 22.

City Manager Carmany continued Item No. 10 to the next agenda

*Mayor Powell questioned Item No. 19 and Public Works Director Arndt responded.
The Public pulled Item Nos. 5, 6, 8, 9 & 23*

A motion was made by Councilmember Howorth, seconded by Councilmember Montgomery, that the Consent Calendar be approved with the exception of Item Nos. 5, 6, 8, 9, 11, 12, 18, 20, 22 and 23, which were considered later in the meeting under Items Removed from the Consent Calendar. The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

GENERAL CONSENT

7 **12-0112** Ratification of Motor Fuel Purchase from Southern Counties Oil Co. in the Amount of \$27,044.26

APPROVE

A motion was made to approve the recommendation on the Consent Calendar.

10 **RES 12-6386** Resolution No. 12-6386 Approval of the 2012 Conflict of Interest Code for the City of Manhattan Beach.

ADOPT RESOLUTION NO. 12-6386

A motion was made to approve the recommendation on the Consent Calendar.

13 **12-0089** Progress Payment No. 2 in the Net Amount of \$282,285.00 to Ramona, Inc. for the 2011-2012 Sewer Main Rehabilitation Project, Phase 1.
APPROVE
A motion was made to approve the recommendation on the Consent Calendar.

14 **12-0120** Two-Year Contract Extension with John L. Hunter and Associates for Restaurant Stormwater Inspection Services in the Amount of \$39,260; and Contract Amendment to Include the Fats, Oils and Grease Source Control Program Inspections in the Amount of \$21,982.
APPROVE
A motion was made to approve the recommendation on the Consent Calendar.

15 **12-0142** Three-Year Lease Agreement of Groundwater Rights from Chevron U.S.A. Inc.
APPROVE
A motion was made to approve the recommendation on the Consent Calendar.

16 **12-0105** Progress Payment No. 2 in the Net Amount of \$203,707.16 to Martinez Concrete, Inc. for the Section 7 (Longfellow Avenue to 45th Street, Valley Drive/Blanche Road to The Strand) Concrete Repair Project.
APPROVE
A motion was made to approve the recommendation on the Consent Calendar.

17 **12-0134** Progress Payment No. 6 in the Net Amount of \$299,913.51 to John T. Malloy, Inc. for the 2011-2012 Water Main Replacement Project, Phase 1
APPROVE
A motion was made to approve the recommendation on the Consent Calendar.

19 **12-0150** Final Payment in the Net Amount of \$71,901.90 to John S. Meek Company; Formally Accept the Manhattan Beach Pier Localized Structural Rehabilitation Project as Complete; and Authorize Filing of the Appropriate Notice of Completion and Release Retention in the Amount of \$26,536.37
APPROVE
A motion was made to approve the recommendation on the Consent Calendar.

21 12-0158 Plans and Specifications for the 2011-2012 Sewer Main Rehabilitation Project, Phase 2 (Area 7 - south Sand Section, including 3rd Street, 4th Street, 7th Street, and Ingleside Drive) and Authorization to Solicit Construction Bids

APPROVE

A motion was made to approve the recommendation on the Consent Calendar.

BOARDS AND COMMISSIONS

24 12-0163 Parking and Public Improvements Commission Recommendation to Approve an Encroachment Permit Appeal to Allow a Raised Yard in the Public Right-of-Way at 519 21st Street.

APPROVE

A motion was made to approve the recommendation on the Consent Calendar.

Planning Commission

25 12-0129 Planning Commission Approval of a Planned Development Permit Amendment Revising an Existing Shared Parking Program for an Existing Commercial Center and Use Permit for a New Restaurant Located at 1550 - 1590 Rosecrans Avenue. (St. Paul Fire and Marine Insurance Co. / Coffee Bean)

RECEIVE AND FILE

A motion was made to approve the recommendation on the Consent Calendar.

H. COMMUNITY ANNOUNCEMENTS (One Minute Per Person)

Don Gould spoke about Library events.

Mary Ann Varni spoke about the Farmer's Market.

Fyllis Kramer spoke about the Farmer's Market.

Viet Ngo spoke about the former City Manager.

Frydoun Sheikhpour spoke about a legal matter with Chevron.

Ed Caprielian spoke about alcohol permits.

Janet Murphy spoke about a quick response to a safety issue.

Councilmember Montgomery spoke about the Manhattan Beach Open volleyball tournament.

Mayor Powell announced his Town Hall Meetings.

Councilmember Montgomery spoke about prize money for Manhattan Beach Open Volleyball.

I. AUDIENCE PARTICIPATION (Three Minutes Per Person)

Bill Victor spoke about the new agenda process.

Frydoun Sheikhpour spoke about Manhattan Village.

Peter Goodwin spoke about a traffic control measure process.

Katie McClure spoke about the Blue Zones project.

Viet Ngo spoke about the former City Manager.

Jacque May spoke about the new Granicus agenda.

Ed Caprielian spoke about the Brown Act.

J. PUBLIC HEARINGS

26 12-0122 Appeal of Planning Commission Decision to Deny a Use Permit Amendment for an Existing Restaurant's Request for On-Site Beer and Wine Service from 6:00AM to 2:00AM Daily for Hotdoggers, Inc. Located at 1605 North Sepulveda Boulevard.

A) CONDUCT PUBLIC HEARING
B) DISCUSS AND PROVIDE DIRECTION
C) UPHOLD PLANNING COMMISSION DECISION

Appellant Sandy Saemann spoke.
Appellant's Architect Louis Skelton spoke.
Appellant's Acoustical Engineer Bruce Davy spoke.

Mayor Powell opened the Public Hearing and the following individuals spoke:

Michael Lang.
Brad Gilbert.
John Caliendo.
Robert Gray.
Tracy Landis.
Martin Howard.
Frank Arenas.
Debbie Shevlin.
Steve Kim.
Troy Saemann.
JC Agaganian.
Brad Woomer.
Bill Victor.
Steve Alexander.
Karol Wahlberg.
Michael Zislis.
Esther Besbris.
Brian Boisvert.
Ed Caprielian.
Co-appellant Susan Seaman.
Shannan Ryan.
Viet Ngo.

Mayor Powell closed the Public Hearing

Appellant Sandy Saemann provided his rebuttal.

A motion was made by Mayor Pro Tem Lesser, seconded by Councilmember Howorth, to uphold the Planning Commission's decision to deny a Use Permit Amendment for an Existing Restaurant's Request for On-Site Beer and Wine Service from 6:00AM to 2:00AM Daily for Hotdoggers, Inc. Located at 1605 North Sepulveda Boulevard.

The motion carried by the following vote:

Aye: 4 - Tell, Howorth, Lesser and Powell

Nay: 1 - Montgomery

27 **RES 12-6382** Resolution No. 12-6382 Determining that the City is in Compliance With the Program Requirements of the 2012 Congestion Management Program (CMP) for Los Angeles County as Prepared by the Metropolitan Transportation Authority (MTA)

ADOPT RESOLUTION NO. 12-6382

There were no comments from the public on this item.

A motion was made by Councilmember Howorth, seconded by Councilmember Tell, to adopt Resolution No. 12-6382 demonstrating the City's compliance with the program requirements of the 2012 Congestion Management Program (CMP).

The motion carried by the following vote:

Aye: 4 - Montgomery, Tell, Howorth and Powell

Nay: 1 - Lesser

K. GENERAL BUSINESS

After 10:30 p.m. (the cut off for introduction of new agenda items), Resolution No. 6132 requires that "the City Council shall adjourn each regular meeting thereof by 10:30 p.m., unless four-fifths (4/5) of the Council Members present vote to waive or extend the required adjournment time."

A motion was made by Councilmember Tell, seconded by Councilmember Montgomery, to continue the meeting past the 10:30 p.m. cut off; to defer Item Nos. 28 & 30 to a future agenda; and proceed with Item No. 29.

The motion carried by the following vote:

Aye: 4 - Montgomery, Tell, Howorth and Powell

Nay: 1 - Lesser

28 **12-0148** Petition Requesting Construction of Sidewalk on Parkview Avenue from Park Way to Market Place

RECEIVE AND FILE, PROVIDE DIRECTION

The City Council continued this item to a future City Council meeting.

30 **12-0157** Status Update from Creative Management Solutions - Barry Newton, Consultant for Classification Portion of the Classification and Compensation Study.

RECEIVE AND FILE

The City Council continued this item to a future City Council meeting.

29 **12-0156** Agreement with Municipal Resource Group, LLC for Facilitation Services for an Amount Not-to-Exceed \$13,500 for Services in Connection With the Annual Evaluation of the City Manager.

APPROVE

The following individuals spoke on this item:

Ed Caprielian.

Bill Victor.

A motion was made by Councilmember Howorth, seconded by Councilmember Montgomery, to approve a draft agreement with Municipal Resource Group, LLC in an amount not-to-exceed \$13,500, for facilitation services in connection with the City Council's annual evaluation of the City Manager and appropriate \$13,500 from the City Council Contingency account.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

A motion was made by Councilmember Howorth, seconded by Councilmember Montgomery, to take Item Nos. 33 & 9 out of order. The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

33 12-0130 Request to Agendize the Reinstatement of Funding for Arts Manhattan for Two Art Exhibitions at the Creative Arts Center

The following individuals spoke on this item:
Homeira Goldstein

A motion was made by Councilmember Howorth, seconded by Councilmember Montgomery, to agendize a request from Arts Manhattan to reinstate partial funding (\$10,000) for two public art exhibitions at the City's Creative Arts Center.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

9 RES 12-6392 Resolution No. 12-6392 Approving the Documents Related to the Replacement of the Existing Marine Avenue Sports Fields Variable Rate Debt Letter of Credit and a Remarketing Agreement with Loop Capital Markets

ADOPT RESOLUTION NO. 12-6392

There were no requests to speak on this item.

A motion was made by Councilmember Howorth, seconded by Councilmember Montgomery, to adopt Resolution No. 6392 approving the following documents in support of the 2002 Marine Avenue Sports Fields Certificates of Participation (COPs):

- a) Replacement Letter of Credit/Reimbursement Agreement with Union Bank;
- b) Fee Agreement with Union Bank;
- c) Remarketing agreement with Loop Capital Markets; and
- d) Remarketing Circular.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

L. ITEMS REMOVED FROM THE CONSENT CALENDAR5 **12-0116**

Minutes:

This item contains minutes of City Council meetings which are presented for approval and minutes from 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 approve the minutes of the:

a) City Council Strategic Planning Meeting of July 11, 2012.

APPROVE

b) City Council Meeting (Closed Session) and Regular City Council Meeting of August 7, 2012.

APPROVE

c) Action Minutes, Planning Commission Meeting of August 8, 2012.

RECEIVE AND FILE

d) Action Minutes, Parking and Public Improvements Commission Meeting of July 26, 2012.

RECEIVE AND FILE

e) Draft Cultural Arts Commission Minutes June 5, 2012

RECEIVE AND FILE

f) Draft Cultural Arts Commission Minutes June 12, 2012

RECEIVE AND FILE

The following individuals spoke on this item:

Craig Cadwallader.

Bill Victor.

Ed Caprielian.

Viet Ngo.

A motion was made by Councilmember Montgomery, seconded by Councilmember Howorth, to approve the City Council minutes and receive and file the minutes from the City Council Subcommittees, City Commissions and Committees.

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

6 **12-0081** Monthly Financial Reports:
1) Ratification of Demands: August 16, 2012 and August 30, 2012

APPROVE

2) Investment Portfolio for the Month Ending July 31, 2012

RECEIVE AND FILE

3) Financial Reports for the Month Ending July 31, 2012

RECEIVE AND FILE

The following individuals spoke on this item:

Bill Victor.

Ed Caprielian.

Viet Ngo.

A motion was made by Councilmember Montgomery, seconded by Councilmember Howorth, to approve with no exception Warrant Register No. 31B, 4B and 5B in the amount of \$7,559,163.06 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register; received and filed the Investment Portfolio for the month ending July 31, 2012; and received and filed the Financial Reports for the month ending July 31, 2012.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

8 **12-0133** Monthly Status Update of Strategic Plan Goals and Objectives

RECEIVE AND FILE

The following individuals spoke on this item:

Craig Cadwallader.

Ed Caprielian.

Bill Victor.

A motion was made by Councilmember Howorth, seconded by Councilmember Montgomery, to receive and file this report.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

11 **RES 12-6395** Resolution No. 12-6395 Endorsing Policies in the Pursuit of “Blue Zones” Certification Under the Vitality City Initiative

ADOPT RESOLUTION NO. 12-6395

The following individual spoke on this item:

Craig Cadwallader.

A motion was made by Councilmember Howorth, seconded by Councilmember Montgomery, to adopt Resolution No. 12-6395 endorsing policies in the pursuit of “Blue Zones” certification under the Vitality City Initiative.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

12 12-0139 Grant Funded Purchase of Energy Efficient Lighting for Parking Garages (Lots 3 & 4) and Downtown Streetscape Lantern Retrofits from Noribachi in the Amount of \$75,149.95; and Appropriation of \$58,290.00 from the Parking Fund and \$16,859.95 from Unreserved General Fund Monies.

APPROVE

There were no requests from the public to speak on this item.

A motion was made by Councilmember Montgomery, seconded by Councilmember Tell, to approve an award of bid #884-13 to Noribachi, the lowest responsible bidder, in the amount of \$75,149.95 for energy efficient replacement lights for Parking Garages (Lots 3 & 4) and Downtown Streetscape; and appropriate \$75,149.95 (\$58,290.00 from the Parking Fund and \$16,859.95 from the General Fund) for this project, which will be fully reimbursed with grant funding from the Department of Energy.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

18 12-0152 Progress Payment No. 7 in the net amount of \$482,069.97 to Harbor Construction Co., Inc. for the Joslyn Center, Begg Pool Locker Room and Manhattan Heights Community Center Renovation Projects

APPROVE

There were no requests from the public to speak on this item.

A motion was made by Councilmember Montgomery, seconded by Councilmember Tell, to approve Progress Payment No. 7 in the net amount of \$482,069.97 to Harbor Construction Co., Inc. for the Joslyn Center, Begg Pool Locker Room and Manhattan Heights Community Center Renovation Projects.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

20 12-0147 Plans and Specifications for the 2011-2012 Water Main Rehabilitation Project, Phase 2 (Area 7 - south Sand Section, including 6th Street, 7th Street, Morningside Drive and Highland Avenue), Authorization to Solicit Construction Bids and Additional Appropriation of \$550,000

APPROVE

*The following individual spoke on this item:
Jacque May.*

A motion was made by Councilmember Montgomery, seconded by Councilmember Howorth, to approve the plans and specifications for the 2011-2012 Water Main Replacement Project, Phase 2 (Area 7 south Sand Section) and authorize the City Manager to solicit construction bids: and, appropriate additional Water Enterprise Funds in the amount of \$550,000 to complete the project.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

22 12-0151 Request for Proposal for Landscape Master Planning Services for the Veterans Parkway.

APPROVE

The City Council unanimously directed staff to continue this item to a future agenda.

23 12-0154 Site Design for the Manhattan Beach Strand Ocean-Friendly Garden

RECEIVE AND FILE

The following individuals spoke on this item:

Jacque May (displayed pictures).

Bill Victor.

Craig Cadwallader.

Bill Victor.

A motion was made by Councilmember Montgomery, seconded by Councilmember Howorth, to receive and file this report.

The motion carried by the following vote:

Aye: 5 - Montgomery, Tell, Howorth, Lesser and Powell

M. CITY MANAGER REPORT(S)

31 12-0161 Status Report on the Broad Beach Restoration Project to Export Sand from Offshore Manhattan Beach to the City of Malibu

RECEIVE AND FILE

There were no comments from the public on this item.

The City Council unanimously directed staff to draft a letter for the Mayor's signature opposing the exporting of sand from offshore Manhattan Beach to the City of Malibu.

N. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

32 12-0131 Request to Conduct a Symposium on the History and Future of Manhattan Beach in December 2012 at the Joslyn Community Center

APPROVE

The following individuals spoke on this item:

Ed Caprielian.

Bill Victor.

A motion was made by Mayor Powell, seconded by Councilmember Howorth, to approve a request to conduct a City-sponsored event in the Joslyn Community Center on December 1, 2012: "Reflect on the Past, Give Meaning to the Future," a community discussion celebrating the 100th anniversary of Manhattan Beach.

The motion carried by the following vote:

Aye: 4 - Tell, Howorth, Lesser and Powell

Nay: 1 - Montgomery

O. ADJOURNMENT

At 12:33 a.m. the Regular City Council meeting of September 4, 2012 was duly adjourned to the 5:30 p.m. City Council Meeting (Closed Session) to be followed by the 6:30 p.m. Regular City Council Meeting on Tuesday, September 18, 2012, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.