

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Draft

Tuesday, March 19, 2013

6:00 PM

Regular Meeting

Council Chambers

City Council

Mayor David J. Lesser

Mayor Pro Tem Amy Howorth

Councilmember Richard P. Montgomery

Councilmember Nicholas W. Tell, Jr.

Councilmember Wayne Powell

MANHATTAN BEACH'S CITY COUNCIL WELCOMES YOU!

BELOW ARE THE AGENDA ITEMS TO BE CONSIDERED. THE RECOMMENDED COUNCIL ACTION IS LISTED IMMEDIATELY AFTER THE TITLE OF EACH ITEM IN BOLD CAPITAL LETTERS.

A. PLEDGE TO THE FLAG

Police Chief Eve Irvine led the Pledge of Allegiance.

B. ROLL CALL

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

C. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

City Clerk Tamura confirmed the meeting was properly posted.

D. CITY ATTORNEY ANNOUNCEMENTS

There was no Closed Session.

City Attorney Barrow announced to the public that the agenda is in a different order due to the draft Resolution for Item No.3 (Resolution Upholding Planning Commission's Decision Denying an Appeal of a Height Determination for a Coastal Permit (CA 12-25) for a New Single Family at 301/303 25th Street).

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

No changes were made to the agenda at this time.

F. CEREMONIAL CALENDAR

1. Recognition of Henry Mitzner on the Occasion of his 40th Anniversary with the City of Manhattan Beach **13-0124**

PRESENT

The City Council recognize Henry Mitzner for his 40 years of service with the City of Manhattan Beach.

2. Proclamation declaring March 24-30, 2013, as Tsunami Preparedness Week **13-0141**

PRESENT

Mayor Lesser, on behalf of the City Council, presented a proclamation to Fire Chief Espinosa in recognition of Tsunami Preparedness Week.

Fire Chief Espinosa spoke about the Tsunami Town Hall Meeting which will take place on March 28, 2013 at 6:30 p.m. at the Joslyn Community Center.

G. CONSENT CALENDAR

The Mayor invited Councilmembers, staff and the public to remove items from the Consent Calendar for individual discussion and consideration. Items 4 and 5 were removed from the Consent Calendar.

A motion was made by Councilmember Montgomery, seconded by Councilmember Tell, that all items on the Consent Calendar be approved, with the exception of Item No. 4 (Recite the Facts and Declare the Results of the March 5, 2013 General Municipal Election) and Item No. 5 (which will be considered under Items Removed From the Consent Calendar). The motion carried by the following vote:

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

3. Resolution Upholding Planning Commission's Decision Denying an Appeal of a Height Determination for a Coastal Permit (CA 12-25) for a New Single Family at 301/303 25TH Street **RES 13-0022**

ADOPT RESOLUTION NO. 13-0022

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

6. Award of Bid for the Purchase of One Replacement Skid Steer Loader for the Public Works Department from Volvo Construction Equipment in the Amount of \$41,362.23; Supplemental Appropriation of \$6,365 from the Fleet Management Fund. **13-0116**

APPROVE; APPROPRIATE

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

7. Purchase of One Portable Wastewater Pump from Xylem Dewatering Solutions in the Amount of \$35,464.05. **13-0102**

APPROVE

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

8. Ratification of Motor Fuel Purchase from Southern Counties Oil Co. in the Amount of \$23,426.62. **13-0114**

APPROVE

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

9. Final Payment in the Net Amount of \$137,664.12 to Blois Construction, Inc.; Change Order No. 1 (\$10,517.00); Formally Accept the Greenbelt Low Flow Infiltration Project as Complete; and Authorize the Filing of the Appropriate Notice of Completion and Release of Retention in the Amount of \$27,462.75 **13-0100**

APPROVE

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

10. Plans and Specifications for the Block 35 Variable Frequency Drive Booster Pump Replacement Project and Authorization to Solicit Construction Bids. **13-0125**

APPROVE

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

11. Plans and Specifications for the Sewer Lift Station Bypass Valve Replacement Project and Authorization to Solicit Construction Bids. **13-0126**

APPROVE

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

12. Progress Payment No. 4 in the Net Amount of \$117,373.34 to Vido Samarzych, Inc. for the Fiscal Year 2012-13 Water Main Replacement and Fire Hydrant Installation Project (Area 1, Hill Section; 8th, 9th, 10th, 11th and John Streets; and Highview, Pacific and Poinsettia Avenues). **13-0127**

APPROVE

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

13. Financial Reports: **13-0117**
a) Schedule of Demands: February 26, 2013.
b) Payroll Register: February 28, 2013.

RATIFY

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

14. Minutes 13-0121

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) Planning Commission Meeting of March 13, 2013.

RECEIVE AND FILE

b) Parking and Public Improvements Commission Meeting of February 28, 2013.

RECEIVE AND FILE

c) Cultural Arts Commission Meeting of February 12, 2013.

RECEIVE AND FILE

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

H. PUBLIC HEARINGS**I. GENERAL BUSINESS****J. ITEMS REMOVED FROM THE CONSENT CALENDAR****4. Resolution Reciting the Facts of the March 5, 2013, General Municipal Election RES 13-0023****ADOPT RESOLUTION NO. 13-0023**

The following individuals spoke on this item:

Viet Ngo

A motion was made by Councilmember Montgomery, seconded by Councilmember Tell, that this item be approved. The motion carried by the following vote:

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

5. Award of Contract for Three-Year Citywide Street Tree Inventory Services and Tree Trimming to West Coast Arborists (WCA), Inc. in the Amount Not-to-Exceed \$390,000 (Estimated \$130,000 Annually). **13-0129**
APPROVE

The following individuals spoke on this item:

Gerry O'Conner

Bill Victor

Viet Ngo

Frank Wattles

Willy Levanthal

A motion was made by Mayor Pro Tem Howorth, seconded by Councilmember Powell that this item be continued to a future meeting and placed on General Business as opposed to the Consent Calendar. The motion carried by the following vote:

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

Leonard Armato, Esq. approached the podium and inquired about Item No. 3 (Adoption of Resolution Upholding Planning Commission's Decision Denying an Appeal of a Height Determination for a Coastal Permit (CA 12-25) for a New Single Family at 301/303 25th Street). He explained that he was waiting to be called down to speak and that he did not understand that he should have asked that the item be removed from the Consent Calendar.

City Attorney Barrow suggested that the City Council let Mr. Armato speak.

K. COMMUNITY ANNOUNCEMENTS (One Minute Per Person)

Robert Bush spoke about the poor election turnout, the lack of resident follow up with City Council meetings and letters to newspapers, utility undergrounding, and mismanagement of the school district.

Mike Rosenberger, President of the Manhattan Beach Police Officers' Association, thanked Councilmembers Montgomery and Tell for their service to the City.

Fyllis Kramer presented baskets from the Manhattan Beach Farmer's Market for the City Council.

David White spoke about the diligent service of Councilmembers Montgomery and Tell.

James Gill, past President of Leadership Manhattan Beach, thanked Councilmembers Montgomery and Tell and relayed that Leadership Manhattan Beach will hold an Information Night on March 26, 2013 in the City Council Chambers from 7:00 to 8:00 p.m.

Dick Zeif, Vice Chair, Senior Advisory Committee, offered the Committee's appreciation to Councilmembers Montgomery and Tell.

Viet Ngo spoke of alleged corruption and conspiracy by the City Council.

Willy Levanthal stated that he has enjoyed working with Councilmembers Montgomery and Tell.

Jim O'Callahan, President & CEO, Manhattan Beach Chamber of Commerce, announced that an event to welcome the two new City Councilmembers will be held at the Tin Roof Bistro from 5:30 - 7:30 p.m. Also, on Thursday, April 11, 2013, the Chamber will hold a Sepulveda Corridor Open House.

Don Gould, Manhattan Beach Librarian, echoed the comments about Councilmembers Montgomery and Tell and announced up-coming library events.

Councilmember Powell announced the Mira Costa High School Art Show this Friday with an opening reception at the Creative Arts Center from 5:00 p.m. - 7:30 p.m.

Mayor Pro Tem Howorth reported that Neighborhood Watch is looking for volunteers to be Block Captains and that those interested should contact Stephanie Martin in the Police Department.

L. AUDIENCE PARTICIPATION (Three Minutes Per Person)

Robert Bush alleged that unethical methods were used in various City projects.

Rick Lesser requested that the City Council reconsider their decision to remove the parking space adjacent to 217 4th Place.

Francey Marzicola also asked that the City Council reconsider the removal of the 4th Place parking space.

Willy Levanthal suggested that there be an annual field trip for 4th - 7th graders and Little Leaguers to visit the memorial at Marine Avenue Park and to spread the message against drunk driving. He also spoke about a baseball donation program to Compton College and the dangerous speeds of skaters on the bike path and the Strand.

Fire Chief Robert Espinosa spoke about a home fire and how a smoke detector saved the life of a young girl. He reminded everyone to change the batteries in their smoke detectors.

Leonard Armato publicly apologized to Councilmember Montgomery for his remarks after the last City Council meeting.

Viet Ngo stated that he contests the results of the March 5, 2013 General Municipal Election and alleged that there were several election-related violations.

Bill Victor provided a hand out and spoke about his disappointment with the Open Government Subcommittee.

Frank Wattles thanked the City Council and spoke about the class and accessibility of the Council.

Erica Graves, Community Policy Lead for Blue Zones Project along with Jim Hannon, Executive Director of the South Bay Bicycle Coalition, thanked the City Council for promoting the well being of residents in Manhattan Beach; for passing the Beach Cities Livability Plan and Bicycle Master Plan; presented achievement awards to Councilmembers Montgomery and Tell; and congratulated Councilmember Powell on his re-election.

In response to Mayor Lesser's question as to the options available with regard to the two requests to reconsider previously approved items, City Attorney Barrow recommended giving Mr. Armato another opportunity to speak. City Attorney Barrow stated that the Public Hearings were held for both items and both Public Hearings were closed two weeks ago, so no new evidence could be considered by the City Council. Also, because the parking space adjacent to 217 4th Place item is not on tonight's agenda, the City Council cannot take any action on it tonight.

Mayor Lesser asked for and received support from the other City Councilmembers to agendaize a discussion, at a future City Council meeting, regarding the process for the addition and removal of parking spaces.

The City Council and City Attorney Barrow discussed the options for reconsideration. City Attorney Barrow stated that the appellant's rights of due process have been fully satisfied in this matter. He stated that the options are to allow Mr. Armato to speak to state his case; that the Public Hearing cannot be re-opened tonight because it

would require re-noticing; that the City Council would first have to make a motion to reconsider the approval of the Consent Calendar; and then if that passes, another motion would have to be made to reconsider each item.

A majority of the City Council agreed to allow Mr. Armato to speak for three minutes.

Mr. Armato requested that the City Council reconsider its decision to adopt the resolution.

A motion was made by Councilmember Tell to reconsider the approval of the Consent Calendar. There was no second to the motion, therefore the motion failed.

M. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

Councilmember Montgomery stated that he attended the National League of Cities Conference last week and met Congress members.

N. REORGANIZATION

15. City Council Reorganization: **13-0128**
- a) Recognition of Outgoing City Councilmembers Montgomery and Tell.
 - b) Introduction of Re-elected City Councilmember Powell.
 - c) Introduction of Newly Elected City Councilmembers Burton and D'Errico.
 - d) Introduction of Re-elected City Treasurer Lilligren.

PRESENT, INTRODUCE

The City Council recognized outgoing City Councilmembers Nicholas W. Tell, Jr and Richard Montgomery and presented them with various mementos in appreciation of their service to Manhattan Beach.

Various other local elected officials and dignitaries presented City Councilmembers Tell and Montgomery with certificates of appreciation, commendations and plaques.

The Honorable Judge Joyce Fahey administered the Oath of Office to re-elected City Councilmember Wayne Powell, re-elected City Treasurer Tim Lilligren and to newly elected Councilmembers Mark Burton and Tony D'Errico.

City Treasurer Tim Lilligren and City Councilmembers Powell, Burton and D'Errico each provided comments.

At 8:57 p.m. City Councilmembers Powell, Burton and D'Errico took their seats on the dais.

16. City Council Assignments
APPROVE

13-0142

Mayor Lesser explained why the following organizations (Centennial Committee, Environmental Task Force and the Trolley Subcommittee) were removed from the Council Assignment list and why the Ad Hoc Open Government Subcommittee was not added.

The following individuals spoke on this item:

*Gerry O'Conner
Craig Cadwallader
Bill Victor*

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

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

O. ADJOURNMENT

At 9:15 p.m. the Regular City Council Meeting of March 19, 2013, was duly adjourned to the City Council Team Building Workshop at 8:30 a.m. on Thursday, March 21, 2013 in the Police/Fire Conference Room.