

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Final

Tuesday, November 17, 2015

6:00 PM

Regular Meeting

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

Donny MacArthur, American Martyrs School 8th grade student, 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

1. Presentation of Certificates of Recognition to the Winners of the 2015 Fire Department Annual "Home Escape Plan" Contest. [15-0495](#)
PRESENT

Mayor Burton, on behalf of the City Council, presented Certificates of Recognition to the Winners of the 2015 Fire Department Annual "Home Escape Plan" Contest: Emily Hucul, American Martyrs School; Matthew Meyers, Grandview Elementary School; Avery Frankel, Meadows Elementary School; Devon Ferrand, Pacific Elementary School; Audrey Treger, Pennekamp Elementary School; and Isabella Mazzocco, Robinson Elementary School.

2. Presentation of a Plaque to Pooja Nagpal for Being Recognized as an Honoree of the Girl Scouts 2015 National Young Women of Distinction Award. [15-0494](#)
PRESENT

Mayor Burton, on behalf of the City Council, announced the recognition of Pooja Nagpal as an honoree of the Girl Scouts 2015 National Young Women of Distinction Award. Due to unforeseen circumstances, Pooja Nagpal was not able to attend the meeting. Mayor Burton stated that this recognition will be rescheduled to a future meeting.

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

Mayor Burton announced that Agenda Item No. 11, "Appoint to the vacant Parking and Public Improvements Commission Business Community Seat No. 2," is being continued to the December 1, 2015 City Council Meeting.

A motion was made by Councilmember Lesser, seconded by Councilmember Powell, to continue Agenda Item No. 11, "Appoint to the vacant Parking and Public Improvements Commission Business Community Seat No. 2," to the December 1, 2015 City Council Meeting, approve the agenda and waive full reading of ordinances. 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)

The following individuals provided Community Announcements:

Michael Clark - Regarding Wreaths Across America.

James McCleary, North Manhattan Beach Committee representative - Regarding upcoming North Manhattan Beach 8th Annual Holiday Open House and Walk About on December 10, 2015, from 5 pm to 9 pm.

Councilmember D'Errico - reiterated and encouraged the public to attend the North Manhattan Beach 8th Annual Holiday event.

Councilmember Powell - Regarding Manhattan Beach Coordinating Council's monthly luncheon this Thursday at Belamar Hotel, Movember initiative for men's cancer awareness, and wear purple for pancreatic cancer awareness.

Mayor Burton - Regarding Pier Lighting and Open House on December 18, 2015 from 6 PM to 9 PM and the Joint City Council/Planning Commission Meeting this Thursday regarding mobility plan.

Councilmember Howorth - Commented on the spectacular look of the season's greetings lights.

G. CITY MANAGER REPORT

City Manager Mark Danaj reported updates on Downtown specific plan workshop second community meeting, Strategic Planning Follow Up Meeting on November 30, 2015, Rite Aid Update, El Nino storm preparation, Downtown approval project (sidewalk repairs), and Holiday Open House and Pier Lighting.

H. CITY ATTORNEY REPORT

City Attorney Quinn Barrow reported updates on the Manhattan Village Mall trial scheduled for April 6, 2016.

I. MAYOR'S REPORT ON MEETING MANAGEMENT

None.

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

The following individuals provided public comment:

Chris Cagle, South Bay Workforce Investment Board - Regarding organization's quarterly meeting report.

Steve Packwood - Regarding community Involvement; budget follow up; potential public safety issue related to Fire Department overtime; miscellaneous items on agenda (quarterly CIP report review, discussion on planning commission items); and budget for downtown projects' expenses.

Viet Ngo - Regarding alleged racketeering, extortion and misuse of public money, and closed sessions.

Mary Sikonia - Regarding Skate Park; she submitted over 600 signatures supporting the use of Begg Pool parking lot as suggested site for a Skate Park.

Jackie May - Regarding Meeting Management and public comment.

Robert Bush - Regarding Veteran's Day, City Manager's office, Gelson's Market, and Malibu beach sand.

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

- 3. Planning Commission Approval of a Variance Amendment for Minimum Parking Requirements, Two-Story Limit, and Setback Requirements for a Proposed Second Story Addition to an Existing One Story Single Family Residence at 2702 North Ardmore Avenue (Community Development Director Lundstedt). [15-0492](#)

BY ORDER OF THE CHAIR, RECEIVE AND FILE

Hearing no objections, this item was received and filed by motion of the chair.

L. CONSENT CALENDAR (APPROVE)

A motion was made by Councilmember Powell, seconded by Mayor Pro Tem D'Errico, to approve the Consent Calendar, Item Nos. 4-9. The motion carried by the following vote:

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

4. Financial Report: [15-0458](#)
Schedule of Demands: October 22, 2015 (Finance Director Moe).
ACCEPT REPORT AND DEMANDS

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

5. Award Purchase Order to South Bay Regional Public Communications Authority in the Amount of \$85,000 for the Purchase of Automatic Vehicle Location Devices for 47 Police Vehicles (Police Chief Irvine). [15-0493](#)
WAIVE FORMAL BIDDING; APPROVE

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

6. [15-0479](#)
Approve Final Payment to PK Construction for the Section 3 Concrete Repair Project in the Amount of \$32,320.12; Formally Accept the Section 3 Concrete Repair Project As Complete; Authorize Filing of the Appropriate Notice of Completion and Release Retention in the Amount of \$11,625.01 (Public Works Director Olmos).
APPROVE

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

7. Resolution No. 15-0061 to Include Energy Efficiency Measures in the City's Climate Action Plan (Public Works Director Olmos). [RES 15-0061](#)
ADOPT RESOLUTION NO. 15-0061

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

8. Revised City Wide Civility Policy to Include Council Meetings (City Attorney Barrow). [RES 15-0065](#)
ADOPT RESOLUTION NO. 15-0065

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

9. Minutes: [15-0027](#)

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 Adjourned Regular Meeting (Closed Session) Minutes of October 27, 2015.

APPROVE

b) City Council Regular Meeting Minutes of November 3, 2015.

CONTINUED TO DECEMBER 1, 2015 CITY COUNCIL REGULAR MEETING

c) City Council Retreat Meeting Minutes of November 4, 2015.

CONTINUED TO DECEMBER 1, 2015 CITY COUNCIL REGULAR MEETING

(City Clerk Tamura).

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

M. PUBLIC HEARINGS (2 MINUTES PER PERSON)

None.

N. OLD BUSINESS

10. Adoption of Council Policies regarding Sunshine Provisions, Including [15-0502](#)

Description of Closed Sessions regarding Pending Litigation and Consideration of Settlements in Open Sessions (City Attorney Barrow).

ADOPT POLICY, WITH THE ADDITIONAL PROVISIONS REGARDING CLOSED SESSIONS AND SETTLEMENTS

City Clerk Liza Tamura introduced the item and City Attorney Quinn Barrow provided the staff presentation.

Mayor Burton proposed to discuss each policy separately. Hearing no objection, it was so ordered.

Sunshine Policy:

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to adopt the Sunshine Policy. The motion was amended to also expand the cell phone and electronic device provision to include Boards and Commissions and to provide a definition for the GovQA system. The motion carried by the following vote:

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

Closed Session - Existing Litigation and Anticipated Litigation:

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to adopt the policies regarding existing litigation and anticipated litigation. The motion carried by the following vote:

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

Closed Sessions - Proposed Settlements of Litigation:

Councilmember Lesser expressed concerns in regards to including the proposed settlements of litigation on the open session of City Council meeting agendas due to copycat litigation, political pressure, personnel privacy rights.

Councilmember Howorth also voiced her reasons such as political pressure and Council's flexibility.

Councilmember Powell stated his concerns related to the word "exceptional" in the proposed language.

A motion was made by Councilmember Lesser, seconded by Councilmember Howorth, to adopt the policy regarding the proposed settlements of litigation to be placed on the open session portion of City Council meeting agendas for Council action except where the City Council finds, based upon the advice of legal counsel, that open discussion would prejudice the position of the City (as suggested in October 6, 2015 City Council Meeting Agenda by the City Attorney).

Mayor Burton expressed strongly that proposed settlements of litigation needs to be discussed in open session.

Mayor Pro Tem D'Errico stated that the legal advice from counsel can be in closed session but the settlement portion should be in open session for voting transparency.

A substitute motion was made by Mayor Burton, seconded by Mayor Pro Tem D'Errico, to adopt the policy regarding the proposed final settlement agreements shall be placed on the open session portion of City Council meeting agendas for Council action. Notwithstanding the above policy, there may be exceptional facts where it is in the best interest of the City to accept settlement of litigation in closed session, in which case the City shall report in open session based upon the City Attorney's advise. The substitute motion failed by the following vote:

Aye: 2 - Burton and D'Errico

Nay: 3 - Lesser, Howorth and Powell

With the substitute motion failing, the City Council considered the initial motion (the proposed settlement of litigation to be placed on the open session portion of City Council meeting agendas for Council action except where the City Council finds, based upon the advice of legal counsel, that open discussion would prejudice the position of the City). The motion carried by the following vote:

Aye: 3 - Lesser, Howorth and Powell

Nay: 2 - Burton and D'Errico

Later in the meeting, Mayor Burton requested that a member of the prevailing site make a motion to reconsider because, upon reflection, he thought that the language adopted is a significant commitment to transparency.

Councilmember Howorth made a motion to reconsider, seconded by Councilmember Lesser. The motion carried by the following vote:

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

A motion was made by Councilmember Lesser, seconded by Councilmember Powell, to adopt the policy regarding the proposed settlements of litigation to be placed on the open session portion of City Council meeting agendas for Council action except where the City Council finds, based upon the advice of legal counsel, that open discussion would prejudice the position of the City (as suggested in October 6, 2015 City Council Meeting Agenda by the City Attorney).The motion carried by the following vote:

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

O. NEW BUSINESS

11. Appoint to the Vacant Parking and Public Improvements Commission Business Community Seat No. 2 (City Clerk Tamura).

[15-0454](#)

APPOINT

This item was continued to December 1, 2015 City Council Meeting.

- 12. Quarterly Capital Improvement Plan Update (Public Works Director Olmos).

[15-0481](#)

RECEIVE AND FILE

City Clerk Liza Tamura introduced the item and Public Works Director Tony Olmos provided the PowerPoint presentation.

Public Works Director Olmos responded to City Council questions.

A motion was made by Mayor Burton, seconded by Councilmember Lesser, to receive and file quarterly Capital Improvement Plan update. The motion was amended to also include assessment and feasibility study for Fire Station 2, City Hall with underground parking structure and municipal pool for community use. The motion carried by the following vote:

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

At 7:58 PM, City Council recessed and reconvened at 8:08 PM with all Councilmembers present.

- 13. Fiscal Year 2015-2016 First Quarter Budget Status Report; Two Year Budget Process for Fiscal Years 2016-17 and 2017-18 (Finance Director Moe).

[15-0476](#)

RECEIVE REPORT; APPROVE

City Clerk Liza Tamura introduced the item and Finance Director Bruce Moe presented the PowerPoint presentation.

Finance Director Moe responded to City Council questions.

A motion was made by Councilmember Howorth, seconded by Councilmember Powell, to receive Fiscal Year 2015-2016 First Quarter Budget Status Report and to approve the two year budget process for Fiscal Years 2016-2017 and 2017-2018. An amendment was made to audit all Transient Occupancy Tax (TOT) including the Marriott Hotel. The motion carried by the following vote:

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

14. Fiscal Year 2014-2015 Insurance Fund Status Report; Phased Transfer of Funds from the General Fund to the Insurance Fund to Correct Fund Imbalance (Finance Director Moe).

[15-0453](#)

ACCEPT REPORT; APPROVE TRANSFER PLAN

City Clerk Liza Tamura introduced the item.

Finance Director Bruce Moe and Human Resources Director Teresia Zadroga-Haase provided the staff presentation.

City Manager Danaj, Finance Director Moe and Human Resources Director Zadroga-Haase responded to City Council questions.

A motion was made by Mayor Burton, seconded by Councilmember Powell, to accept Fiscal Year 2014-2015 Insurance Fund Status Report and to approve phased transfer of funds from the General Fund to the Insurance Fund to correct fund imbalance. The motion carried by the following vote:

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

15. Adopt Resolution No. 15-0060 in Support of Utilizing South Bay Measure R Highway Program Funds for the Sepulveda Boulevard Intersection Improvements Project (Public Works Director Olmos).

[RES 15-0060](#)

ADOPT RESOLUTION

City Clerk Liza Tamura 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 adopt Resolution No. 15-0060 in support of utilizing South Bay Measure R Highway Program Funds for the Sepulveda Boulevard Intersection Improvements Project. The motion carried by the following vote:

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

16. Approve Task Orders No. 1 & 2 with CivilSource, Inc. under the On-Call Professional Service Agreement for Construction Management and Inspection Services for a Total Amount of \$171,524 (Public Works Director Olmos).

[15-0485](#)

APPROVE

City Clerk Liza Tamura 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 Councilmember Howorth, seconded by Councilmember Lesser, to approve Task Orders Nos. 1 & 2 with CivilSource, Inc. under the on-call professional service agreement for construction management and inspection services for a total amount of \$171,524. Further direction was provided to Staff to include a bidders' chart. The motion carried by the following vote:

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

17. Adoption of Council Policy Regarding Management Employment Agreements; Temporary Short-Term Home Loan for Assistant City Manager (City Attorney Barrow/Finance Director Moe).

[RES 15-0064](#)

ADOPT; APPROVE; APPROPRIATE

City Clerk Liza Tamura introduced the item.

Mayor Burton proposed to discuss each item separately. Hearing no objections, it was so ordered.

City Attorney Quinn Barrow provided the staff presentation regarding the adoption of City Council Policy on Management Employment Agreements.

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

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to adopt the City Council Policy with the following amendments: to include an annual performance evaluation, to change title to "Council Employment Agreements Policy for Chief of Police, Department Heads and Select Managers", and to replace the word "employee" with "Department Heads or Manager" in the policy text. The motion carried by the following vote:

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

City Attorney Barrow and Human Resources Director Teresia Zadroga-Haase responded to City Council questions regarding Department Heads employment agreement example.

A motion was made by Mayor Burton, seconded by Mayor Pro Tem D'Errico, to approve the exemplar of the employment agreement. The motion carried by the following vote:

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

A motion was made by Mayor Burton, seconded by Councilmember Howorth, to adopt Resolution No. 15-0064. The motion carried by the following vote:

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

City Manager Danaj provided the staff presentation for a temporary short-term home loan for the Assistant City Manager.

A majority of the Councilmembers supported the short term loan for the Assistant City Manager.

Councilmember Lesser expressed his tremendous respect and appreciation for the Assistant City Manager's professionalism and was very supportive of her and her work, however, he stated that he could not support it at this time.

A motion was made by Councilmember Howorth, seconded by Mayor Burton to approve the secured promissory note to the Assistant City Manager and the temporary short-term loan for the Assistant City Manager, approve the appropriation of \$2.3 million dollars from the General Fund and authorize the City Manager to execute all documents associated with the loan. The motion carried by the following vote:

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

Nay: 1 - Lesser

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

Councilmember Lesser reported on preliminary meeting with Councilmember Powell, Public Works Director Tony Olmos and the new Southern California Edison representative to discuss last week's power outage and will come back in January with responses to the City questions.

Councilmember Powell concurred with Councilmember Lesser's statement and reported on the November 12, 2015 Independent Cities Association Boards of Directors Meeting and the upcoming winter Public Safety conference during the Super Bowl weekend which will be geared more toward Police and Fire.

Mayor Pro Tem D'Errico provided updates on North Manhattan Beach related to signage replacement at the entrance of Highland, created new directories for new business, and the upcoming holiday walk.

Mayor Burton reported on Beach Cities Mayors meeting to discuss Hermosa Beach's Pacific Coast Highway/Aviation Mobility Improvement Project supported by Caltrans and requested to have a draft resolution on the next agenda. He also announced the completion of the City Manager and City Attorney's performance review process and expressed Council's satisfaction of their work.

Q. FORECAST AGENDA AND FUTURE DISCUSSION ITEMS

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

[15-0496](#)

Public Works Director Tony Olmos stated that the staff report on approving amendment to agreement with DRG for additional tasks for Urban Forest Master Plan would be moved to December 15, 2015 City Council Meeting.

City Manager Mark Danaj advised that December 1, 2015 staff report for Regional Communication Center (RCC) will change to include grants funding, thus, there will be added a joint agreement.

Mayor Burton noted that the Historical Preservation amendment program staff report has been moved from December 15, 2015 to the first meeting in January 2016.

City Attorney Quinn Barrow added that a draft Ordinance for expanding the existing prohibition on marijuana dispensaries to include cultivation and delivery will be presented on December 1, 2015 as a result of current changes in Marijuana Dispensary Law.

Mayor Burton stated that Item 13 on December 1, 2015 forecast agenda might move to January 2016, requested Pier Roundhouse update for January 2016 or February 2016, closed session dedicated on the Mall litigation, draft Manhattan Beach resolution in support of Hermosa Beach PCH/Aviation Mobility Project on December 1, 2015 City Council Meeting and copies of the Hermosa Beach PCH/Aviation Mobility Improvement Project before that date, water rate discussion in the early 2016.

Councilmember Lesser requested the water rate discussion to include drought updates as well.

Councilmember Powell requested City Council Meeting date for the Citywide Free WiFi discussion.

R. INFORMATIONAL ITEMS

19. Commission Minutes:

[15-0504](#)

This Item Contains Minutes of the following City Commission Meetings: Draft Planning Commission Meeting Action Minutes of October 28, 2015 (Community Development Director Lundstedt).

INFORMATION ITEM ONLY

Mayor Burton accepted the Informational Items and hearing no objections, it was so ordered.

S. CLOSED SESSION

T. ADJOURNMENT

Mayor Burton announced his absence for December 15, 2015 City Council Meeting and appointed Mayor Pro Tem as a chair for that meeting.

Councilmember Howorth requested a moment of silence in commemoration of the tragic events in Paris and Beirut last Friday.

At 9:40 PM, the City Council was adjourned to the 6 PM City Council Adjourned Regular Meeting Joint City Council/Planning Commission Meeting (Mobility Plan) on November 19, 2015 in Police Fire Conference Room in said city.

Tatyana Roujenova-Peltekova
Recording Secretary

Mark Burton
Mayor

ATTEST:

Liza Tamura
City Clerk