

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Draft

Tuesday, July 1, 2014

6:00 PM

Regular Meeting

City Council Chambers

4:30 PM Adjourned Regular Meeting - Closed Session

City Council

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

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. FOR A COMPLETE RECORD OF THIS CITY COUNCIL MEETING, GO TO www.citymb.info/city-officials/city-clerk/city-council-meetings-agendas-and-minutes

A. PLEDGE TO THE FLAG

Firefighter/Paramedic James Stratton led the Pledge of Allegiance.

B. ROLL CALL

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

C. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

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

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

City Attorney Barrow requested that Item No. 8 be moved to end of the agenda to Section N. Items Removed From The Consent Calendar to consider two separate resolutions.

Mayor Howorth indicated she wanted the item to be moved to Section M. General Business after Item No.12.

Mayor Pro Tem Powell made a motion, seconded by Councilmember Burton, to approve the agenda with the exception of moving Item No.8 after Item No. 12 under General Business. The motion carried by the following vote:

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

E. CEREMONIAL CALENDAR

1. Presentation of a Commendation to Firefighter/Paramedic, James Stratton, for being Named 2013 Firefighter of the Year. **14-0231**
PRESENT
Mayor Howorth, on behalf of the City Council, recognized Firefighter/Paramedic James Stratton as the 2013 Firefighter of the Year and presented him with a plaque.
2. Presentation of a Proclamation Declaring the Month of July 2014 as "Parks and Recreation Month." **14-0299**
PRESENT

Mayor Howorth, on behalf of the City Council, presented a proclamation to Parks and Recreation Director Mark Leyman declaring the Month of July 2014 as "Parks and Recreation Month."

F. CITY MANAGER REPORT

Acting City Manager Bruce Moe gave a brief report on the Sepulveda Boulevard Water Main Break Repair Project, provided an update on SB 983 regarding allocation of sales tax from card lock fuel systems, informed City Council on the Breathe Free MB kickoff on Tuesday, July 22, 2014, to inform businesses, residents and visitors of the new smoke-free policy. He further added an update on AB 2145 regarding the Community Choice Power Program and the submission of a letter of opposition, and spoke about a letter received last week in the City Manager's office thanking Parks and Recreation staff, Ali Cade, and the Fire Department for helping a resident who suffered heart attack at Live Oak Tennis Courts.

Mayor Howorth, on behalf of the City Council, thanked Acting City Manager Moe for all his hard work and stepping up over the past few months.

DOWNTOWN INTERIM MEASURES PENDING STUDY

Acting City Manager Moe deferred to the City Attorney regarding the Downtown Interim Measures pending study.

G. CITY ATTORNEY REPORT

DOWNTOWN INTERIM MEASURES PENDING STUDY

City Attorney Quinn Barrow gave a PowerPoint presentation regarding the Downtown Area Study and Moratorium, interim regulations, hardship exemptions and projects in the pipeline. City Attorney Barrow also discussed the process for implementing an urgency ordinance.

City Council asked questions regarding the downtown area study and urgency ordinance.

City Attorney Barrow and Community Development Director Richard Thompson responded to City Council's questions.

City Council discussed the issue, directed staff to insert language to avoid the gold rush effect and agreed to agendaize this item for the July 15, 2014, City Council Meeting.

H. CITY COUNCIL ANNOUNCEMENTS AND REPORTS

Councilmember Burton announced the South Bay City Council of Governments is sponsoring a tour of Space X on August 20, 2014, for City Officials and Staff. Councilmember Burton also met with Carol Quan of the West Basin and asked about desalination and noted there will be a number of upcoming meetings on the issue.

Mayor Pro Tem Powell mentioned the Concerts in Park Series under way every Sunday from 5 to 7 PM and continues until Aug 31, 2014. The concert this Sunday will start early because they will have a line dancing presentation. This weekend is 4th of July weekend, Independence Day and Mayor Pro Tem Powell reminded

everyone that freedom is not free and asked to thank any veteran or active service member you see.

Mayor Howorth attended the US Conference of Mayors, in Dallas, Texas and will bring in materials to be housed in the City Clerk's Office. Mayor Howorth felt it was worth taxpayers money for her to attend the conference and will write a report on the conference. Mayor Howorth wants to reimplement 'A walk with the Mayor' and will announce more details in the next two weeks. Mayor Howorth thanked staff for helping her with all these issues that came up over the past few months.

I. COMMUNITY ANNOUNCEMENTS REGARDING UPCOMING EVENTS

Viet Ngo announced that the Advocacy for Anti-Corruption will be meeting at the Pier.

Don Gould, Manhattan Beach Library, appreciates the Parks and Recreation Department for their support and announced upcoming library events.

J. PUBLIC COMMENT ON NON-AGENDA ITEMS

Viet Ngo alleged continued violations of the Brown Act, the cover up of litigation of a former city employee and also alleged crimes of Mayor Howorth's husband.

Mayor Howorth asked City Attorney Barrow if any comments could be made in response to Mr. Ngo's allegations.

Attorney Barrow answered that Mayor Howorth's husband's business is not in violation of any laws. Additionally, that Mr. Ngo is welcomed to continue to attend meetings as long as he is not disruptive.

Kelly Stroman, Downtown Business Association, stated after listening to Mr. Ngo its unacceptable for him to be harassing anyone in our community, especially our Mayor. She stated the community is proud of the Mayor and respects the campaign that was launched. She also stated she would be proud to have the Mayor start the 'Mayors Walk' anywhere in Downtown.

Bill Victor, property owner, complimented Acting City Manager Moe for his job. Mr. Victor expressed concerns about the approval of the award regarding the police tactical vehicle at the last City Council meeting and asked why Manhattan Beach cannot share a SWAT vehicle with neighboring cities.

Jackie May, resident, wanted to make a comment regarding Mr. Victor's comments, and urged him to attend the Community Police Academy to see how amazing our SWAT Team is and what a great Police Department Manhattan Beach has.

K. CONSENT CALENDAR

Item No. 4 was pulled from the Consent Calendar by Mr. Gary McAully.

Item No. 8 was pulled from the Consent Calendar by Mr. Viet Ngo.

City Attorney Quinn Barrow read the title of the Taxi Cab Stands Ordinance into the record.

Mayor Pro Tem Powell made a motion, seconded by Councilmember Burton, to approve the Consent Calendar with the exception of Item Nos. 4 and 8 . The

motion carried by the following vote:

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

3. Revised Ordinance Amending Manhattan Beach Municipal Code ("MBMC") Section 14.44.080 Regarding Taxicabs (*Continued from June 3, 2014, City Council Meeting*) (City Attorney Barrow). **ORD 14-0005**
INTRODUCE REVISED ORDINANCE NO. 14-0005

City Attorney Barrow read the title of the Ordinance. The recommendation for this item was approved on the Consent Calendar.

4. Planning Commission Approval of a Use Permit and Coastal Development Permit for Proposed Construction of a New Building with Small On-site Production and Retail Sales of Handmade Chocolate at 324-326 13th Street. The Project also includes a three-foot Balcony Projection into the Public Right-of-way (Community Development Director Thompson). **14-0298**
APPROVE

This item was removed from the Consent Calendar and heard later under Item No. N. ITEMS REMOVED FROM THE CONSENT CALENDAR.

5. Approval of Plans and Specifications and Award of Contract to Provide and Install Hardware and Software to Upgrade Novar HVAC Controls Project to Building Control Center in an Amount Not-to-Exceed \$36,560.00 (Public Works Director Olmos). **CON 14-0032**
APPROVE

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

6. Formally Accept the Provide and Install Modular Furniture Project as Complete; Authorize Filing of the Appropriate Notice of Completion; Release Retention in the Amount of \$1,078.32 (Public Works Director Olmos). **14-0294**
APPROVE

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

7. Appointment of Jeffrey Feldman to the Board of Building Appeals - Seat No. 4 (City Clerk Tamura). **14-0305**
APPOINT

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

8. Resolution Rescheduling the Election on Term Limits to the March 3, 2015 General Municipal Election (City Clerk Tamura). **RES 14-0046**
ADOPT

This item was removed from the Consent Calendar and heard later under Item No. M. GENERAL BUSINESS.

9. Minutes: **14-0300**

This item contains minutes of City Council meetings which are presented for approval. Staff recommends that the City Council, by motion, take action to approve the minutes of the:

- a) City Council Adjourned Regular Meeting-Closed Session of June 3, 2014
- b) City Council Regular Meeting of June 3, 2014 (City Clerk Tamura).

APPROVE

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

L. PUBLIC HEARINGS

10. Public Hearing Regarding the Annual Levy and Collection of Street Lighting and Landscaping District Maintenance Assessments for Fiscal Year 2014-2015 (Acting City Manager Moe). **RES 14-0019**

a) CONDUCT A PUBLIC HEARING

b) ADOPT RESOLUTION NO. 14-0019

Acting City Manager Bruce Moe introduced City Controller Henry Mitzner who gave the presentation on the Annual Levy and Collection of Street Lighting and Landscaping District Maintenance Assessments for Fiscal Year 2014-2015.

Mayor Howorth opened the public hearing for public comment.

Bill Victor, resident, complimented Henry Mitzner, understands there is no increase in the rate and he hopes the city will continue to be conservative.

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

Acting City Manager Moe responded to Councilmembers questions.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to adopt Resolution No. 14-0019. The motion carried by the following vote:

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

11. Public Hearing Regarding the Annual Storm Water Service Charge for Fiscal Year 2014-2015 (Acting City Manager Moe). **RES 14-0036**

a) CONDUCT A PUBLIC HEARING

b) ADOPT RESOLUTION NO. 14-0036

City Controller Henry Mitzner gave a presentation on the Annual Storm Water Service Charge for Fiscal Year 2014-2015.

Mayor Howorth opened the public hearing for public comment.

Bill Victor, resident, stated he is not familiar with the storm water service charge but he thought it was paid out of the water bill. Additionally, when talking about overhead from the General Fund, do we have a theory for recovery cost like with the waste management program.

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

Acting City Manager Moe answered Mr. Victor's question and further responded to Councilmember questions.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to adopt Resolution No. 14-0036. The motion carried by the following vote:

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

At 7:13 PM Mayor Howorth recessed the meeting and reconvened the meeting at 7:22 PM with all Councilmembers present.

M. GENERAL BUSINESS

- 12.** Progress Report on the Agreement with the Chamber of Commerce to **14-0208** Provide Economic Services (*Continued from the May 6, 2014, City Council Meeting*) (Community Development Director Thompson).

RECEIVE REPORT

Mayor Howorth introduced Community Development Director Richard Thompson who provided the report and reiterated that staff is not asking Council to take any action but to just receive the report.

James O'Callaghan, President/CEO Manhattan Beach Chamber of Commerce, presented a PowerPoint update regarding the agreement with the Chamber of Commerce to provide economic services. Mr. O'Callaghan also presented a "sizzle reel" video created by the Chamber of Commerce.

Discussion followed between the City Council and Mr. O'Callaghan as he responded to questions regarding the economic services provided to the City by the Chamber of Commerce, as well as the steps the Chamber is taking regarding Economic Development and Marketing.

Mayor Howorth opened the floor to public comment.

Viet Ngo alleged that in 2013 and 2014 the City gave Mr. O'Callaghan \$200,000 in public money and public funds and that the Chamber of Commerce staff has to submit an invoice to justify all expenses.

Kris D'Errico, Business Owner, commented that she is here to support the Chamber, all the work and events the Chamber does to help support the businesses, and our community. She further encouraged City Council to continue to support the Chamber of Commerce.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

City Council commended Mr. O'Callaghan and the Chamber for the video and their efforts for the City.

Mayor Pro Tem Powell asked if the "sizzle reel" could be placed on a loop on the

public access channel to get people to frequent local businesses.

A motion was made by Councilmember Burton, seconded by Mayor Pro Tem Powell, that this to Receive Report. The motion carried by the following vote:

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

8. Resolution Rescheduling the Election on Term Limits to the March 3, 2015 General Municipal Election (City Clerk Tamura). **RES 14-0046**
ADOPT

This item was removed from Item No.K. Consent Calendar and moved to Item No. M. General Business.

City Attorney Quinn Barrow reported that on June 3, 2014, three Resolutions were adopted setting a Special Election in November on term limits. At the June 17, 2014, City Council Meeting it was requested that this item be placed back on the agenda to change the date from the November Election to the March 3, 2015 Election. Two Resolutions have been prepared for consideration. The first rescinds the three Resolutions adopted on June 3, 2014, and schedules the date of the election for March. The second Resolution changes the date on the prior Resolutions from November to March to call for an election for the measure on term limits. The first Resolution is a two-step process rescinding the action taken on June 3, 2014, but coming back later to actually call the election,

Mayor Howorth stated for the record that she was not in attendance when this item was discussed at the previous meeting.

Councilmember Burton stated for the record the original Resolution didn't comport with Council direction. The second Resolution comports with Council direction and this was confirmed by City Attorney Barrow who stated the direction was clearly to only change the date of the election.

Mayor Pro Tem Powell asked City Attorney Barrow if it is possible to rescind the Resolutions and take the measure off of the ballot.

City Attorney Barrow responded in the affirmative.

Mayor Howorth opened the floor to public comment.

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

Mayor Pro Tem Powell stated that originally he supported the term limits. After deliberation with constituents, considering the costs (approximately \$48,000 for a November Election) and the unanticipated consequences of the state law, it makes no sense. He further added that a former Councilmember tried to come back and didn't get elected. That indicates when voters decide your term should be limited, that's "term limits".

Mayor Pro Tem Powell made a motion, seconded by Councilmember Lesser, to rescind Resolutions 14-0040, 14-0041, 14-0042. By rescinding these Resolutions it takes the measure off of the ballot and maintains the status quo.

Discussion continued among the Councilmembers.

Councilmember Burton asked for procedural clarification and stated that he had made a campaign promise to establish "real term limits". Councilmember Burton further added that it's his opinion that former Councilmembers running have a negative impact as it discourages people from running, and he believes the City has a great pool of talent to draw from.

City Attorney Barrow clarified That Resolution 14-0046 could be adopted by amending the title (deleting everything after: A Resolution of the Manhattan Beach City Council Rescinding Resolution Nos. 14-0040, 14-0041, 14-0042.), deleting Section 2, and renumbering Section 3 to Section 2.

Councilmember D'Errico stated that he would not reiterate his reasons and rationale for term limits but he does have concerns about a Council concerned with public engagement and public comment that something is on the calendar to decide if we move this vote, and now deciding to remove this vote without giving public notice and giving our residents a chance to come and tell us what they think.

Mayor Pro Tem Powell restated his motion:

Mayor Pro Tem Powell made a motion to amend the draft Resolution 14-0046 for the purpose of cancelling the Election. The motion was seconded by Councilmember Lesser. The motion carried by the following vote:

Aye: 3 - Howorth, Powell and Lesser

Nay: 2 - Burton and D'Errico

N. ITEMS REMOVED FROM THE CONSENT CALENDAR

- 4.** Planning Commission Approval of a Use Permit and Coastal Development Permit for Proposed Construction of a New Building with Small On-site Production and Retail Sales of Handmade Chocolate at 324-326 13th Street. The Project also includes a three-foot Balcony Projection into the Public Right-of-way (Community Development Director Thompson). **14-0298**

APPROVE

Mr. Gary McAully pulled this item from the Consent Calendar.

Councilmember Lesser stated for the record that he is a friend of the project architect but has no conflict in this instance.

Community Development Director Richard Thompson presented the Staff Report on the Planning Commission's approval of a Use Permit and Coastal Development Permit for proposed construction of a new building with small on-site production and retail sales of handmade chocolate at 324-326 13th Street, including a three-foot balcony projection into the public right-of-way.

Discussion followed between the City Council and Community Development Director Thompson responded to Councilmembers questions.

Mayor Howorth opened the floor to public comment.

Mr. Gary McAully, resident, spoke against allowing the balcony encroachment over the public right of way, stated that the fault lies with previous Councils and planners

which seem to allow people to over build what the codes allow, and he urged that City Council not approve the balcony and is concerned this will set a precedent for future encroachments.

Jackie May, resident, agreed with everything Mr. McAully said, and doesn't agree with extending buildings into the public right of way. Her impression on the business is that they will only have a small retail area, but mainly a manufacturing and shipping business.

Bill Victor, resident, spoke about how difficult it is to deal with smells and odors from a business, is unsure how many trucks will be used, and doesn't think this is a good thing for the community right now. Mr. Victor thinks a precedent is being set.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

City Council discussion continued and Community Development Director Thompson responded to Councilmembers questions.

City Attorney Barrow indicated the owner of the project in question was present and that Council can reopen public testimony to allow for the owner to speak.

Mayor Howorth reopened the public comment.

Nicole Trutanich, Business Owner, responded to Council's questions regarding manufacturing timeframes, shipping and deliveries, sounds emanating from the business, as well as the issue of odors involved in the production process.

Mayor Howorth closed the public comment.

Councilmember Burton asked if Council can have her agree to the conditions.

City Attorney Barrow answered that she can voluntarily agree.

City Attorney Barrow clarified what council will be approving at this point to Receive and File the Planning Commission decision (subject to receiving the letter of stipulation) and moving on to the second issue regarding the balcony.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, to approve the hours of operation and not approve the balcony projection. The motion carried by the following vote:

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

Mayor Howorth stated a motion needed to be introduced to receive and file the Planning Commission decision subject to receiving the letter of stipulation subject to those two conditions.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton to Receive and File the Planning Commissions decisions regarding the property at 321-326 13th Street, subject to the stipulation letter from Nicole Trutanich, Business Owner, regarding manufacturing and shipping. The motion carried by the following vote:

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

O. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

P. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS, FUTURE DISCUSSION ITEMS

Mayor Pro Tem Powell requested that on the forecast for the City Council meeting of July 15, 2014, to add substandard or abandoned homes. He further added that he would like to see added to the July 15, 2014 agenda the northeast intersection of Sepulveda and Manhattan Beach Boulevard, the issue of blight and a potential ordinance to address this matter.

City Attorney Barrow spoke about the nuisance ordinance and trying to address the issue.

Mayor Pro Tem Powell inquired if staff can perhaps see if they can get the property owner to address the issue and in addition, something is needed to address businesses as well as homes.

Councilmember Burton also wanted to address substandard homes and also complaint generated enforcement.

Mayor Howorth state she would like to see that as well, but wanted more specifics and asked if August would be a more appropriate time.

Community Development Director Thompson indicated August agenda items were pretty full and suggested addressing the issue at the September 2, 2014, City Council meeting during construction rules to address code enforcement.

Councilmember Burton wanted further discussion on AB 2145, and felt it was similar to street sweeping fees and that City Council is asking people to opt in and he would like to have a discussion at some future time.

Q. RECEIVE AND FILE ITEMS

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, that Item Nos. 13 and 14 be Received and Filed. The motion carried by the following vote:

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

- 13.** Financial Reports: **14-0271**
 a) Schedule of Demands: June 19, 2014
 b) Investment Portfolio for the Month Ending May 31, 2014
 c) Financial Reports for the Month Ending May 31, 2014
 (Acting City Manager Moe).

RECEIVE AND FILE

This item was Received and Filed.

- 14.** Commission Minutes: **14-0297**
 This item contains minutes of City Council subcommittees and 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 Receive and File the minutes of the:

- a) Planning Commission Meeting of June 11, 2014
(Community Development Director Thompson)

RECEIVE AND FILE

This item was Received and Filed.

R. ADJOURNMENT

At 9:48 PM Mayor Howorth adjourned the meeting to the 4:30 PM Adjourned Regular Meeting (Closed Session) to be held on July 15, 2014, in City Council Chambers, at City Hall, in said City.

Matthew Cuevas
Recording Secretary

Amy Thomas Howorth
Mayor

ATTEST:

Liza Tamura
City Clerk