

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING
JUNE 2, 2009**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 2nd day of June, 2009, at the hour of 6:35 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

PLEDGE TO FLAG

Kimmi Olson, a senior at Mira Costa High School, led the pledge of allegiance.

ROLL CALL

Present: Montgomery, Tell, Powell, Ward and Mayor Cohen.
Absent: None.
Clerk: Tamura.

CEREMONIAL CALENDAR

06/02/09-1. *Presentation of Certificates to the Graduates of the 8th Community Police Academy of the Manhattan Beach Police Department*

The Council, Police Chief Rod Uyeda, Police Sergeant Tim Hageman and Police Officer Richard Hatten presented certificates and city pins to the graduates of the Manhattan Beach Police Department's Community Police Academy Class # 8.

CONSENT CALENDAR

Previous to the Consent Calendar vote, Councilmember Powell pointed out that the May 19, 2009 City Council Minutes had a slight error in the listing of the roll call.

MOTION: Mayor Pro Tem Ward moved to approve the minutes of the May 19, 2009 City Council Meeting with the amended roll call. The motion was seconded by Mayor Cohen and passed by the following unanimous roll call vote.

Ayes: Montgomery, Tell, Powell, Ward and Mayor Cohen.
Noes: None.
Abstain: None.
Absent: None.

The Consent Calendar (Item Nos. 2 through 12), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Montgomery, seconded by Councilmember Powell and passed by the following unanimous roll call vote.

Ayes: Montgomery, Tell, Powell, Ward and Mayor Cohen.
Noes: None.
Absent: None.
Abstain: None.

GENERAL CONSENT

06/02/09-2. *Approve Minutes of the City Council Adjourned Regular and Regular Meeting of May 19, 2009*

The Council approved the subject minutes as amended.

06/02/09-3. Consideration of an Ordinance to Revise Chapter 7.44 - Water Conservation Ordinance – of the City of Manhattan Beach Municipal Code

The Council adopted Ordinance No. 2122.

ORDINANCE NO. 2122

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING MANHATTAN BEACH MUNICIPAL CODE SECTIONS 7.44.030, 7.44.040 and 7.44.050 AND RESCINDING SECTIONS 7.44.010, 7.44.053, 7.44.056 AND 7.44.090 REGARDING WATER CONSERVATION

06/02/09-4. This Space Intentionally Left Blank

06/02/09-5. Consideration of the Appointment of Tom Beedon to the South Bay Workforce Investment Board

The Council approved appointing Tom Beedon to serve as a Manhattan Beach representative to the South Bay Workforce Investment Board (SBWIB) for the term of office of July 1, 2009 through June 20, 2010.

06/02/09-6. Consideration of Financial Reports:

- a) Ratification of Demands: May 28, 2009
- b) Investment Portfolio for the Month Ending April 30, 2009
- c) Financial Reports for the Month Ending April 30, 2009

The Council approved with no exception Warrant Register No. 25B in the amount of \$2,173,117.57 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 April 30, 2009; and received and filed the Financial Reports for the month ending April 30, 2009.

06/02/09-7. Consideration of Resolutions Approving the Assessment Engineer's Report for the Annual Levy of Street Lighting Assessments for Fiscal Year 2009-2010; Declaration of the City Council's Intention to Provide for the Annual Levy and Collection of Assessments for Street Maintenance; and Setting of the Public Hearing for July 7, 2009

The Council adopted Resolution Nos. 6194 and 6195.

RESOLUTION NO. 6194

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR ANNUAL LEVY OF ASSESSMENTS FOR FISCAL YEAR 2009-2010 IN THE MAINTENANCE DISTRICT WITHIN SAID CITY

RESOLUTION NO. 6195

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR ANNUAL LEVY AND COLLECTION OF ASSESSMENTS FOR CERTAIN STREET LIGHTING MAINTENANCE IN AN EXISTING MAINTENANCE DISTRICT, PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, AND SETTING A TIME AND PLACE FOR PUBLIC HEARING THEREON

06/02/09-8. Consideration of the Purchase of Self-Contained Breathing Apparatus (SCBA) from Allstar Fire Equipment in the Amount of \$50,650.83

The Council approved the award of bid #781-09 to Allstar Fire Equipment in the amount of \$50,650.83 and appropriated \$50,650.83 from the unreserved General Fund balance which will be reimbursed at a later date by funding from the State Office of Homeland Security.

06/02/09-9. Consideration of a Letter of Support for Library Services to the Los Angeles County Honorable Board of Supervisors

The Council approved sending a letter of Support for Library Services to the Los Angeles County Honorable Board of Supervisors.

06/02/09-10. Formally Accept the Manhattan Beach Park Improvement Project as Complete and Authorize Filing of the Appropriate Notice of Completion

The Council formally accepted the Manhattan Beach Park Improvement Project as Complete and authorized the filing of the appropriate Notice of Completion.

06/02/09-11. Award of Contract (\$216,081.26) for the 2009 Slurry Seal Project to American Asphalt South, Inc.; Appropriation of State Pier and Parking Lot Funds (\$6,578.00); and Approval of Change Order No. 1 (\$54,020.00)

The Council approved an award of contract for the 2009 Slurry Seal Project to American Asphalt South, Inc. in the net amount of \$216,081.26; approved the appropriation of State Pier and Parking Lot Funds in the amount of \$6,578 to fund slurry sealing and striping of the lower pier parking lots; approved Change Order No. 1 in an amount not-to-exceed \$54,020.00 for additional slurry seal and pavement striping; and approved authorizing the Director of Public Works to approve additional work in an amount not-to-exceed \$21,608, if required.

BOARDS AND COMMISSIONS

Planning Commission

06/02/09-12. Consideration of Action Minutes, Planning Commission Meeting of May 27, 2009

The Council received and filed the subject action minutes.

COMMUNITY ANNOUNCEMENTS

06/02/09-16. Don Gould Re Manhattan Beach Library

Los Angeles County Librarian Don Gould shared information about upcoming events at Manhattan Beach Library.

06/02/09-17. Councilmember Powell Re Chamber of Commerce Installation

Councilmember Powell noted the 68th Annual Chamber of Commerce recognition and installation dinner at the Shade Hotel on June 4, 2009.

06/02/09-18. Councilmember Powell Re CPR Training

Councilmember Powell called attention to the Community Emergency Response Team (C.E.R.T.) cardio pulmonary resuscitation refresher training, which will include use of the deliberator for resuscitation, at Manhattan Beach Fire Department from 8:00 a.m. to 12:00 p.m., on Saturday, June 6, 2009.

06/02/09-19. Councilmember Montgomery Re Mira Costa High School Orchestra

Noting his and Councilmember Tell's long-time sponsorship of the Mira Costa High School Orchestra, Councilmember Montgomery exhibited an "I Came to Play" T-shirt commemorating the Orchestra's appearance this evening at Disney Concert Hall. He also related that he and Councilmember Tell, along with Fresh Bros., provided pizza at the High School and Middle School today in celebration of the event.

PUBLIC HEARINGS

None.

GENERAL BUSINESS

06/02/09-13. Introduction of an Ordinance Amending Manhattan Beach Municipal Code Chapter 4.36 Regarding Regulation of Massage Services

City Attorney Robert Wadden advised that the purpose of the City's current ordinance regulating massage practitioners/businesses was to discourage these types of businesses from being used as fronts for prostitution. He explained that Senate Bill 731 (effective January 31, 2009) took over the issuance of massage practitioner permits and pre-empts local jurisdiction requirements, but does not pre-empt massage business permits and the proposed Ordinance substitutes the State permit requirements for local permit requirements. City Attorney Wadden related staff's recommendation to waive further reading and introduce Ordinance No. 2123.

There were no requests to speak on this item.

During a brief Council discussion, City Attorney Wadden explained that the City's current ordinance pertaining to massage practitioners/businesses came about when the City had nothing in place to address an acupuncture establishment that was a front for prostitution. He stated that there are a few massage businesses in Manhattan Beach; that the proposed ordinance will save staff time in processing permits; that the permit fees include the City's costs to issue the permits; and that State requirements include finger print reports for massage technicians.

City Manager Geoff Dolan verified that there are no taxes associated with massage business permits.

City Attorney Wadden read aloud the title of Ordinance No. 2123.

MOTION: Councilmember Montgomery moved to waive further reading and introduce Ordinance No. 2123. The motion was seconded by Councilmember Tell and passed by the following unanimous roll call vote.

Ayes: Montgomery, Tell, Powell, Ward and Mayor Cohen.
Noes: None.
Abstain: None.
Absent: None.

06/02/09-14. Continuation of Discussion of Fiscal Year 2009-2010 Proposed Operating Budget and Fiscal Year 2009-2014 Capital Improvement Project Plan

City Manager Geoff Dolan reviewed that during a previous overview of the Council's extensive discussions of the proposed 2009-2010 budget, additional written material was distributed reflecting an elimination of approximately \$1,000,000. He related staff's recommendation to receive public input and direct staff to return with the appropriate resolutions at the next meeting to approve the proposed 2009-2010 budget, including the modifications agreed to by the Council.

Finance Director Bruce Moe provided detailed information on the revised five-year forecast and the proposed 2009-2010 General Fund. He explained that the City's financial support to the Manhattan Beach Unified School District would not be repeated after this year and that salary increases/benefits covered by existing Memorandums of Understanding (MOUs) would be zero when they expire. He also reviewed the list of specific cuts to the proposed 2009-2010 budget and provided input on the status of financial information previously requested by the Council.

At the Council's request, Finance Director Moe clarified that sales tax revenue is 11% less than last year; that approximately 25% of the homes in Manhattan Beach are pre-Proposition 13; and that, once the MOUs with the bargaining groups expire, the City is no longer obligated to provide salary increases.

City Manager Dolan advised that, if revenues recover quickly, there would be flexibility to look at salary increases; but, if they do not, they would have to be zero. He recommended that, as part of the process this evening, the list of specific cuts previously made by the Council be approved/modified.

Prior to receiving input from the public, the Council emphasized the difficulty of making reductions to the 2009-2010 Budget and the importance of further reducing the deficit the City will face for the next five years. The Council discussed the reductions in sales/property tax revenue and permit fees; the importance of not utilizing reserves unless absolutely necessary; cutting costs without affecting services; and the composition of the General Fund (70% labor, 75% of which is in contractual agreements with the City's labor unions and 25% of which is unrepresented) and 30% pass-through costs.

City Manager Dolan clarified that, with the proposed assumptions, the Reserve Fund would not be used at all and that only one-half of the Economic Uncertainty Fund would be used.

The following individuals spoke on this item:

- **Homeira Goldstein, Representing Arts Manhattan**
- **Vicki Unger, No Address Provided**
- **Paul Gross, No Address Provided**
- **Faith Lyons, No Address Provided**
- **Gary Osterhout, No Address Provided**
- **Gerry O'Connor, No Address Provided**
- **John Dye, Manhattan Beach Police Lieutenant**
- **Garth Sheriff, No Address Provided**
- **Patricia Schilling, Administrative Assistant to the City Manager**
- **Frank Chiella, Manhattan Beach Fire Battalion Chief**
- **Helen Duncan, President/CEO Manhattan Beach Chamber of Commerce**
- **David Curry, Chair Elect Chamber of Commerce**
- **Dave Wachtfogel, No Address Provided**
- **Martha Andreani, No Address Provided**
- **Tim Lilligren, City Treasurer**

During public comments, the Council discussed the idea of canceling the Arts Manhattan Beach Fall Exhibition; the Public Arts Trust Fund; the funding for the Holiday fireworks; the State's ability to borrow approximately \$1,800,000 from the City; the State's ability to borrow from cities twice in ten years; and whether the initial amount borrowed must be repaid before borrowing again. The Council also discussed the Chamber of Commerce's outreach program; the role the Chamber could play in organizing a Sepulveda Boulevard Business Improvement District; and the idea of including only businesses that will grow and create jobs in Chamber mixers. The Council asked that the types of businesses attending Chamber mixers be tracked; that this information be provided to the Council; and that the Chamber advise the Council on which Chamber-related items would provide the most benefits to business owners.

City Manager Dolan and City Attorney Robert Wadden verified that Public Art Trust Fund monies can be spent only on the acquisition of public art; that developer fees can only be used to fund improvements, not services; and that the State guarantees pensions.

Finance Director Moe confirmed staff's intent to obtain information about the amount of additional revenue that could be derived from not bagging parking meters during the Holidays and verified that the City pays for one crossing guard at American Martyr's School.

Councilmember Tell noted the need to determine what can be done today to reduce the Budget deficit and recognize that further reductions might be necessary if the economy gets worse. He observed that the \$1,300,000 contribution to the MBUSD and the \$1,800,000 in State borrowing could be funded through the \$3,400,000 in surplus General Fund moneys above and beyond reserves. Councilmember Tell emphasized the important relationship of the City's high-quality school district to home values and identified possible areas of opportunity to further reduce the Budget deficit as follows: \$1,000,000 in ten unfilled positions/attrition; \$1,400,000 from the Community Development Department; \$2,500,000 from the Parks and Recreation Department; and \$700,000 from the Cultural Arts Center. Councilmember Tell suggested that the onus be on staff to balance the 2009-2010 Budget and that a message be sent to the bargaining groups that the City might not be able to afford salary increases when labor contracts expire. He explained that he could agree to adopt the proposed Budget with the understanding that staff will determine where an additional \$400,000 in recurring costs would come from, which could be accomplished through managing, hiring and attrition.

Councilmember Powell stated his agreement with Councilmember Tell's viewpoint. He further proposed a zero-based budget next year and commented on the importance of merit pay for extraordinary employee contributions, as well as the need for a salary analysis before making a determination with regard to compensation. He agreed that the City's Reserve Funds should not be used and that further cuts should be made. Councilmember Powell further stated that the idea of cutting secretarial positions, and eliminating one of the Concerts in the Park should be discussed and that consultants or any other temporary staff should not be used.

Additional cuts to the proposed 2009-2010 Budget entertained by Mayor Pro Tem Ward to help close the Budget deficit included: City Treasurer conferences and training (\$3,000); Pet Appreciation Day (\$4,800); only one Community Emergency Response Team (C.E.R.T.) class per year (\$18,000) and Parks and Recreation Department brochures (\$6,000). He suggested that Worker's Compensation and the Public Employees Retirement System (PERS) be further examined. Mayor Pro Tem Ward also stated his agreement with Councilmember Tell's opinion.

Councilmember Montgomery explained that items such as public safety, the environment and senior citizens are of the utmost importance to him. He agreed with Councilmember Powell's proposal for a zero-based budget next year and with the importance of deferring decisions on compensation for management until comparable salary information is provided. Councilmember Montgomery suggested that the idea of eliminating Fridays from the work

week, structural deficits, and storm water/lighting districts be explored. He supported Councilmember Tell's suggestions, with the caveat that staff is able to achieve a balanced budget.

Mayor Cohen related her understanding that the 2009-2010 Budget cannot be balanced without making decisions on labor. She commented on the importance of acknowledging economic difficulties in the private sector; agreed with the importance of equity in compensation/discretion based on merit; and with the need for comparable salary information before making a decision on compensation. Mayor Cohen recommended that further consideration be given to cutting programs such as Concerts in the Park and Pet Appreciation Day, etc., eliminating two administrative support positions and \$50,000 from the Contingency Fund. She voiced her hope that employees will understand that it is more important to save jobs than get raises and that now is the time to make cuts, especially since people are expecting them.

City Manager Dolan verified that the proposed 2009-2010 Budget must be adopted by July 1, 2009. He explained that labor is the most obvious area to cut, particularly if the Risk Manager position is not filled immediately; that, even though it might be difficult to accomplish a recurring savings of \$400,000 in labor, it should be possible to reduce the Budget by \$400,000; that seven positions would be eliminated through attrition this year, with three to four more next year; and that it is important to have flexibility in using part-time or temporary help. He reviewed Council's proposal for staff to return with a resolution for the 2009-2010 Budget that includes \$1,700,000 in cuts previously made by the Council and any others discussed this evening (\$300,000 in salaries, which cannot be spent until staff provides the Council with comparable salary data; and direction to the City Manager to balance the 2009-2010 Budget, with \$300,000 to \$400,000 in on-going savings and, if this is not possible, more severe cuts will be made in the coming year). City Manager Dolan pointed out that, at some point, reductions will impact service levels and that it would be unnecessary to do so when alternatives such as reallocating \$300,000 in surplus CIP funds to the General Fund as a permanent revenue stream are available. He recommended that the Council discuss the idea of hiring a consultant to examine the challenges of going out for a Proposition 218 vote in the future.

Continued Council discussion included funding for the Arts Manhattan Fall Exhibition and whether it should be cancelled this year; eliminating Mira Costa High School Grad Night; eliminating/reducing the number of C.E.R.T. classes; eliminating Earth Day in its entirety; and reducing the number of Concerts in the Park. In addition to cuts made at previous meetings, the Council agreed to eliminate City Treasurer conferences and training by \$3,000, Pet Appreciation Day in its entirety, Parks and Recreation Department brochures and Mira Costa High School Grad Night. The Council agreed to retain C.E.R.T. training, Concerts in the Park and the Arts Manhattan Fall Exhibition.

City Manager Dolan explained that the contract for the Concerts in the Park was already finalized; that approximately \$10,000 is spent on each art exhibit; that there are two art exhibits per year; and that Arts Manhattan is counting on \$10,000 in funding from the City, but it is unclear how much has been obligated and no contract has been signed. He related his understanding that the Council's direction would include a report from the City Manager as to where a \$400,000 reduction in recurring costs could be realized and noted that each department could be reduced across the board by a certain percentage of total labor amounting to \$400,000.

MOTION: Mayor Pro Tem Ward moved to approve the proposed Fiscal Year 2009-2010 Operating Budget and 2009-2014 Capital Improvement Plan, including the list of cuts made by the Council during previous meetings and others made this evening, and a \$400,000 reduction in recurring expenses to be accounted for by the City Manager. The motion was seconded by Councilmember Powell and passed by unanimous roll call vote:

Ayes: Montgomery, Tell, Powell, Ward and Mayor Cohen.
Noes: None.
Absent: None.
Abstain: None.

City Manager Dolan advised that the appropriate resolutions and an explanation of the Council's actions will be provided at the next Council meeting.

The Council commended staff's efforts in compiling the 2009-2010 Budget.

RECESS AND RECONVENE

At 9:55 p.m. the Council recessed and reconvened at 10:12 p.m. with all Councilmembers present.

ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

AUDIENCE PARTICIPATION

06/02/09-20. Willy Leventhal Re the History of the Naming of Dorsey Field

Willy Leventhal, No Address Provided, distributed historical information about the Manhattan Beach Pony League and the naming of Dorsey Field. He proposed that the Council designate staff to look into a policy on naming sports fields and parks.

Following a brief discussion, the Council directed staff to include discussion of a policy for naming sports fields and parks in the Council Work Plan, realizing the sensitivities associated with naming memorials in the City.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

06/02/09-15. Request by Councilmember Powell to Consider Moving the Three Minute Audience Participation Period at the End of City Council Meetings to the Beginning of the Agenda (Following Community Announcements)

City Manager Geoff Dolan introduced this item explaining the current structure of Council agendas and relating Councilmember Powell's request to consider moving the three minute "Audience Participation" section of the agenda to earlier in the meeting (following "Community Announcements). He advised that, should the Council agree to permanently change the structure of the agenda, this topic should be considered at a future meeting.

The following individuals spoke on this item:

- **Willy Leventhal, No Address Provided**
- **David Wachtfogel, No Address Provided**
- **Karol Wahlberg, No Address Provided**
- **Martha Andreani, No Address Provided**
- **Patrick McBride, 5th Street and Peck Avenue**
- **Jacque May, No Address Provided**
- **Gerry O'Connor, No Address Provided**

City Manager Dolan advised that changes in Council procedures should be placed for discussion on a future meeting agenda.

City Attorney Robert Wadden advised that the Council must take a vote to permanently re-order the agenda. However, unless a majority of the Council disagrees, the Mayor has the power on an ad hoc basis to re-order the agenda.

The Council extensively deliberated whether moving "Audience Participation" to earlier in the meeting will encourage additional speakers, whether "Audience Participation" should be combined with "Community Announcements" and various time limit scenarios for both the total category and per speaker.

With the exception of Councilmember Montgomery, the Council agreed to place consideration of combining "Audience Participation" with "Community Announcements" on a future City Council agenda with a total time limit of 15 minutes and a per speaker time limit of 3 minutes.

Councilmember Montgomery noted that the Mayor has discretion to allow "Audience Participation" earlier in the meeting on an ad hoc basis without formally changing the procedures and it was his opinion that receiving "Audience Participation" earlier in the meeting will not encourage additional speakers, as was the case during his tenure as mayor.

MOTION: Mayor Cohen moved to approve placing the consideration of combining "Community Announcements" and "Audience Participation," with a total time limit of 15 minutes for this portion of the meeting and a per speaker time limit of 3 minutes, on a future City Council meeting agenda. The motion was seconded by Councilmember Powell and passed by the following roll call vote.

Ayes: Tell, Powell, Ward and Mayor Cohen.
Noes: Montgomery.
Abstain: None.
Absent: None.

Councilmember Tell explained his supporting vote with the caveat that it includes very narrow discretion.

ADJOURNMENT

At 11:02 p.m., the meeting was duly adjourned to the 5:30 p.m. Adjourned Regular Meeting to be followed by the 6:30 p.m. Regular City Council Meeting on Tuesday, June 16, 2009, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

Wendy Weeks
Recording Secretary

Portia Cohen
Mayor

ATTEST:

Liza Tamura
City Clerk