

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING
NOVEMBER 16, 2010**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 16th day of November, 2010, at the hour of 6:35 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City. A full video of this City Council meeting can be accessed online at www.citymb.info.

PLEDGE TO FLAG

Lauren Chao, a 3rd Grader from Pacific Elementary School, led the pledge of allegiance.

THE FOLLOWING ITEM WAS TAKEN OUT OF ORDER

CEREMONIAL CALENDAR

11/16/10-20. Commendation to Fire Marshal-Captain/Paramedic John Grimaldi

Mayor Montgomery, on behalf of the Council, along with Acting Fire Chief Ken Shuck presented a commendation to Fire Marshal-Captain/Paramedic John Grimaldi in recognition of his retirement and 30-year career.

ROLL CALL

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

CONSENT CALENDAR

The Consent Calendar (Item Nos. 1 through 14), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Ward, seconded by Councilmember Powell and passed by unanimous roll call vote, with the exception of Item Nos. 8, 11 and 12, which were considered later in the meeting under "Items Removed from the Consent Calendar".

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

GENERAL CONSENT

11/16/10-1. Approve Minutes of the Special City Council Closed Session Meeting of November 1, 2010

The Council approved the subject minutes.

11/16/10-2. Approve Minutes of the Special City Council Closed Session Meeting of November 3, 2010

The Council approved the subject minutes.

11/16/10-3. Approve Minutes of the City Council Regular Meeting of November 3, 2010

The Council approved the subject minutes.

11/16/10-4. Approve Minutes of the Special City Council Closed Session Meeting of November 8, 2010

The Council approved the subject minutes.

11/16/10-5. Adoption of an Ordinance Prohibiting Compensation for Exclusive Taxicab Pickup Agreements

The council adopted Ordinance No. 2135 which amends the Vehicle for Hire Ordinance (4.108) to establish vehicle for hire pick up rights.

11/16/10-6. Consideration of Financial Reports:

a) Ratification of Demands: November 11, 2010

b) Investment Portfolio for the Month Ending October 31, 2010

The Council approved with no exception Warrant Register No. 11B in the amount of \$2,199,083.57 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 and received and filed the Investment Portfolio for the month ending October 31, 2010.

11/16/10-7. Consideration of the Purchase of One Budgeted Replacement Police Vehicle from Inland Chevrolet (\$29,480.85)

The Council approved awarding bid #820-11 to Inland Chevrolet in the amount of \$29,480.85 for the budgeted purchase of one replacement Police vehicle.

11/16/10-8. Consideration of the Award of a One-Year Fire Engine Maintenance Services Contract to California Seagrave (Estimated Annual Value of \$49,494)

Item No. 8 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

11/16/10-9. Consideration to Approve Award of Contract (\$90,347.00) for the Manhattan Heights and Live Oak Park Fence Reconstruction Project to Western Fencing Supply

The Council approved rejecting the bid protests submitted by Harris Steel Fence Co, Inc.; approved awarding a contract in the amount of \$90,347.00 (base bid \$84,647 plus additive alternate bid \$5,700) to Western Fencing Supply for the Manhattan Heights and Live Oak Park Fence Reconstruction Project; and approved authorizing the Director of Public Works to approve additional work in an amount not-to-exceed \$9,034.70 (10%), if required.

11/16/10-10. Consideration to Approve an Agreement with Moffatt & Nichol for Structural Inspection Services to Assess the Condition of the Manhattan Beach Pier (\$89,826)

The Council approved an agreement with Moffatt & Nichol in the amount of \$89,826 to perform a full structural inspection of the pier.

BOARDS AND COMMISSIONS

Cultural Arts Commission

11/16/10-11. Consideration of Draft Minutes, Cultural Arts Commission Meeting of October 12, 2010

Item No. 11 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

Library Commission

11/16/10-12. Consideration of Draft Minutes, Library Commission Meeting of October 26, 2010

Item No. 12 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

Parking & Public Improvements Commission

11/16/10-13. Consideration of Action Minutes, Parking and Public Improvements Commission Meeting of October 28, 2010

The Council received and filed the subject action minutes.

Planning Commission

11/16/10-14. Consideration of Action Minutes, Planning Commission Meeting of November 10, 2010

The Council received and filed the subject action minutes.

COMMUNITY ANNOUNCEMENTS

11/16/10-21. Mayor Montgomery Re Meeting Decorum and Policy

Mayor Montgomery asked audience members to please turn off their cell phones, to step outside of the Council Chambers to answer phone calls and to refrain from speaking from the audience. He welcomed participation from the podium; however stressed that anyone disrupting the meeting will be escorted from the City Council Chambers by police officers.

11/16/10-22. Don Gould Re Upcoming Library Events

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

11/16/10-23. Viet Ngo Re Victim and Witness of Public Corruption

Viet Ngo, No Address Provided, stated that he is a victim and witness of public corruption; an Equal Justice for Us Task Force member (310-318-2769); and asked residents to call the FBI to bring the Councilmembers to justice.

11/16/10-24. Vickie Whipple Re Waste During the Holidays

Waste Management Representative Vickie Whipple, reminded residents of how they can reduce the extra waste that is generated during the holiday season. She suggested that residents reduce food waste and try food composting.

11/16/10-25. Councilmember Cohen Re Foundation of Local Arts Event

Councilmember Cohen thanked those who showed up for the Foundation of Local Arts (FOLA) event at the Manhattan Beach County Club. She explained that the Foundation donates proceeds to Manhattan Beach schools and that those interested should visit www.fola.org for more information.

11/16/10-26. Councilmember Cohen Re Holiday Light Exchange

Councilmember Cohen announced that the South Bay Council of Government's Environmental Services Center is sponsoring a free light exchange whereby residents can bring old strands of inefficient lights and trade them for a string of energy efficient LED lights. She further stated that additional information can be found at www.sbesc.com.

11/16/10-27. Councilmember Powell Re Holiday Open House

Councilmember Powell reminded the public that the Downtown Holiday Open House and Pier Lighting will take place on Wednesday, November 17, 2010 and will feature carolers, a window decorating contest, live reindeer, camels, and snow for everyone to enjoy.

11/16/10-28. Councilmember Powell Re P.S. I Love You Foundation Toy Drive

Councilmember Powell announced that the P.S. I Love You Foundation will be accepting toys for their annual toy drive to be given to under privileged children.

11/16/10-29. Councilmember Powell Re Police Department Finger Printing Event

Councilmember Powell announced that the Police Department will be holding a finger printing event for kids on Saturday, November 20, 2010 and that there will be activities and coloring books available at the event.

11/16/10-30. Councilmember Powell Re Santa Parade

Councilmember Powell announced that the annual Santa arrival parade at the Manhattan Village Mall will take place on November 26, 2010 and reminded everyone to check the local paper for the Santa float map and schedule.

11/16/10-31. Councilmember Ward Re Millennium Foundation Awards Ceremony

Councilmember Ward explained that he, the Mayor and a number of Commissioners attended the Dorothy Chandler Pavilion Millennium Foundation Awards ceremony where the City of Manhattan Beach won the *City of Opportunity Award* for the Youth Recognition Award Scholarship Program. Councilmember Ward also encouraged listeners who are in high school to apply for the Manhattan Beach Youth Recognition Award at mward@citymb.info.

11/16/10-32. Mayor Montgomery Re Pier Lighting and Holiday Open House

Mayor Montgomery announced that the Pier Lighting will be a little different this year (beginning at 7:00 p.m.) and that the City Council will begin the window judging at 6:00 p.m.

11/16/10-33. Mayor Montgomery Re Beach Cities Toy Drive

Mayor Montgomery announced that the Beach Cities Toy Drive will have their annual wrapping party on Saturday, December 11, 2010 at 10:00 a.m. at the Joslyn Center. He asked that toys be dropped off at City Hall or any Manhattan Beach or Hermosa Beach Fire Station.

11/16/10-34. Mayor Montgomery Re L.A. County Christmas Tree Recycling Program

Mayor Montgomery announced that the Los Angeles County Christmas Tree Recycling Program will run from December 27, 2010 through January 15, 2011.

11/16/10-35. Mayor Montgomery Re Nutcracker Ballet

Mayor Montgomery announced that the South Bay Ballet will be performing “the Nutcracker” on December 19, 2010 at 2:00 p.m. and 5:30 p.m. and that for tickets and information please visit: www.southbayballet.org.

11/16/10-36. Mayor Montgomery Re LA County Plastic Bag Ban

Mayor Montgomery explained that the Los Angeles County Board of Supervisors voted to ban single use plastic bags effective in July of 2011. He informed the public that the ban does not apply to Manhattan Beach as the Manhattan Beach bag ban is currently waiting to be heard by the California Supreme Court.

AUDIENCE PARTICIPATION

11/16/10-37. David Harris Re City Flower

Manhattan Beach Botanical Garden Board Member David Harris requested that the City Council consider the support of the “Beach Primrose” as the new City Flower. He cited numerous reasons as to why this flower should be considered including that it is a native plant; it prevents erosion; and it is drought tolerant.

11/16/10-38. Mike Garcia Re City Flower

Manhattan Beach Botanical Garden Board Member Mike Garcia urged the City Council to support the “Beach Primrose” as the new City Flower. He explained that the native, drought tolerant “Beach Primrose” is an excellent example of a beautiful California native.

11/16/10-39. Viet Ngo Re Various Items

Viet Ngo, No Address Provided, asked the City Council to have staff produce the public documents regarding Geoff Dolan; accused the City Council of theft, embezzlement, and corruption of public funds; and asked the Council to return the travel reimbursement money they have received.

Councilmember Cohen clarified every member of the City Council is a member of many local, regional, state, and national organizations that requires them to travel multiple times per week.

11/16/10-40. Tim Magdaleno Re Worker's Compensation Case

Tim Magdaleno, 400 Block of 15th Street, asked City Council to look into why the City has intentionally delayed the Worker's Compensation case of Manhattan Beach Police Officer Mark Vasquez for the last four years.

City Attorney Robert Wadden stated that there is a considerable amount of money involved in this case and the City is doing its due diligence.

PUBLIC HEARINGS

11/16/10-15. Consideration of Ordinances to Amend Titles 3, 5, and 9 and to Adopt the Most Recent California Building Standards Code and City Amendments to the Following Codes: 2010 California Building Code, 2010 California Residential Code, 2010 California Electrical Code, 2010 California Plumbing Code, 2010 California Green Building Standards Code, 2010 California Energy Code, 2010 California Mechanical Code, and to Adopt the 2010 California Fire Code and City Amendments

Interim City Manager Richard Thompson introduced the subject item and Building Official Carol Jacobson provided the staff presentation and distributed to Council a draft document ("Toilet Retrofit Certificate") for Council consideration.

Mayor Montgomery opened the Public Hearing at 7:33 p.m.

The following individuals spoke on this item:

- **David Kissinger, South Bay Association of Realtors, No Address Provided**
- **Ray Joseph, Realtor, No Address Provided**
- **Mike Dunitz, 1400 Block of 10th Street**
- **Chris Maloney, 100 Block of 15th Street**
- **Ron Warner, 400 Block of 27th Street**
- **Kasey Buyer, No Address Provided**

Mayor Montgomery closed the Public Hearing at 8:04 p.m.

MOTION: Councilmember Ward moved to adopt Ordinance No. 2136 (Building Codes) and Ordinance No. 2137 (Fire Code) and directed staff to return at the December 7, 2010 City Council meeting with a proposed Ordinance amending the toilet retrofit requirements of Title 9 to allow exceptions. The motion was seconded by Mayor Pro Tem Tell and passed by the following unanimous roll call vote:

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

RECESS AND RECONVENE

At 8:17 p.m. the Council recessed and reconvened at 8:35 p.m. with all Councilmembers present.

GENERAL BUSINESS

11/16/10-16. Consideration of City Council 2009-2010 Work Plan Item to Evaluate a New Proposal to Approve a Pilot Program for the El Porto Parking Lot Exit

Interim City Manager Richard Thompson introduced the subject item and City Traffic Engineer Jack Rydell provided a PowerPoint presentation.

The following individuals spoke on this item:

- **Janice Shultz, 3800 Block of Ocean Drive**
- **John Slater, 100 Block of 38th Street**
- **Kristin Skinner, 100 Block of 29th Street**
- **Greg Moran, 200 Block of 41st Street**
- **Howard Kaminski, 100 Block of Rosecrans Avenue**
- **Fred Cogan, Kelp Street**
- **Greg Cherep, 200 Block of Moonstone**
- **Beverly Cherep, Ocean Avenue**
- **(Name inaudible), Kelp Street**
- **Katie Murphy, 38th Street & Ocean**
- **Hillary Rosen, 4300 Block of Ocean**
- **Michael Hoffman, 40th Street**
- **Ed Skebe, 200 Block of Kelp Street**
- **Danny Smith, 100 Block of 38th Street**
- **Art Merkin, No Address Provided**
- **Angela Silverman, Kelp Street**
- **Howard Kaminski, 100 Block of Rosecrans**

Police Lieutenant Andy Harrod responded to Council questions.

MOTION: Mayor Pro Tem Tell moved to approve a modification to the initial traffic measures for the North Manhattan Beach neighborhood area to allow an eastbound to southbound right turn movement from 40th Street to Ocean Drive at the El Porto Parking Lot exit for a trial period, and to remove the directional sign at Kelp Street. The motion was seconded by Councilmember Powell and passed by the following unanimous roll call vote:

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

Staff further clarified that the subject trial period will begin in the spring of 2011 and will be evaluated for about six months.

11/16/10-17. Consideration to Uphold the Parking and Public Improvements Commission (PPIC) Recommendation to Deny an Encroachment Permit for Landscaping on the Walkstreet at 619 Highland Avenue and to Approve an Encroachment Permit for Landscaping on the Walkstreet at 233 7th Street

Interim City Manager Richard Thompson introduced the subject item and Acting Community Development Director Laurie Jester and Assistant Planner Angelica Ochoa provided the staff presentation.

The following individuals spoke on this item:

- Ray Joseph, Manhattan Beach Resident
- Jeanie Grand, 300 Block of 7th Street
- John Atchinson, Manhattan Beach Resident
- Mary Boyd, 300 Block of 7th Street
- Lisa Marshall, 300 Block of 7th Street
- Esther Besbris, 2nd Street
- Donna Howell, Manhattan Beach Resident
- Shannon McWhinney, 300 Block of Highland
- Kathleen Paralusz, 1400 Block of Manhattan Beach Boulevard
- Frank Wattles, 200 Block of 6th Place
- Wayne Hunkins, Attorney for Property Owner
- Jackie Anderson, 400 Block of 7th Street
- Pamela Toad, No Address Provided
- Sabine Birkenfeld, Owner of Subject Tree
- Michael Ruiz, 200 Block of 7th Street
- John Ziskin, 200 Block of 7th Street
- Martin Padilla, 600 Block of Highland Avenue
- John Nelson, Manhattan Beach Resident

MOTION: Councilmember Powell moved to approve upholding the Parking and Public Improvements Commission (PPIC) recommendation on the walkstreet encroachment permits with the following modifications: 619 Highland - require the eucalyptus tree to be pruned 2-3 times a year to maintain the existing height and openness and all other existing landscaping must be pruned and maintained at 42” maximum in height; 233 7th Street - approve all existing landscaping over 42” in height provided it is pruned 2-3 times a year to maintain the existing height and openness. Additionally, if the landscaping is not maintained, Staff can remove it; Encroachment Permits are required; and Staff will review after a one year period. The motion was seconded by Councilmember Ward and passed by the following roll call vote:

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

11/16/10-18. Consideration of an Appeal of the Community Development Director’s Approval with Conditions for the Installation of Two New Telecommunication Facilities for Next G Within the Public Right of Way at the Southwest Corner of Ocean Avenue & 27th Street and the Southeast Corner of Highland Avenue & 34th Street

Interim City Manager Richard Thompson stated that at the appellant’s request, this item will be continued to a future City Council meeting.

ITEMS REMOVED FROM THE CONSENT CALENDAR

11/16/10-8. Consideration of the Award of a One-Year Fire Engine Maintenance Services Contract to California Seagrave (Estimated Annual Value of \$49,494)

A member of the audience pulled this item from the Consent Calendar for Council discussion.

The following individual spoke on this item:

- **Ed Mundy, Valley Power Systems**
- **Tom Gonzales, California Seagrave Service & Sales Manager**

General Services Manager Gwen Eng responded to Council questions.

MOTION: Councilmember Ward moved to approve awarding RFP #807-10 to California Seagrave for a one-year contract to provide fire engine maintenance services, with an estimated value of \$49,494. The motion was seconded by Councilmember Powell and passed by the following unanimous roll call vote:

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

BOARDS AND COMMISSIONS

Cultural Arts Commission

11/16/10-11. Consideration of Draft Minutes, Cultural Arts Commission Meeting of October 12, 2010

Councilmember Cohen pulled this item to ask that staff set up a Joint City Council/ Cultural Arts Commission meeting as was requested in these minutes.

Library Commission

11/16/10-12. Consideration of Draft Minutes, Library Commission Meeting of October 26, 2010

Councilmember Cohen pulled this item to emphasize that the minutes of the proposed programming for the library expansion were very well written.

There were no requests to speak on Item Nos. 11 & 12.

MOTION: Councilmember Powell moved to receive and file the subject draft Cultural Arts and Library Commission minutes. The motion was seconded by Councilmember Tell and passed by the following roll call vote:

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

Because the time was after 10:30 p.m. (the cut off for introduction of new agenda items) and due to Resolution No. 6132 stating 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” the following motion was made.

MOTION: At 11:58 p.m. Councilmember Powell moved to continue the meeting past the 10:30 p.m. cut off. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote.

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

THE FOLLOWING ITEM WAS TAKEN OUT OF ORDER

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

11/16/10-19. Centennial Celebration Events Status Report

Mayor Montgomery provided an update on the status of the Centennial celebration event.

Councilmember Tell explained the process whereby the Centennial Committee worked backwards from the City's anniversary date to create the budget and outline of events.

Mayor Montgomery encouraged those interested in volunteering to visit the Centennial website at www.mb100.org. He also spoke of a letter listing several resident celebrities that will be going out to all residents and businesses in order to help get the word out about the Centennial celebration.

Councilmember Ward suggested that the committee consider planning an event that included the gathering of former City Councilmembers and Mayors.

There were no requests to speak on this item.

The Council received and filed the status report on the development of the 2012 Centennial celebration events.

Hearing no objection, it was so ordered.

11/16/10-41. Councilmember Cohen Re State of the County Address

Councilmember Cohen announced that Los Angeles County Supervisor Don Knabe will give his State of the County Address on December 8, 2010.

11/16/10-42. Mayor Montgomery & Councilmember Cohen Re Holiday Open House

In response to Councilmember Cohen's question regarding whether the Council would be judging at the Holiday Open House, Mayor Montgomery confirmed that the Council will meet at 5:45 p.m. for the window display judging and then meet at 7:00 for the Pier lighting.

CITY MANAGER REPORT(S)

None.

ADJOURNMENT

At 12:10 a.m. the Regular City Council meeting of November 16, 2010, was duly adjourned to the to the 5:30 p.m. Adjourned Regular Meeting to be followed by the 6:30 p.m. Regular City Council Meeting on Tuesday, December 7, 2010, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

Liza Tamura
Recording Secretary

Richard Montgomery
Mayor

ATTEST:

Liza Tamura
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
ADJOURNED REGULAR MEETING
NOVEMBER 16, 2010**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 16th day of November, 2010, at the hour of 6:00 p.m., in the City Council Chambers Conference Room of City Hall, at 1400 Highland Avenue, in said City.

ROLL CALL

Present: Powell, Cohen, Ward, Tell and Mayor Montgomery.
Absent: None.
Clerk: Tell (Acting).

ANNOUNCEMENT IN OPEN SESSION OF ITEMS TO BE DISCUSSED IN CLOSED SESSION AS FOLLOWS

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Litigation Pursuant to Subdivision (b) of Government Code Section 54956.9 (one case).

PUBLIC EMPLOYEE APPOINTMENT (Government Code Section 54957)

Title: City Manager

RECESS INTO CLOSED SESSION

The Council recessed into Closed Session at 6:00 p.m.

RECESS INTO OPEN SESSION

The Council reconvened into Open Session at 6:25 p.m.

ADJOURNMENT

The meeting was duly adjourned at 6:25 p.m.

Nick Tell
Recording Secretary

Richard Montgomery
Mayor

ATTEST:

Liza Tamura
City Clerk