

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING
DECEMBER 21, 2010**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 21st day of December, 2010, at the hour of 6:31 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

Macy McKeegan led the pledge of allegiance.

ROLL CALL

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

CEREMONIAL CALENDAR

12/21/10-1. Annual City Recognition of Longstanding Local Businesses

Mayor Montgomery, on behalf of the Council, presented plaques, commendations and city pins to Manhattan Beach businesses that have been providing services to the community for a number of years.

CONSENT CALENDAR

The Consent Calendar (Item Nos. 2 through 11), 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. 4, 5 and 8 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

12/21/10-2. Approve Minutes of the City Council Adjourned Regular and Regular Meeting of December 7, 2010

The Council continued the subject minutes to the City Council Meeting of January 18, 2011.

12/21/10-3. Consideration of Report on Status of Grant Applications and Awards

The Council received and filed the subject report on the City’s active grants.

12/21/10-4. Consideration of USA Volleyball (USAV) and the International Management Group (IMG) to Co-Sponsor the 2011 Manhattan Beach Open (MBO) to be Held in September of 2011

Item No. 4 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

12/21/10-5. Consideration of Cancellation of Existing Janitorial Services Contract and Re-Award of Three-Year Contract to Able Building Maintenance (Estimated Annual Value of \$190,269)

Item No. 5 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

12/21/10-6. Consideration of Financial Reports:

a) Ratification of Demands: December 9, 2010

b) Investment Portfolio for the Month Ending November 30, 2010

The Council approved with no exception Warrant Register No. 13B in the amount of \$3,316,341.05 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 November 30, 2010.

12/21/10-7. Consideration of Ratification of Motor Fuel Purchase from Merrimac Energy Group in the Amount of \$23,790.82

The Council approved ratifying the subject purchase.

12/21/10-8. Consideration of Amendment to the HF&H Consultants, LLC Contract Not-to-Exceed \$16,000 and Allocation of These Funds from the Refuse Fund Reserve

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

12/21/10-9. Consideration to Approve Award of Contract (\$123,449.00) for the 17th Street and 18th Street Resurfacing Project to Sully-Miller Contracting Co

The Council approved awarding a contract in the amount of \$123,449.00 to Sully-Miller Contracting Co. for the 17th Street and 18th Street Resurfacing Project and approved authorizing the Director of Public Works to approve additional work in an amount not-to-exceed \$12,000 (10%), if required.

12/21/10-10. Consideration to Approve Progress Payment No. 1 in the Net Amount of \$93,222.00 to T.E. Roberts Inc. for the 2010-2011 Water Main Replacement/Installation Project

The Council approved the issuance of the subject progress payment.

BOARDS AND COMMISSIONS

Planning Commission

12/21/10-11. Consideration of Action Minutes, Planning Commission Meeting of December 8, 2010

The Council received and filed the subject action minutes.

COMMUNITY ANNOUNCEMENTS

12/21/10-15. Jake Rome Re Fundraiser

Jake Rome, No Address Provided, invited the community to *Operation Jack*, a fundraiser marathon and ½ marathon to raise money for autism on December 11, 2010 in North Manhattan Beach.

12/21/10-16. Don Gould Re Upcoming Library Events

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

12/21/10-17. Viet Ngo Re Holiday Season and City Council Candidacy

Viet Ngo, No Address Provided, wished everyone a Merry Christmas, Happy New Year and Peace on Earth. He announced his City Council candidacy for the March 2011 Election and shared that he plans to be the anti-public corruption candidate.

12/21/10-18. Councilmember Powell Re Thank You

Councilmember Powell thanked staff and Council for their outstanding work in 2010 and thanked the public and audience for their participation, e-mails and phone calls.

12/21/10-19. Councilmember Ward Re Happy Holidays to Service Men and Women

Councilmember Ward thanked all of the men and women who are currently serving or have served in our armed forces and wished them happy holidays.

12/21/10-20. Mayor Montgomery Re Holiday Fireworks

Mayor Montgomery thanked the sponsors and everyone who attended the holiday fireworks show.

12/21/10-21. Mayor Montgomery Re Beach Cities Toy Drive

Mayor Montgomery thanked the Parks and Recreation Department and everyone who donated and/or wrapped gifts at the 18th Annual Beach Cities Toy Drive. He reported that over 2,800 toys were delivered to 7 local charities.

12/21/10-22. Mayor Montgomery Re Letter from Visitor

Mayor Montgomery shared a letter that he received from a Balboa Island resident thanking the Manhattan Beach Fire Department for the excellent care he received while visiting the City of Manhattan Beach.

AUDIENCE PARTICIPATION

12/21/10-23. Viet Ngo Re Mayor Montgomery's Comments

Viet Ngo, No Address Provided, accused Mayor Montgomery of using his office to defame citizens and intimidate them. He asked Mayor Montgomery to resign.

Mayor Montgomery responded by stating that he speaks for himself only; that he believes that there are positive gadflies and negative gadflies; and just asks that gadflies do their homework and make sure their facts are correct.

PUBLIC HEARINGS

12/21/10-12. Adoption of an Ordinance to Amend the Toilet Retrofit Requirements of Title 9 to Allow Exceptions

Interim City Manager Richard Thompson introduced the subject item explaining that, as directed by the Council, there is no staff presentation on this item; it is merely the codification of the exceptions to the Toilet Retrofit Requirements by way of adopting Ordinance No. 2138.

Mayor Montgomery opened the Public Hearing at 6:54 p.m.

The following individual spoken on this item:

- **David Kissinger, South Bay Association of Realtors**

Mayor Montgomery closed the Public Hearing at 6:56 p.m.

MOTION: Councilmember Ward moved to adopt Ordinance No. 2138. The motion was seconded by Councilmember Cohen and passed by the following unanimous roll call vote:

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

GENERAL BUSINESS

12/21/10-13. Consideration of Adoption of a Resolution Upholding the Planning Commission's Denial of Two Appeals of the Community Development Director's Decision to Approve a Remodel Project at 3404 The Strand and 3405 Ocean Drive

Stating that he lives within a 500 foot radius of this project, Councilmember Powell recused himself from this item and left the Council Chambers.

In response to Mayor Montgomery's inquiry as to whether he should recuse himself because of his relationship to a member of the Planning Commission, City Attorney Robert Wadden stated that family relationships by themselves do not constitute a conflict of interest; therefore, as long as there is no financial conflict, Mayor Montgomery would be free to vote on this issue.

Interim City Manager Richard Thompson introduced the subject item and Acting Community Development Director Laurie Jester provided a PowerPoint presentation.

The following individuals spoken on this item:

- **Thornton Stone, Appellant**
- **Nick Gisler, No Address Provided**
- **David Rickles, No Address Provided**
- **Mike Belitz, No Address Provided**
- **Wayne Partridge, 3500 Block of The Strand**
- **JD Roth, No Address Provided**
- **Brad Baker, Attorney for Todd and Angela Nelson, Property Owner**
- **Todd Nelson, Property Owner**

MOTION: Councilmember Ward moved to approve upholding the Planning Commission's denial of two appeals of the Community Development Director's decision to approve a remodel project at 3404 The Strand and 3405 Ocean Drive. The motion was seconded by Councilmember Cohen and passed by the following roll call vote:

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

RECESS AND RECONVENE

At 8:58 p.m. the Council recessed and reconvened at 9:13 p.m. with all Councilmembers present.

12/21/10-14. Consideration of Parking and Public Improvements Commission (PPIC) Recommendation for City Council 2009-2010 Work Plan Item to Implement an Oversized Vehicle Parking Permit Program Through the Introduction of Ordinance No. 2139 Amending Chapter 14.36 to the Manhattan Beach Municipal Code and Ordinance No. 2140 Adding Chapter 14.46 to the Manhattan Beach Municipal Code

Interim City Manager Richard Thompson introduced the subject item and Police Lieutenant Andy Harrod provided a PowerPoint presentation.

The following individuals spoken on this item:

- **Steve DeBaets, Representative of the Manhattan Beach Recreational Vehicle (RV) Owners Association**
- **Larry Conley, 18th Street**
- **Stephanie Monash, No Address Provided**
- **Ellen Chao, 1700 Block of Walnut Avenue**
- **Gerry O'Conner, No Address Provided**
- **Daniel Hutchinson, Liberty Village**
- **Monica Vega, No Address Provided**
- **John Vega, No Address Provided**

MOTION: Councilmember Ward moved to adopt Ordinance Nos. 2139 and 2140.

Prior to a vote, Council continued the discussion.

Council directed staff to return with an Ordinance setting up a complaint driven process for oversized vehicles including the following details: there will be no local registration, permits or fees; there will be a 48 hour limit; a citation will be issued after a second complaint within 72 hours (the oversized must be out of the city after 72 hours); the cost of a citation will be \$135.00; all oversized vehicles are prohibited around schools, parks and other public gathering areas; and detached trailers are prohibited.

Hearing no objection it was so ordered.

ITEMS REMOVED FROM THE CONSENT CALENDAR

12/21/10-4. Consideration of USA Volleyball (USAV) and the International Management Group (IMG) to Co-Sponsor the 2011 Manhattan Beach Open (MBO) to be Held in September of 2011

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

The following individual spoken on this item:

- **Hans Stolfus, Professional Beach Volleyball Association**
- **Steve Lindecke, Elevation Group Representative**
- **Matt Fuerbringer, Professional Beach Volleyball Association Boardmember**
- **Gerry O’Conner, No Address Provided**
- **Dave Behar, ION Network**
- **Dave Williams, USA Volleyball Director**
- **James Leitz, Sr. Vice President of IMG Action Sports**
- **Viet Ngo, No Address Provided**

Council directed staff to continue discussions with all organizations interested in working with the City to co-sponsor the 2011 Manhattan Beach Open and return to Council after the Manhattan Beach Open Sub-Committee meets.

12/21/10-5. Consideration of Cancellation of Existing Janitorial Services Contract and Re-Award of Three-Year Contract to Able Building Maintenance (Estimated Annual Value of \$190,269)

Councilmember Cohen explained that, because this item deals with a major service and it involves a large amount of money, she pulled this item in order to get a better sense of why the current janitorial services contract should be cancelled.

Public Works Director Jim Arndt responded to Council’s questions.

The following individuals spoken on this item:

- **Jason Stapleton, Representing Universal Building Maintenance**
- **Viet Ngo, No Address Provided**

MOTION: Councilmember Ward moved to approve cancelling the remaining portion of the City’s contact with Universal Building Maintenance. 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.

MOTION: Councilmember Ward moved to approve the award of a new one-year janitorial services contract, with an option for two additional years, to Able Building Maintenance with an estimated annual value of \$190,269; and approve a supplemental appropriation of \$5,343 from the available Unreserved General Fund and \$10,456 from the Building Maintenance Fund balance. 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.

12/21/10-8. Consideration of Amendment to the HF&H Consultants, LLC Contract Not-to-Exceed \$16,000 and Allocation of These Funds from the Refuse Fund Reserve

Councilmember Cohen pulled this item out of concern for the price and other details regarding the proposed contract with HF&H Consultants.

Mayor Pro Tem Tell, Mayor Montgomery and Public Works Director Jim Arndt responded to questions.

The following individual spoken on this item:

- **Viet Ngo, No Address Provided**

MOTION: Mayor Pro Tem Tell moved to approve an amendment to the HF&H Consultants contract authorizing additional funds not-to-exceed the cost of developing two additional final contracts at \$5,500 each plus a contingency of \$2,500 and appropriate \$13,500 from the Refuse Fund reserve for HF&H's services. 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.

CITY MANAGER REPORT(S)

12/21/10-24. Interim City Manager Thompson Gives Thanks

Interim City Manager Thompson thanked the Council, Department Heads and City staff members for their help in making this past year a successful one.

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

12/21/10-25. Mayor Montgomery Re City Centennial

Mayor Montgomery commented on the new Centennial banner behind the dais and the cookies with the Centennial logo on them and encouraged the public to attend the Centennial meetings.

12/21/10-26. Councilmember Cohen Re Birthday

Councilmember Cohen announced that Mayor Montgomery will celebrate a birthday in two days and wished him well.

ADJOURNMENT

At 11:55 p.m. the Regular City Council meeting of December 21, 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, January 18, 2011, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

Ariana Kennedy
Recording Secretary

Richard Montgomery
Mayor

ATTEST:

Liza Tamura
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
ADJOURNED REGULAR MEETING
DECEMBER 21, 2010**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 21st day of December, 2010, at the hour of 6:02 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).

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Vasquez v. City of Manhattan Beach (Workers' Compensation)

RECESS INTO CLOSED SESSION

The Council recessed into Closed Session at 6:02 p.m.

RECESS INTO OPEN SESSION

The Council reconvened into Open Session at 6:27 p.m.

ADJOURNMENT

The meeting was duly adjourned at 6:27 p.m.

Nick Tell
Recording Secretary

Richard Montgomery
Mayor

ATTEST:

Liza Tamura
City Clerk