

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
ADJOURNED REGULAR MEETING
MARCH 15, 2011**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 15th day of March, 2011, at the hour of 4:36 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.

CALL TO ORDER

Mayor Richard Montgomery called the meeting to order.

ROLL CALL

Present: Powell, Cohen, Ward, Tell and Mayor Montgomery.
Present: City Manager Carmany, City Clerk Tamura and
Counsel Christi Hogin of Jenkins & Hogin, LLP
Absent: None.
Clerk: Tamura (4:36 p.m.)
Tell (4:36 p.m. – 6:22 p.m.).
Tamura (6:22 p.m.).

PUBLIC COMMENT ON CLOSED SESSION AGENDA

Ed Caprielian, No Address Provided, spoke regarding the McKee case and encouraged Council to consider a settlement.

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

Christi Hogin announced the following items to be discussed in closed session:

1. **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

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

2. **CONFERENCE WITH LEGAL COUNSEL – Existing Litigation**
Government Code § 54956.9(a)

McKee v. City of Manhattan Beach, et al.,
Los Angeles County Superior Court Case No. BS126038

3. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Government Code § 54957

Title: City Attorney

4. CONFERENCE WITH LABOR NEGOTIATOR
Government Code § 54957.6

Agency Negotiator: David N. Carmany, City Manager

Employee Groups: Manhattan Beach Firefighters' Association;
Manhattan Beach Police Officers' Association;
Management Confidential; and
Teamsters

Unrepresented Employee: City Attorney

4. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

5. PUBLIC EMPLOYMENT
Government Code § 54957

Title: City Attorney

6. CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
Government Code § 54956.9(a)

Vasquez v. City of Manhattan Beach, et al.,
Workers Compensation Appeals Board Case No. ADJ3674889

RECESS INTO CLOSED SESSION

The Council recessed into Closed Session at 4:39 p.m.

RECESS INTO OPEN SESSION

The Council reconvened into Open Session at 6:22 p.m.

An announcement in open session was made during the beginning of the Tuesday, March 15, 2011 Regular City Council meeting.

ADJOURNMENT

At 6:22 p.m. the meeting was duly adjourned to the 6:30 p.m. Regular City Council Meeting on Tuesday, March 15, 2011, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

Liza Tamura
Recording Secretary

ATTEST:

Richard Montgomery
Mayor

Liza Tamura
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING
MARCH 15, 2011**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 15th day of March, 2011, at the hour of 6:28 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.cityymb.info.

PLEDGE TO FLAG

Caroline Zisette, 5th Grade, Pacific Elementary School led the pledge of allegiance.

CLOSED SESSION ANNOUNCEMENT

Counsel Christie Hogin reported that, in tonight's Closed Session, the item regarding Anticipated Litigation was inadvertently added to the Closed Session agenda and that there was no such litigation.

In regard to Item No. 7, *Vasquez v. City of Manhattan Beach*, she reported that the City took no reportable action and explained that the City's insurer is not giving it consent to settle and had chosen to exhaust its current remedy.

Counsel Hogin relayed that the Council took reportable action on the *McKee v. City of Manhattan Beach* and voted unanimously to approve a settlement with the McKee plaintiff involving the following terms: \$70,000 will be paid to the plaintiff's attorneys; a statement will be released explaining how the litigation got started and how the City unintentionally violated the Brown Act when it began to meet over a litigation issue and over the course of that discussion it involved discussions of personnel; the City will conduct training on the Brown Act as well as Public Records Act; the City Manager will be asked to put together a protocol for dealing with public record requests; and that Council will look into the per page cost of public records requests. Counsel Hogin remarked that the plaintiff believes that the City is taking constructive steps towards compliance and putting this controversial issue behind us. She added that there were no other reportable actions taken on any other items on the Closed Session agenda.

ROLL CALL

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

CEREMONIAL CALENDAR

REORGANIZATION

03/15/11-1. a) Recite the Facts and Declare the Results of the March 8, 2011 General Municipal Election

Mayor Montgomery introduced the subject item and called for Audience Participation.

The following individuals spoke on this item:

- **Viet Ngo, No Address Provided**
- **David Wachtfogel, No Address Provided**
- **Ed Caprelian, No Address Provided**
- **Bill Victor, No Address Provided**
- **Gerry O'Connor, No Address Provided**
- **Janet Schmur, Masonic Lodge**

MOTION: Councilmember Powell moved to adopt Resolution No. 6299 declaring the results of the March 8, 2011 General Municipal Election. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote:

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

b) Approve Minutes of the City Council Adjourned Regular and Regular Meeting of March 1, 2011

MOTION: Councilmember Ward moved to approve the subject minutes as amended directing staff to add the City Council's comments as it pertained to the justification of their vote. 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.
Absent: None.
Abstain: None.

c) Approve Minutes of the City Council Special Closed Session Meeting of March 4, 2011

City Manager Carmany explained that City Clerk Tamura was completing the canvass of the March 8, 2011 General Municipal Election so was unable to complete the minutes.

Mayor Montgomery continued the minutes to the April 5, 2011 City Council meeting.

Hearing no objections, it was so ordered.

d) Approve Minutes of the City Council Special Closed Session Meeting of March 11, 2011

City Manager Carmany explained that City Clerk Tamura was completing follow up of the March 8, 2011 General Municipal Election so was unable to complete the minutes.

Mayor Montgomery continued the minutes to the April 5, 2011 City Council meeting.

Hearing no objections, it was so ordered.

e) Recognition of Outgoing Councilmember Mitch Ward and Councilmember Portia Cohen

The Council and other elected officials and dignitaries from neighboring cities and governmental agencies recognized outgoing Councilmembers Cohen and Ward with various mementos in appreciation of their service to Manhattan Beach, which was followed by their comments.

f) Administer Oath of Office to Newly Elected Councilmember David Lesser and Councilmember Amy Howorth

The Honorable Judge William Fahey administered the Oath of Office to newly elected Councilmembers David Lesser and Amy Howorth which was followed by their comments.

g) Ratification of New Council Assignments

Mayor Montgomery introduced the subject item and explained that the following changes were made: for the South Bay Cities Council of Governments, Councilmember Howorth will be the Delegate and Councilmember Powell will be the Alternate; Councilmember Howorth will be the City Council liaison to Mira Cost High School and Councilmember Lesser will be liaison to Meadows Elementary School.

MOTION: Councilmember Powell moved to ratify the Council Assignment list as amended. The motion was seconded by Councilmember Howorth and passed by the following unanimous roll call vote:

Ayes: Powell, Lesser, Howorth, Tell and Mayor Montgomery.
Noes: None.
Absent: None.
Abstain: None.

RECESS AND RECONVENE

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

CONSENT CALENDAR

The Consent Calendar (Item Nos. 2 through 14), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Powell, seconded by Councilmember Howorth and passed by unanimous roll call vote, with the exception of Item Nos. 2, 6, 7 and 12 which were considered later in the meeting under “*Items Removed from the Consent Calendar.*”

Ayes: Powell, Lesser, Howorth, Tell and Mayor Montgomery.
Noes: None.
Absent: None.
Abstain: None.

GENERAL CONSENT

03/15/11-2. Consideration of Financial Report: Ratification of Demands: March 3, 2011

Item No. 2 was pulled from the “CONSENT CALENDAR”. Please refer to “ITEMS REMOVED FROM THE CONSENT CALENDAR.”

03/15/11-3. Declare Vacancy: Planning Commission, Seat No. 5 (Lesser)

The Council declared vacant Planning Commission, Seat No. 5 (Lesser).

03/15/11-4. Consideration of a Resolution to Approve the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (LA IMPACT) Joint Powers Agreement and Authorize the City Manager to Execute the Joint Powers Agreement

The Council adopted Resolution No. 6300 approving the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (LA IMPACT) Joint Powers Agreement and approved authorizing the City Manager to execute the Joint Powers Agreement.

03/15/11-5. Consideration to Authorize the City Manager to Award a Contract for an Administrative Police Lieutenant Under the Guidelines Set Forth by CalPERS for Employment After Retirement for an Amount Not-to-Exceed \$30,000 Until Such Time that Police Staffing Allows for Operations to Revert Back to Normal Due to Unexpected Injuries, Vacancies and Personnel Actions

The Council approved authorizing the City Manager to approve the subject contract.

03/15/11-6. Consideration of New Residential and Commercial Refuse Rates, Initiate Proposition 218 Process and Adopt a Resolution to Set the Public Hearing for May 3, 2011

Item No. 6 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

03/15/11-7. Consideration of Housing Element Annual Progress Report as Required by the State of California Housing and Community Development Department

Item No. 7 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

03/15/11-8. Consideration to Approve Progress Payment No. 5 in the Net Amount of \$62,145 to T.E. Roberts Inc. for the 2010-2011 Water Main Replacement/Installation Project

The Council received and filed the subject progress payment.

BOARDS AND COMMISSIONS

Cultural Arts Commission

03/15/11-9. Consideration of Minutes, Cultural Arts Commission Meeting of February 8, 2011

The Council received and filed the subject draft minutes.

03/15/11-10. Consideration of Minutes, Cultural Arts Commission Special Meeting of February 22, 2011

The Council received and filed the subject draft minutes.

Planning Commission

03/15/11-11. Consideration of Action Minutes, Planning Commission Meeting of March 9, 2011

The Council received and filed the subject action minutes.

COMMITTEES

Centennial Committee

03/15/11-12. Consideration of Draft Minutes, Centennial Committee Meeting of January 24, 2011 Meeting

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

Environmental Task Force

03/15/11-13. Consideration of Draft Minutes, Environmental Task Force Meeting of January 20, 2011

The Council received and filed the subject draft minutes.

03/15/11-14. Consideration of Draft Minutes, Environmental Task Force Meeting of February 17, 2011

The Council received and filed the subject draft minutes.

COMMUNITY ANNOUNCEMENTS

03/15/11-16. James Gill Re Leadership Manhattan Beach

Leadership Manhattan Beach President, James Gill, congratulated Councilmembers Lesser and Howorth on their elections; informed the community that there will be an informational meeting about Leadership Manhattan Beach in the City Council Chambers on March 22, 2011; and encouraged those interested to visit www.leadershipmb.org.

03/15/11-17. Mitch Ward Re Youth Recognition Award

Mitch Ward, No Address Provided, announced that the Manhattan Beach Youth Recognition Award applications are due Monday, March 21, 2011 and that more information can be found by visiting the City's website at www.citymb.info or by e-mail at mitchward@mitchward.net.

03/15/11-18. Don Gould Re Upcoming Library Events and Congratulations to Newly Elected Councilmembers Lesser and Howorth

Los Angeles County Librarian Don Gould shared information about upcoming events at the Manhattan Beach Library and congratulated Councilmembers Lesser and Howorth on their election.

03/15/11-19. Fire Engineer/Paramedic Steve Fairbrother Re Welcome

Fire Engineer/Paramedic Steve Fairbrother, on behalf of the Fire Department, welcomed newly elected Councilmembers Lesser and Howorth; offered coffee and a ride along; and thanked former Councilmembers Cohen and Ward for their service.

03/15/11-20. Viet Ngo Re Court Case

Viet Ngo, No Address Provided, spoke about anti-corruption, anti-theft and invited the community to attend the McKee court case on March 22, 2011 at 111 North Hughes Street in downtown Los Angeles.

03/15/11-21. Bill Victor Re Japan

Bill Victor, No Address Provided, suggested that everyone take a moment to pray for the victims of the Japan earthquake, tsunami, and nuclear disaster.

03/15/11-22. Councilmember Powell Re Coordinating Council

Councilmember Powell announced that the March Coordinating Council meeting will take place on Thursday, March 17, 2011 at Verandas and that the distinguished guest speaker will be **Superintendent Dr. Mike Mathews**.

03/15/11-23. Councilmember Powell Re Community Emergency Response Team (CERT)

Councilmember Powell shared that the Manhattan Beach Community Emergency Response Team participated in the Redondo Beach/King Harbor cleanup of the dead fish and suggested that everyone invest in three emergency kits: one for your home; one for the car; and one for your place of work.

03/15/11-24. Councilmember Powell Re Election

Councilmember Powell stated he is a champion of first amendment rights and corrected **Mr. Ngo's** allegation of election fraud stating that the ballot counting took place at the Joslyn Center, witnessed by the public and media, and congratulated City Clerk Tamura's excellent work.

03/15/11-25. Councilmember Howorth Re Mira Costa High School Model United Nations

Councilmember Howorth announced that Mira Costa's Model United Nations team spent a week in New York City debating at the United Nations building and placed first. Councilmember Howorth also announced her son is on the team.

03/11/11-26. Councilmember Howorth Re Mira Costa High School Pride Day

Councilmember Howorth invited the community to participate in Mira Costa High School Pride Day on Saturday, March 19, 2011 from 8:30 a.m. to 9:30 a.m.

03/15/11-27. Councilmember Howorth Re Japan Earthquake

Councilmember Howorth informed the community that the Daily Breeze had an excellent section on how to help the victims in Japan.

03/15/11-28. Mayor Montgomery Re Home Energy Makeover

Mayor Montgomery announced the Energy Upgrade California's Home Energy Makeover contest and suggested that anyone interested should contact Environmental Programs Manager Sona Kalapura.

AUDIENCE PARTICIPATION

03/15/11-29. Evelyn Frye Re Mobi Mats

Evelyn Frye, No Address Provided, thanked City Council, former Councilmembers Cohen and Ward and the Miller Foundation for their support of a pathway to the water.

03/15/11-30. Ed Caprielian Re Congratulations

Ed Caprielian, No Address Provided, congratulated newly elected Councilmembers Lesser and Howorth; expressed an appreciation to City Manager David Carmany; and gave him a copy of the International City/County Management Association report on e-government.

03/15/11-31. Viet Ngo Re Congratulations

Viet Ngo, No Address Provided, stated that he is a member of the Equal Justice for All Task Force and asked Councilmembers Howorth and Lesser to: recoup all money lost to Jonathan Tolkin and Mike Zislis; not to take more than \$500 a month in salary; and not to take money to which they are not entitled.

PUBLIC HEARINGS

None.

GENERAL BUSINESS

03/15/11-15. Presentation of "Reach Manhattan Beach" Government Outreach (GoReach) Mobile Application Which Allows Constituents to Submit Service Requests and Report Issues from Smartphones

Information Services Manager Leilani Emnace introduced the subject item and provided a PowerPoint presentation.

The following individuals spoke on this item:

- **Bill Victor, No Address Provided**

Mayor Montgomery moved to receive and file the presentation.

Hearing no objection, it was so ordered.

ITEMS REMOVED FROM THE CONSENT CALENDAR

03/15/11-2. Consideration of Financial Report: Ratification of Demands: March 3, 2011

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

The following individuals spoke on this item:

- **Viet Ngo, No Address Provided**

Finance Director Moe responded to Council's questions.

MOTION: Councilmember Howorth moved to approve with no exception Warrant Register No. 19B in the amount of \$2,101,417.71 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. The motion was seconded by Councilmember Lesser and passed by the following unanimous roll call vote:

Ayes: Powell, Lesser, Howorth, Tell and Mayor Montgomery.
Noes: None.
Absent: None.
Abstain: None.

03/15/11-6. Consideration of New Residential and Commercial Refuse Rates, Initiate Proposition 218 Process and Adopt a Resolution to Set the Public Hearing for May 3, 2011

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

The following individuals spoke on this item:

- **Viet Ngo, No Address Provided**
- **Esther Besbris, No Address Provided**
- **Bill Victor, No Address Provided**
- **Phil Reimbert, No Address Provided**
- **Dave Wachtfogel, No Address Provided**
- **Gerry O'Connor, No Address Provided**

City Manager David Carmany, Finance Director Bruce Moe, Public Works Director Jim Arndt and Public Works Management Analyst Anna Luke responded to Council's questions.

MOTION: Mayor Pro Tem Tell moved to approve the new residential and commercial refuse user rates; initiate the Proposition 218 voter process; adopt Resolution No. 6301; and set the Proposition 218 Public Hearing for May 3, 2011.

Hearing no second, the discussion continued with Councilmember Powell requesting discussion regarding the efficiency audit. After discussing the pros and cons of conducting an efficiency audit within the next 90 days, Mayor Pro Tem Tell amended his motion as follows:

MOTION: Mayor Pro Tem Tell moved to approve the new residential and commercial refuse user rates; initiate the Proposition 218 voter process; adopt Resolution No. 6301; set the Proposition 218 Public Hearing for May 3, 2011; and directed staff to conduct an efficiency audit within the next six months. The motion was seconded by Councilmember Howorth and passed by the following unanimous roll call vote:

Ayes: Powell, Lesser, Howorth, Tell and Mayor Montgomery.
Noes: None.
Absent: None.
Abstain: None.

03/15/11-7. Consideration of Housing Element Annual Progress Report as Required by the State of California Housing and Community Development Department

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

The following individuals spoke on this item:

- **Viet Ngo, No Address Provided**

Mayor Montgomery, Councilmember Lesser and Councilmember Powell briefly discussed the Housing Element.

Councilmember Lesser further detailed what the City is required to do to comply with the Housing Element.

Mayor Montgomery moved to receive and file the subject report.

Hearing no objection, it was so ordered.

Centennial Committee

03/15/11-12. Consideration of Draft Minutes, Centennial Committee Meeting of January 24, 2011 Meeting

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

The following individuals spoke on this item:

- **Ed Caprelian,**
- **Viet Ngo, No Address Provided**

In response to Councilmember Lesser's question regarding upcoming reports from the Centennial Committee, Mayor Montgomery and Mayor Pro Tem Tell explained that once the budget and fundraising goals are defined, it will be brought back to Council.

Mayor Montgomery moved to receive and file the subject minutes.

Hearing no objection, it was so ordered.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

03/15/11-32. Councilmember Powell Re Congratulations

Councilmember Powell congratulated Councilmembers Howorth and Lesser stating he believes that this Council will accomplish great things.

03/15/11-33. Councilmember Lesser Re Privilege

Councilmember Lesser responded that it is a privilege to serve on this Council.

03/15/11-34. Mayor Montgomery Re Parks & Recreation Commission

Mayor Montgomery stated that Recreation Services Manager Idris Al-Oboudi and Parks and Recreation Commissioner Steven Nicholson won awards at a recent California Parks and Recreation event. He also announced that he swore in Deirdre Murray as President of the California Parks and Recreation Commission.

03/15/11-35. Mayor Montgomery Re Conference

Mayor Montgomery reported that he attended the National League of Cities Conference in Washington D.C. where two Californians were appointed to the National Board. He added that Senator Feinstein stated that she would not be signing any additional bills, but will sign letters of support for cities and that cities should go to the Department of Transportation for funding.

ADJOURNMENT – in support and memory of the people of Japan.

At 10:20 p.m. the Regular City Council meeting of March 15, 2011, 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, April 5, 2011, 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