



Agenda Item #:



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH:  David N. Carmany, City Manager

FROM: Christi Hogin, Special Counsel 

DATE: August 2, 2011

SUBJECT: Adoption of Ordinance No. 2149 or Ordinance No. 2150 to Amend or Repeal Municipal Code Section 2.01.010 Regulating Where City Council Meetings May be Held

RECOMMENDATION:

1) Staff recommends that the City Council conduct the public hearing, waive further reading, and introduce Ordinance No. 2149 (Attachment 1) amending Manhattan Beach Municipal Code Section 2.01.010 to require that all *regular* meetings of City Council must be held in the Council Chamber of City Hall.

Or, alternatively: 1) Staff recommends that the City Council conduct the public hearing, waive further reading, and introduce Ordinance No. 2150 (Attachment 2) deleting Manhattan Beach Municipal Code Section 2.01.010 in its entirety, thereby permitting the City Council to hold its meetings at any location it deems appropriate.

FISCAL IMPLICATION:

None anticipated.

DISCUSSION:

The City Council adopted Ordinance No. 1429 on September 18, 1975, establishing Municipal Code Section 2.01.010, requiring that "All meetings of the Council shall be held in the Council Chamber in the City Hall Building located at 1400 Highland Avenue, within the corporate limits of the City." This provision seems unduly restrictive. After the completion of the new police and fire station, the City Council has found it desirable to conduct certain meetings in that less formal setting. In addition, the Municipal Code provision would prevent the City Council from holding any meetings in other venues within the City, should convenience or necessity otherwise warrant the change of venue. The City is required by state law to post notices of its meetings, which include the time, date and location of meetings. The City Council may not change the location of a meeting without giving advance notice. State law prohibits the City Council from meeting outside the City limits, except under narrow circumstances.

Resolution No. 6203 establishes the City Council's regular meeting days as the first and third Tuesdays of each month beginning at 6:30 p.m. and provides for alternate days for when the regular meeting date falls on a holiday. The resolution also provides that regular meetings shall be held in City Hall "unless otherwise ordered by the City Council." The ordinance proposed by this agenda item would not change the provisions of Resolution No. 6203.

Staff has prepared two alternative ordinances that would provide City Council with greater flexibility to hold meetings in locations that it determines is best suited for the purpose of the meeting, the use of City resources or the convenience of the public. The first alternative, Ordinance No. 2149 (Attachment 1), would amend Manhattan Beach Municipal Code Section 2.01.010 by specifying that all *regular* meetings of City Council must be held in the Council Chamber of City Hall. This amendment would require that all regularly scheduled meetings of City Council (currently scheduled for the first and third Tuesdays of every month) must be held in the Council Chamber but would permit the City Council to schedule any other meetings at a location determined by City Council.

The second alternative, Ordinance No. 2150 (Attachment 2), would delete Manhattan Beach Municipal Code Section 2.01.010 in its entirety, thereby eliminating the requirement that City Council meetings be held in the Council Chamber at City Hall. If this option were adopted, City Council would have the discretion to choose a location for its meetings that is most convenient for the public and best suited for the meeting agenda, provided that the meetings complied with all notice and other Brown Act requirements.

ENVIRONMENTAL DETERMINATION:

This ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it consists of normal operations of existing facilities for public gatherings and consists only of minor revisions and clarifications to existing regulations and specification of procedures related thereto. This ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is categorically exempt from further CEQA review under Cal. Code Regs. Title 14, § 15305 and 15323. The proposed amendment is also exempt in that it is covered by the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment, and since it can be seen with certainty that there is no possibility that the amendment will have a significant effect on the environment, the amendment is not subject to CEQA.

CONCLUSION:

Staff recommends that City Council adopt either Ordinance No. 2149 or Ordinance No. 2150 to provide City Council greater flexibility to determine where its meetings should be held to maximize convenience for City Councilmembers and the general public.

EXHIBITS:

1. Draft Ordinance No. 2149
2. Draft Ordinance No. 2150
3. Resolution No. 6203

ATTACHMENT 1

ORDINANCE NO. 2149

AN ORDINANCE AMENDING MANHATTAN BEACH MUNICIPAL
CODE SECTION 2.01.010 REGULATING THE PLACE OF CITY
COUNCIL MEETINGS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES ORDAIN AS
FOLLOWS:

SECTION 1. Municipal Code Section 2.01.010 is hereby amended in its entirety to read
as follows:

"2.01.010 – Place of Meetings

All regular meetings of the City Council shall be held in the Council Chamber in the City Hall Building located at 1400 Highland Avenue, within the corporate limits of the City, unless adjourned to another location."

SECTION 2. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 4. This ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 5. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published by one insertion in *The Beach Reporter*, the official newspaper of the City and a weekly newspaper of general circulation, published and circulated within the City of Manhattan Beach hereby designated for that purpose.

PASSED, APPROVED, and ADOPTED this 6th day of September, 2011.

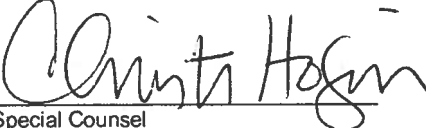
Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:



Special Counsel

ATTACHMENT 2

ORDINANCE NO. 2150

AN ORDINANCE REPEALING MANHATTAN BEACH MUNICIPAL
CODE SECTION 2.01.010 REGULATING THE PLACE OF CITY
COUNCIL MEETINGS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES ORDAIN AS
FOLLOWS:

SECTION 1. Municipal Code Section 2.01.010 is hereby repealed in its entirety.

SECTION 2. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

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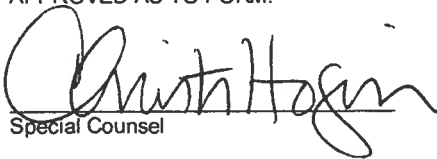
Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:



Special Counsel

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RESOLUTION NO. 6203

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, RESCINDING RESOLUTION NO. 5183 AND ADOPTING RULES OF ORDER FOR THE CONDUCT OF CITY COUNCIL MEETINGS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Resolution No. 5183 is hereby rescinded.

SECTION 2. MEETING TIMES

The regular meetings of the City Council of the City of Manhattan Beach shall be on the first and third Tuesday of each month beginning at the hour of 6:30 p.m. Whenever the day and the time for holding any of the meetings falls on a holiday, the meeting shall be held on the next business day unless otherwise ordered by the Council at a prior meeting. The sessions shall be held in the City Council Chambers at City Hall in the City of Manhattan Beach unless otherwise ordered by the City Council.

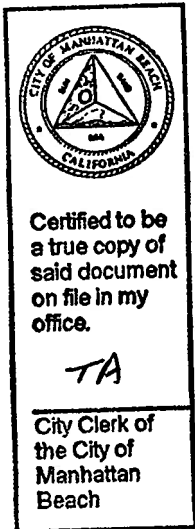
Per Resolution No. 6132, the City Council shall adjourn each regular meeting thereof by 10:30 p.m. unless four-fifths (4/5) of the Councilmembers present vote to waive or extend the required adjournment time. Any item of business commenced prior to 10:30 p.m. may be completed without the necessity of a four-fifths (4/5) vote to waive or extend the adjournment time. Upon adjournment, those Public Hearing and General Business agenda items not completed shall be continued to the next regular City Council meeting, or to such other time set by the Council prior to adjournment.

SECTION 3. AGENDA

- A. A written agenda shall be prepared for each regular and adjourned regular meeting of the Council.
- B. The agenda must contain a brief general description of each item of business to be transacted or discussed at that meeting.
- C. Each agenda shall contain a clear statement of the time and location of the meetings as well as a statement that reports and documents relating to each agenda item (Agenda Packet) are on file in the office of the City Clerk and are available for public inspection and copying as of 8:00 a.m. on Monday prior to the Council meetings.

The Agenda Packet is also available for public inspection as of 5:00 p.m. on Friday prior to regular Council meetings at the main library and the Police Department.

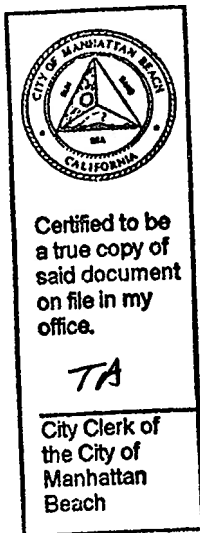
- D. The agenda shall be posted not less that 72 hours in advance of the regular or adjourned regular meeting to which it relates.
- E. The agenda shall be posted on bulletin boards outside each entrance to the City Hall, in locations which are freely accessible to the public. The agenda is also posted on a bulletin board inside the main library. The agendas and agenda packets may also be provided via other electronic means, as approved by Council. The person posting the agenda shall complete and sign a certificate of posting.
- F. In addition to other notice requirements, the call and notice of a special meeting shall be posted at the locations specified in subparagraph E. Where feasible, an agenda shall be prepared for the special meeting in accordance with the procedures described in this paragraph.
- G. Emergency meetings pursuant to Government Code Section 54956.5 and other applicable law can be held without complying with the agenda requirements of this paragraph.



- H. The Council shall not take any action on any item which does not appear on the posted agenda except as follows in accordance with Government Code Section 54956.5:
1. Emergency Situation. An emergency situation is defined as a work stoppage or other activity which severely impairs public health, safety or both, or a crippling disaster which severely impairs public health, safety, or both. Before proceeding to act upon an emergency item not appearing on the agenda, the Council shall by a majority vote determine that an emergency situation exists and that prompt action is required by the Council. The Council shall include in the minutes of its meeting the facts upon which it relied in finding the existence of an emergency situation.
 2. "Subsequent Need" Items. The Council may act upon an item not appearing on the agenda if it finds, by a two-thirds vote or by an unanimous vote if less than two-thirds but more than a quorum of its member are present, that the need to take action on the non-agenda item is required because the need to act arose after the posting of the agenda. If such a determination is to be made, a statement of facts upon which the determination is based shall be included in the minutes supporting the action taken.
 3. Held Over Items. Items not appearing on the posted agenda may be acted upon at a meeting if:
 - a. The item appeared on a properly posted agenda for a previous meeting; and
 - b. The previous meeting occurred not more than five calendar days prior to the date of the meeting at which the item is proposed to be considered; and
 - c. The item was continued from the previous meeting to the meeting at which action is proposed to be taken.
- I. Any member of Council may place an item on the agenda to be considered under "Other Council Business, Committee and Travel Reports," or wherever deemed appropriate.

SECTION 4. PUBLIC PARTICIPATION

- A. ITEMS TO BE PLACED ON AGENDA
1. Persons desiring to place items on the Agenda shall submit a request, in writing, to the City Manager stating the nature of business and as much detail as possible.
 2. The City Manager will determine if the request is appropriate as a Council agenda matter or if some other form of response should be made by the City to the request.
- B. PUBLIC HEARINGS
1. After the City Clerk establishes the procedural fact of the notice of hearing and informs whether further correspondence has been received, staff shall present its report on the matter. The application, if one exists for the matter, shall then be permitted to make its presentation to the Council.
 2. Members of the public shall then be permitted to speak on the matter.
 3. Each person speaking will be requested to give his or her name and address of residence or street mailing address, in writing, for the record.
 4. Each person speaking, other than the applicant, shall be limited to three (3) minutes unless the Council permits a longer period.
 5. Applicant shall be given an opportunity for rebuttal following public comment.
 6. The Mayor, with the consent of the Council, may establish a maximum period of time for public testimony during the hearing.



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- 7. Mayor may ascertain if there are many persons for or against the matter, and if so, to request that they appoint a spokesperson.
- 8. There will be not public input once the Council starts deliberation on the matter before them unless Council request additional information from either Staff or the public.
- 9. The Council shall close the public hearing by motion.
- 10. The Council may, by motion, continue the public hearing to a specific date and time. Such motion may be made either before or after the close of the public hearing and, if made after the close of the public hearing shall automatically rescind the motion closing the public hearing.

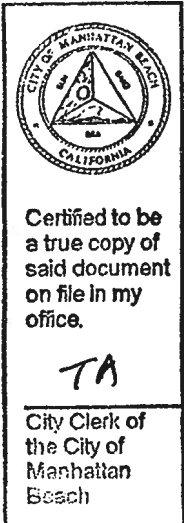
C. PUBLIC PARTICIPATION

- 1. Provision is made on the Council agenda for two opportunities for citizen comments. These comment areas are generally for items that are not on the City Council agenda. The first audience participation, "Community Announcements," is early on the agenda to provide for brief announcements or comments, not-to-exceed one minute in duration for any speaker.
- 2. The second audience participation opportunity shall take place immediately following "Community Announcements" titled "Audience Participation". Each speaker shall be limited to three (3) minutes, unless the time is extended by the Mayor with the consent of the Council.
- 3. During the "Audience Participation" portion of the meeting citizens may address the City Council on any items pertaining to the subject matter jurisdiction of the City. A determination of whether an item is appropriate for discussion shall be made by the mayor with the consent of the Council.
- 4. The "Audience Participation" portion of the meeting shall be limited to a period not-to-exceed fifteen (15) minutes unless this time is extended by the Mayor with the consent of the Council.
- 5. During the "Audience Participation" portion of the meeting, and at the discretion of the Mayor, priority will be given to those citizens that have not spoken at a recent City Council meeting.

SECTION 5. ORDER OF BUSINESS

A. The business of the City Council shall be considered in substantially the following order, except as may be otherwise ordered by the Mayor or Council:

- 1. Pledge to the Flag
- 2. Roll Call
- 3. Ceremonial
- 4. Consent Calendar
- 5. Community Announcements
- 6. Audience Participation
- 7. Public Hearings
- 8. General Business
- 9. Items Removed From The Consent Calendar
- 10. City Manager Report(s)
- 11. Other Council Business, Committee And Travel Reports
- 12. Adjournment



SECTION 6. CONSENT CALENDAR DEFINED

- A. Those items on the City Council Agenda which are considered routine by the City Manager shall appear as a separate section on the Agenda and shall include, but not be limited to, the following items:
1. Approval of Minutes
 2. Approval of Minute Actions
 3. Acceptance of Grand Deeds/Grants of Easement
 4. Notices of Completion for Projects
 5. City Treasurer's Report
 6. Approval of Plans and Specifications and Call for Bids
 7. Bid Awards
 8. Approval of Records Destruction
 9. Approval of Leases and Agreements
 10. Approval of Annexations
 11. Receive and File or Refer Correspondence
 12. Approval or Receive and File Commission or Board Resolutions or Actions
 13. Appointments/Resignations/Personnel Actions
 14. Claims Against the City
 15. Resolutions of Intent or Calling of Hearings
 16. Approval of Demands

- B. Those items so approved under the heading "CONSENT CALENDAR" shall be enacted with one vote. The Mayor will first ask the staff, public and the Councilmembers if there is anyone who wishes to speak in relation to the Recommended Council Action of any matter on the Consent Calendar. The matters removed from the Consent Calendar will be considered individually at the portion of the Agenda under "ITEMS REMOVED FROM THE CONSENT CALENDAR." The audience may comment on any Council, staff or audience pulled consent item. The entire Consent Calendar with the exception of those specially called, is then voted upon by roll call under one motion.

SECTION 7. RECORDING OF COUNCIL VOTES

When deemed appropriate, and as required by State Law, the votes taken by Council shall be recorded by use of an oral roll call vote by the City Clerk, or other staff person as appointed by City Council.

SECTION 8. SPEAKER TIME LIMITS

When deemed appropriate, the City Clerk, or other staff person as appointed by the City Council, shall keep track of the time limits for audience or Council comments by use of an electronic device.

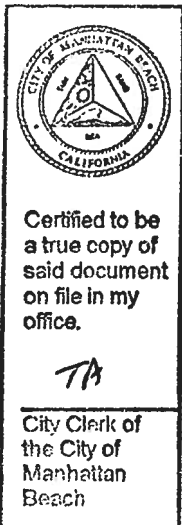
SECTION 9. COUNCIL AUTHORITY

The Council shall have the authority to waive provisions of the procedures established by this Resolution unless the procedure is required by law. Failure of the Council to follow the procedures established by this Resolution shall not invalidate or otherwise affect any action of the Council.

SECTION 10. This Resolution shall take effect immediately.

SECTION 11. The City Clerk shall make this Resolution reasonably available for public inspection within thirty (30) days of the date this Resolution is adopted.

SECTION 12. The City Clerk shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.



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PASSED, APPROVED AND ADOPTED this 7th day of July, 2009.

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

/s/ Portia Cohen
Mayor, City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura
City Clerk

	<p>Certified to be a true copy of the original of said document on file in my office.</p>
<p><i>Deputy</i></p>	<p> _____ City Clerk of the City of Manhattan Beach, California</p>