

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING
SEPTEMBER 6, 2011**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 6th day of September, 2011, at the hour of 6:32 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

Police Chief Eve Irvine led the pledge of allegiance.

ROLL CALL

Present: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
Absent: None.
Clerk: Tamura.

CLOSED SESSION ANNOUNCEMENT

City Manager Carmany announced that tonight's Meeting convened at 4:03 p.m. at which time public comment on the Closed Session agenda was invited. There being no persons wishing to address the Council, the Mayor recessed the meeting into a Closed Session, pursuant to Government Code Section 54957, Government Code Section 54597.6 and Government Code Section 54956.95 to discuss the items posted on the Closed Session Agenda.

CEREMONIAL CALENDAR

09/06/11-01a. Presentation of a Baby Passport to Julia and Dustin Beckley

Councilmember Montgomery, on behalf of the Council, presented a baby passport to **Julia** and **Dustin Beckley** in recognition of the birth of their son, Luke.

09/06/11-01b. Presentation of Certificates to the Manhattan Beach Sharks for Their International Division Little League Win and South Bay Tournament of Champions Win

Mayor Tell, on behalf of the Council, presented certificates to the **Manhattan Beach Sharks Baseball Team** in recognition of their International Division Little League Win and South Bay Tournament of Champions Win.

THE FOLLOWING ITEM WAS TAKEN OUT OF ORDER

Prior to the Consent Calendar, Councilmember Montgomery proposed that the Council consider Item No. 17 (*Consideration of a Resolution Appointing Roxanne Diaz as City Attorney and Approve a Legal Services Agreement with Richards, Watson & Gershon for City Attorney Services at the Monthly Rate of \$19,500*) be heard in order that proposed City Attorney Roxanne Diaz be able to express her legal opinions throughout the meeting.

Hearing no objection it was so ordered.

09/06/11-17. Consideration of a Resolution Appointing Roxanne Diaz as City Attorney and Approve a Legal Services Agreement with Richards, Watson & Gershon for City Attorney Services at the Monthly Rate of \$19,500

City Manager Carmany introduced the item and Councilmember Lesser provided the staff presentation explaining the selection process.

Roxanne Diaz introduced herself and her law partner **Larry Wiener**.

The Council welcomed **Ms. Diaz** and **Mr. Wiener** to Manhattan Beach and thanked Special Counsel Christi Hogin for her service to the City.

There were no requests to speak on this item.

MOTION: Councilmember Montgomery moved to adopt Resolution No. 6327 appointing the law firm of Richards, Watson & Gershon (“RWG”) to discharge the duties of the office of City Attorney, with its shareholder Roxanne Diaz serving as City Attorney and its shareholder Larry Wiener serving as Senior Counsel, and approving the proposed Agreement Between the City of Manhattan Beach and Richards, Watson & Gershon, a Professional Corporation, for City Attorney Services (the “RWG Proposed Agreement”). The motion was seconded by Councilmember Lesser and passed by the following unanimous roll call vote:

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

CONSENT CALENDAR

The Consent Calendar (Item Nos. 2 through 15), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Montgomery, seconded by Councilmember Howorth and passed by unanimous roll call vote, with the exception of Item Nos. 2 and 11 which were considered later in the meeting under “*Items Removed from the Consent Calendar*”.

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

GENERAL CONSENT

09/06/11-02. Approve Minutes:

This item contains minutes of City Council meetings which are presented for approval [(a)] and minutes from City Council subcommittees and from other City commissions and committees [(b)-(i)] which are presented to be received and filed by the Council. Staff recommends that the City Council by motion take action to approve the minutes of the:

- a) City Council Meeting (Closed Session) and Regular City Council Meeting of August 2, 2011
- b) Planning Commission Meetings of August 10, 2011
- c) Planning Commission Meetings of August 24, 2011
- d) Draft Parks & Recreation Commission Minutes July 25, 2011
- e) Draft Library Commission Minutes August 8, 2011
- f) Draft Cultural Arts Minutes August 9, 2011
- g) Draft Cultural Arts Special Minutes of July 27, 2011
- h) Draft Centennial Committee Minutes July 25, 2011
- i) Ad Hoc City Attorney Selection Subcommittee July 15, 2011

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

09/06/11-03. Consideration of a Proclamation Establishing a Moment of Remembrance at 1:00 p.m. Eastern Daylight Time on September 11, 2011

The Council received and filed the Proclamation establishing a moment of remembrance at 1:00 p.m. Eastern Daylight Time on September 11, 2011.

09/06/11-04. Adoption of an Ordinance Prohibiting Smoking on the Strand and Veterans Parkway (the Valley Ardmere Greenbelt)

The Council adopted Ordinance No. 2152 amending Chapter 12.12 of the Municipal Code to prohibit smoking on the Strand and along Veterans Parkway (the Valley Ardmere Greenbelt) and establish penalties for violations thereof.

09/06/11-05. Adoption of an Ordinance Amending Municipal Code Section 2.01.010 Regulating Where City Council Meetings May be Held

The Council adopted Ordinance No. 2149 amending the Manhattan Beach Municipal Code Section 2.01.010 to require that all regular meetings of the City Council must be held in the Council Chamber of City Hall unless adjourned to another facility that has reasonable recording and audio capability.

09/06/11-06. Consideration to Approve the Proposed Changes to the South Bay Cities Council of Governments (SBCCOG) Joint Powers Authority (JPA) Agreement and Review Changes Made to the SBCCOG By-Laws by the Board of Directors

The Council approved the proposed changes to the South Bay Cities Council of Governments (SBCCOG) Joint Powers Authority (JPA) agreement and reviewed changes made to the SBCCOG By-laws by the Board of Directors.

09/06/11-07. Consideration of the Grant Funded Purchase and Installation in Various City Facilities of Energy Efficient Low Flow Plumbing Fixtures from Bottomline Utility Solutions in the Amount of \$24,731

The Council approved an award of order for the purchase and installation of toilets, urinals, sink aerators and showerheads from Bottomline Utility Solutions in the amount of \$24,731; waived formal bidding per Municipal Code Section 2.36.150 (cooperative purchasing); appropriated \$11,410 from the unreserved General Fund balance which will be partially reimbursed at a later date by funding from the Metropolitan Water District; and appropriated \$13,321 from the State Pier and Parking Lot Fund.

09/06/11-08. Consideration to Award a One Year Contract Extension to All City Management Services to Provide Crossing Guard Services in an Amount Not-to-Exceed of \$220,000

The Council waived formal bidding per Municipal Code Section 2.36.140 (waivers) and approved the one year contract extension to All City Management Services for crossing guard services with an estimated annual cost of \$220,000.

09/06/11-09. Consideration of Ratification of Motor Fuel Purchase from Merrimac Energy Group in the Amount of \$25,226.22

The Council approved ratified the purchase of fuel from Merrimac Energy Group in the amount of \$25,226.22.

09/06/11-10. Consideration of Financial Reports:

- a) Ratification of Demands: August 4, 2011, August 18, 2011 and September 1, 2011
- b) Investment Portfolio for the Month Ending July 31, 2011
- c) Financial Reports for the Month Ending July 31, 2011

The Council approved with no exception Warrant Register Nos. 4B, 5B, 6B, 30B and 31B in the amount of \$9,300,202.29 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 July 31, 2011; and received and filed the Financial Reports for the month ending July 31, 2011.

09/06/11-11. Consideration to Approve the Fee Waivers for the 2011 Pumpkin Race Event in an Amount Not-to-Exceed \$14,000

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

09/06/11-12. Consideration to Approve the Plans and Specifications for the 2011 Slurry Seal Project and Authorize Staff to Solicit Bids

The Council approved the plans and specifications for the 2011 Slurry Seal Project and authorized staff to solicit bids.

BOARDS AND COMMISSIONS

Planning Commission

09/06/11-13. Consideration of Planning Commission Decision to Approve a Request for a One-Year Time Extension of a Master Use Permit and Associated Applications for 1000-1008 Sepulveda Boulevard – Versailles/Office Condominiums

The Council received and filed the decision of the Planning Commission.

09/06/11-14. Consideration of Planning Commission Approval of a Use Permit to Change the Existing Beer and Wine Sales for Off-Site Consumption (Type 20) License to a Full Alcohol Sales for Off-Site Consumption (Type 21) License at Speedi Mart, Located at 975 North Aviation Boulevard

The City Council received and filed the Planning Commission's approval of a Use Permit and determined that public convenience and necessity would be served by the change in type of the alcohol license.

09/06/11-15. Consideration of Planning Commission Approval of a Use Permit for a Child Day Care Use, Located at 1765 Artesia Boulevard

The Council received and filed the decision of the Planning Commission.

COMMUNITY ANNOUNCEMENTS

09/06/11-18. Jan Dennis Re Walking Tour

Jan Dennis, Cultural Heritage Conservancy Member, announced that the Cultural Heritage Conservancy flyer is now available and passed out the flyers.

09/06/11-19. Jan Dennis Re Centennial Parade Meeting

Jan Dennis, Centennial Parade Organizer, invited interested parties to an informational meeting regarding the Centennial Parade on September 14, 2011, at 7:00 p.m., in the Police/Fire Community Room. For more information please call (310) 372-8520.

09/06/11-20. Richard Zeif Re Continuing Adult Education

Richard Zeif, Senior Advisory Committee Vice Chair, spoke of a continuing education program called MB-U that the Senior Advisory Committee is promoting for older adults and invited Council and the public to participate.

09/06/11-21. Don Gould Re Upcoming Library Events

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

09/06/11-22. Bill Fahey Re AYSO Update

Bill Fahey, AYSO Commissioner, announced that the American Youth Soccer Organization (AYSO) has appointed **Joyce Fahey** and **Eric Karos** to co-chair the fundraising campaign for their "Field of Dreams" plan; that the AYSO will be selling family discount cards shortly; and that there will be a soccer festival on September 24 and 25, 2011 at Marine Park East.

09/06/11-23. Craig Cadwallader Re Coastal Clean-up Day

Craig Cadwallader, Surfrider Foundation Board member, invited all to participate in the International Coastal Clean-up Day from 9:00 a.m. until 12:00 p.m. and directed interested parties to visit www.healthebay.org to get involved.

09/06/11-24. Public Works Director Jim Arndt Re Library Project

Public Works Director Jim Arndt announced that a Community Library Meeting would be held September 13, 2011 in the Police/Fire Conference Room and suggested interested parties check the City website. He added that library information and community meetings will be updated frequently.

09/06/11-25. Councilmember Howorth Re Mayor's Youth Council

Councilmember Howorth announced that the first Mayor's Youth Council meeting was a success and thanked the sponsors, City Council, former Councilmember **Portia Cohen**, and all the participants.

09/06/11-26. Councilmember Montgomery Re Manhattan Beach Open

Councilmember Montgomery thanked everyone who helped make the Manhattan Beach Open a success including: **IMG, James Leets, Dave Williams, USAVB** and stated that he is looking forward to next year's Manhattan Beach Open.

09/06/11-27. Mayor Pro Tem Powell Re Older Adults Art Show

Mayor Pro Tem Powell invited the public to the 2nd annual Manhattan Beach Older Adults Art Show on Friday, September 9, 2011 from 4:00 p.m. until 6:00 p.m.

09/06/11-28. Mayor Pro Tem Powell 9-11 Memorial Event

Mayor Pro Tem Powell stated that the City will be holding a memorial event to commemorate the 10-year anniversary of 9-11. He said that the event will be held on the corner of 15th Street and Valley Drive and asked residents to display their flags on September 11th in honor of our Country.

09/06/11-29. Mayor Tell Re Walking Moai

Mayor Tell reported that participation in his walking moais has grown. He reminded the community that his walks take place on Council Tuesdays (every first and third Tuesday of the month) and start at 9:00 a.m. at Peets Coffee. He added that everyone is welcome to walk and talk about city issues.

AUDIENCE PARTICIPATION

09/06/11-30. Abu Yusuf Re Bicycle Trail Rehabilitation Project

Abu Yusuf, County of Los Angeles Representative, explained the timeline of the Bicycle Path Rehabilitation Project in Manhattan Beach and that the closures will begin at the end of September, 2011.

09/06/11-31. Patrick Donahue Re Renaming of Sepulveda

Patrick Donahue passed out a flyer proposing that the City Council change the name of Sepulveda to Pacific Coast Highway and suggested that the City Council form a committee to study the issue.

09/06/11-32. Don Gould Re Renaming of Sepulveda

Don Gould, Redondo Beach Resident, stated that the name Sepulveda is confusing to out of town visitors and conceptually renaming it Pacific Coast Highway is a good idea.

GENERAL BUSINESS

09/06/11-16. Consideration of an Ordinance Amending Municipal Code Section 5.48.330 Regulating Leaf Blowers and Section 1.04.010 to Allow Violations of the Municipal Code to Be Charged as Either Misdemeanors or Infractions

Mayor Tell introduced the subject item and Police Chief Eve Irvine and City Attorney Roxanne Diaz provided the staff presentation.

The following individual spoke on this item:

- **Craig Cadwallader, No Address Provided**

City Attorney Diaz read aloud the title of Ordinance No. 2153.

MOTION: Councilmember Montgomery moved to waive further reading and introduce Ordinance No. 2153 amending Manhattan Beach Municipal Code Section 5.48.330 to make operation of a leaf blower a misdemeanor and Section 1.04.010 to allow violations of the Municipal Code to be prosecuted as either a misdemeanor or an infraction. The motion was seconded by Councilmember Howorth and passed by the following unanimous roll call vote:

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

09/06/11-17. Consideration of a Resolution Appointing Roxanne Diaz as City Attorney and Approve a Legal Services Agreement with Richards, Watson & Gershon for City Attorney Services at the Monthly Rate of \$19,500

This item was taken out of order. Please see page one.

ITEMS REMOVED FROM THE CONSENT CALENDAR

09/06/11-02. Approve Minutes:

This item contains minutes of City Council meetings which are presented for approval [(a)] and minutes from City Council subcommittees and from other City commissions and committees [(b)-(i)] which are presented to be received and filed by the Council. Staff recommends that the City Council by motion take action to approve the minutes of the:

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Councilmember Lesser explained that he pulled the minutes to give the public a “heads up” about what issues/events may be coming back to Council and when.

A brief discussion revealed that the Sand Dune Park issue will be brought back in October; that the date for the Sculpture Garden item has not yet been determined; that the Centennial is in the storyboard process right now; that each Centennial event will have its own specific insurance; and that income/expense statements will be attached to the Centennial minutes in the future.

There were no requests to speak on this item.

MOTION: Councilmember Howorth moved to approve the subject City Council Meeting minutes and receive and file the minutes from the City Council Subcommittees, City Commissions and Committees. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

09/06/11-11. Consideration to Approve the Fee Waivers for the 2011 Pumpkin Race Event in an Amount Not-to-Exceed \$14,000

Councilmember Lesser pulled this item because he was concerned about the precedent it might set; to inquire whether any other Council felt the same; and to understand the relationship between the pumpkin race and the pier-to-pier walk.

Council briefly discussed the history of the pumpkin races, the pier-to-pier walk and the fact that the organizers are appealing to the City because they are not capable of financing the pumpkin race this year.

Recreation Service Manager Idris Al-Oboudi communicated staff’s recommendation to fund the pumpkin races because it is an award winning community event.

The following individual spoke on this item:

- **Craig Cadwallader, Surfrider Foundation**

Councilmember Lesser stressed that staff should aggressively look for sponsors for the pumpkin races.

MOTION: Councilmember Howorth moved to approve the waiving of fees (\$14,000) for City services for the 2011 Pumpkin Races special event. The motion was seconded by Councilmember Powell and passed by the following unanimous roll call vote:

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

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

09/09/11-33. Councilmember Lesser Re Alcohol Permits

Councilmember Lesser briefly conveyed the Planning Commission's question to Council regarding whether the increase in point of sale alcohol permits is a big enough issue to be formally agendized.

City Attorney Diaz communicated that if a majority of the Council chooses to agendize the issue, it should be brought back to a future Council meeting with background information from staff.

A majority of the Council voted to agendize the issue for a future City Council meeting.

Hearing no objection, it was so ordered.

ADJOURNMENT – in memory of Nikie Williams

At 7:59 p.m. the Regular City Council meeting of September 6, 2011 was duly adjourned to the to the 6:30 p.m. Adjourned Regular Meeting to be followed by the 6:30 p.m. Regular City Council Meeting on Tuesday, September 20, 2011, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

Liza Tamura
Recording Secretary

Nicholas W. Tell, Jr.
Mayor

ATTEST:

Liza Tamura
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
CLOSED SESSION MEETING
SEPTEMBER 6, 2011**

The Closed Session Meeting of the City Council of the City of Manhattan Beach, California, was held on the 6th day of September, 2011, at the hour of 4:03 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

CALL TO ORDER

Mayor Tell called the meeting to order.

ROLL CALL

Present: Lesser, Howorth, Montgomery, Powell and Mayor Tell.
(Powell arrived at 4:06 p.m).
Present: City Manager Carmany.
(City Manager Carmany arrived at 4:05 p.m.).
Absent: None.
Clerk: Tamura.

PUBLIC COMMENT ON CLOSED SESSION AGENDA

None.

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

Mayor Tell announced the following items to be discussed in closed session:

CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION
One case pursuant to subdivision (c) of Section 54956.9

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATION OF LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:
(one case)

CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6)

Agency Negotiator: David N. Carmany, City Manager
Employee Groups: Manhattan Beach Firefighters' Association;
Manhattan Beach Police Officers' Association;
Management Confidential; and
Teamsters

PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Government Code Section 54957)

Title: City Manager

RECESS INTO CLOSED SESSION

The Council recessed into Closed Session at 4:04 p.m.

RECESS INTO OPEN SESSION

The Council reconvened into Open Session at 6:15 p.m.

An announcement in open session was made after the “Ceremonial Calendar” at the beginning of the Tuesday, September 6, 2011 Regular City Council meeting.

City Manager Carmany announced, in Open Session, that Council met in Closed Session to discuss the items listed on the agenda and took no reportable actions. He added that Council is expected to reconvene following the Regular City Council meeting to discuss initiation of litigation and anticipated litigation.

RECESS INTO RESUMED CLOSED SESSION

At the conclusion of the Regular City Council Meeting, the City Council resumed the Closed Session at 8:03 p.m.

RECESS INTO OPEN SESSION

The Council reconvened into Open Session at 8:30 p.m.

ADJOURNMENT

At 8:30 p.m. the meeting was adjourned to the 6:30 p.m. Regular City Council Meeting on Tuesday, August 2, 2011, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

Liza Tamura
Recording Secretary

Nicholas W. Tell, Jr.
Mayor

ATTEST:

Liza Tamura
City Clerk