





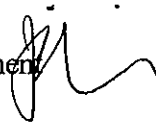
Agenda Item #: 07/0220.16

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Tell and Members of the City Council

THROUGH: Geoff Dolan, City Manager 

FROM: Richard Thompson, Director of Community Development
Eric Haaland, Associate Planner  

DATE: February 20, 2007

SUBJECT: Consideration of a Proposed Amendment to the Implementation Program of the Manhattan Beach Local Coastal Program Pertaining to Paid Admission to Temporary Sporting Events

RECOMMENDATION:

Staff recommends that the City Council **CONDUCT** the public hearing, **WAIVE FURTHER READING**, and **INTRODUCE** Ordinance No. 2097.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meeting of January 24, 2007, **CONSIDERED** a proposed Local Coastal Program amendment pertaining to paid admission to temporary sporting events within the City's coastal zone. The Planning Commission **DENIED** (5-0 vote) a resolution recommending that one event per year have potential for unlimited paid admission. The Association of Volleyball Professionals (AVP), being the current operator of the Manhattan Beach Open volleyball tournament (MBO), had requested the amendment, and the City Council directed that the item be scheduled for a public hearing before the Planning Commission.

Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program currently permits temporary sporting event uses within the OS (open space) District as follows:

“Sporting Events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The “seating area” includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all.”

The City Attorney had drafted LCP amendment language to accommodate the AVP's request as follows:

(Portion of OS District Land Use Regulations table, Section A.24.030. Proposed language is underlined)

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The "seating area" includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all. <u>Notwithstanding the foregoing the City Council may approve one event per year which does not meet this standard and shall have full discretion regarding said event to determine availability of paid admission.</u>	U	

The amendment language above adds the option of unlimited paid admission for only one temporary sporting event per year subject to City Council review and approval. The "U" designation within the middle column of the table indicates that a temporary use permit is required for these temporary events. Temporary use permits are processed administratively, however, the City Council typically incorporates that approval within its annual review of the MBO. The "(B)" designation in the right column corresponds to a footnote referring to another section of the code for temporary use permit procedures.

At its initiation of this amendment process, the Council indicated that it is appropriate for the City to have the flexibility to allow more paid seating for the MBO, but it is unlikely that 100% paid admission would ever be approved. The subject change would maintain the annual tournament approval process involving coastal permit review by the City Council, subject to appeal to the California Coastal Commission.

The Planning Commission received one written response to the paid admission proposal from the Sierra Club expressing opposition with concerns for maintaining free and open access to the public beach. Three individuals spoke against the proposal at the public hearing stating that free beach access is a priority.

The Planning Commission was also aware that the Coastal Commission would be considering a similar request by the AVP and City of Hermosa Beach. Subsequent to the Planning Commission public hearing, the Coastal Commission's decision on the Hermosa Beach request on February 14, 2007 approved 90% paid admission, and requires 10% free admission to the next 5 AVP tournaments. The proposed amendment is more restrictive in that it provides for only one full paid admission event per year; however, the final proportion for each event would be determined on a case-by-case basis by the individual coastal permits approved by the City Council and appealable to the Coastal Commission. If the City Council supports amending the LCP, staff would recommend that it be limited to 90% paid admission consistent with the Coastal Commission's recent decision.

The Planning Commission did not approve the recommendation for additional paid seating with concerns that an allowance of 100% seating would be inappropriate and that Coastal Commission approval of such an amendment seemed unlikely. At least one commissioner was initially willing to approve the proposal based on the fact that individual review of each event by the City Council and Coastal Commission would determine final appropriate quantities of paid seating each year. At least two commissioners initially favored approving a modified amendment limiting the event to a maximum of 50% paid seating. Since a satisfactory consensus could not be reached, the commissioners ultimately agreed that denying the amendment as proposed was appropriate, and recommended that the City Council review the Planning Commission's discussion (minutes attached) on the matter in forming its final decision.

The attached Planning Commission Minutes and Staff Report include additional reference information regarding the proposed code change.

After introduction of Ordinance 2097, staff would return for City Council adoption at the March 7, 2007, meeting along with a resolution transmitting the Ordinance to the Coastal Commission. Due to the time it takes for the Coastal Commission to process LCP amendments, it is likely that it would not be in effect for this year's event.

ALTERNATIVES:

The alternatives to the recommended action available to the City Council include:

1. **REVISE** the proposed Ordinance as the City Council determines to be appropriate.
2. **DENY** the proposed amendment.

Attachments:

- Ordinance No. 2097
- AVP message, dated 1/25/07
- P.C. Minutes (draft) excerpt, dated 1/24/07.
- P.C. Report, dated 1/24/07 including:
 - Resolution No. PC ~~05~~ 06 -
 - Existing Coastal Program Section A.24.030
 - Coastal Commission temp. event policies

C: Dave Williams, AVP

ORDINANCE NO. 2097

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AN AMENDMENT TO THE CITY'S LOCAL COASTAL PROGRAM IMPLEMENTATION PROGRAM (SECTION A.24.030) REGARDING TEMPORARY EVENTS

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

SECTION 1. The City Council hereby makes the following findings:

- A. Pursuant to applicable law, the Planning Commission conducted a duly noticed public hearing on January 24, 2007 regarding the proposed Code Amendment and public testimony was invited and received.
- B. The public hearing held by the Planning Commission was advertised by a one-quarter page display ad published on in The Beach Reporter, a newspaper of general circulation in Manhattan Beach.
- C. Pursuant to applicable law, the City Council conducted a duly noticed public hearing on February 20, 2007 subsequent to the Planning Commission's consideration of the proposed Code Amendment, and public testimony was invited and received.
- D. The public hearing held by the City Council was advertised by a one-quarter page display ad published in The Beach Reporter, a newspaper of general circulation in Manhattan Beach and notice was mailed to interested parties of record.
- E. The applicant for the subject project is the City of Manhattan Beach.
- F. The purpose of the proposed Amendments is to allow greater flexibility over paid admission at one temporary sporting event located within the City's coastal zone each year.
- G. Pursuant to the California Environmental Quality Act (CEQA) and the Manhattan Beach CEQA Guidelines, the subject Amendments are exempt in that they are covered by the general rule that CEQA [Section 15061 (3)] 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 possibly that the activity will have a significant effect on the environment, the activity is not subject to CEQA; and,
- H. The proposed amendments have been prepared in accordance with the provisions of Title 7, Division 1, Chapter 4, Section No. 65853, et seq., of the State of California Government Code.
- I. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- J. The proposed amendment to the Local Coastal Program (Title A, Chapter 24) is consistent with the goals and policies of the Manhattan Beach General Plan including:

Policy LU-4.1: Protect public access to and enjoyment of the beach while respecting the privacy of beach residents. Paid admission flexibility would provide more opportunities to maintain an annual beach event such as the Manhattan Beach Open, which is enjoyed by the community and identified by the General Plan as a recreational asset to the city. An annual temporary use permit for the event protects public beach access and surrounding areas from inappropriate intrusions.

Goal LU-7: Continue to support and encourage the viability of the Downtown area of Manhattan Beach. A prominent beach event near the pier such as the Manhattan Beach Open provides notoriety and identity to the Downtown area.

K. The proposed amendment to the Manhattan Beach Local Coastal Program (Title A, Chapter 24) is consistent with the goals and policies of the City's certified Local Coastal Program including:

Policy I.A.1: The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone. *Altering paid seating potential will not be detrimental to beach access since access to the coastline, pier, and Strand will continue to be addressed in each annual event coastal development permit. Temporary bleacher obstructions to some areas of beach sand would not change significantly, compared to previous events, as a result of increased paid seating. A widely known, highly promoted event such as the Manhattan Beach Open attracts coastal zone visitors that would not typically visit the event location.*

Policy I.B.1: The City shall encourage public transportation service to mitigate excess parking demand and vehicular pollution. *Flexibility to allow additional paid seating may have the effect of continuation of free public shuttle service provided by event organizers.*

SECTION 2. The City Council of the City of Manhattan Beach hereby APPROVES the proposed amendment to Section A.24.030 of the Manhattan Beach Local Coastal Program, Chapter 2, Title A (Coastal Zoning Code) as follows:

"A.24.030 OS DISTRICT: LAND USE REGULATIONS		P- Permitted
		U- Use Permit
		L- Limited, (See <u>Additional Use Regulations</u>)
Public and Semipublic		
Park & Recreation Facilities		P
Jogging Trail		P
Beach and Recreation Support parking approved in CDP 5-89-414		U
Public Safety Facilities		P
Utilities, Major		U
Utilities, Minor		P
Commercial Uses		
Commercial Recreation and Entertainment		L-14
Eating & Drinking Establishments		L-14
With Take-Out Service, Limited		L-14
Vehicle/Equipment Sales and Services Commercial Parking Facility		L-15
Accessory Uses		
Accessory Uses and Structures	P/U	(A)

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The "seating area" includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all. Notwithstanding the foregoing the City council may approve one event per year which does not meet this standard and shall have full discretion regarding said event to determine availability of paid admission.	U	

Nonconforming Uses (C)

OS District: Additional Land Use Regulations

- L-14 Allowed with a use permit only as an ancillary use operated by a non-profit organization approved by the City Council that is compatible with and part of a park or recreational facility, except on the Strand, where no such use is permitted.
- L-15 Public parking permitted, but commercial parking facilities on City-owned land require a use permit.
 - (A) Limited to facilities incidental to an open space use.
 - (B) See Section A.84.110: Temporary use permits.
 - (C) See Chapter A.68: Nonconforming uses and structures."

SECTION 3. Pursuant to Government Code Section 66499.37, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this Ordinance and the City Council is served within 120 days of the date of this Ordinance.

SECTION 4. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 5. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other Ordinance of the City, to the extent that they are inconsistent with this Ordinance, and no further, are hereby repealed.

SECTION 6. This Ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 7th day of March, 2007.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 
City Attorney

Eric Haaland

Subject: FW: New LCP language**Follow Up Flag:** Follow up**Flag Status:** Flagged

-----Original Message-----

From: Dave Williams [mailto:dwilliams@avp.com]**Sent:** Thursday, January 25, 2007 3:06 PM**To:** Portia Cohen; Wayne Powell; Jim Schlager; Bob Bohner; David Lesser**Cc:** Richard Thompson; Geoff Dolan**Subject:** AVP: New LCP language

Planning Commissioners:

Thank you all for your consideration of the proposed new LCP language. Our preference would have been that you supported the language as presented, but we do understand your concerns. I was unable to participate in the deliberations that occurred among the commissioners after the public hearing had closed, and there were several issues that surfaced on which I would like to comment:

1. What will the Coastal Commission do? We have met with a majority of the commissioners and have found all of them to be committed public servants. We believe that when the commissioners are given accurate and reliable information they make good decisions. After meeting with the commissioners we are certain that they will no longer be solely reliant on the staff report or past rulings, but will give fair consideration to paid admission issues.

2. Is a fixed percentage necessary to get the Coastal Commission to agree? We do not believe that this will be necessary. Most of the coastal commissioners we have met with seemed to agree that paid admission was actually a local issue. It evolved into a Coastal Commission issue after repeated annual appeals were filed from anti-event activists to stop the event entirely. The reason that the LCP was changed a few years ago to the 25% was that the Executive Director instructed the AVP to pursue a change to the LCP so that the frivolous appeals would stop. The current commissioners seem to be interested in being less involved in these types of local issues.

3. What percentage is fair? We feel that this is best left with City Council. For example, if we had locked ourselves into a fair percentage in 2005 it would not be as fair today. In 2006, the Police and Fire Department rates were increased for special events. The fees for Police & Fire are a significant expense. Our intention is to have a deal with the City that allows for regular review of revenues and expenses.

The biggest challenge that the AVP faces in Manhattan Beach and Hermosa Beach will always be the coastal commission staff report. Unfortunately, coastal commission staff has taken it upon themselves to dilute the "Guidelines for the exclusion of temporary events from coastal permit requirements – adopted 5/12/93." They continue to cite sections of the Coastal Act which preceded the 1993 guidelines, as if the guidelines were irrelevant. It is our opinion that the Coastal Commission had a 16 year operating history before adopting these guidelines for special events in 1993, and that they were never interested in preventing special events on the beach, or from charging for admission. The guidelines are the result of significant consideration by the staff and commissioners, and are very

relevant to the AVP.

Attached is a .tif copy of the 1993 guidelines from a previous staff report, and a cleaner transcription prepared by our office. Upon reading it you will discover that the 25% issue is not the cornerstone of these guidelines. It is not a "ceiling" as it has been portrayed, and it is not policy. As you review the Purpose and Authority section of the guidelines you will see that the purpose of the guidelines is to be "utilized by local governments for reference in developing Local Coastal Programs or in processing LCP amendments." Nowhere are these guidelines "requirements" that must be adhered to in order to process an LCP amendment. In 1993, the Coastal Commission did not intend to snatch the issue of special event from the city management. They wanted to exclude them from Coastal Commission review.

Best regards,

Dave

David C. Williams

Director of Market Development

AVP Pro Beach Volleyball Tour

6100 Center Drive

Suite 900

Los Angeles, CA 90045

P 310-426-8000

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<<Coastal Commission Guidelines 5-12-93.doc>> <<CCC Temporary Events Guidelines.tif>>

To: Local Governments and Interested Persons

From: Coastal Commission Staff

Subject: Guidelines for the exclusion of temporary events from coastal commission permit requirements – adopted 5/12/93.

I. Purpose and Authority

The purpose of these guidelines is to identify the standards the Coastal Commission staff, under direction of the Executive Director, will use in determining whether a temporary event is excluded from coastal development permit requirements pursuant to Public Resources Code Section 30610 (1) (as amended by S8 1578, Ch. 1088, Stats. 1992) The guidelines are for use in areas where the Coastal Commission retains coastal development permit authority. These guidelines may be utilized by local governments for reference in developing Local Coastal Programs or in processing LCP amendments. If required, to address coastal development permit jurisdiction over temporary events.

II. Criteria for Exclusion from Permit Requirements

Except as provided in section III. Below, the Executive Director shall exclude from coastal development permit requirements all temporary events except those which meet all of the following criteria:

- a) Are held between Memorial Day weekend and Labor Day; and,
- b) Occupy all or a portion of a sandy beach area; and,
- c) Involve a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

Only temporary events meeting all of the above criteria shall require coastal development permit review. However,

The Executive Director may also exclude from permits requirements temporary events meeting all of the above criteria when:

- d) The fee is for preferred seating only and more than 75% of the provided seating capacity is available free of charge for general public use.

- e) The event is held on sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or.
- f) The event is less than one in duration; or.
- g) The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for the same duration, with operating and environmental conditions substantially the same as those associated with the previously- approved event.

III. Executive Director or Commission Discretion to Require a Permit

The Executive Director, or the Commission through direction to the Executive Director, may determine that a temporary event shall be subject to commission coastal development permit review, even if the criteria in Section II. are not met, if the Executive Director or the Commission determines that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources, such circumstances may include the following:

- a) The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;
- b) The event and its assorting activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in section V. of these guidelines;
- c) The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;
- d) The event has historically required a coastal development permit to address and monitor associated impact to coastal resources.

IV. Modifications to Guidelines by the Commission

The commission may amend these guidelines at any time if it is determined such modification is necessary to more effectively implement Section 30610 of the Coastal Act and provide Coastal Commission coastal development permit review of any category of temporary events having the potential for significant impacts to coastal resources; or eliminate such review of any category of temporary events xxx xxx xxx xxxx.

Guidelines – Temporary Events

Adoption 5/12/93

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V. Definitions

For purposes of these guidelines, the following definitions shall apply:

- a) “Temporary event(s)” means an activity or use that constitutes development as defined in section 30106 of the Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use;
- b) “Limited duration” means a period of time which does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis;
- c) “Non-permanent structures” include, but are not limited to, bleachers perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, movie/film sets, etc., which do not involve grading or landform alteration for installation;
- d) “Exclusive use” means a use that precludes use in the area of the event for public recreation, beach access, or access to coastal waters other than for or through the event itself;
- e) “Coastal resources” include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources;
- f) “Sandy beach area” includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

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AUDIENCE PARTICIPATION

Viet Ngo commented that the Commissioners approved the minutes intentionally without permitting members of the public an opportunity to make corrections in violation of the California Penal Code Section 134. He cited a letter from California Attorney General Bill Lockyer. He requested that the minutes be revised to correctly reflect his testimony. He cited Penal Code Section 134 which states: "Every person guilty of preparing any false or ante-dated book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry whatever, authorized by law, is guilty of felony." He commented that the Commissioners are sworn to uphold the law. He indicated that he believes the Commission has committed a felony and has taken action to commit conspiracy with Jonathan Tolkin to steal public money.

BUSINESS ITEMS

PUBLIC HEARINGS

01/24/07.1 Consideration of an AMENDMENT to the City of Manhattan Beach Local Coastal Program Pertaining to Special Events

Associate Planner Haaland summarized the staff report. He said that the City's Local Coastal Program approved in 1994 originally did not permit any paid admission to temporary sporting events located on the beach. He commented that the provision was changed and approved by the State Coastal Commission to allow a charge for up to 25 percent of seating a few years ago. He said that the City Council has referred the issue to the Commission to consider allowing the City the discretion to charge for up to 100 percent of the seating for a temporary sporting event. He said that the last two Manhattan Beach Open tournaments did charge for 25 percent of stadium seating. He indicated that there had been a charge for the preferred stadium seating in the lower premium seats, and the upper grandstand seating remained free of charge. He said that the City Attorney has provided draft language to allow for one event per year with the City Council's full discretion on the amount of paid seating that would be allowed. He stated that the Council did indicate that it is unlikely that 100 percent would be approved for any given tournament, but that it would be beneficial for the City and for the event to have the flexibility to charge for over 25 percent of the seating. He commented that the purpose of the item is to conduct a public hearing and make a recommendation to the City Council. He said that the decision of the City Council would be forwarded to the State Coastal Commission for their review. He pointed out that a similar request is going before the Coastal Commission at their next meeting for approval of more than 25 percent paid seating for APV events in the City of Hermosa Beach. He commented that Manhattan Beach has its own Local Coastal Program, which must be amended to allow more

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1 paid seating. He indicated that in Manhattan Beach, a Coastal Permit is approved by the City
2 Council for the tournament annually. He stated that in Hermosa Beach, the event is directly
3 under the authority of the Coastal Commission, which may decide on appropriate paid seating
4 quantities.

5
6 Commissioner Lesser commented that the most substantive finding necessary for the
7 Commission to consider in making their recommendation is whether the proposed Amendment is
8 consistent with the goals and policies of the City's General Plan and Local Coastal Program. He
9 asked if there is any language in the General Plan that the Commission should use in considering
10 the proposed Amendment.

11
12 Associate Planner Haaland indicated that there are not any policies in the General Plan that
13 specifically address the issue of paid seating for events at the beach. He said that there are not
14 many references in the General Plan oriented toward the beach possibly because the City does
15 not have direct control over the beach itself. He said, however, that the beach is within the City
16 limits and under the City's coastal permitting authority. He indicated that the General Plan does
17 reference beach volleyball and the Manhattan Beach Open as a recreational asset to the City and
18 that public access to the beach is mentioned as being important. He stated that the Coastal
19 Program and its policies are aimed at public access to the beach and coastal zone in general. He
20 said that there is an argument that the event decreases public access to the beach; however, it also
21 increases access by providing shuttles and attracting people that might not otherwise come to
22 Manhattan Beach.

23
24 In response to a question from Commissioner Lesser, Associate Planner Haaland indicated that
25 the Coastal Commission has not had a concern with the 25 percent threshold and had even
26 previously approved the 25 percent allowance under its own authority in appeals. He said that
27 staff has received no indication that the Coastal Commission would approve an exception to the
28 25 percent allowance in this case. He indicated that the issue is before the Commission because
29 the City Council felt that it may be appropriate to have flexibility to allow for more than 25
30 percent paid seating.

31
32 Commissioner Schlager indicated that it seems the AVP is attempting to have the proposed
33 Amendment passed because of their concern with the profitability of the event. He said that he
34 would assume the concern of the City Council is that an important tradition of the City could be
35 lost if the proposed Amendment does not pass.

36
37 In response to a question from Commissioner Schlager, Director Thompson stated that the City
38 Council will address the question of profitability of the event in determining the necessity of
39 charging for seating. He indicated that the Commissioners should consider the land use aspect in
40 making their decision, and the financial agreement between the City and the AVP is not before

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1 them. He indicated that the Council felt that it was more of an issue of local control and felt that
2 charging for seating is not an environmental coastal issue that should be restricted in the Local
3 Coastal Plan. He said that the Council feels that they can evaluate and negotiate with the AVP an
4 appropriate agreement on an annual basis that will allow the tournament to continue. He
5 commented that amending the LCP as proposed would allow the City Council full discretion in
6 establishing the percentage of paid admission or paid seating to one event per year.

7
8 Commissioner Cohen commented that there are competing interests between the Coastal Act and
9 local control. She said that there may also be other alternatives that would allow the AVP to
10 break even on the event.

11
12 Director Thompson said that it is not the purview of the Planning Commission to determine
13 whether the AVP is a viable business, those issues will be considered by the City Council. He
14 said that the question before the Commission is whether the issue of paid seating should be
15 determined by the City or regulated by the Coastal Commission.

16
17 Commissioner Powell pointed out that the proposed Amendment is for paid seating for
18 designated seating areas rather than paid admission to access the tournament area in general. He
19 also pointed out that if the proposed Amendment is approved, there is still an annual Coastal
20 Development Permit process for each event that includes an annual public hearing where
21 concerns can be expressed, and limitations imposed. He said that the permit also can be appealed
22 to the Coastal Commission.

23
24 Chairman Bohner opened the public hearing.

25
26 **Dave Williams**, representing the AVP, pointed out that there is no policy within the Coastal
27 Commission limiting paid seating to 25 percent, although such a policy has consistently been
28 reported in the newspaper and referenced in public hearings. He commented that the original
29 guidelines that were established in 1993 by the Coastal Commission allow control to local
30 jurisdictions to amend the LCP to permit up to 100 percent of paid seating for temporary events.

31
32 In response to a question from Chairman Bohner, **Mr. Williams** said that they are confident that
33 the Coastal Commission will now consider their arguments because they have sat down and
34 addressed the original guidelines with the Coastal Commissioners and shown them that the issue
35 does belong under local jurisdictions. He indicated that they prefer to work out the issue of paid
36 seating locally rather than with the Coastal Commission who has no vested interest in the event
37 being successful. He commented that the tournament has taken place for 48 years, and the AVP
38 has run it since 1983. He indicated that it is one of the longest running and largest special events
39 on Los Angeles County beaches, and the tournament warrants consideration.

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1 In response to a question from Commissioner Lesser, **Mr. Williams** pointed out that the event is
2 owned by the City and operated by the AVP on its behalf, and the City is asking for the rights
3 from the Coastal Commission rather than the AVP. He commented that the event was born out
4 of the community and is part of the City's identity. He said that they are asking the City to
5 request the rights to charge for more than 25 percent of the seating and then reach an agreement
6 with the AVP as felt appropriate.

7
8 Commissioner Powell indicated that his understanding from the staff report is that the Coastal
9 Commission guidelines are applied to cities that do not have a certified Local Coastal Program,
10 and Manhattan Beach is limited to the provisions of its Local Coastal Program which currently
11 allows up to 25 percent of paid seating.

12
13 In response to a question from Commissioner Powell, **Mr. Williams** stated that they do not
14 currently have a proposed seating capacity. He said that the tournament includes about 15 courts.
15 He indicated that they have VIP seating, stadium seating for the central courts, and seating on
16 five rows of bleachers which can reach a total capacity of approximately 4,500. He pointed out
17 that it is difficult to expand beyond 4,500 because of the City's height limitation which prevents
18 them from building taller bleachers. He indicated that the tournament spans an area of
19 approximately 300,000 square feet, but the overall area becomes smaller as elimination games
20 are finished. He commented that they provide a free shuttle service to the beach from the
21 Northrop Grumman parking lot at Manhattan Beach Boulevard and Doolittle. He indicated that
22 they attempt to eliminate vehicles from coming into the downtown area and capture traffic for the
23 event at the Northrop lot. He pointed out that the shuttle is free for anyone wishing to visit the
24 beach and not only for people attending the event. He commented that the event does not restrict
25 access to the beach, and there are more people at the beach during their event.

26
27 Commissioner Cohen commented that she would think that charging money for seating would be
28 probably the least advantageous method for the AVP to make more money, and attracting more
29 sponsors and advertising would be more cost effective without asking residents and visitors to
30 pay to attend the event.

31
32 **Mr. Williams** commented that their business requires many different revenue sources to make it
33 break even and then profitable. He said that the bleachers are very expensive, and a single ticket
34 barely covers the cost of the seat. He said that they are very limited because they are unable to
35 charge for parking and unable to sell beer, which are two major methods of generating revenue.
36 He said that being unable to charge for the majority of the seats additionally limits their revenue.
37 He commented that there also is a maximum on the number of signage and banners that can be
38 provided to sponsors. He indicated that the City Council will have the financial information
39 which shows the cost of running the event and the revenue generated, and they will not blindly
40 having to guess in determining the appropriate percentage of paid seating.

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1
2 Commissioner Powell commented that even if the tournament only breaks even or results in a
3 nominal loss, he has to believe that it is the prestige of the Manhattan Beach Open that drives
4 attendance at other AVP events and sponsorship.

5
6 **Mr. Williams** indicated that they would be willing to accept the event breaking even, but the
7 event currently results in such a loss that they need to find a way to help generate more revenue to
8 close the gap.

9
10 Commissioner Cohen said that her impression is that charging for even up to 100 percent of the
11 seating would not result in the event becoming profitable, and she is not certain that it is the
12 solution for generating additional revenue.

13
14 **Mr. Williams** commented that ticket sales are the key economic driver to every sporting event.

15
16 **Dennis Duke Nor**, a resident of Hermosa Beach, said that he believes that the issue of paid
17 seating for the tournament is a regional rather than a local issue. He stated that people have the
18 right to enjoy the beach. He commented that the AVP seems to always request increasingly more
19 for their tournaments for seating and parking. He indicated that people have a right to free access
20 to the beach, and charging admission would set a bad precedent. He indicated that he strongly
21 suggests denying the request.

22
23 **Viet Ngo** stated that the beach is public land, and it is the civil right of United States citizens to
24 have free access to the beach. He said that the Commission does not have authority to restrict
25 access to the beach area. He commented that the area used to be a state beach, and control was
26 granted to the Los Angeles Department of Beach and Harbors to allow for recreational use only
27 with no commercial use. He said that allowing the AVP to charge money for seats in order for
28 people to step on to the public land is helping them to violate their own civil rights.

29
30 **Carol Wahlberg**, commented that there is a cost to using the brand that is Manhattan Beach
31 which has an economic value. She said that the City is in a special position which benefits the
32 AVP. She said that she feels the tournament has become less of a local event, and it does create
33 negative impacts to the residents who live adjacent to the downtown area.

34
35 Chairman Bohner closed the public hearing.

36
37 Commissioner Lesser indicated that he has been to a number of AVP events. He indicated that
38 the tournament is very important to the City and has been one of its major events for many years.
39 He commented, however, that he cannot support the subject proposal. He stated that the
40 Commission is being asked to make the finding that the proposal is consistent with the goals and

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1 policies of the City's General Plan and Local Coastal Program, and he does not feel that there is
2 any evidence to support the finding other than the history of the event in the City. He said that he
3 also does not feel the amendment can be adopted without knowing the criteria that the Coastal
4 Commission would apply. He indicated that the Coastal Commission is subject to the Coastal
5 Act of 1976 for the protection and expansion of public access to the shoreline and recreational
6 opportunities and resources. He said that in the absence of further data, he does not see that
7 charging for seating beyond the current threshold of 25 percent achieves the goal of protecting
8 public access. He indicated that he feels the decision of state rather than local control over the
9 amount of paid seating for the tournament was decided with the adoption of the California
10 Coastal Act and the City's Local Coastal Program. He stated that the guidelines provide a
11 balance of the authority of cities and the point at which the State limits their authority, which
12 includes charging for seats at temporary events.

13
14 Commissioner Schlager indicated that volleyball began in approximately the 1930's, and the
15 tournament has been in existence for 40 years. He stated that the first paragraph of the General
16 Plan is about the history of the City, its small town character, and the features which make the
17 City unique. He indicated that the Manhattan Beach Open is one of the City's unique features.
18 He pointed out that the City might have a brand which is important, but the City should not
19 assume that the AVP would not be willing to pull the tournament if it is not profitable. He
20 commented that revenue from selling seats at events does generate significant revenue, and the
21 AVP is going to find the revenue whether it is in Manhattan Beach or somewhere else. He
22 indicated that the amount of revenue that would be lost by the City if the tournament left is
23 measurable, but the flavor, tradition, and history that would be lost could not be measured. He
24 pointed out that the Resolution does not specify that 100 percent of the seats would be paid
25 admission, but rather that the City Council would have full discretion on an annual basis to make
26 the decision on behalf of the City regarding the amount of paid seating. He stated that the
27 residents as citizens elect the City Council, and he would hope that there would be sufficient trust
28 in the elected officials to allow them the discretion to make the determination on the City's
29 behalf. He said that he does support the proposed Resolution.

30
31 Commissioner Powell commented that the Coastal Commission is going to rule on the amount of
32 paid seating that will be allowed for the tournament in Hermosa Beach next month, and the City
33 Council will then have the benefit of knowing the outcome of that decision. He said that it
34 would have been beneficial to know the outcome of the Coastal Commission's decision
35 regarding the Hermosa Beach tournament in considering this issue. He said that he agrees that
36 the beach should remain open to the public, which was the intent of establishing the Coastal Act.
37 He said that he also agrees that the AVP operates under the watch of the City. He indicated that
38 access to the pier and the beach is free during the event, and he would be opposed to an area
39 being roped off for access to only people who pay admission. He stated that the proposed
40 Amendment would give control to the City Council to determine the amount of paid seating that

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1 would be appropriate. He pointed out that there is a provision of the Local Coastal Program
2 requiring an annual Coastal Development Permit for the tournament that provides for a public
3 hearing each year to allow members of the community to express their concerns. He indicated
4 that the decision of the Council can also be appealed to the Coastal Commission. He said that he
5 is concerned that it would be too much to request 100 percent of the seats for paid admission and
6 would be rejected by the Coastal Commission. He said that requesting a percentage between 25
7 and 100 percent would either be approved or reduced by the Coastal Commission, and he is not
8 certain of the appropriate percentage. He stated would not want to permit more than 50 percent
9 paid seating. He indicated that the paid seating could be for the courtside VIP seats. He said
10 that he does not feel that paid seating above 50 percent would be reasonable. He commented that
11 he does not see that charging for 50 percent of the seating would make a significant increase in
12 the generation of revenue for the tournament.

13
14 Commissioner Cohen said that paid admission for seating is not the answer for a long term plan
15 of profitability. She indicated that she is not certain in considering the perspective of Manhattan
16 Beach within the sections of the Coastal Program that were provided, and she is hoping that the
17 Council looks at the General Plan, Local Coastal Program and Coastal Act in considering the
18 issue. She said that she trusts the current City Council to make the determination regarding paid
19 seating but is unsure of decisions that could be made by future Council members in their view of
20 the Coastal Act to protect the natural resources and free public access to the beach. She
21 commented that she feels the Manhattan Beach Open is of at least equal mutual benefit to both
22 the City and the AVP. She said that the tournament is part of the City's history and is cited
23 within the General Plan. She indicated that the tournament is valued because it is historical and
24 traditional, and it is to the mutual benefit of the City and AVP to work together to reach a long
25 term plan for it to become profitable. She indicated that she does not feel the proposed
26 Amendment is completely an effective long term plan for the success of the tournament, but she
27 is willing to vote in favor of the City seeking an amendment to the Local Coastal Plan with a
28 limit of allowing up to 50 percent paid seating. She commented that she feels allowing 50
29 percent paid seating is arbitrary, and she would require that alternative methods of making the
30 tournament profitable also be included. She pointed out that the tournament is a temporary event
31 and the bleachers are a non-permanent structure. She said that it is perhaps a public nuisance to
32 some for a period of a week a year, but the limitation is outweighed by the benefit to the
33 community. She said that she feels it is important that the City Council review the permit for the
34 tournament annually, which can be appealed to the Coastal Commission. She commented that
35 she is against the commercialization of events in the City, and she could support charging for up
36 to 50 percent of the seats for the event if it can perhaps eliminate some of the commercialization.

37
38 Chairman Bohner said that he is not certain that the Coastal Commission is going to allow the
39 City the discretion for charging admission for up to 100 percent of the seating. He said that
40 although the representative of the AVP feels that the Coastal Commission will allow the City full

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1 discretion, there is nothing in the record to indicate that the Coastal Commission will approve the
2 subject proposal. He said that he does sympathize with the desire to maintain local control over
3 the event. He said that he feels it would be more effective for the proposed Amendment to
4 include a specific percentage of paid seating in order to make the Coastal Commission more
5 comfortable with the proposal. He indicated that he would have preferred that the proposed
6 Amendment include a percentage below 100 percent which would be agreeable to the City and
7 the AVP. He said that he does want the event to continue in the City. He commented that he
8 realizes the tournament does cause an inconvenience to some for a temporary period of time, but
9 it is an event that the City wants to promote and continue. He said that requesting 50 percent
10 paid seating does seem like an arbitrary figure, and he would have liked for a request of a specific
11 percentage to have been provided. He said, however, that including a limit to allow 50 percent
12 paid seating is a better option than requesting discretion to allow up to 100 percent paid seating.
13 He said that although it is a figure that has not been tested, he could probably support allowing a
14 limit of 50 percent paid seating. He said that he does not feel the Coastal Commission is going
15 to allow the City to have full discretion for up to 100 percent paid seating.

16
17 Commissioner Schlager pointed out that the proposed Resolution is allowing the City Council
18 the discretion to determine the appropriate amount of paid seating on an annual basis. He said
19 that he would assume that the City will negotiate with the AVP on an annual basis and use the
20 percentage as a yard stick which can be altered as felt appropriate. He said that the publicly
21 elected officials would be entrusted to make the correct decision on behalf of the City. He said
22 that he is in favor of the Resolution as written because he feels the City has smart Council
23 members and smart staff who can make the appropriate decision.

24
25 Commissioner Lesser said that the role of the Planning Commission is to make findings. He
26 indicated that there has not been any substantive facts that have been referenced on which to
27 make the findings for the proposed Amendment.

28
29 Director Thompson pointed out that staff could not find any specific language in the General
30 Plan or Coastal Act to guide the Commissioners in their decision.

31
32 Commissioner Powell said that he also is uncomfortable in recommending whether the
33 percentage of paid seating should be an arbitrary figure of possibly 50 percent or 75 percent. He
34 said that he is in favor of allowing local control over the issue; however, he feels that unlimited
35 control of allowing 100 percent paid seating is unreasonable. He indicated that the Coastal
36 Commission ruled on March 17, 2004, that unlimited or expansive reserve seating areas do
37 exclude the general public from the event and the public beach and that Section 30211 of the
38 Coastal Act states that development shall not interfere with the public right of access to the sea,
39 including but not limited to the use of dry sand. He said that his impression is that the Coastal
40 Commission has given their opinion that they would not support unlimited discretion to charge

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1 for seating. He said that he would support making a recommendation to Council that the
2 Commission would like to see local control and that a percentage of paid seating is desirable
3 above the current 25 percent but less than 100 percent.

4
5 Commissioner Cohen commented that she is not considering allowing 50 percent paid seating in
6 terms of profitability for the AVP but rather in terms of the greatest amount she is willing to
7 allow in terms of denying equal access to the beach and infringing in the Coastal Act's protection
8 of free and equal access to the beach.

9
10 A motion was made (Schlager/Lesser) to **DENY** the draft Resolution as presented and allow the
11 City Council to utilize the Planning Commission's discussion in moving forward with the issue

12
13 Commissioner Lesser commented he does not want the discussion to be ended entirely, but he
14 cannot support the draft Resolution as presently written. He said that the motion would allow the
15 Commission to perhaps consider a more tangible Resolution and a more complete presentation.
16 He said that the Commission is typically presented with findings which fall within the criteria of
17 the General Plan beyond only abstract ideas.

18
19 Chairman Bohner indicated that he would agree that he has questions about whether the draft
20 Resolution is a practical proposal, and he would like further guidance from the City Council with
21 a solid determination as to the maximum percentage of paid seating that would be permitted. He
22 said that he would like for the proposed Amendment to be brought in front of the Coastal
23 Commission with a good opportunity of passing, and he does not believe it would pass as
24 written.

25
26 Commissioner Powell said that he would like to see a specific proposal including the number of
27 parking spaces which the AVP would utilize, along with a traffic mitigation plan to alleviate the
28 traffic concerns. He said he is not certain how the Coastal Commission would rule on the
29 proposed Amendment, and the Coastal Commission's position will be more clear after the
30 Hermosa Beach proposal is decided. He said that there also is not a concrete proposal before the
31 Commission as is typically the case when they decide matters.

32
33 A motion was made (Schlager/Lesser) to deny the Resolution as presented.

34
35 AYES: Cohen, Lesser, Powell, Schlager, Chairman Bohner
36 NOES: None
37 ABSENT: None
38 ABSTAIN: None

39
40 Commissioner Schlager said that he supports the draft Resolution as is on the basis that he

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1 entrusts the Council to work with AVP on an annual basis to determine the appropriate
2 percentage of paid seating that will be allowed at the tournament to be determined each year.

3
4 Commissioner Lesser said that he cannot support the amendment as drafted because he cannot
5 make the required findings. He indicated that he feels the Amendment is too broad and grants
6 too much discretion without requesting a specific percentage of paid seating beyond the current
7 25 percent. He commented that he also would like further information regarding traffic impacts
8 and further information in order to provide substance for their decision.

9
10 Commissioner Powell said that he agrees with the comments of Commissioner Lesser. He
11 indicated that he believes there is insufficient data provided and would like a more specific
12 proposal that addresses the number of parking spaces and a plan to mitigate the additional strains
13 on traffic. He stated that he would also like to have guidance in the decision of the Coastal
14 Commission regarding Hermosa Beach's current request. He indicated that his recommendation
15 would be to allow a percentage of paid seating less than 100 percent, and perhaps 50 percent.

16
17 Commissioner Cohen said that she would recommend limiting local control to allow perhaps 50
18 percent paid seating based on more information provided by the City and AVP on alternative
19 methods of making the event profitable. She stated that she would like more guidance on how
20 expanding local control would comply with the General Plan and Local Coastal Program and
21 how it would offset the concerns of the Coastal Commission.

22
23 Chairman Bohner said that he would echo the comments made by the other Commissioners. He
24 indicated that he also feels that the draft Resolution is too broad and that there are other criteria
25 that should also be taken into consideration.

26
27 **DIRECTOR'S ITEMS** None

28 **PLANNING COMMISSION ITEMS**

29
30 **TENTATIVE AGENDA: February 14, 2007**

31 A. Minor Exception 3604-3408 The Strand

32
33 **ADJOURNMENT**

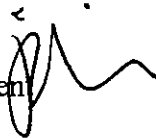
34 The meeting of the Planning Commission was **ADJOURNED** at 9:00 p.m. in the City Council
35 Chambers, City Hall, 1400 Highland Avenue, to Wednesday, February 14, 2007, at 6:30 p.m. in
36 the same chambers.

37
38
39 _____
40 RICHARD THOMPSON
Secretary to the Planning Commission

37
38
39 _____
40 SARAH BOESCHEN
Recording Secretary

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development 

FROM: Eric Haaland, Associate Planner

DATE: January 24, 2007

SUBJECT: Proposed Amendment to the Implementation Program of the Manhattan Beach Local Coastal Program Pertaining to Paid Admission to Temporary Sporting Events.

RECOMMENDATION

Staff recommends that the Planning Commission **CONDUCT** the Public Hearing and **APPROVE** the amendment as directed by the City Council.

BACKGROUND

The California Coastal Commission, at its meeting of May 11-13, 2005, certified an amendment to the City's Local Coastal Program permitting partial paid admission for temporary sporting events located within the City's coastal zone. The original Manhattan Beach Local Coastal Program (LCP - certified in 1994) prohibited any paid admission to such events. The two Manhattan Beach Open volleyball tournaments (MBO) subsequent to the amendment included paid admission for 25% of the seats provided. The City Council, at its regular meeting of January 2, 2007, considered a request from the Association of Volleyball Professionals (AVP) to allow full paid admission to future MBO's, and initiated an LCP amendment process. The Coastal Commission is scheduled to consider a similar full paid admission request from the AVP for upcoming volleyball tournaments in Hermosa Beach at its February 14-16, 2007 meeting.

DISCUSSION

Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program currently permits temporary sporting event uses within the OS (open space) District as follows:

"Sporting Events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The "seating area" includes areas clearly and visibly designated for spectators to use to view the event, including the

spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all.”

The coastal portions of the OS District include the beach, Live Oak Park, Culiacan Park, Sand Dune Park, and a portion of the Manhattan Beach Parkway. The MBO, located on the beach, is the most significant sporting event that typically occurs within the coastal zone, and requires annual public hearing approval of a Coastal Development Permit. In recent years the AVP has increasingly expressed its desire to charge admission fees to recover some of the costs of producing the tournament.

The previous two tournaments have provided spectators the options of preferred paid stadium seating, free upper level stadium seating, and free access to outer courts and exhibit areas. The City approved this arrangement in consistency with the amended LCP. The Coastal Commission’s general temporary event policy (attached) has permitted admission fees for up to 25% of seating for such events since 1993, which enabled its approval of preferred seating fees in some additional years previous to those.

The City Attorney has drafted LCP amendment language to accommodate the AVP’s request as follows:

(Portion of OS District Land Use Regulations table, Section A.24.030. Proposed language is underlined)

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The “seating area” includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all. <u>Notwithstanding the foregoing the City Council may approve one event per year which does not meet this standard and shall have full discretion regarding said event to determine availability of paid seating.</u>	U	

The amendment language above adds the option of unlimited paid seating for one temporary sporting event per year subject to City Council review and approval. The “U” designation within the middle column of the table indicates that a temporary use permit is required for these temporary events. Temporary use permits are processed administratively, however, the City Council typically incorporates that approval within its annual review of the MBO. The “(B)” designation in the right column corresponds to a footnote referring to another section of the code for temporary use permit procedures.

The proposed amendment provides for the AVP's request to charge more than 25% paid admission as determined to be appropriate by the City Council and/or Coastal Commission. At its initiation of this amendment process, the Council indicated that it may be appropriate for the City to have the flexibility to allow more paid seating for the MBO's, but it is unlikely that 100% paid admission would ever be approved. The subject change would maintain the annual tournament approval process involving coastal permit review by the City Council, subject to appeal to the California Coastal Commission. Adoption of the attached Resolution would forward this Local Coastal Program amendment to the City Council.

Attached to this report is the City Council report from the previous paid admission amendment process containing the Coastal Commission's temporary event policies and staff report for the 2004 MBO, which contains background information and analysis pertaining to the yearly coastal permit process.

Attachments:

- Resolution No. PC 06-
- Existing Coastal Program Section A.24.030
- Previous amendment report, dated 9/21/04
- City Council Minutes excerpt, dated 1/2/07

RESOLUTION NO. PC 06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA RECOMMENDING AN AMENDMENT TO THE IMPLEMENTATION PROGRAM OF THE MANHATTAN BEACH LOCAL COASTAL PROGRAM PERTAINING TO PAID ADMISSION TO TEMPORARY SPORTING EVENTS

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. The Planning Commission conducted a public hearing pursuant to applicable law to consider an amendment to Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received on January 24, 2007.
- C. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- D. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- E. The proposed amendment is consistent with the goals and policies of the City's General Plan and Local Coastal Program.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby recommends approval of the subject amendment to the Local Coastal Program as follows:

Amend a portion of the OS District Land Use Regulations table of Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program to read as follows (new language underlined) :

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events where more than 75% of the total seating area is available free of charge, including admission fees and memberships, for general public use. The "seating area" includes areas clearly and visibly designated for spectators to use to view the event, including the spectator areas immediately adjacent to the court/field, and cannot include any areas from which the court/field cannot be seen at all. <u>Notwithstanding the foregoing the City council may approve one event per year which does not meet this standard and shall have full discretion regarding said event to determine availability of paid seating.</u>	U	

SECTION 3. The Secretary to the Planning Commission shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of January 24, 2007 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD THOMPSON,
Secretary to the Planning Commission

Sarah Boeschen,
Recording Secretary



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Wilson and Members of the City Council

THROUGH: Geoff Dolan, City Manager *GD*

FROM: Richard Thompson, Director of Community Development *RT*
Eric Haaland, Associate Planner *EH*

DATE: September 21, 2004

SUBJECT: Adoption of an Ordinance Approving an Amendment to the Manhattan Beach Local Coastal Program (LCP) Pertaining to Charging Admission for Temporary Events

RECOMMENDATION:

Staff recommends that the City Council **ADOPT** Ordinance No. 2064 approving the proposed amendment, and **ADOPT** Resolution No. 5936 transmitting the ordinance to the California Coastal Commission.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meeting of August 11, 2004, **RECOMMENDED APPROVAL** (5-0 vote) of a proposed Local Coastal Program amendment pertaining to paid admission to temporary sporting events within the City's coastal zone. The City Council **INTRODUCED** Ordinance 2064 at its regular meeting of September 7, 2004.

In order to eliminate a conflict between the City's Local Coastal Program and a common statewide practice of allowing partial paid admission at professional volleyball tournaments, the proposed amendment would permit "Sporting events for which no admission is charged *for more than 75% of seating capacity*". This provides for the option of charging admission for preferred seating, and is consistent with the Coastal Commission's general policy for temporary events in the coastal zone.

After adoption of Ordinance 2064 and Resolution 5936 staff would submit the Local Coastal Program Amendment to the Coastal Commission for certification.

Attachments:

Ordinance No. 2064
Resolution No. 5936

C: Matt Gage, AVP

ORDINANCE NO. 2064

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AN AMENDMENT TO THE IMPLEMENTATION PROGRAM OF THE MANHATTAN BEACH LOCAL COASTAL PROGRAM PERTAINING TO PAID ADMISSION TO TEMPORARY SPORTING EVENTS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. The Association of Volleyball Professionals requested that the City of Manhattan Beach initiate an amendment to the City's Local Coastal Program to permit paid seating at temporary sporting events within the City's coastal zone.
- B. The Planning Commission conducted a public hearing on August 11, 2004, pursuant to applicable law to consider an amendment to Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program
- C. The Planning Commission adopted Resolution No. PC 04-15 recommending City Council approval of an amendment to the Manhattan Beach Local Coastal Program permitting partial paid admission to temporary sporting events.
- D. On September 7, 2004, the City Council conducted a public hearing, received testimony, and considered the proposed Local Coastal Program amendment.
- E. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- G. The proposed amendment is consistent with the goals and policies of the City's General Plan and with the purposes of the Implementation Program of the Manhattan Beach Local Coastal Program.

SECTION 2. The City Council of the City of Manhattan Beach, California, hereby amends Section A.24.030 of the Implementation Program of the City of Manhattan Beach Local Coastal Program as follows:

Amend the specified portion of the OS District Land Use Regulations table of Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program to read as follows:

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events for which no admission is charged for more than 75% of seating capacity	U	

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

SECTION 4. That the time within which judicial review of this ordinance may be sought is not later than 90 days after the decision becomes final pursuant to California Government Code Section 65009.

SECTION 5. 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 6. This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 7. 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 21st day of September, 2004.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM.

By 
City Attorney

RESOLUTION NO. 5936

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, SUBMITTING ORDINANCE NO. 2064 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND SECTION A.24.030 OF THE CITY OF MANHATTAN BEACH LOCAL COASTAL PROGRAM (LCP) - IMPLEMENTATION PROGRAM, RELATING TO PAID ADMISSION TO TEMPORARY SPORTING EVENTS.

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

SECTION 1. The City Council hereby makes the following findings:

- A. The City Council of the City of Manhattan Beach, conducted a public hearing, pursuant to applicable law, on September 7, 2004 to consider the proposed amendment to the City of Manhattan Beach Local Coastal Program (LCP) - Implementation Plan; and,
- B. The City Council adopted Ordinance No. 2064 at the regular meeting of September 21, 2004, which became effective on October 21, 2004; and,
- C. The subject amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061 (b)(3) in that it can be seen with certainty that the proposed project does not have the potential for causing a significant effect on the environment; and
- D. The City Council certifies that the subject amendment will be implemented in a manner fully in conformity with the California Coastal Act of 1976, as amended, and the City of Manhattan Beach Local Coastal Program.

SECTION 2. Pursuant to Government Code Section 65009 and Code of Civil Procedure Section 1094.6, any action or proceeding to attack, review, set aside, void or annul this decision, or concerning any of the proceedings, acts, or determinations taken, done or made prior to such decision or to determine the reasonableness, legality or validity of any condition attached to this decision shall not be maintained by any person unless the action or proceeding is commenced within 90 days of the date of this resolution and the City Council is served within 120 days of the date of this resolution. The City Clerk shall send a certified copy of this resolution to the applicant, and if any, the appellant at the address of said person set forth in the record of the proceedings and such mailing shall constitute the notice required by Code of Civil Procedure Section 1094.6.

SECTION 3. The City Clerk shall make this Resolution reasonably available for public inspection within thirty (30) days of the date this Resolution is adopted.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED, and ADOPTED this 21st day of September, 2004.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 
City Attorney






Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Wilson and Members of the City Council

THROUGH: Geoff Dolan, City Manager 

FROM: Richard Thompson, Director of Community Development 
Eric Haaland, Associate Planner 

DATE: September 7, 2004

SUBJECT: Consideration of Planning Commission Recommendation to Approve Proposed Amendment to the Implementation Program of the Manhattan Beach Local Coastal Program Pertaining to Paid Admission to Temporary Sporting Events

RECOMMENDATION:

Staff recommends that the City Council **CONDUCT** the public hearing, **WAIVE FURTHER READING**, and **INTRODUCE** Ordinance No. 2064.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

DISCUSSION:

The Planning Commission, at its regular meeting of August 11, 2004, **RECOMMENDED APPROVAL** (5-0 vote) of a proposed Local Coastal Program amendment pertaining to paid admission to temporary sporting events within the City's coastal zone. The Association of Volleyball Professionals (AVP) had requested the amendment after the California Coastal Commission directed that the City amend its Local Coastal Program prior to any future approvals of paid admission for the Manhattan Beach Open volleyball tournament (MBO).

Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program permits "Sporting events for which no admission is charged" as a temporary use within the OS (open space) District, however, the previous two MBO's have provided spectators the option of preferred seating and services for fees established by the AVP. The Coastal Commission recently determined that these were admission fees but granted approval based on a Coastal Commission policy permitting up to 25% of seating for such events to have an admission fee. In order to eliminate a conflict with the City's Local Coastal Program, the Planning Commission recommended revising the language to permit "Sporting events for which no admission is charged *for more than 75% of seating capacity*". The added language (italicized above) is specifically taken from the Coastal Commission's guidelines for temporary events, and has the effect of permitting 24 percent of seating to have paid admission.

The recommended amendment provides for the AVP's request to charge admission for preferred seating, and is consistent with the Coastal Commission's general policy for temporary events in the coastal zone. This change would maintain the annual MBO approval process involving coastal permit review by the City Council, subject to appeal to the California Coastal Commission.

The Planning Commission received public testimony regarding the proposed amendment from the AVP and 3 residents. The residents expressed concerns for beach commercialization, reduced public access, and admission fee sharing. The Planning Commission responded that the proposal only allows for partial paid admission events such as the most recent MBO's, which were determined to be appropriate by the City Council and Coastal Commission. Fees, revenue, and cost allocations specifically involved in the MBO are negotiated each year between the City and AVP. The Planning Commission did accept a resident's suggestion to focus the proposed language toward admission for seating area rather than non-seating areas.

The attached Planning Commission Minutes and Staff Report include additional reference information regarding the proposed code change.

After introduction of Ordinance 2064, staff would return for City Council adoption at the September 21st meeting along with a resolution transmitting the Ordinance to the Coastal Commission.

ALTERNATIVES:

The alternatives to the recommended action available to the City Council include:

1. **REVISE** the proposed Ordinance as the City Council determines to be appropriate.
2. **DENY** the proposed amendment.

Attachments:

- Ordinance No. 2064
- Resolution No. PC 04-15
- P.C. Minutes (draft) excerpt, dated 8/11/04.
- P.C. Report, dated 4/11/04 including:
 - Resolution No. PC 04-
 - Existing Coastal Program Section A.24.030
 - Coastal Commission temp. event policies
 - ~~Coastal Commission report, dated 4/14/04 (NAE)~~
 - AVP amendment request

(NAE) – not available electronically

C: Matt Gage, AVP

ORDINANCE NO. 2064

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AN AMENDMENT TO THE IMPLEMENTATION PROGRAM OF THE MANHATTAN BEACH LOCAL COASTAL PROGRAM PERTAINING TO PAID ADMISSION TO TEMPORARY SPORTING EVENTS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. The Association of Volleyball Professionals requested that the City of Manhattan Beach initiate an amendment to the City's Local Coastal Program to permit paid seating at temporary sporting events within the City's coastal zone.
- B. The Planning Commission conducted a public hearing on August 11, 2004, pursuant to applicable law to consider an amendment to Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program
- C. The Planning Commission adopted Resolution No. PC 04-15 recommending City Council approval of an amendment to the Manhattan Beach Local Coastal Program permitting partial paid admission to temporary sporting events.
- D. On September 7, 2004, the City Council conducted a public hearing, received testimony, and considered the proposed Local Coastal Program amendment.
- E. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- G. The proposed amendment is consistent with the goals and policies of the City's General Plan and with the purposes of the Implementation Program of the Manhattan Beach Local Coastal Program.

SECTION 2. The City Council of the City of Manhattan Beach, California, hereby amends Section A.24.030 of the Implementation Program of the City of Manhattan Beach Local Coastal Program as follows:

Amend the specified portion of the OS District Land Use Regulations table of Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program to read as follows:

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events for which no admission is charged for more than 75% of seating capacity	U	

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

SECTION 4. That the time within which judicial review of this ordinance may be sought is not later than 90 days after the decision becomes final pursuant to California Government Code Section 65009.

SECTION 5. 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 6. This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 7. 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 21st day of September, 2004.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

RESOLUTION NO. PC 04-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA RECOMMENDING AN AMENDMENT TO THE IMPLEMENTATION PROGRAM OF THE MANHATTAN BEACH LOCAL COASTAL PROGRAM PERTAINING TO PAID ADMISSION TO TEMPORARY SPORTING EVENTS

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. The Planning Commission conducted a public hearing pursuant to applicable law to consider an amendment to Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received on August 11, 2004.
- C. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- D. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- E. The proposed amendment is consistent with the goals and policies of the City's General Plan and Local Coastal Program.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby recommends approval of the subject amendment to the Local Coastal Program as follows:

Amend a portion of the OS District Land Use Regulations table of Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program to read as follows (new language underlined) :

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events for which no admission is charged <u>for more than 75% of seating capacity</u>	U	


SECTION 3. The Secretary to the Planning Commission shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of August 11, 2004 and that said Resolution was adopted by the following vote:

AYES: Kuch, O'Connor, Savikas, Simon,
Chairman Montgomery
NOES: None
ABSTAIN: None
ABSENT: None



RICHARD THOMPSON,
Secretary to the Planning Commission



Sarah Boeschen,
Recording Secretary

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August 11, 2004

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1 04/0811.1 Proposed AMENDMENT to the Manhattan Beach LOCAL COASTAL 2 PROGRAM (LCP) Pertaining to Charging Admission for Temporary Events 3

4 Associate Planner Haaland summarized the staff report. He stated that the Local Coastal
5 Program currently permits temporary uses for sporting events in the open space district of the
6 Coastal Zone for which no admission is charged. He indicated that the Manhattan Beach Open
7 Volleyball Tournament has included some admission fees in recent years, which the Coastal
8 Commission approved based on their guidelines permitting charged admission for under 25
9 percent of the total seating area. He said that the Coastal Commission directed the City to revise
10 its Coastal Program to permit partial paid seating in order for the tournament to continue such
11 practice in future years. He said that language is proposed to amend the temporary uses table in
12 the OS District Regulations of the City's Coastal Program. He said that the amendment would
13 add language to the Local Coastal Program to permit "sporting events for which no admission is
14 charged for more than 75 percent of seating/spectator areas." He stated that a letter was received
15 by a resident who proposes language that only seating areas and not spectator areas should be
16 referenced for paid seating. He said that staff included spectator areas in the language to address
17 events where there are no formal seating areas. He commented that paid admission for any
18 temporary events would still need to be reviewed by the City on a case by case basis, and each
19 permit would have to specifically identify the area allotted for free admission. He said that staff
20 feels the proposed amendment is consistent with the policy of the Coastal Commission and is
21 recommending approval of the amendment.

22
23 In response to a question from Commissioner Savikas, Associate Planner Haaland commented
24 that the capacity can be determined by the specified capacity for the bleachers that are installed,
25 or estimates based on the type of spectator areas proposed.

26
27 In response to a question from Commissioner O'Connor, Associate Planner Haaland said that it
28 was staff's decision to include non-seating spectator areas in the proposed language.

29
30 In response to a question from Chairman Montgomery, Associate Planner Haaland stated that
31 Exhibit "H" attached with the staff report is the temporary events guidelines used by the Coastal
32 Commission and includes the language stating that more than 75 percent of the seating for events
33 must remain free of charge. He indicated that the 2004 tournament staff report of the Coastal
34 Commission dated 5/5/04 refers to at least 76 percent of seating being provided free of charge,
35 which is in compliance with their guidelines of over 75 percent.

36
37 In response to a question from Commissioner O'Connor, Associate Planner Haaland indicated
38 that the Parks and Recreation Department is responsible for overseeing the Manhattan Beach
39 Open, and is in support of the proposal.

40

PLANNING COMMISSION MINUTES

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1 Chairman Montgomery stated that the document he had referenced was the Coastal Commission
2 Guidelines, and was marked as "Exhibit H" from a previous Coastal Program report from where
3 it had been retrieved. This marking was unrelated to the exhibit numbering system used in the
4 provided Manhattan Beach Open Coastal Commission staff report.

5
6 Commissioner O'Connor stated that he is a member of the Manhattan Beach Open Steering
7 Committee, which was created at the direction of the City Council to gather input on the
8 formation and format of the tournament. He said that he discussed the issue with staff when he
9 learned that the item was on the agenda, and staff confirmed his opinion that he does not need to
10 recuse himself from consideration of the issue because of his involvement on the Committee. He
11 commented that he also served on the committee in his prior service on the Parks and Recreation
12 Commission and did not recuse himself on issues regarding the AVP (Association of Volleyball
13 Professionals).

14
15 Chairman Montgomery opened the public hearing.

16
17 **Matt Gage**, representing the AVP, pointed out that the amendment does not change the
18 operation of the Manhattan Beach Open in terms of paid and reserved seating, and seating would
19 be handled as it has been in the past. He commented that the proposal is simply a result of the
20 Coastal Commission indicating that the LCPs should be amended for the event in order for it to
21 remain as it has in the past. He said that the proposed amendment would be consistent with other
22 coastal cities in terms of requirements for paid and reserved seating. He commented that
23 credibility is added to media and sponsors when a sporting event includes paid admission. He
24 said that charging admission would help the AVP to meet the needs of their sponsors; to televise
25 the event, to pay prize money, and to install the bleachers. He stated that charging for seating
26 also helps to offset the cost of the event and helps maintain the financial feasibility of the events,
27 and charging for even 24 percent of the seats is important.

28
29 In response to a question from Commissioner Savikas, **Mr. Gage** said that the calculation of 24
30 percent of seating is based on all available seats including bleachers and risers.

31
32 In response to a question from Commissioner Simon, **Mr. Gage** said that the amount of seating
33 capacity is based on available seating and does not include other spectator areas.

34
35 In response to a question from Commissioner Savikas, **Mr. Gage** indicated that their income is
36 available to the City in terms of the amount generated by charging admission. He said that the
37 Manhattan Beach Open is sponsored by the City. He indicated that the AVP pays for all of the
38 costs of the event and reimburses the City for all of their costs. He said that the City does not
39 share in the profits of the event.

40

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1 Commissioner O'Connor commented that there is a contract between the City and the AVP for
2 the operation of the tournament that addresses a number of different operational issues. He said
3 that he is not certain whether or not it addresses whether the AVP's finances of the event are
4 open to the City.

5
6 **Bill Eisen**, a resident of the 3500 block of Crest Drive, representing Residents for a Quality City,
7 said that they circulated a ballot proposition in 1998 to ban any commercialization of the beach,
8 including paid seating. He said that the City Council indicated that they had no intention in the
9 future of approving paid seating on the beach. He stated that he is opposed to any paid seating,
10 and the AVP has not demonstrated a need for paid seating at the Manhattan Beach Open. He
11 said that the APV was previously denied a proposal to serve alcohol at the event, and it appears
12 that their real intent is to commercialize the event and create a large party atmosphere. He
13 commented that the AVP agreed to separate the paid seating section from the free seating, and
14 they did comply. He indicated that in previous years it was impossible to differentiate between
15 the paid and public seating. He said that he would request if the proposal is approved that the 25
16 percent paid seating be on condition that it be physically separated from the free seating.

17
18 **Martha Andreani**, a resident of the 100 block of 10th Street, said that she objects on behalf of
19 herself and the Manhattan Beach Residents Association to the AVP and staff's recommendation
20 to approve paid seating for the tournament. She stated that the proposal would deny public
21 access to the beach by charging admission. She said it appears that the Manhattan Beach Open is
22 an annual rather than temporary event. She indicated that she is certain that most funds come
23 from the sponsors of the event rather than by ticket sales. She commented that if the City is
24 partners with the AVP, the City has a responsibility to regulate the event. She said that she also
25 questions a partnership where the City does not share in the benefits that result from the City
26 giving their services.

27
28 **Sandra Seville-Jones**, a resident of 6th Street, said that she felt that her comments expressed in a
29 letter she submitted to the City were taken into consideration, and she appreciates the amount of
30 thought that was given to her input. She indicated that the proposal would help the AVP to be
31 successful, which she feels should be recognized when the contract with the City is renegotiated.
32 She commented that she feels the City should request to receive more than simply their costs for
33 the event being reimbursed.

34
35 **Dave Williams**, representing the AVP, commented that the cost of sponsoring the event is very
36 high, and it is difficult to make a profit. He indicated that they are denied many revenue sources
37 in California that are available in other states. He said that they recognize that 25 percent of the
38 seating is the most that they will ever be able to sell. He pointed out that they are not making a
39 profit by being televised. He commented that every event they host over the season leads to the
40 Manhattan Beach Open. He indicated that they are seeking to have the same basic allowances as

PLANNING COMMISSION MINUTES

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1 in other cities in California.

2
3 Chairman Montgomery closed the public hearing.

4
5 In response to a question from Commissioner Savikas, Director Thompson said that the Coastal
6 Commission's guidelines apply to coastal areas that do not include a Local Coastal Plan. He
7 indicated that the City's Local Coastal Program includes its own regulations, and any change to
8 the Coastal Commission guidelines would not change the City's Local Coastal Plan.

9
10 Commissioner Simon commented that the Manhattan Beach Open is a City event which the AVP
11 is contracted to host. He stated that he feels the proposed amendment would be consistent with
12 what has been done in the past. He indicated that he would support the proposal provided the
13 same language that has been used previously regarding "seating capacity" is included, as there is
14 a common understanding of seating capacity.

15
16 Commissioner Kuch indicated that the AVP is not attempting to take money from the City;
17 however, he would want to ensure that the City's costs are covered. He said that he would
18 support the resolution.

19
20 Commissioner Savikas indicated that the Coastal Commission has the ability to amend their
21 guidelines at any time, and she asked whether the City can add similar flexibility to their LCP.
22 She said that she would support duplicating wording used by the Coastal Commission. She
23 commented that keeping the same wording between the Coastal Commission guidelines and the
24 LCP would result in a clearer interpretation of the LCP.

25
26 Director Thompson pointed out that the City can always submit a Code change to alter the
27 percentage of paid seating if it was felt necessary. He also pointed out that the amendment would
28 not automatically require the City to grant permission to charge for seating but would simply
29 allow such applications to come forward. He indicated that each year there is discussion
30 regarding paid seating for the Manhattan Beach Open as part of the Coastal Development Permit
31 process, and the amendment would continue to allow the discussions to take place.

32
33 Commissioner O'Connor commented that he has reviewed the paperwork of Residents for a
34 Quality City, which is the group claimed to be represented by **Mr. Eisen**. He indicated that no
35 other names are listed, no donors are listed, and no participants are listed in the papers other than
36 **Mr. Eisen**. He also commented that he has not yet been invited to this group's next meeting, as
37 **Mr. Eisen** had previously committed at this Planning Commission's meeting of January 14,
38 2004. He indicated that he would be happy to take **Mr. Eisen's** testimony as representative of
39 Residents for a Quality City when he has an understanding that the group exists. He indicated
40 that without such understanding, he considers **Mr. Eisen's** testimony as an individual and not as

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1 representative of any City group, and he would recommend that the other Commissioners, City
2 Council members, and community members to do the same. He said that it is good lawmaking to
3 bring the Code up to current practice. He indicated that the discussions regarding whether paid
4 seating should be permitted have already occurred, and it has been in practice for two years at the
5 25 percent level. He said that the paid seating has been successful for the event, and the AVP did
6 comply with separating the areas for paid and free seating. He indicated that any action other
7 than amending the LCP to agree with the longstanding guideline that has been the governing
8 policy over the event would be a bad policy. He said that he would support the proposal.

9
10 Chairman Montgomery commented that the Coastal Commission directed the City to amend the
11 LCP prior to any future approvals of paid admission for sporting events within the Coastal Zone,
12 and the proposed language follows that directive. He commented that he supports the proposal
13 with changing the wording to "seating capacity" in place of "seating/spectator areas."

14
15 A motion was MADE and SECONDED (Simon/Kuch) to **APPROVE** a proposed Amendment to
16 the Manhattan Beach Local Coastal Program (LCP) pertaining to charging admission for
17 temporary events, with the condition that the term "seating/spectator areas" be changed to
18 "seating capacity" in Section 2 of the Resolution.

19
20 AYES: Kuch, O'Connor, Savikas, Simon, Chairman Montgomery
21 NOES: None
22 ABSENT: None
23 ABSTAIN: None

24
25 Director Thompson stated that a public hearing before the City Council regarding the item will
26 be scheduled before the City Council in the next month.

27
28 **04/0811.2 Proposed AMENDMENT to an Existing PLANNED DEVELOPMENT**
29 **PERMIT for the Manhattan Beach Country Club to Increase Membership**
30 **from 1,000 to 1,250 and Maintain 232 On-Site Parking Spaces, on the**
31 **Property Located at 1330, 1332, and 1334 Park View Avenue**


32
33 Commissioner Kuch said that he has been advised not to participate in the hearing because of any
34 potential conflict of interest arising from his membership in the Manhattan Beach Country Club.


35
36 In response to a question from Commissioner Savikas, Director Thompson indicated that
37 previous parking requirements and restrictions are being carried forward into the proposed
38 Resolution, and the parking requirement for the club would not change with the proposal.

39
40 Senior Planner Lackow summarized the staff report. She stated that the existing development

**CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Planning Commission

THROUGH: Richard Thompson, Director of Community Development 

FROM: Eric Haaland, Associate Planner 

DATE: August 11, 2004

SUBJECT: Proposed Amendment to the Implementation Program of the Manhattan Beach Local Coastal Program Pertaining to Paid Admission to Temporary Sporting Events.

RECOMMENDATION

Staff recommends that the Planning Commission **ADOPT** the attached draft Resolution recommending the City Council **APPROVE** the proposed amendment.

BACKGROUND

The California Coastal Commission, during its consideration of the 2004 coastal permit application for the Manhattan Beach Open volleyball tournament (MBO), directed that the City amend its Local Coastal Program prior to any future approvals of paid admission for sporting events located within the City's coastal zone. Recent tournaments have been permitted to have partial paid admission although the Manhattan Beach Local Coastal Program does not permit such events. The Association of Volleyball Professionals (AVP), the City's partner in producing the MBO, subsequently submitted the attached request for the initiation of an amendment permitting paid admission to future volleyball tournaments located within the coastal zone.

DISCUSSION

Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program permits "Sporting events for which no admission is charged" as a temporary use within the OS (open space) District. The coastal portions of the OS District include the beach, Live Oak Park, Culiacan Park, Sand Dune Park, and a portion of the Manhattan Beach Parkway. The MBO, located on the beach, is the most significant sporting event that typically occurs within the coastal zone, and requires annual public hearing approval of a Coastal Development Permit. In recent years the AVP has proposed admission fees to recover some of the costs of producing the tournament.

The previous two tournaments have provided spectators the option of preferred seating and services for fees established by the AVP. The City approved this aspect of the events with some objections from members of the public. The Coastal Commission determined that these were admission fees but granted approval, in conflict with the City's Local Coastal Program, based on a Coastal Commission policy (attached) permitting up to 25% of seating for such events to have an admission fee. Assuming the AVP, the City, and the Coastal Commission continue to agree on the appropriateness of tournament proposals similar to the previous two, it appears the simplest solution to expeditiously eliminate the regulation conflict is to revise the City's Coastal Program as follows:

(Portion of OS District Land Use Regulations table, Section A.24.030. Proposed language is underlined)

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events for which no admission is charged <u>for more than 75% of seating/spectator areas</u>	U	

The amendment language above adds the option of paid seating at sporting events where *more than 75%* (worded from attached Coastal Commission guidelines) of the total seating is free to the public. The "U" designation within the middle column of the table indicates that a temporary use permit is required for these temporary events. Temporary use permits are minor staff level procedures, however, the City Council typically incorporates that approval within its annual review of the MBO. The "(B)" designation in the right column corresponds to a footnote referring to another section of the code for temporary use permit procedures.

The proposed amendment provides for the AVP's request to charge admission for preferred seating, and is consistent with the Coastal Commission's general policy for temporary events in the coastal zone. This change would maintain the annual tournament approval process involving coastal permit review by the City Council, subject to appeal to the California Coastal Commission. The attached draft Resolution recommends this amendment to the City's Local Coastal Program.

Attached to this report is the Coastal Commission's staff report for the 2004 MBO, which contains background information and analysis from the entire coastal permit process.

CONCLUSION

Staff recommends that the Planning Commission accept the proposal to amend the City's Local Coastal Program to permit partial paid seating at temporary events within the coastal zone by adopting the proposed Resolution recommending the City Council's approval.

ALTERNATIVES

1. **ADOPT** a revised Resolution recommending the City Council **APPROVE** a modified version the proposed amendment.
2. **ADOPT** a revised Resolution recommending the City Council **DENY** the proposed amendment.

Attachments:

Resolution No. PC 04-
Existing Coastal Program Section A.24.030
Coastal Commission temp. event policies
Coastal Commission report, dated 4/14/04 (NAE)
AVP amendment request

NAE – not available electronically

RESOLUTION NO. PC 04-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA RECOMMENDING AN AMENDMENT TO THE IMPLEMENTATION PROGRAM OF THE MANHATTAN BEACH LOCAL COASTAL PROGRAM PERTAINING TO PAID ADMISSION TO TEMPORARY SPORTING EVENTS

THE PLANNING COMMISSION OF THE CITY OF MANHATTAN BEACH DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. The Planning Commission conducted a public hearing pursuant to applicable law to consider an amendment to Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program.
- B. The public hearing was advertised pursuant to applicable law, testimony was invited and received on August 11, 2004.
- C. The proposed project will not have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- D. The proposal is exempt from the requirements of the California Environmental Quality Act due to determination that it has no potential for causing a significant effect on the environment.
- E. The proposed amendment is consistent with the goals and policies of the City's General Plan and Local Coastal Program.

SECTION 2. The Planning Commission of the City of Manhattan Beach hereby recommends approval of the subject amendment to the Local Coastal Program as follows:

Amend a portion of the OS District Land Use Regulations table of Section A.24.030 of the Implementation Program of the Manhattan Beach Local Coastal Program to read as follows (new language underlined) :

Temporary Uses		(B)
Animal Shows	U	
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting Events for which no admission is charged <u>for more than 75% of seating/spectator areas</u>	U	

SECTION 3. The Secretary to the Planning Commission shall certify to the adoption of this Resolution and thenceforth and thereafter the same shall be in full force and effect.

PASSED, APPROVED, and ADOPTED this 11th day of August, 2004.

Ayes:
Noes:
Absent:
Abstain:

Richard Thompson
Secretary to the Planning Commission

Sarah Boeschen
Recording Secretary

OS DISTRICT: LAND USE REGULATIONS

P- Permitted

U- Use Permit

L- Limited, (See Additional Use Regulations)**Public and Semipublic**

Park & Recreation Facilities	P
Jogging Trail	P
Beach and Recreation Support parking approved in CDP 5-89-414	U
Public Safety Facilities	P
Utilities, Major	U
Utilities, Minor	P

Commercial Uses

Commercial Recreation and Entertainment	L-14
Eating & Drinking Establishments	L-14
With Take-Out Service, Limited	L-14
Vehicle/Equipment Sales and Services Commercial Parking Facility	L-15

Accessory Uses

Accessory Uses and Structures	P/U	(A)
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Temporary Uses

Animal Shows	U	(B)
Circuses and Carnivals	U	
Commercial Filming	U	
Sporting events for which no admission is charged	U	

Nonconforming Uses

(C)

OS District: Additional Land Use Regulations

- L-14 Allowed with a use permit only as an ancillary use operated by a non-profit organization approved by the City Council that is compatible with and part of a park or recreational facility, except on the Strand, where no such use is permitted.
- L-15 Public parking permitted, but commercial parking facilities on City-owned land require a use permit.
- (A) Limited to facilities incidental to an open space use.
- (B) See Section A.84.110: Temporary use permits.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036



W
Item 11a

TO: Local Governments and Interested Persons.

FROM: Coastal Commission Staff

SUBJECT: Guidelines For the Exclusion of Temporary Events from
Coastal Commission Permit Requirements - Adopted 5/12/93

I. Purpose and Authority.

The purpose of these guidelines is to identify the standards the Coastal Commission staff, under the direction of the Executive Director, will use in determining whether a temporary event is excluded from coastal development permit requirements pursuant to Public Resources Code Section 30610 (i) (as amended by SB 1578, Ch. 1088, Stats. 1992). The guidelines are for use in areas where the Coastal Commission retains coastal development permit authority. These guidelines may be utilized by local governments for reference in developing Local Coastal Programs or in processing LCP amendments, if required, to address coastal development permit jurisdiction over temporary events.

II. Criteria for Exclusion from Permit Requirements.

Except as provided in Section III. below, the Executive Director shall exclude from coastal development permit requirements all temporary events except those which meet all of the following criteria:

- a) Are held between Memorial Day weekend and Labor Day; and,
- b) Occupy all or a portion of a sandy beach area; and,
- c) Involve a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

Only temporary events meeting all of the above criteria shall require coastal development permit review, however,

The Executive Director may also exclude from permit requirements temporary events meeting all of the above criteria when:

- d) The fee is for preferred seating only and more than 75% of the provided seating capacity is available free of charge for general public use; or,

EXHIBIT H

Item ^W 11a

e) The event is held on sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or,

f) The event is less than one day in duration; or,

g) The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for the same duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.

III. Executive Director or Commission Discretion to Require a Permit.

The Executive Director, or the Commission through direction to the Executive Director, may determine that a temporary event shall be subject to Commission coastal development permit review, even if the criteria in Section II. are not met, if the Executive Director or the Commission determines that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include the following:

a) The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;

b) The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Section V. of these guidelines;

c) The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;

d) The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources.

IV. Modifications to Guidelines by the Commission.

The Commission may amend these guidelines at any time if it is determined such modification is necessary to more effectively implement Section 30610(i) of the Coastal Act, and provide Coastal Commission coastal development permit review of any category of temporary events having the potential for significant impacts to coastal resources; or, eliminate such review of any category of temporary events having no such potential.

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V. Definitions.

For purposes of these guidelines, the following definitions shall apply:

a) "Temporary event(s)" means an activity or use that constitutes development as defined in Section 30106 of the Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use;

b) "Limited duration" means a period of time which does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis;

c) "Non-permanent structures" include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, movie/film sets, etc., which do not involve grading or landform alteration for installation.

d) "Exclusive use" means a use that precludes use in the area of the event for public recreation, beach access or access to coastal waters other than for or through the event itself.

e) "Coastal resources" include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.

f) "Sandy beach area" includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

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