

## City Council

### Adjourned Regular Meeting

Tuesday, August 13, 2013

9:00 AM

City Council Chambers

### Meeting Management and Open Government Initiatives



*Mayor David J. Lesser*  
*Mayor Pro Tem Amy Howorth*  
*Councilmember Wayne Powell*  
*Councilmember Mark Burton*  
*Councilmember Tony D'Errico*

Executive Team

David N. Carmany, City Manager

Vince Mastrosimone, Interim Public Works Director  
Robert Espinosa, Fire Chief  
Cathy Hanson, Human Resources Director  
Bruce Moe, Finance Director  
Richard Thompson, Community Development Director

Quinn Barrow, City Attorney  
Mark Leyman, Parks & Recreation Director  
Eve R. Irvine, Police Chief  
Liza Tamura, City Clerk

### MISSION STATEMENT:

**The City of Manhattan Beach is dedicated to providing exemplary municipal services, preserving our small beach town character and enhancing the quality of life for our residents, businesses and visitors.**

**MANHATTAN BEACH'S CITY COUNCIL WELCOMES YOU!**

*Your presence and participation contribute to good city government.*

*By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on the agenda under "Audience Participation," at which time speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, including items on the agenda, with each speaker limited to three minutes.*

*Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at [www.citymb.info](http://www.citymb.info), the Police Department located at 420 15th Street, and are also on file in the Office of the City Clerk for public inspection. Any person who has any question concerning any agenda item may call the City Clerk's office at (310) 802-5056 to make an inquiry concerning the nature of the item described on the agenda.*

*In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Office of the City Clerk at (310) 802-5056 (voice) or (310) 546-3501 (TDD). Notification 36 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.*

**BELOW ARE THE AGENDA ITEMS TO BE CONSIDERED. THE RECOMMENDED COUNCIL ACTION IS LISTED IMMEDIATELY AFTER THE TITLE OF EACH ITEM IN BOLD CAPITAL LETTERS.****A. PLEDGE TO THE FLAG (1 MINUTE)****B. ROLL CALL (1 MINUTE)****C. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING (1 MINUTE)**

*I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, state under penalty of perjury that this notice/agenda was posted on Friday, August 9, 2013, on the City's Website and on the bulletin boards of City Hall, Joslyn Community Center and Manhattan Heights.*

**D. APPROVAL OF AGENDA (5 MINUTES)**

*By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.*

**E. AUDIENCE PARTICIPATION (Three Minutes Per Person)**

*Speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda. Please complete the "Request to Address the City Council" card by filling out your name, city of residence, and returning it to the City Clerk. Thank you!*

**F. GENERAL BUSINESS (30 MINUTES PER ITEM)**

1. General Meeting Management Procedures (including meeting ending times and rules of decorum); Agenda Structure (order of agenda items, consent calendar items and pulling of consent calendar items); and City Council Handbook. [13-0375](#)

**DISCUSS AND PROVIDE DIRECTION**

**Attachments:** [May 21, 2013, City Council Staff Report](#)  
[Resolution No. 12-6411](#)  
[City Attorney Memo: Suggested Protocol for Dealing with Disruptive Persons](#)  
[Revised Manhattan Beach Rules of Decorum](#)  
[Model City Council Handbook](#)  
[July 31, 2013, City Attorney Memo Regarding Meeting Management Tips](#)

2. Final Report from the Ad Hoc Open Government Subcommittee Seeking City Council Action on Remaining Open Government Initiatives; Authorization for the City Manager to Adopt the Public Records Act Protocol; and Direction on Future Open Governmental Initiatives. [13-0378](#)

**RECEIVE PUBLIC INPUT, DISCUSS, AND TAKE ACTION ON OPEN GOVERNMENT INITIATIVES**

**Attachments:** [May 21, 2013 City Council Agenda Report from the Ad Hoc Open Government Subcommittee](#)  
[Open Government Initiatives Matrix](#)  
[McKee Settlement Agreement](#)  
[Public Records Act Protocol](#)  
[Public Records Act Log](#)  
[March 12, 2013 Ad Hoc Open Government Subcommittee Agenda, Staff Report](#)

**G. ADJOURNMENT**

## H. FUTURE MEETINGS

### CITY COUNCIL MEETINGS

Sep. 3, 2013 – Tuesday – 6:00 PM – City Council Meeting  
Sep. 10, 2013 - Tuesday - 6:00 PM - Joint City Council/Parking & Public Improvements Commission  
(Re-scheduled to Nov. 12)  
Sep. 10, 2013 - Tuesday - 6:00 PM - Adjourned Regular City Council Meeting  
Sep. 17, 2013 – Tuesday – 6:00 PM – City Council Meeting  
Oct. 1, 2013 – Tuesday – 6:00 PM – City Council Meeting  
Oct. 8, 2013 - Tuesday - 6:00 PM - Joint City Council/Cultural Arts Commission Meeting  
Oct. 15, 2013 – Tuesday – 6:00 PM – City Council Meeting  
Oct. 29, 2013 - Tuesday - 6:00 PM - Joint City Council/Library Commission Meeting  
Nov. 5, 2013 – Tuesday – 6:00 PM – City Council Meeting  
Nov. 12, 2013 - Tuesday - 6:00 PM - Joint City Council/Parking & Public Improvements Commission Meeting  
Nov. 12, 2013 - Tuesday - 6:00 PM - Joint City Council/ Board of Building Appeals Meeting (Re-scheduled to Dec. 10)  
Nov. 19, 2013 – Tuesday – 6:00 PM – City Council Meeting  
Dec. 3, 2013 – Tuesday – 6:00 PM – City Council Meeting  
Dec. 10, 2013 - Tuesday - 6:00 PM - Joint City Council/ Board of Building Appeals Meeting  
Dec. 17, 2013 – Tuesday – 6:00 PM – City Council Meeting

### BOARDS, COMMISSIONS AND COMMITTEE MEETINGS

Aug. 22, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission  
Aug. 26, 2013 – Monday – 6:30 PM – Parks & Recreation Commission  
Aug. 28, 2013 - Wednesday - 6:30 PM - Planning Commission  
Sep. 4, 2013 – Wednesday – 6:00 PM – North Manhattan Beach Business Improvement District  
Sep. 9, 2013 – Monday – 6:30 PM – Library Commission  
Sep. 10, 2013 – Tuesday – 6:00 PM – Cultural Arts Commission  
Sep. 10, 2013 - Tuesday - 6:00 PM - Joint City Council/Parking & Public Improvements Commission  
(Re-scheduled to Nov. 12)  
Sep. 11, 2013 – Wednesday – 6:30 PM – Planning Commission  
Sep. 23, 2013 – Monday – 6:30 PM – Parks & Recreation Commission  
Sep. 25, 2013 – Wednesday – 6:30 PM – Planning Commission  
Sep. 26, 2013 - Thursday - 6:30 PM - Parking & Public Improvements Commission  
Oct. 29, 2013 - Tuesday - 6:00 PM - Joint City Council and Library Commission  
Nov. 12, 2013 - Tuesday - 6:00 PM - Joint City Council/Parking & Public Improvements Commission  
Nov. 12, 2013 - Tuesday - 6:00 PM - Joint City Council/ Board of Building Appeals Meeting (Re-scheduled to Dec. 10)  
Dec. 10, 2013 - Tuesday - 6:00 PM - Joint City Council/ Board of Building Appeals Meeting

## I. CITY HOLIDAYS

### **CITY OFFICES CLOSED ON THE FOLLOWING DAYS:**

*Sep. 2, 2013 – Monday – Labor Day*  
*Oct. 14, 2013 – Monday – Columbus Day*  
*Nov. 11, 2013 – Monday – Veterans Day*  
*Nov. 28-29, 2013 – Thursday & Friday – Thanksgiving Holiday*  
*Dec. 25, 2013 – Wednesday – Christmas Day*  
*Jan. 1, 2014 – Wednesday – New Years Day*  
*Jan. 20, 2014 – Monday – Martin Luther King Day*  
*Feb. 17, 2014 – Monday – President's Day*  
*May. 26, 2014 – Monday – Memorial Day*  
*Jul. 4, 2014 - Friday - Independence Day*



**Agenda Date:** 8/13/2013

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**TO:**

Honorable Mayor and Members of the City Council

**FROM:**

David N. Carmany, City Manager

**SUBJECT:**

General Meeting Management Procedures (including meeting ending times and rules of decorum); Agenda Structure (order of agenda items, consent calendar items and pulling of consent calendar items); and City Council Handbook.

DISCUSS AND PROVIDE DIRECTION

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**RECOMMENDATION:**

Staff recommends that the City Council discuss and provide direction regarding general meeting management procedures (including meeting ending times and rules of decorum), Agenda Structure (order of agenda items, consent calendar items and pulling of consent calendar items) and whether staff should prepare a City Council Handbook.

**FISCAL IMPLICATIONS:**

There are no fiscal implications associated with these matters.

**BACKGROUND:**

Periodically, and most recently May 21, 2013, the City Council has reviewed its rules of order for the conduct of City Council meetings to facilitate effective meeting management, thereby creating an environment in which more members of the public may participate in the meeting at a reasonable hour. The agenda staff report for the May 21, 2013 council meeting is attached as Attachment 1.

After discussion on May 21, 2013, the City Council provided direction on a number of items and directed staff to return with an updated report for further discussion.

**DISCUSSION:**

In light of the May 21, 2013 Council discussion, this report has been organized as follows:

1. ITEMS IMPLEMENTED PURSUANT TO COUNCIL DIRECTION GIVEN ON MAY 21, 2013.
2. ITEMS REQUIRING FURTHER DISCUSSION.
3. REMAINING ISSUES NOT ADDRESSED ON MAY 21, 2013.
4. CITY COUNCIL HANDBOOK.

1. ITEMS IMPLEMENTED PURSUANT TO COUNCIL DIRECTION GIVEN ON MAY 21, 2013.

Pursuant to Council direction given on May 21, 2013, the following items have been implemented:

- a. Council Meeting Start Time: City Council meetings will continue to start at 6:00 with ceremonial matters first.
- b. Parking Restrictions at City Hall During City Council Meetings: Parking restrictions during meetings have been diminished.
- c. Placement of Community Announcements on City Council Agenda: Community announcements will remain early on the agenda with clarification in the agenda that announcements should be for upcoming events. (But note possible expansion of this item for AB 1234 reports; see discussion item under Section 2.)
- d. Scope of Permissible Audience Participation Matters: Audience participation to remain early on the agenda for any matter within the subject matter jurisdiction of the Council.
- e. Estimated Time of Agenda Items: Projected times for agenda items have been added to the agenda.
- f. Agenda Development Meetings: The Mayor and Mayor Pro Tem will participate in agenda review meetings.
- g. Draft Agenda Forecast: The draft agenda forecast will be distributed weekly.
- h. Placement of City Manager Report on City Council Agenda: The City Manager report will be given early on the agenda.

## 2. ITEMS REQUIRING FURTHER DISCUSSION.

### a) Council Meeting End Time

Section 2 of Resolution No. 12-6411 (Attachment 2) currently provides:

“All public hearings and “General Business” agenda items which have not been introduced by 10:30 p.m. will be continued to the next regular City Council meeting, or to another time set by the City Council prior to adjournment, unless the City Council votes to suspend this rule. Any public hearing or General Business item commenced prior to 10:30 p.m. may be completed without the necessity of a vote to suspend this rule.

The City Council shall adjourn each regular meeting by 11:00 p.m. Upon adjournment, all agenda items not completed shall be continued to the next regular City Council meeting, or to such other time set by the Council prior to adjournment.

By a 4/5th vote, the Council may waive or extend the deadlines specified [above].”

### b).Posting of City Council Agendas

On May 21, 2013, the Council directed staff to post and eNotice agendas by the Wednesday before the regular City Council meeting. The Brown Act requires that such agendas be posted at least 72 hours before the meeting.

### c). Revised Rules of Decorum

The City Council has recognized the importance of approaching the public's business in an environment of personal respect and courtesy, which places emphasis on the consideration of policy and avoids personalization of comments.

Guidelines have been developed to ensure that meetings of the City Council are conducted in a civil and professional manner. Councilmembers, staff, and the public are encouraged to focus discussion on policy matters, recognize personal criticism as inappropriate, preserve appropriate order and decorum while others are expressing their views during all meetings, and treat members of the public equally by applying rules in a fair and consistent manner. All participants should be discouraged from engaging in side conversations, disruptions, interruptions, or delaying efforts that lessen the efficiency of meetings. In the event a person demonstrates rude, boisterous, or profane behavior, the Mayor will call such person to order. If such conduct continues, the Mayor may call a recess, request the removal of such person(s) from the City Council Chambers, or take other appropriate action. The City Council has a longstanding practice of discouraging applause, booing, or other similar behaviors from the public during meetings.

Attachment 3 is a memo from the City Attorney's office regarding a suggested protocol for dealing with disruptive persons during public meetings. Upon review of other cities' protocols, staff recommends that the City Council adopt the attached “Rules of Decorum.” See Attachment 4.

### d. Expand Community Announcements to include AB 1234 Reports

AB 1234 provides that city officials must provide brief reports on meetings attended at a city's expense at the



next council meeting. Government Code § 53232.3(d). In the past, councilmembers have provided their reports during Other Council Business and Travel Reports. Staff recommends that councilmembers instead provide such reports during Community Announcements.

e. The Addition of Rules of Decorum and Definitions to the Agenda Cover Page  
The City Clerk has contacted Granicus to see if this can be done.

f. Miscellaneous Direction at the May 21 City Council meeting

At the May 21, 2013 Council meeting, the Council directed staff to bring back the following for Council consideration:

- Setting a (15 minute) total time limit per speaker each meeting.
- Moving the Consent Calendar after the General Business Items.
- Defining what items belong on the Consent Calendar.
- Producing a City Council handbook which contains Council meeting rules and procedures which could be used to supplement or replace Resolution No. 12-6411.

These items are addressed in the following sections.

### 3. AGENDA DEVELOPMENT AND STRUCTURE

- a) Placing items on an agenda
- b) Order of agenda items
- c) Consent Calendar items and "Pulling" of Consent Calendar items

#### a) Placing Items on an Agenda

Mayor and City Manager: Traditionally, the City Manager and Mayor may place any items on the agenda.

Councilmembers: A Councilmember may request an item be considered on a future agenda and, upon agreement of a majority of City Council, staff will prepare a staff report if formal City Council action is required. Councilmembers may make this request verbally during a meeting or may submit written requests. Normally, the process involves two steps: initial consideration of the request by the full City Council at the soonest possible regularly scheduled meeting; and, if a majority agrees, the matter is then scheduled for further consideration on an upcoming meeting agenda. In rare cases, Councilmembers have made written requests outside of a council meeting when there is a need to take prompt action. We recommend that such requests be given to the Mayor for his or her consideration.

Members of the Public: Persons desiring to place items on the agenda shall submit a request, in writing, to the City Manager stating the nature of business and as much detail as possible. The City Manager will determine if the request is appropriate as a City Council agenda matter or if some other form of response should be made by the City. A member of the public may also request that an item be placed on a future agenda during public comment or through other communication with Councilmembers. Upon approval of a majority of City Council, the item will be agendized and a staff report may be prepared. The City Manager will inform the City Council of the potential impact the request will have on established priorities or staff workload and seek approval by the City Council before authorizing the work or scheduling the item as appropriate.

Emergency and Non-Agendized Items: Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda is posted an item arises that the City Council would like to act on. Non-agendized items may be added to the agenda only if the City Council makes required findings that (1) the need to consider the item arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a 4/5th vote; if less than five members of City Council are present, the findings require a unanimous vote of those present.

#### b) Order of agenda items.

Councilmembers have expressed interest in rearranging the order of the agenda. As modified by the Council on May 21, the following is the order of the agenda. (Please note that an amendment to Resolution No. 12-6411 is

needed for any changes.)

1. Pledge to the Flag.

2. Roll Call.

3. Ceremonial Calendar:

The Ceremonial Calendar typically consists of awards, proclamations, commendations, and similar matters. The Mayor is recognized as the official head of the city for all ceremonial purposes. As part of those ceremonial responsibilities, the Mayor delivers proclamations.

4. Approval of the Agenda:

By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.

5. Community Announcements (One Minute per Person):

This portion of the meeting is to provide an opportunity for citizens to address the City Council regarding community announcements about future events.

6. Audience Participation (Three Minutes per Person):

Speakers may comment on any item within the subject matter jurisdiction of the City Council, including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City. The Brown Act does not allow City Council to take action on any item not on the agenda.

Members of the public are free to present written comments, preferably in advance of the meeting, as a way to fully communicate their thoughts on agenda or non-agenda items. When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping ahead of time.

On May 21, 2013, Councilmembers expressed interest in considering setting a (15 minute) total time limit per speaker each meeting for the entire agenda.

7. City Manager Report(s):

Provides the City Manager an opportunity to update the City Council and the public regarding any issue of public interest. Also, the City Manager provides reports on travel and training undertaken by senior staff (department heads).

8. Consent Calendar: (See Discussion below in Section c.)

9. Public Hearings.

10. General Business.

11. Items Removed from the Consent Calendar: (See Discussion below in Section c.)

12. Other Council Business, Committee and Travel Reports:

Provides members of the City Council an opportunity to introduce matters not currently before the City Council, including brief announcements, to pose questions of staff and make requests for items to be placed on the agenda at a future meeting. Examples of appropriate communications would be information of general interest received from outside agencies, comments or inquiries received from the public, requests to agendaize future items, and reports on meetings attended at the expense of the City, pursuant to California law, AB 1234. As to items placed on the agenda by a Council member, no staff time shall be incurred in connection with such item, other than incidental time, such as reproducing correspondence or making minor revisions to conform a resolution provided by an outside entity to the City's resolution format.

13. Adjournment.

c. Consent Calendar.

The following issues have arisen regarding the Consent Calendar:

1. The type of matters on the Consent Calendar.
2. Amend the description in the agenda packet to indicate Consent Calendar items - are intended to be "routine and customary"
3. The removal of Consent Calendar items by the public.
4. Whether the Consent Calendar should be moved to a different place on the agenda .

Consent Calendar Matters: Items that are considered to be routine and customary are placed on the "Consent Calendar." The current practice is: the Mayor asks the staff, Councilmembers and the public if anyone wants to remove an item from the Consent Calendar for individual consideration. Items removed from the Consent Calendar are considered at the end of the Agenda under "Items Removed from the Consent Calendar . At that time, any member of the audience may comment on any item pulled from the Consent Calendar.

Resolution 12 -6411 provides: "Those items on the City Council agenda which are considered routine by the City Manager shall appear on a separate section on the agenda and shall include, but not be limited to, the following items:

1. Approval of Minutes
2. Approval of Minute Actions
3. Acceptance of Grant Deeds/Grants of Easement
4. Notices of Completion for Projects
5. City Treasurer's Report
6. Approval of Plans and Specifications and Call for Bids
7. Bid Awards
8. Approval of Records Destruction
9. Approval of Leases and Agreements
10. Approval of Annexations
11. Receive and File or Refer Correspondence
12. Approval or Receive and File Commission or Board Resolutions or Actions
13. Appointments/Resignations/Personnel Actions Res. 6411
14. Claims against the City
15. Resolutions of Intent or Calling of Hearings
16. Approval of Demands

In addition to those items, other cities include the following items on their consent calendars:

- (a) Adoption of Ordinances
- (b) Adoption of Resolutions
- (c) Approval of Purchase Orders
- (d) Acceptance of Donations
- (e) Designation of Voting Delegates, Commission/Board Appointments, and Alternates
- (f) Adoption of Policies
- (g) Approval of Funding Agreements or Funding/Sponsorship Requests
- (h) Appropriations of Funds
- (i) Approval of Change Orders

Some City Councilmembers have expressed interest in revisiting the types of items identified as Consent Calendar items in Resolution No. 12-6411. Previously discussed ideas included setting dollar limits for bid awards or approval of contracts. In checking with other cities, staff discovered that such cities have no dollar limits, and some contracts on the consent calendar have exceeded \$1,000,000. Due to the sheer volume and frequency of many of the types of reports outlined in Resolution No. 12-6411, staff recommends that the Council consider amending Resolution 12-6411, to delete archaic items and to add any or all of items a-i above.

Items Removed from the Consent Calendar: Prior to the City Council's consideration of each item removed from the Consent Calendar, speakers may comment on any or all of those items for up to three minutes per item.

Pursuant to Council comments at the May 21, 2013 meeting, the Council may wish to revisit the rules regarding items removed from the consent calendar. Currently, a member of the public may request that an item listed under Consent Calendar be removed for individual consideration. Items that are removed ("pulled") for discussion will typically be heard after General Business items are discussed unless the majority of City Council

chooses an earlier or later time.

Following any potential changes or direction by the City Council in regards to the types of items to be placed on consent, the City Council may want to modify how items are “pulled from consent.” For instance, it may be effective to continue to allow members of the public to request that items be pulled from consent, but in addition, require that the City Council vote to concur with such a request. This would cut down on some of the frivolous “pulling” of items by members of the public who could in fact be abusing this opportunity in order to gain more than their fair share of meeting time, thereby alienating and dissuading other members of the public from speaking or otherwise participating at City Council meetings.

#### City Council Handbook

Staff has attached a “City Council Handbook” using another city’s handbook as a model. See Attachment 5. Similar to the Boards and Commissions Handbook, a Council Handbook could be used to supplement or possibly replace Resolution No. 12-6411, and serve as a guide to the City Council, staff, and members of the public regarding a variety of council matters, including procedural topics discussed above. If the Council approves this concept, staff will incorporate the actions taken in connection with this agenda item and present the handbook to the council at a later date. The draft may need to be amended depending on the Council action on the above issues.

#### CONCLUSION:

Staff recommends that the City Council discuss and provide direction regarding meeting management and rules of decorum, order of agenda items, criteria for consent calendar and pulling items off the consent calendar, and the draft City Council Handbook.

#### Attachments:

1. May 21, 2013, City Council Staff Report
2. Resolution No. 12-6411
3. City Attorney Memo: Suggested Protocol for Dealing with Disruptive Persons
4. Revised Manhattan Beach Rules of Decorum
5. Model City Council Handbook
6. July 31, 2013, City Attorney Memo Regarding Meeting Management Tips

**TO:**  
Honorable Mayor and Members of the City Council

**THROUGH:**  
David N. Carmany, City Manager

**FROM:**  
Clay J. Curtin, Senior Management Analyst

**SUBJECT:**  
General Meeting Management Procedures (including meeting starting and ending times and rules of decorum) and Agenda Development and Structure (coordination and development of agendas, placement and order of agenda items, public comment opportunities, consent calendar items and pulling of consent calendar items).  
**DISCUSS AND PROVIDE DIRECTION**

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**RECOMMENDATION:**  
Staff recommends that the City Council discuss and provide direction regarding general meeting management procedures (including meeting starting and ending times and rules of decorum) and Agenda Development and Structure (coordination and development of agendas, placement and order of agenda items, public comment opportunities, consent calendar items and pulling of consent calendar items).

**FISCAL IMPLICATIONS:**  
There are no fiscal implications associated with the recommended action.

**BACKGROUND:**  
Over time, the Manhattan Beach City Council has adopted a series of resolutions that established rules of order for the conduct of business. Periodically, the City Council reviews and amends its rules of order for the conduct of City Council meetings to facilitate effective meeting management, thereby creating an environment in which more members of the public may participate in the meeting at a reasonable hour.

In October 2012, the City Council considered a number of different ideas designed to facilitate effective meeting management. After consideration and discussion of such items, the City Council adopted Resolution No. 12-6411 (Attachment 1) to memorialize its "Rules of Order."

The City Council has been operating under Resolution No. 12-6411 for just over six months, however, during that time two new councilmembers have been elected and the City Council has directed staff to agendize for discussion a review of these "Rules of Order" to consider possible revisions.

**DISCUSSION:**

Specific discussion points are outlined below, along with recommended language to be included in a City Council Handbook (Attachment 2). Similar to the Boards and Commissions Handbook, this document could be used to supplement or possibly replace Resolution No. 12-6411, and serve as a guide to the City Council, staff, and members of the public on concerns regarding a variety of City Council procedural topics pertaining to the conduct of public meetings, such as meeting times, agenda preparation and rules for conducting public meetings.

For this report, the City Council has requested discussion on the following topics:

1. GENERAL MEETING MANAGEMENT PROCEDURES

- a) Meeting starting and ending times
- b) Rules of Decorum

2. AGENDA DEVELOPMENT AND STRUCTURE

- a) Coordination and Development of Agenda
- b) Placing Items on an Agenda
- c) Order and placement of agenda items
- d) Public comment opportunities
- e) Consent Calendar items
- f) Pulling of Consent Calendar items

1. GENERAL MEETING MANAGEMENT PROCEDURES

a) Meeting starting and ending times

Currently, meetings are generally held in the City Council Chambers, 1400 Highland Avenue, unless otherwise ordered by the City Council, on the first and third Tuesdays of the month starting at 6:00 pm, with closed sessions typically being convened prior, as needed. This was the result of a change from the previous starting time of 6:30 pm. According to City Council policy, all regular meetings of the City Council are to adjourn by 11:00 pm unless there is a four-fifths vote taken by 10:30 pm to extend the meeting. The motion to extend is to include the agenda number and title of the items to be considered after 11:00 and a new ending time for the meeting. Upon adjournment, all agenda items not completed shall be continued to the next regular City Council meeting or to such other time as set by the City Council prior to adjournment.

b) Rules of Decorum

The City Council has recognized the importance of approaching the public's business in an environment of personal respect and courtesy, which places emphasis on the consideration of policy and avoids personalization of comments.

Guidelines have been developed to ensure that meetings of the City Council are conducted in a civil and professional manner. Councilmembers, staff, and the public are encouraged to focus discussion on policy matters, recognize personal criticism as inappropriate, preserve appropriate order and decorum while others are expressing their views during all meetings, and treat members of the public equally by applying

rules in a fair and consistent manner. All participants should be discouraged from engaging in side conversations, disruptions, interruptions, or delaying efforts that lessen the efficiency of meetings. In the event of a person(s) demonstrating rude, boisterous, or profane behavior, the Mayor will call such person(s) to order. If such conduct continues, the Mayor may call a recess, request the removal of such person(s) from the City Council Chambers, or take other appropriate action. The City Council has a longstanding practice of discouraging applause, booing, or other similar behaviors from the public during meetings.

Attachment 3 is a memo from the City Attorney's office regarding suggested protocol for dealing with disruptive persons during public meetings.

## 2. AGENDA DEVELOPMENT AND STRUCTURE

### a) Coordination and Development of Agenda

Traditionally, the Mayor and Mayor Pro Tempore have been assigned by the City Council to consult and coordinate with the City Manager in the development of agendas for meetings of the City Council. The scope of such review focuses on the timing of business items and the volume of business that can be considered at any one meeting. Such review does not allow for a unilateral unlimited delay of items to be considered by the City Council, or the introduction of new items not otherwise part of the City Council's identified priorities or strategic plan.

The length and intensity of regular city council meetings vary by the issues, but a good agenda will allow all council members and the public to always know what to expect. Short, routine meetings alternating with marathon sessions can hinder adequate time for consideration of some critical issues, and too much time being devoted to others – it is important to avoid peaks and valleys.

Should any significant disagreement arise regarding the scheduling of items, these matters are to be resolved by the full City Council.

Good agendas are accompanied by clear, concise, timely, written recommendations that exhibit careful preparation and competent analysis. This contributes to a team spirit to resolve conflict and carry out responsibilities, and a meeting that comports with the expectations of an engaged, classy, upbeat, and can-do Manhattan Beach. Agenda packets are delivered at the same time, and all city council members are given the same information (if one asks for something special, it is shared with everyone).

A copy of the draft agenda is transmitted to the Mayor and Mayor Pro Tempore for review on the Monday one-week prior to the meeting. The agenda preparation cycle requires staff to submit reports for a Tuesday City Council meeting to the City Clerk by noon on the Friday two-weeks preceding the meeting. All agenda materials are typically available on the Thursday or Friday before the Tuesday City Council meeting, ahead of the 72-hour deadline. Agendas typically include a tentative City Council calendar that shows upcoming City Council and Commission meeting dates 3-6 months in advance.

Given the agenda development schedule, it will usually require at least two weeks for the preparation of a report requested by the City Council. Complex reports, of course, will require more time to prepare, and an estimated time of completion can be provided to the City Council. The ability to schedule new agenda items depends on the nature of the item itself, other agenda subjects that are already scheduled and the amount of time available.

#### b) Placing Items on an Agenda

**City Council:** A Councilmember may request an item be considered on a future agenda and, upon agreement of a majority of City Council, staff will prepare a staff report if formal City Council action is required. Councilmembers may make this request verbally during a meeting or may submit written requests. Normally, the process involves two steps: initial consideration of the request by the full City Council at the soonest possible regularly scheduled meeting; and, if a majority agrees, the matter is then scheduled for further consideration on an upcoming meeting agenda.

**Members of the Public:** Persons desiring to place items on the agenda shall submit a request, in writing, to the City Manager stating the nature of business and as much detail as possible. The City Manager will determine if the request is appropriate as a City Council agenda matter or if some other form of response should be made by the City. A member of the public may also request that an item be placed on a future agenda during public comment or through other communication with Councilmembers. Upon approval of a majority of City Council, the item will be agendized and a staff report may be prepared. The City Manager will inform the City Council of the potential impact the request will have on established priorities or staff workload and seek approval by the City Council before authorizing the work or scheduling the item as appropriate.

**Emergency and Non-Agendized Items:** Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda is posted an item arises that the City Council would like to act on. Non-agendized items may be added to the agenda only if the City Council makes required findings that (1) the need to consider the item arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a 4/5th vote; if less than five members of City Council are present, the findings require a unanimous vote of those present.

#### c) Order and placement of agenda items (Note: content of certain items may be covered later in this report).

The following order of business items are outlined in Resolution No. 12-6411 and explained further here:

1. Pledge to the Flag:



## 2. Roll Call:

## 3. Ceremonial Calendar:

The Ceremonial Calendar typically consists of awards, proclamations, commendations, and the like. The Mayor is recognized as the official head of the city for all ceremonial purposes and as part of those ceremonial responsibilities, the Mayor is charged with administration of proclamations.

## 4. Approval of the Agenda:

By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.

## 5. Community Announcements (One Minute Per Person):

This portion of the meeting is to provide an opportunity for citizens to address the City Council regarding community announcements. The duration for an individual speaking under "Community Announcements" is limited to one minute. A second, extended opportunity to speak is provided under "Audience Participation." While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda.

## 6. Audience Participation (Three Minutes Per Person):

Speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda.

## 7. Consent Calendar:

Those items on the City Council agenda that are considered to be of a routine and non-controversial nature by the City Manager are placed on the "Consent Calendar." The "Consent Calendar" adopting the printed Recommended City Council Action will be enacted with one vote. The Mayor will ask the City Councilmembers, the public, and the staff if there is anyone who wishes to remove any item from the "Consent Calendar" for discussion and consideration. The matters removed from the "Consent Calendar" will be considered individually at the end of this Agenda under "Items Removed from the Consent Calendar." At that time, any member of the audience may comment on any item pulled from the "Consent Calendar." The entire "Consent Calendar," with the exception of items removed to be discussed under "Items Removed from the Consent Calendar," is then voted upon by roll call under one motion.

## 8. Public Hearings:

A public hearing is used to obtain public testimony or comment and provides both sides of an issue to express their views, which are recorded in the public record and used by the City Council to gather information and make decisions.

#### 9. General Business:

Regular items listed under General Business are shown on the agenda as discussion items typically requiring a vote or City Council action, and are normally taken in the order listed.

#### 10. Items Removed from the Consent Calendar:

Prior to the City Council's consideration of each item removed from the Consent Calendar, speakers may comment on any or all of those items for up to three minutes per item.

#### 11. City Manager Report(s):

Provides the City Manager an opportunity to update the City Council and the public regarding any issue of public interest. Also, the City Manager provides reports on travel and training undertaken by senior staff (department heads).

#### 12. Other Council Business, Committee and Travel Reports:

Provides members of the City Council an opportunity to introduce matters not currently before the City Council, including brief announcements, to pose questions of staff and make requests for items to be placed on the agenda at a future meeting. Examples of appropriate communications would be information of general interest received from outside agencies, comments or inquiries received from the public, requests to agendaize future items, and reports on meetings attended at the expense of the City, pursuant to California law, AB 1234. As to items placed on the agenda by a Council member, no staff time shall be incurred in connection with such item, other than incidental time, such as reproducing correspondence or making minor revisions to conform a resolution provided by an outside entity to the City's resolution format.

#### 13. Adjournment

Meetings are typically adjourned to the next regularly scheduled meeting and this announcement shall include the name, date, time and location of such meeting. Occasionally, meetings may be adjourned in honor or memory of individuals with ties to the government agency or community.

Several City Councilmembers have expressed interest in rearranging the items on standard order of business. One idea discussed previously included moving the City Manager Report(s) earlier, to immediately follow Audience Participation.

#### d) Public comment opportunities

Time is set aside near the beginning of the agenda to receive general public comment about issues not on the agenda. First, the Community Announcements portion of the agenda provides anyone with one minute to announce public events. Secondly, Audience Participation provides individual speakers with three minutes to comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, including items on the agenda. However, it is encouraged that comments on agenda items should be heard later when the

appropriate item is called. Individuals desiring to speak are asked to address the City Council from the speaker podium.

Comments should focus on a specific matter within the City Council's jurisdiction. Members of the public are free to present written comments, preferably in advance of the meeting, as a way to fully communicate their thoughts on agenda or non-agenda items.

When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping ahead of time. Comments are typically limited to three minutes per speaker so that all have an opportunity to address the City Council.

Due to ongoing confusion and misuse of Community Announcements, it may be worthwhile to discuss combining the Community Announcements portion and the Audience Participation portion of the agenda. Currently, much time is often wasted when individuals get up to speak and are interrupted or cutoff due to the one minute limit and then will come back to continue their comments during Audience Participation. Combining or consolidating these two portions of the agenda could result in efficiencies and a mutually beneficial participation experience for both the speaker and the City Council.

e) Consent Calendar items

Those items on the City Council agenda that are considered to be of a routine and non-controversial nature by the City Manager are placed on the "Consent Calendar." These items shall be approved, adopted, accepted, etc., by one motion of the City Council. Typical consent calendar items include the final reading and adoption of ordinances, various resolutions approving agreements, awards of contracts, minor budgetary adjustments, meeting minutes, status reports, and reports of routine city operations. Examples of such routine and customary items from the adopted Resolution No. 12-6411 include:

1. Approval of Minutes
2. Approval of Minute Actions
3. Acceptance of Grant Deeds/Grants of Easement
4. Notices of Completion for Projects
5. City Treasurer's Report
6. Approval of Plans and Specifications; Call for Bids
7. Bid Awards
8. Approval of Records Destruction

9. Approval of Leases and Agreements

10. Approval of Annexations

11. Receive and File or Refer Correspondence

12. Approval or Receive and File Commission or Board Resolutions or Actions

13. Appointments/Resignations/Personnel Actions

11. Claims against the City

12. Resolutions of Intent or Calling of Hearings

13. Approval of Demands

Several City Councilmembers have expressed interest in revisiting the types of items identified as Consent Calendar items in Resolution No. 12-6411. Previously discussed ideas included setting dollar limits (i.e. \$50,000) for bid awards or approval of agreements. Due to the sheer volume and frequency of many of the types of reports outlined in Resolution No. 12-6411, staff recommends no change to the types of items to be placed on the Consent Calendar.

f) Pulling of Consent Calendar items

Councilmembers may request that any item listed under “Consent Calendar” be removed and that the City Council take separate action on the item.

Currently, a member of the public may also request that an item listed under “Consent Calendar” be removed and City Council action taken separately on the item. Items that are removed (“pulled”) for discussion will typically be heard after General Business items are discussed unless the majority of City Council chooses an earlier or later time.

Following any potential changes or direction by the City Council in regards to the types of items to be placed on consent, the City Council may want to modify how items are “pulled from consent.” For instance, it may be effective to continue to allow members of the public to request that items be pulled from consent, but in addition, require that the City Council vote to concur with such a request. This would cut down on some of the frivolous “pulling” of items by members of the public who could in fact be abusing this opportunity in order to gain more than their fair share of meeting time, thereby alienating and dissuading other members of the public from speaking or otherwise participating at City Council meetings.

**CONCLUSION:**

Staff recommends that the City Council discuss and provide direction regarding meeting

management, start and ending times, time limits for speakers, criteria for consent calendar, order and placement of agenda items, and rules of decorum.

Attachments:

1. Resolution No. 12-6411
2. City Council Handbook
3. City Attorney Memo: Suggested Protocol for Dealing with Disruptive Persons

RESOLUTION NO. 12-6411

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL  
AMENDING THE RULES OF ORDER FOR THE CONDUCT OF CITY  
COUNCIL MEETINGS

RECITALS

- A. Periodically, the Manhattan Beach City Council reviews and amends its rules of order for the conduct of City Council meetings to facilitate greater public participation and effective meeting management.
- B. California's open meeting law, the Brown Act (Government Code Section 54950 et seq. ("Brown Act")) requires that agendas for regular meetings provide an opportunity for members of the public to directly address the legislative body on any item on the agenda before or during consideration of that item that is within the subject matter jurisdiction of the legislative body.
- C. The rules of order adopted by the City Council include provisions for "Public Participation" in compliance with the Brown Act and set forth various opportunities for members of the public to participate in City Council meetings.
- D. The Brown Act provides that a local agency may adopt reasonable regulations to ensure compliance with the public participation provisions of the Brown Act, including but not limited to regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.
- E. The City Council desires to amend the rules of order to facilitate greater public participation and effective meeting management.

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

Section 1. Resolutions Nos. 6203, 6364 and any other Council resolutions affecting the conduct of city council meetings are hereby repealed.

Section 2. MEETING TIMES

- A. The regular meetings of the City Council of the City of Manhattan Beach shall be on the first and third Tuesday of each month beginning at 6:00 p.m. Whenever the day and the time for holding any of the meetings falls on a holiday, the meeting shall be held on the next business day unless otherwise ordered by the Council at a prior meeting. The sessions shall be held in the City Council Chambers at City Hall in the City of Manhattan Beach unless otherwise ordered by the City Council.
- B. All public hearings and "General Business" agenda items which have not been introduced by 10:30 p.m. will be continued to the next regular City Council meeting, or to another time set by the City Council prior to adjournment, unless the City Council votes to suspend this rule. Any public hearing or General Business item commenced prior to 10:30 p.m. may be completed without the necessity of a vote to suspend this rule.
- C. The City Council shall adjourn each regular meeting by 11:00 p.m. Upon adjournment, all agenda items not completed shall be continued to the next regular City Council meeting, or to such other time set by the Council prior to adjournment.
- D. By a 4/5<sup>th</sup> vote, the Council may waive or extend the deadlines specified in Sections B and C of this Section.

Section 3. AGENDA

- A. A written agenda shall be prepared for each regular and adjourned regular meeting of the Council.
- B. The agenda must contain a brief general description of each item of business to be transacted or discussed at that meeting.

- C. Each agenda shall contain a clear statement of the time and location of the meetings. Each agenda shall state that reports and documents relating to each agenda item (the "Agenda Packet") are available for public inspection at the City's main library and the Police Department at least 72 hours in advance of any regular Council meeting. In addition, the Agenda Packet is on file in the office of the City Clerk and is available for public inspection and copying as of 8:00 a.m. on Monday prior to the Council meetings, unless the Monday falls on a holiday, in which case the Agenda Packet will be available at 8:00 a.m. the following day.
- D. The agenda shall be posted not less than 72 hours in advance of the regular meeting.
- E. The agenda shall be posted on bulletin boards outside each entrance to the City Hall, in locations that are freely accessible to the public. The agenda is also posted on a bulletin board inside the main library. The agenda also shall be posted on the City's website. The agendas and Agenda Packets may be provided via other electronic means, as approved by Council. The person posting the agenda shall complete and sign a certificate of posting.
- F. The call and notice of a special meeting shall be posted in accordance with the Brown Act.
- G. Emergency meetings pursuant to Government Code Section 54956.5 and other applicable law can be held without complying with the agenda requirements of this Section 3.
- H. The Council shall not take any action on any item which does not appear on the posted agenda except as follows in accordance with Government Code Section 54956.5:
  - 1. Emergency Situation. An emergency situation is defined as a work stoppage or other activity which severely impairs public health, safety or both, or a crippling disaster which severely impairs public health, safety, or both. Before proceeding to act upon an emergency item not appearing on the agenda, the Council shall by a majority vote determine that an emergency situation exists and that prompt action is required by the Council. The Council shall include in the minutes of its meeting the facts upon which it relied in finding the existence of an emergency situation.
  - 2. Need to Take Action on Non-agenda Items. The Council may act upon an item not appearing on the agenda if it finds, by a two-thirds vote of the members present at the meeting or if less than two-thirds of the members are present, by a unanimous vote of the members present, that there is a need to take immediate action on the non-agenda item and such need to act came to the Council's attention after the posting of the agenda. If such a determination is to be made, a statement of facts upon which the determination is based shall be included in the minutes supporting the action taken.
  - 3. Held Over Items. Items not appearing on the posted agenda for a specific meeting may be acted upon at that meeting if:
    - a. The item appeared on a properly posted agenda for a previous meeting; and
    - b. The previous meeting occurred not more than five calendar days prior to the date of the meeting at which the item is proposed to be considered; and
    - c. The item was continued from the previous meeting to the meeting at which action is proposed to be taken.
- I. Other Council Business, Committee and Travel Reports: During this portion of the agenda, Council members may provide brief reports on meetings attended at the expense of the City, pursuant to AB 1234, and discuss any agenda item placed on the agenda by an individual Council member in accordance with the Brown Act. As to items placed on the agenda by a Council member, no staff time shall be incurred in connection with such item, other than incidental time, such as reproducing correspondence or making minor revisions to conform a resolution provided by an outside entity to the City's resolution format.

#### Section 4. PUBLIC PARTICIPATION

- A. ITEMS TO BE PLACED ON AGENDA
  - 1. Persons desiring to place items on the agenda shall submit a request, in writing, to the City Manager stating the nature of business and as much detail as possible.

2. The City Manager will determine if the request is appropriate as a Council agenda matter or if some other form of response should be made by the City to the request.

#### B. PUBLIC HEARINGS

1. The City Clerk shall establish the procedural fact of the notice of hearing and informs whether further correspondence has been received.
2. The Mayor opens the public hearing.
3. Staff shall present its report on the matter.
4. The applicant, if applicable, shall then be permitted to make its presentation to the Council.
5. Members of the public shall then be permitted to speak on the matter. Each person speaking will be requested to give his or her name and address of residence or street mailing address, in writing, for the record. Each person speaking, other than the applicant, may speak for up to three minutes unless the Council permits a longer period.
6. The applicant shall be given an opportunity for rebuttal following public comment.
7. The Mayor, with the consent of the Council, may establish a maximum period of time for public testimony during the hearing.
8. The Mayor may ascertain if there are many persons for or against the matter, and if so, to request that they appoint a spokesperson.
9. The Mayor shall close the public hearing.
10. There will be no public input once the Council starts deliberation on the matter before them unless Council requests additional information from staff or reopens the public hearing.
11. The Council may, by motion, continue the public hearing to a specific date and time. Such motion may be made either before or after the close of the public hearing.

#### C. ADDITIONAL PUBLIC PARTICIPATION

1. In addition to providing to the public the opportunity to speak on public hearings, the City Council provides four additional opportunities for members of the public to directly address the Council during: (a) Community Announcements; (b) Audience Participation; (c) Individual agenda items; and (d) Removed Consent Calendar items.

(a) Community Announcements: Toward the beginning of the agenda, speakers may provide brief announcements, not-to-exceed one minute in duration for any speaker, of community events.

(b) Audience Participation: Immediately following "Community Announcements," speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City with the consent of the majority of the Council. Each speaker may speak for up to three minutes, unless the time is extended by the Mayor with the consent of the majority of the Council.

(c) Items on the Agenda: Speakers may directly address the legislative body on any item on the agenda before or during consideration of that item. Each speaker may speak for up to three minutes, unless the time is extended by the Mayor with the consent of the majority of the Council.



Section 5. ORDER OF BUSINESS

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

1. Pledge to the Flag
2. Roll Call
3. Ceremonial
4. Approval of the Agenda

By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.

5. Community Announcements
6. Audience Participation
7. Consent Calendar
8. Public Hearings
9. General Business
10. Items Removed from the Consent Calendar
11. City Manager Report(s)
12. Other Council Business, Committee and Travel Reports
13. Adjournment

Section 6. CONSENT CALENDAR DEFINED

- A. Those items on the City Council agenda which are considered routine by the City Manager shall appear on a separate section on the agenda and shall include, but not be limited to, the following items:

1. Approval of Minutes
2. Approval of Minute Actions
3. Acceptance of Grant Deeds/Grants of Easement
4. Notices of Completion for Projects
5. City Treasurer's Report
6. Approval of Plans and Specifications and Call for Bids
7. Bid Awards
8. Approval of Records Destruction
9. Approval of Leases and Agreements
10. Approval of Annexations
11. Receive and File or Refer Correspondence
12. Approval or Receive and File Commission or Board Resolutions or Actions
13. Appointments/Resignations/Personnel Actions

- 14. Claims against the City
- 15. Resolutions of Intent or Calling of Hearings
- 16. Approval of Demands

B. With the exception of items previously removed from the Consent Calendar, the entire Consent Calendar is voted upon by roll call under one motion. The Mayor will first ask the staff, public and the Councilmembers if there is anyone who wishes to speak on any matter on the Consent Calendar. The matters removed from the Consent Calendar will be considered at the portion of the agenda under "ITEMS REMOVED FROM THE CONSENT CALENDAR."

Section 7. RECORDING OF COUNCIL VOTES

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

Section 8. SPEAKER TIME LIMITS

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

Section 9. COUNCIL AUTHORITY

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

Section 10. Section 3C provides that the Agenda Packet will be available for public inspection at the City's main library and the police station at least 72 hours in advance of any regular Council meeting. However, the City's main library will be closed for construction subsequent to the adoption of this Resolution. During that construction and at other times when the above locations are inaccessible to the public, the City Clerk's office shall designate one or more alternative locations.

Section 11. This Resolution shall take effect immediately. The City Clerk shall make this Resolution available for public inspection upon its adoption.

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

PASSED, APPROVED AND ADOPTED this 16<sup>th</sup> day of October, 2012.

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

/s/ Wayne Powell  
 Wayne Powell, Mayor  
 City of Manhattan Beach, California

ATTEST:

/s/ Liza Tamura  
 Liza Tamura, City Clerk

## MEMORANDUM

**TO:** City Council  
**FROM:** City Attorney  
**DATE:** April 5, 2013  
**SUBJECT:** Protocol for Dealing with Disruptive Persons during Public Meetings

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### Background

The Brown Act generally requires that members of the public be allowed during public meetings to: (1) comment on any agenda item before or during its consideration by the City Council; and (2) address any other matters within the City Council's subject matter jurisdiction. The second requirement does not apply, however, at special meetings. Public comment at special meetings may be limited to agenda items only.

The public's right to speak at public meetings makes these meetings limited public forums for purposes of the free speech clause of the First Amendment. As such, the City may impose reasonable limits for the purpose of preventing the disruption of a public meeting so long as those limits do not discriminate on the basis of viewpoint. For example, the City Council can prohibit public comment on issues such as the school district's personnel policies because that is outside its jurisdiction. It cannot prohibit speakers, however, from criticizing the City's budgetary choices while allowing favorable comments on the same subject because that would not be viewpoint neutral.

The Brown Act also authorizes the City to establish rules of decorum to manage public comment during meetings. The Mayor may establish reasonable time limits for speakers, employ speaker cards to ensure that speakers are able to appear in an orderly fashion, and prohibit persons from speaking or yelling from the audience.

Manhattan Beach Municipal Code Section 2.01.070 establishes these rules:

“It shall be unlawful for any person to disturb any meeting of the Council by loud or unusual noise, by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight, or fighting.

Honorable Mayor and City Council Members  
April 5, 2013  
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“It shall be unlawful for any person, other than a member of the Council, present at any Council meeting and while the Council is in session to fail or refuse to be seated or remain quiet when ordered or commanded ... by the Mayor or Mayor pro tempore.”

Willfully disturbing a public meeting is also a misdemeanor under California Penal Code Section 403.

Enforcing rules of decorum in the context of a highly charged public meeting can be difficult. It requires balancing the need to conduct City business in an orderly fashion with the rights of the public to address the City Council. Public perception must also be taken into consideration; heavy handed or arbitrary enforcement might only reinforce criticism leveled at the Council by disruptive persons. With these difficulties in mind, we provide the following protocol for dealing with disruptive persons.

### **Protocol for Dealing with Disruptive Persons**

#### **1. Establish ground rules.**

Communicate the rules of decorum to the public in advance so that everyone understands the limits before anyone speaks. Tell the public when, for how long, and on what topics they may speak. It is also helpful to remind the public that Council meetings are business meetings and that they should comport themselves accordingly. The public will more likely to accept and approve of efforts to enforce the rules if everyone knows the rules from the onset.

The rules of decorum should be enforced in a uniform manner throughout the meeting and as to all persons regardless of viewpoint. Selective enforcement can lead to charges of bias and arbitrariness.

#### **2. Set an example.**

Maintaining a professional and reasonable demeanor in the face of disruptive behavior often diffuses the disruption and highlights that the disruptive conduct is inappropriate for a Council meeting setting. It also sets an example for other members of the public. The resulting contrast between the Council and the disruptive person can have the added benefit of promoting public trust and confidence in the Council.

Being reasonable might require the Council to tolerate some measure of unreasonable behavior. In this regard, profanity and offensive conduct from the podium should be tolerated so long as it does not cause an actual disturbance. It is permissible to ask

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speakers to refrain from profane language and gestures, but a single utterance should not be relied upon as grounds for ejection.

**3. Take escalating steps to enforce the rules.**

**Begin with an initial warning.** Persons who violate the rules of decorum or become disruptive should be given an initial warning. Remind the person of the rules and identify what he or she is doing to violate them. In cases where a speaker has simply become emotional about the subject at hand and does not truly mean to be disruptive, a simple reminder may be sufficient to diffuse the situation. The warning also lets other members of the public know that such behavior is unacceptable during the meeting.

**Call a recess.** If the person ignores the initial warning, the most appropriate response is usually to recess the meeting and to identify on the record that the disruptive behavior is the reason for the recess. Often, a recess will allow for cooler heads to prevail and serves the additional purpose of showing that the person has in fact disrupted the orderly conduct of the meeting. More than one recess might be necessary in extraordinary cases.

**Ejection is the last resort.** If after the warning and a recess, a person continues to be disruptive, the City may eject that person from the meeting. Further, if the person refuses to comply with an order to leave, the police may arrest him or her. The decision to eject someone from a meeting should be made only if there is no other means of stopping the disruptive behavior.

## **RULES OF DECORUM**

### **1. Establish the ground rules and follow them. Tell the public:**

- a. Speakers may comment on any agenda item and any other matters within the City Council's subject matter jurisdiction.
- b. Persons cannot disrupt the meeting. The City Code makes it unlawful for any person to disturb any meeting by loud or unusual noise, by offensive conduct, or by threatening, quarreling, challenging to fight or fighting.
- c. The Code also prohibits a person to fail or refuse to be seated or remain quiet when ordered to do so by the Mayor.
- d. Yelling and comments directed toward the Council or staff from the audience will not be tolerated.
- e. These rules of decorum will be enforced uniformly.

### **2. Set an example.**

- a. The Council should maintain a professional and reasonable demeanor, and should tolerate profanity or offensive conduct from speakers at the podium unless it causes an actual disturbance.

### **3. Take escalating steps to enforce the rules.**

- a. **Verbal warning.** (Inform the person that he or she is disturbing the meeting and must stop disturbing the meeting.)
- b. **Call a recess, and leave the council chambers immediately.** (Inform the public that you are calling the recess because the person is disrupting the meeting.)
- c. **Ask the Police Department to escort the disrupter from the meeting. (The last resort).** (Once again, state for the record that the person's conduct is disrupting the meeting, and that the only way for the Council to finish City business is to eject the disruptive person.)

**MANHATTAN BEACH CITY COUNCIL  
RULES OF DECORUM**

In order to maintain decorum and civility during City Council meetings so that the business of the City can be conducted and all members of the public have a full, fair, and equal opportunity to be heard by the Council, the following Rules of Decorum shall be uniformly observed during all Council meetings:

**Rules of Decorum**

1. No person attending a Council meeting shall engage in disorderly or boisterous conduct—including but not limited to applause, whistling, stamping of feet, booing, or making any loud, threatening, profane, abusive, personal, impertinent, or slanderous utterance—that disturbs, disrupts, or otherwise impedes the orderly conduct of the meeting.
2. All remarks by members of the public shall be addressed to the Mayor or the Council as a whole and not to any other member of the public or to any single Council member unless in response to a question from that Council member.
3. Signs, placards, banners, or other similar items shall not be permitted in the audience during a Council meeting if their presence disturbs, disrupts, or otherwise impedes the orderly conduct of the meeting.
4. All persons attending a Council meeting shall remain seated in the seats provided unless addressing the Council or entering or leaving the meeting.
5. All persons attending a Council meeting shall obey any lawful order of the Mayor to enforce the Rules of Decorum.

**Enforcement of the Rules of Decorum**

1. The Mayor, or such other member of the Council presiding at the Council meeting, shall be responsible for maintaining the decorum at Council meetings and uniformly enforcing the Rules of Decorum.
2. In the event that any person breaches the Rules of Decorum in a manner that disturbs, disrupts, or otherwise impedes the orderly conduct of the meeting, the Mayor shall order the person responsible to cease the offending conduct.
3. If any person continues to breach the Rules of Decorum in a manner that disturbs, disrupts, or otherwise impedes the orderly conduct of the meeting following an order from the Mayor to cease the offending conduct, the Mayor may order that person to leave the Council meeting.
4. If any person refuses to leave the Council meeting following an order from the Mayor to do so, the Mayor may order any law enforcement officer on duty as the Council's sergeant-at-arms to remove that person from the Council meeting.

# CITY OF MANHATTAN BEACH



## CITY COUNCIL HANDBOOK



CITY OF MANHATTAN BEACH

**Mission Statement**

The City of Manhattan Beach is dedicated to providing exemplary municipal services, preserving our small beach town character and enhancing the quality of life for our residents, businesses and visitors.

**Core Values**

not in priority order

- Excellence
- Fiscal Responsibility
- Ethical behavior
- Mutual respect
- Integrity
- Dedication to the community
- Professionalism
- Openness

**Three-Year Goals**

2012-2015, not in priority order

- Maintain and enhance financial stability
- Increase organizational effectiveness and efficiency
- Maintain and enhance city facilities, programs and infrastructure
- Encourage engagement and increase participation of residents and businesses

Adopted by the City Council on January 31, 2012.

**C O N T E N T S**

**Chapter 1**

***Introduction***

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The City of Manhattan Beach acknowledges and greatly appreciates the excellent work of the City of Davis, California, and its willingness to share its “procedures manual” as a helpful example.

## Introduction

The Manhattan Beach City Council establishes policies and priorities for the community and is responsible for the fiscal health of the public corporation.

## Purpose of the City Council Handbook

City of Manhattan Beach staff prepared a handbook to assist the City Council by documenting currently accepted practices. Through agreement of the City Council and staff to be bound by these practices, the effective administration of City Council affairs is greatly enhanced. While attempting not to be overly restrictive, procedures are established so that expectations and practices can be clearly articulated to guide councilmembers in their actions.

It is anticipated that this City Council Handbook will be reviewed by each new City Council and may be revised from time to time.

## Overview of City Documents

This handbook provides a summary of important aspects of City Council activities. However, it cannot incorporate all material and information necessary for undertaking the business of a city council. Many other laws, policies, plans and documents exist which bind the City Council to certain courses of action and practices. A summary of some of the most notable documents that establish City Council direction is provided below.

**Municipal Code:** The Municipal Code contains local laws and regulations adopted by ordinances. The administrative chapter of the code (Chapter 2) addresses the role of the City Council, Mayor and Mayor Pro Tempore. It also describes the organization of City Council meetings and responsibilities as well as the appointment of certain city staff positions and advisory commissions. In addition to these administrative matters, the Municipal Code contains a variety of laws. The municipal code is available either on the City's website or from the City Clerk.

**California Government Code:** The State Government Code contains many requirements for the operation of city government. Many of these requirements are also replicated within the municipal code to ensure there is broad awareness of such requirements. Manhattan Beach is a "general law" city, which means it is organized in accordance with provisions of the State Government Code. Also described within the government code is the Council-City Manager form of government. Basically, this form of government prescribes that a city council's role is to establish policies and priorities, while the role of the City Manager is to oversee the operations of the city government.

**Annual Budget:** The City's annual budget provides a description of city services and the resources used to provide services. The City operates on a July 1 through June 30 fiscal year.

**General Plan:** The General Plan is comprised of a number of elements, such as land use, transportation, open space and housing, in accordance with State requirements, and provides a policy framework for various matters that fall within these areas.

### **Orientation of New Councilmembers**

It is important that members of the City Council have an understanding of the full range of services and programs provided by the organization. As new members join the City Council, the City Clerk coordinates with department heads to provide tours of City facilities and meetings with key staff.

### **League of California Cities Guide**

A publication that provides additional useful information is the *Mayors and Councilmembers Resource Guide* published by the League of California Cities. The Guide contains general information on the role and responsibilities of city councilmembers and on the specific requirements and laws that govern City Council actions. The Guide is available from the City Clerk.

# Manhattan Beach City Council: Powers and Responsibilities

## City Council Generally

The powers of a city council in California to establish policy are quite broad. Essentially, city councils may undertake any action related to city affairs other than those forbidden or preempted by state or federal law. Specifically, *the City Council shall have the power, in the name of the city, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which are not specifically forbidden by the Constitution and laws of the State of California (California Government Code).*

It is important to note that the City Council acts as a body. No member has any extraordinary powers beyond those of other members. While the Mayor and Mayor Pro Tem have some additional ceremonial and administrative responsibilities as described below, in the establishment of policies, voting and in other significant areas, all members are equal. It is also important to note that policy is established by at least a majority vote of the City Council. While individual members may disagree with decisions of the majority, a decision of the majority does bind the City Council to a course of action. In turn, it is staff's responsibility to ensure the policy of the City Council is upheld. Actions of staff to pursue the policy direction established by a majority of City Council do not reflect any bias against Councilmembers who held a minority opinion on an issue.

The City Council has occasionally debated whether it should take positions of a broader nature or limit itself to purely municipal functions. Generally, it is recommended that the City Council not take positions on issues outside of its immediate authority to effect. The propensity of the City Council to involve itself in such issues reflects the personalities and outlooks of its members.

Limitations are imposed on a Councilmember's ability to serve on appointed boards of the city. State law expresses that no member of the City Council shall serve as a voting member of any city board, committee, or commission, whether composed of citizen volunteers, city employees, or a combination of both. This is not construed as prohibiting members of the City Council from serving on committees or subcommittees of the City Council itself, or of agencies representing other levels of government. In fact, Councilmembers often participate and provide leadership in regional and state programs and meetings. Councilmembers are strongly encouraged to report to the City Council on matters discussed at subcommittees and other regional or state board/agency/group activities in which they have been involved.

## Role of Mayor & Mayor Pro Tempore

**Mayor:** As reflected in the Municipal Code, the Mayor is to preside at all meetings of the

City Council and perform such other duties consistent with the office as may be imposed by the City Council or by vote of the people. The Mayor does not possess any power of veto. As presiding officer of the City Council, the Mayor is to faithfully communicate the will of the City Council majority in matters of policy. The Mayor is also recognized as the official head of the city for all ceremonial purposes.

The Mayor, unless unavailable, shall sign all ordinances, and other documents that have been adopted by the City Council and require an official signature; except when the City Manager has been authorized by City Council action to sign documents.

**Mayor Pro Tempore:** The City Council has specified that the Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in this capacity at the pleasure of the City Council. The Mayor Pro Tempore title is often abbreviated to Mayor Pro Tem.

### **Agenda Coordination**

Traditionally, the Mayor and Mayor Pro Tempore have also been assigned by the City Council to consult and coordinate with the City Manager in the development of agendas for meetings of the City Council. The scope of such review focuses on the timing of business items and the volume of business that can be considered at any one meeting. Such review does not allow for a unilateral unlimited delay of items to be considered by the City Council or the introduction of new items not otherwise part of the City Council's identified priorities or staff's work plan. Should any significant disagreement arise regarding the scheduling of items, these matters are to be resolved by the full City Council.

### **Appointment of City Manager, City Attorney**

The City Council appoints two positions within the city organization: the City Manager and City Attorney. Both positions serve at the will of the City Council. The City Manager is an employee of the City and has an employment agreement that specifies certain terms of employment including an annual evaluation by the City Council. The City Manager is responsible for all other personnel appointments within the City. The current City Attorney role is fulfilled through a contract arrangement with a well-known and respected law firm.

### **Role in Disaster**

The City Council has some special, extraordinary powers in the case of a disaster. Some meeting restrictions and expenditure controls are eased in such extreme situations. In critical situations the City Council may be requested by the City Manager/Emergency Services Director to assemble in the City's Emergency Operations Center (EOC), located within the Police/Fire Facility, to provide policy guidance and to receive information in an emergency. Should the City Council not be available during an emergency, state law specifies a hierarchy of others who may serve in place of the City Council. The most likely scenario is that the County Board of Supervisors would serve in the place of the City Council.

## **Appointment of Boards, Commissions, Advisory Bodies**

The city has a number of standing commissions, committees, and advisory bodies. There is a Commissioner Handbook which outlines roles and responsibilities of the various Commissions.

In addition, resident committees and task forces are occasionally appointed by the City Council to address issues of interest. A task force or other ad hoc body is a body created by City Council for a specific task. Ad hoc City Council subcommittees, when used, are to help the City Council do its job. Committees ordinarily will assist the City Council by preparing policy alternatives and implications for City Council deliberation. City Council subcommittees will normally not have direct dealings with staff operations. City Council subcommittees may not speak or act for the City Council. Subcommittees will be used sparingly and ordinarily in an ad hoc capacity. This policy applies to any group that is formed by City Council action, whether or not it is called a subcommittee. Unless otherwise stated, a subcommittee ceases to exist as soon as its task is complete. The City Council may assign, and specify the role of, one or two Councilmembers to the task force (if more, it becomes a defacto City Council meeting). Unless otherwise specified, Councilmembers have all the rights, and only the rights, of ordinary citizens with respect to task forces and other ad hoc bodies.

Note that both appointed advisory bodies and ad hoc committees are usually subject to the open meetings laws commonly known as the Brown Act.

## **City Council Relationship with Boards, Commissions, and Advisory Bodies**

The City Council has determined that Councilmembers should not lobby commissioners for particular votes. However, Councilmembers may attend meetings as residents.



# City Council Meetings

## GENERAL MEETING PROCEDURES

### Presiding Officer

The Mayor is the presiding officer and acts as chair at City Council meetings. In the absence or incapacity of the Mayor, the Mayor Pro Tempore serves as presiding officer.

### Seating Arrangement of the City Council

The Mayor is the presiding officer and acts as chair at City Council meetings. The Mayor Pro Tempore is seated immediately to the right of the Mayor, with other Councilmembers seating based on order of election.

### Place and Time of Meetings

Meetings are generally held in the City Council Chambers, 1400 Highland Avenue, unless otherwise ordered by the City Council, on the first and third Tuesdays of the month at 6:00 pm, with closed sessions typically being convened prior, as needed.

On occasion, City Council meetings may be held in alternative locations such as the Police/Fire Conference Room or Joslyn Community Center Auditorium. Whenever the day and time for any regular meeting falls on a holiday, the meeting shall be held on the next business day unless otherwise ordered by the City Council at a prior meeting. Councilmembers should inform the City Manager's office as soon as possible if they intend to be out of town on a set meeting date.

### Regular and adjourned meetings

Regular meetings of the Council shall be held in the Council Chamber on the first and third Tuesdays of each calendar month. The Council may, however, by minute action, at its discretion, reschedule any specific regularly scheduled meeting to an alternate date or cancel any regular meeting. Any regular meeting may be adjourned to a date which shall be specified in the order of adjournment. When so adjourned, such adjourned meeting shall be a regular meeting for all purposes. An adjourned meeting may likewise be adjourned and, when so adjourned, shall be a regular meeting for all purposes. No notice of any adjournment of any regular meeting or adjourned regular meeting, when such adjournment is made by the Council or by a member thereof, need be given as all members of the Council are charged with the duty and responsibility of ascertaining the time and place of each adjourned meeting.

### Special meetings

Special meetings of the City Council may be called at any time by the or by a majority of the City Council (3 members) by written notice delivered personally to each member at least twenty-four (24) hours before the time specified for the proposed meeting. Such written notice may be dispensed with as to any member who has on file with the Office of the City Clerk a "Waiver of Notice for Special Meetings" stating that they waive the requirement for written notice during their term of office provided they are notified via telephone or facsimile transmission at least twenty-four (24)

hours prior to the time of the special meeting. A telegraphic communication from a Councilmember consenting to the holding of the meeting shall be deemed to be a consent in writing, within the meaning of the terms as expressed in this section. The power of the City Council to transact business at any special meeting shall be limited to matters referred to in the written notice or written consent. The call and notice of a special meeting shall be posted in accordance with the Brown Act.

### **Quorum**

At any meeting of the City Council a majority (three-fifths) of the City Council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

### **Adjournment of meetings by City Clerk**

In the absence of all of the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same postponed and adjourned to a stated day and hour, and must thereupon deliver, or cause to be delivered, personally to each member of the Council a written notice of such adjournment at least three (3) hours before the time to which such regular or adjourned regular meeting has been adjourned.

### **Time of adjourned meetings**

In the event any order of adjournment of a regular meeting fails to state the hour at which any adjourned meeting is to be held, such adjourned meeting may be validly held on the day specified in the order of adjournment if held at the hour prescribed for regular meetings.

### **Orderly conduct at meetings**

It shall be unlawful for any person to disturb any meeting of the Council by loud or unusual noise, by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight, or fighting.

It shall be unlawful for any person, other than a member of the Council, present at any Council meeting and while the Council is in session to fail or refuse to be seated or remain quiet when ordered or commanded so to do by the Mayor or Mayor pro tempore.

### **Parliamentary procedure**

Except as may be otherwise provided by law, the proceedings of the Council shall be governed by Robert's Rules of Order. It shall be the duty of the Mayor or Mayor pro tempore to reasonably adhere to and enforce such rules, provided, however, that an inadvertent failure to observe or enforce such rules shall in no manner affect the regularity, validity or legality of any action or proceeding taken by the Council. However, should the Council desire to intentionally or knowingly violate the provisions of Robert's Rules of Order, a four-fifths majority vote shall be required.

## **AGENDA**

### **Development of Agenda**

A written agenda shall be prepared for each regular and adjourned regular meeting of the City Council.

The agenda must contain a brief general description of each item of business to be transacted or discussed at that meeting.

A copy of the draft agenda is transmitted to the Mayor and Mayor Pro Tempore for review on the Monday one-week prior to the meeting. Staff is required to submit reports for a Tuesday City Council meeting to the City Clerk by noon on the Friday two-weeks preceding the meeting. All agenda materials are typically available on the Thursday or Friday before the Tuesday City Council meeting. Agendas typically include a tentative City Council calendar that shows upcoming City Council and Commission meeting dates 3-6 months in advance.

Given this agenda development schedule, it will usually require at least two weeks for the preparation of a report requested by the City Council. Complex reports, of course, will require more time to prepare, and an estimated time of completion can be provided to the City Council. The ability to schedule new agenda items depends on the nature of the item itself, other agenda subjects that are already scheduled and the amount of time available.

#### **Placing Items on Agenda**

**City Council:** A Councilmember may request an item be considered on a future agenda and, upon agreement of a majority of City Council, staff will prepare a staff report if formal City Council action is required. Councilmembers may make this request verbally during a meeting or may submit written requests. Normally, the process involves two steps: initial consideration of the request by the full City Council at the soonest possible regularly scheduled meeting; and, if a majority agrees, the matter is then scheduled for further consideration on an upcoming meeting agenda.

**Members of the Public:** Persons desiring to place items on the agenda shall submit a request, in writing, to the City Manager stating the nature of business and as much detail as possible. The City Manager will determine if the request is appropriate as a City Council agenda matter or if some other form of response should be made by the City. A member of the public may also request that an item be placed on a future agenda during public comment or through other communication with Councilmembers. Upon approval of a majority of City Council, the item will be agendized and a staff report may be prepared. The City Manager will inform the City Council of the potential impact the request will have on established priorities or staff workload and seek approval by the City Council before authorizing the work or scheduling the item as appropriate.

**Emergency and Non-Agendized Items:** Emergency and non-agendized items may be added to an agenda only in accordance with state law. Emergency items are only those matters affecting public health or safety such as work stoppages, disasters and other severe emergencies. Adding an emergency item requires a majority vote. Emergency items are very rare. More likely, after the agenda is posted an item arises that the City Council would like to act on. Non- agendized items may be added to the agenda only if the City Council makes findings that (1) the need to consider the item

arose after the posting of the agenda, and; (2) there is a need to take immediate action at this meeting of the City Council. These findings must be approved by a 4/5th vote; if less than five members of City Council are present, the findings require a unanimous vote of those present.

### **Order of Business**

The City Council established the order of business for meetings through the adoption of Resolution No. 12-6411 on meeting procedures. The following section describes the various types of meeting components.

Closed Sessions (closed to the public): The ability of the City Council to conduct sessions not open to the public is restricted by state law to ensure open proceedings. Certain defined circumstances exist wherein a city council may meet without the public in attendance. Examples of such circumstances include:

1. *Real Property*: The purchase, sale, exchange or lease of real property with the City's negotiator; the real property and the person(s) with whom the City may negotiate must be announced in open session prior to the closed session (Cal Govt Code 54956.8).

2. *Litigation*: Pending or a significant exposure to litigation or the decision to initiate litigation; the litigation title must be identified in open session prior to the closed session unless the City Council states that to do so would jeopardize its ability to conclude existing settlement negotiations or effectuate service of process.

3. *Compensation*: Salaries and benefits of employees; City Council meets in closed session to review its position and instruct designated representatives (Cal Govt Code §54957.6).

4. *Personnel*: A closed session is held to discuss the appointment, employment, evaluation of performance, or dismissal of a public employee, or to hear a complaint against the employee unless the employee requests a public hearing (Cal Govt Code §54957.6).

It is critical to stress that there shall be no disclosure of closed session confidential information. Members of the City Council, employees of the City, or anyone else present shall not disclose to any person, including affected/opposing parties, the press, or anyone else, the content or substance of any discussion which takes place in a closed session without City Council direction and concurrence. Whenever possible, written reports received for closed session items will be turned in at the end of the meeting.

Typically, closed sessions will be scheduled prior to the public portions of the meeting. This is done so public portions of the meeting are not interrupted by closed sessions. In addition, such sessions may require the attendance of special legal counsel and consultants. In an attempt to manage the costs of these professionals, it

is beneficial to conduct closed sessions at a time certain. On rare occasion, during the course of a regular meeting, an issue may arise that requires the City Council to adjourn to a closed session on the advice of the City Attorney.

Regular Sessions (open to the public): The following order of business items are outlined in Resolution No. 12-6411 and explained further here:

1. Pledge to the Flag:

2. Roll Call:

3. Ceremonial Calendar:

The Ceremonial Calendar typically consists of awards, proclamations, commendations, and the like. The Mayor is recognized as the official head of the city for all ceremonial purposes and as part of his/her ceremonial responsibilities, the Mayor is charged with administration of proclamations.

4. Approval of the Agenda:

By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.

5. Community Announcements (One Minute Per Person):

This portion of the meeting is to provide an opportunity for citizens to address the City Council regarding community announcements. The duration for an individual speaking under "Community Announcements" is limited to one minute. A second, extended opportunity to speak is provided under "Audience Participation." While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda. Please complete the "Request to Address the City Council" card by filling out your name, city of residence, and returning it to the City Clerk.

6. Audience Participation (Three Minutes Per Person):

Speakers may comment on any item of interest to the public that is within the subject matter jurisdiction of the legislative body, including items on the agenda. The Mayor may determine whether an item is within the subject matter jurisdiction of the City. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda. Please complete the "Request to Address the City Council" card by filling out your name, city of residence, and returning it to the City Clerk.

7. Consent Calendar:

The "Consent Calendar" adopting the printed Recommended City Council Action will be enacted with one vote. The Mayor will ask the City Councilmembers, the public, and the staff if there is anyone who wishes to remove any item from the "Consent Calendar" for discussion and consideration. The matters removed from the "Consent Calendar" will be

considered individually at the end of this Agenda under “Items Removed from the Consent Calendar.” At that time, any member of the audience may comment on any item pulled from the “Consent Calendar.” The entire “Consent Calendar,” with the exception of items removed to be discussed under “Items Removed from the Consent Calendar,” is then voted upon by roll call under one motion.

8. Public Hearings:

A public hearing is used to obtain public testimony or comment and provides both sides of an issue to express their views, which are recorded in the public record and used by the City Council to gather information and make decisions.

9. General Business:

Regular items listed under General Business are shown on the agenda as discussion items typically requiring a vote or City Council action, and are normally taken in the order listed.

10. Items Removed from the Consent Calendar:

Prior to the City Council’s consideration of each item removed from the Consent Calendar, speakers may comment on any or all of those items for up to three minutes per item.

11. City Manager Report(s):

Provides the City Manager to provide and update to the City Council and the public regarding any issue of public interest. Also, in pursuant to existing City Council policy, the City Manager shall provide reports on travel and training undertaken by senior staff (department heads).

12. Other Council Business, Committee and Travel Reports:

Provides members of the City Council an opportunity to introduce matters not currently before the City Council, including brief announcements, to pose questions of staff and make requests for items to be placed on the agenda at a future meeting. Examples of appropriate communications would be information of general interest received from outside agencies, comments or inquiries received from the public, requests to agendaize future items, and reports on meetings attended at the expense of the City, pursuant to AB 1234. As to items placed on the agenda by a Council member, no staff time shall be incurred in connection with such item, other than incidental time, such as reproducing correspondence or making minor revisions to conform a resolution provided by an outside entity to the City’s resolution format.

13. Adjournment

Meetings are typically adjourned to the next regularly scheduled meeting and this announcement shall include the name, date, time and location of such meeting. Occasionally, meetings may be adjourned in honor or memory of

individuals with ties to the government agency or community.

**Consent Calendar Defined**

Those items on the City Council agenda that are considered to be of a routine and non-controversial nature by the City Manager are placed on the “Consent Calendar.” These items shall be approved, adopted, accepted, etc., by one motion of the City Council. Typical consent calendar items include the final reading and adoption of ordinances, various resolutions approving agreements, awards of contracts, minor budgetary adjustments, meeting minutes, status reports, and reports of routine city operations. Examples of such routine and customary items from the adopted Resolution No. 12-6411 include:

1. Approval of Minutes
2. Approval of Minute Actions
3. Acceptance of Grant Deeds/Grants of Easement
4. Notices of Completion for Projects
5. City Treasurer’s Report
6. Approval of Plans and Specifications; Call for Bids
7. Bid Awards
8. Approval of Records Destruction
9. Approval of Leases and Agreements
10. Approval of Annexations
11. Receive and File or Refer Correspondence
12. Approval or Receive and File Commission or Board Resolutions or Actions
13. Appointments/Resignations/Personnel Actions
11. Claims against the City
12. Resolutions of Intent or Calling of Hearings
13. Approval of Demands

Councilmembers may request that any item listed under “Consent Calendar” be removed from the Consent Calendar, and City Council will then take action separately on this item. A member of the public may also request that an item listed under

“Consent Calendar” be removed and City Council action taken separately on the item. Items that are removed (“pulled”) for discussion will typically be heard after General Business items are discussed unless the majority of City Council chooses an earlier or later time.

Councilmembers are encouraged to contact the City Manager’s office prior to 12:00 noon on the day of a City Council meeting day to provide notification of items to be removed from the Consent Calendar. This practice allows the City Manager to notify staff that may need to be present to respond to removed items. Equally important, it also allows the Manager to inform staff who do not need to be present at the meeting. Unless contacted in advance of the meeting with sufficient time, the presumption is that staff will not be making a presentation for consent calendar items.

### **Notification, Posting and Advertising**

Notice requirements of the Brown Act are complied with for all meetings. The agenda shall be posted not less than 72 hours in advance of the regular meeting. The agenda shall be posted on bulletin boards outside each entrance to the City Hall, in locations that are freely accessible to the public. The agenda is also posted on a bulletin board inside the main library and on the City’s website. The City attempts to widely publicize matters of significant neighborhood or community public interest that appear on a City Council agenda, as well as all matters where advertising is required by law. Advertisements and notifications are intended to inform all interested individuals.

### **Public Participation**

Time is set aside near the beginning of the agenda to receive general public comment about issues not on the agenda. Comments on agenda items should not be heard until the appropriate item is called. Individuals desiring to speak are to address the City Council from the speaker podium.

Comments should focus on a specific matter within the City Council’s jurisdiction. Members of the public are free to present written comments, preferably in advance of the meeting, as a way to fully communicate their thoughts on agenda or non-agenda items.

When written materials are presented, they should be submitted to the City Clerk for distribution and record keeping ahead of time. Comments are typically limited to three minutes per speaker so that all have an opportunity to address the City Council.

Videos, PowerPoint or similar presentations may accompany in-person testimony but are subject to the same speaking time limits. Prior notice and coordination with the City Clerk is strongly encouraged and the Mayor reserves the privilege to limit such requests as necessary for the effective conduct of the meeting. Speakers are to address their comments to the City Council from the podium.

Public comment on regular business items normally follows staff’s presentation of the staff report, clarifying questions from Councilmembers and applicant comments as necessary and appropriate. Typically, applicants or appellants are limited to a



maximum of 10 minutes. City Council will then hear public comment.

### **Written Communications**

The City Council has established a practice of placing written communication between Members requesting items to be agendaized and select letters sent by agencies to Councilmembers on the meeting agenda so that this correspondence receives wide distribution. If letters or emails from the public are received after the agenda packets have gone out or just before a meeting, copies will be placed at the Councilmembers' positions on the dais.

### **Study Sessions**

From time to time, the City Council will hold separate study sessions. The purpose of study sessions is to give the City Council a less formal and more interactive forum to discuss issues in advance of any official action to be taken. Staff often presents policy alternatives and is more directly engaged in the dialogue. Official minutes are kept and meetings are open to the public and broadcast and videotaped when held in the City Council Chambers and at the direction of the City Council. While general direction may be given to staff or the proponent behind the topic of discussion, no formal action by the City Council is generally taken in a study session.

### **Discussion Rules**

To assist the City Council in the orderly discussion of items, rules are followed which represent accepted practices for the management of City Council meetings.

1. **Obtaining the floor:** A member of the City Council or staff shall first address the Mayor via electronic device (touch screen voting device) or verbally, and gain recognition. Comments and questions should be directed through the chair and limited to the issue before the City Council.

2. **Questions to staff:** A Councilmember shall, after recognition by the Mayor, address questions to the City Manager, City Attorney, department head or designated staff member. If a Councilmember has questions on an agenda item, that member should preferably contact staff prior to the meeting in order to allow staff time to research a response for the meeting.

#### **3. Interruptions:**

a. Once recognized, a Councilmember is considered to have the floor, and another Councilmember may not interrupt the speaker except to make a point of order or point of personal privilege. In such a circumstance, the Councilmember holding the floor shall cease speaking until the point of order or privilege is resolved.

b. Upon being recognized by the Mayor, members of the staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Mayor.

4. **Discussion:** A Councilmember should not speak more than once on a particular subject until every other Councilmember has had the opportunity to speak. Councilmembers are encouraged to discuss items during the decision-making process and may ask staff to respond when appropriate. The Mayor normally allows

other members to speak first, then will give his/her views and summarize.

5. **Tabling procedure:** Tabling an item immediately stops discussion and causes a vote to postpone a matter indefinitely or to a time and date certain. A motion to “continue” an agenda item has the same effect, but is generally used when a scheduling problem arises or when insufficient time is available to address the matter thoroughly.

6. **Right of protest:** A Councilmember is not required to state reasons for a dissenting vote.

7. **Calling for the question:** The purpose of calling for the question is to disallow further debate and put an issue to an immediate vote. A Councilmember may move to “call for the question” on an item which is being considered. The motion requires a second, is not debatable, and must pass by a four-fifths vote. If the motion carries, the item is no longer debatable and the City Council must vote on it.

8. **Conducting business at a late hour.** According to City Council policy, all regular meetings of the City Council are to adjourn by 11:00 pm unless there is a four-fourths vote taken by 10:30 pm to extend the meeting. The motion to extend is to include the agenda number and title of the items to be considered after 11:00 and a new ending time for the meeting. Upon adjournment, all agenda items not completed shall be continued to the next regular City Council meeting or to such other time as set by the City Council prior to adjournment.

### **Voting Procedures**

Those When present, all Councilmembers should vote via electronic device (touch screen voting device) or verbal voice vote.

No ordinance, resolution or motion shall be passed or become effective without an affirmative vote by the majority with a quorum present.

A conflict of interest shall be declared whenever appropriate and in compliance with state law. The affected Councilmember will step down from the dais and leave the Chambers.

Councilmembers may declare general consensus at the discretion of the presiding officer, if there are no negative votes or objections.

Upon the request of any Councilmember, a roll call vote will be taken and recorded.

**Tie vote:** A tie vote is equivalent to a motion that has failed. The presiding officer may publicly explain the effect of the tie vote for the audience or may direct a member of the staff to do so.

**Motions.** There are a number of types of motions, each of which must meet certain

requirements before a vote can be taken. A reference guide to motions is provided in chart form in Appendix A of this manual.

**Reconsideration:** Reconsideration of an item shall be allowed in accordance with the following City Council guidelines. A Member of the prevailing majority when the previous vote was taken must make a motion for reconsideration. The City Council has determined that any motion for reconsideration should be made at the meeting immediately following that at which the action was taken. No motion for reconsideration will be entertained after this time unless the City Council determines significant new information has arisen which warrants such action.

#### **Other Guidelines**

Other guidelines have been developed to ensure that meetings of the City Council are conducted in a civil and professional manner. Councilmembers and staff shall:

1. Work to preserve appropriate order and decorum during all meetings.
2. Discourage side conversations, disruptions, interruptions or delaying efforts.
3. Inform the Mayor before departing from a meeting.
4. Limit disruptive behavior. The Mayor will call persons demonstrating rude, boisterous, or profane behavior to order. If such conduct continues, the Mayor may call a recess, request the removal of such person(s) from the City Council Chambers, adjourn the meeting, or take such other appropriate action. The City Council has a policy to discourage applause, booing or other similar behaviors from the public during meetings.
5. Recognize that only the City Council, staff, advisory body chairs or designated representatives, and those authorized by the presiding officer shall be permitted to sit at the City Council or staff tables.
6. Limit breaks of the City Council to 5-10 minutes. The City Council has authorized the Mayor to resume the meeting if a quorum exists and other members have not returned from the break within the announced time period.
7. Impose time limits on speakers. While the City Council encourages and embraces the need for and right of public participation, it acknowledges that public comments must, at times, be limited. Therefore, the City Council authorizes the Mayor, as presiding officer, to poll the audience for an indication of the number of people wishing to speak, and to impose time limits per speaker. Typically, speakers are limited to three minutes but a shorter time limit may be established as deemed necessary. When a member of the public is to speak on behalf of others in attendance, a maximum time limit of ten minutes is usually imposed. After the time limit, City Council may ask questions of the speaker for clarification, if needed. Each speaker will be thanked for his or her participation.

### **Values of Respect**

Those The City Council has also recognized the importance of approaching the public's business in an environment of personal respect and courtesy, which places emphasis on the consideration of policy and avoids personalization of comments. Some guidelines utilized by the City Council include:

1. Discussion should focus on policy matters
2. Personal criticism of members is inappropriate
3. Proper decorum should be displayed as other members express their views
4. Treat members of the public equally, applying rules in a fair and consistent manner

### **Enforcement of Order**

The Police Chief or his designee acts as the Sergeant-At-Arms. Any Councilmember may request the presiding officer to enforce the rules of protocol. Upon motion and majority vote, the presiding officer shall be required to do so.

### **Open Meeting Laws (“The Brown Act”)**

Operations and procedures of the City and City Council incorporate requirements of the state's open meeting law (commonly referred to as the Brown Act). Since the Brown Act is such an important part of local government operations, some specific requirements of the law are highlighted below.

**Applicability and Penalties:** The entire city organization conducts its business in compliance with the Ralph M. Brown Act, State Government Code Section 54950. The intent of the Act is to ensure that deliberation and actions of local public agencies are conducted in open and at public meetings.

A. Applicability: The Act applies to City Council and all commissions, boards and City Council appointed subcommittees (except if comprised entirely of two Councilmembers) and task forces that advise City Council. Staff cannot promote actions that would violate the Act.

B. Meetings: All meetings shall be open and public. A City Council meeting takes place whenever a quorum (3 or more members) is present and information about the business of the body is received; discussions qualify as a meeting. Social functions (e.g., receptions, dinners) do not fall under the Act unless city business is discussed.

Serial meetings take place when any member of City Council or city staff contact more than two Councilmembers for the purpose of deliberating or acting upon an item pending before the City Council. This restriction does not apply to the public or media who may contact Councilmembers. Correspondence that merely takes a position on an issue is acceptable. Note that the Brown Act applies to City Councilmembers immediately after their election and prior to their swearing-in ceremony.

C. Agendas: Agendas for regular meetings must be posted 72 hours in advance of the meeting and must meet various requirements.

D. Actions: No action can be taken on any item not appearing on the posted agenda.

*Exceptions:* 1) An emergency situation exists (determined by a majority of the City Council). 2) The need to take action arose subsequent to the agenda being posted and there is a need for immediate action (determined by 2/3 vote of the City Council; or if less than 2/3 are present, by unanimous vote). 3) The item was continued to another meeting that was scheduled and posted within 5 days of the original agenda.

E. Public Input: The public, by law, has an opportunity to address the City Council on any item of interest to the public that is within the jurisdiction of the City Council, at the time the matter is heard. The Mayor has the right to establish a time limit on speakers and the total time allocated for a particular issue. Three minutes per speaker has been standard, but in unusual cases either shorter or longer time periods may be established by the Mayor or the City Council.

F. Public Disruptions: A portion or all of the public may be removed if willful disruption makes conducting the meeting "unfeasible"; the press may remain unless they participate in the disruption.

G. Correspondence: All writings distributed for discussion or consideration at a public meeting are public records.

H. Special Meetings: Special meetings may be called by the Mayor or a majority of the City Council with strict notification requirements for delivery to the media and City Council 24 hours before the time of the meeting.

I. Emergency Meetings: Emergency meetings may be called without notification due to the disruption or threatened disruption of public facilities. Only work stoppages or crippling disasters that impair the public health and/or safety qualify for emergency meetings. Before proceeding to act upon an emergency item not appearing on the agenda, the City Council shall by a majority vote determine that an emergency situation exists and that prompt action is required by the City Council. The City Council shall include in the minutes of its meeting, the facts upon which it relied in finding the existence of an emergency situation.

J. Need to Take Action on Non-Agenda Items: The City Council may act upon an item not appearing on the agenda if it finds, by a two-thirds vote of the members present at the meeting or if less than two-thirds of the members are present, by a unanimous vote of the members present, that there is a need to take immediate action on the non-agenda item and such need to act came to the City Council's attention after the posting of the agenda. If such a determination is made, a statement of facts upon which the determination is based shall be included in the minutes supporting the action taken.

J. Other Provisions: The Act provides many other restrictions and requirements; this chapter is intended merely as a City Council summary and overview of the Act, and nothing in this Chapter supersedes the provisions of the Brown Act. Please check with the City Attorney and/or the City Clerk for more information.

# City Council Communications

## Overview

Perhaps the most fundamental role of a City Councilmember is communication—communication with the public to assess community opinions and needs—communication with staff to provide policy direction and to gain an understanding of the implications of various policy alternatives. Because the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking as a Councilmember. Equally important, when members are expressing personal views and not those of the City Council, the public should be so advised.

## Correspondence from Councilmembers

Members of the City Council may occasionally be called upon to write letters to citizens, businesses or other public agencies. Typically, the Mayor will be charged with transmitting the City's position on policy matters to outside agencies on behalf of the City Council. Correspondence sent on behalf of the City Council is placed on official City letterhead and is signed by the Mayor or City Manager. Individual members of City Council may prepare letters to constituents in response to inquiries or to provide requested information. Individualized City Councilmember letterhead is available for this purpose, and staff can assist in the preparation of such correspondence. Councilmembers are required to place on file and to provide copies upon request of any correspondence sent on City letterhead.

On occasion, members may wish to transmit correspondence on an issue upon which the City Council has yet to take a position or about an issue for which the City Council has no position. In these circumstances, members should use their personalized letterhead and clearly indicate within letters that they are not speaking for the City Council as a whole, but for themselves as one member of City Council.

After the City Council has taken a position on an issue, official correspondence should reflect this position. While members who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official City Council title, and staff support should not be utilized in order to avoid confusion. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

Councilmembers may be asked to prepare letters of recommendation for students and others seeking appointment. It is appropriate for individual Councilmembers to utilize City letterhead and their City Council titles for such letters. No review by the full City Council is required, however, copies will be kept on file.

## **Speaking for “the City”**

Similar to written correspondence, when members are requested to speak to groups or are asked the City Council’s position on an issue, the response should reflect the position of the City Council as a whole. Of course, a member may clarify their vote on a matter by stating, for example, “While I voted against “X”, the City Council voted in support of it.” When representing the City at meetings or other venues, it is important that those in attendance gain an understanding of the City Council’s position rather than that of an individual member.

When dealing with members of the media, it is usually the Mayor who represents the position and interest of the City Council. The City Manager decides whether staff are available to respond to media requests directly or not.

## **State Legislation, Propositions**

The City has been a member of the League of California Cities for many years. In addition, the City has a representative on the South Bay Cities Council of Governments (SBCCOG). Both of these groups actively track legislation at the state level. Either through the advisories received from these two organizations or as a result of City staff following key legislative bills of importance to the City, the City Council is at times requested to take a position or an action on pending state legislation. Unless City Council has previously acted on a similar bill in the recent past, in which the City’s position is clear, the City Council has a practice of requiring analysis and discussion of bills prior to taking an official position. The analysis includes a summary of the legislation’s purpose and a listing of those entities both in support of and against the proposed legislation. As a framework for screening bills that are pending to determine if the City should weigh in, Appendix B serves as a Legislative Policy Guide, with the explicit understanding that the City will express itself on legislation dealing with issues that will directly affect its financial stability or effective operation, and that the City may enter into alliances with other entities to promote common goals.

## **Proclamations**

Ceremonial proclamations are often requested of the City in recognition of an event or individual. Proclamations are not statements of policy but a manner in which the city can make special recognition of an event (e.g., Recycling Week) or individual. As part of his/her ceremonial responsibilities, the Mayor is charged with administration of proclamations. Individual Councilmembers do not issue proclamations. Proclamations can be sent to the requestor or presented at a City Council meeting as arranged with the requesting body and at the Mayor’s discretion.



# Interaction with City Staff

## Overview

City Council policy is implemented on a daily basis through staff. Therefore, it is critical that the relationship between City Council and staff be well understood by all parties so that policies and programs may be implemented successfully. The City of Manhattan Beach has a long tradition of positive relationships between members of the City Council and staff. To maintain these effective relationships it is important that roles are clearly recognized.

## Council-Manager Form of Government

Like most California cities, Manhattan Beach has adopted a City Council-City Manager form of government. The City Council appoints a City Manager to implement policy, enforce its laws, to direct the daily operations of city government, and to prepare and monitor the municipal budget. The Municipal Code specifies roles and responsibilities and requires that Councilmembers work through the City Manager in dealing with City staff unless simply requesting information from department heads or other staff members. The City Manager is responsible to the City Council as a body rather than to individual Councilmembers.

## Council-Manager Relationship

The employment relationship between the City Council and City Manager reflects the fact that the City Manager is the chief executive officer of the City. The City Manager has an employment agreement with the City Council. Regular communication between the City Council and City Manager is important in maintaining effective interpersonal relations. All dealings with the City Manager, whether in public or private, should be consistent with the authority of the City Manager in administrative and personnel matters. Councilmembers should avoid situations that can result in City staff being directed, intentionally or unintentionally, by one or more members of the City Council. Further, Councilmembers should avoid involving themselves in matters regarding individual City employees or related affairs.

The City Council evaluates the City Manager's performance on a regular basis to ensure that both the City Council and City Manager are in agreement about organizational performance and priority goals that are based on mutual trust and common objectives.

As in any professional relationship, it is important that the City Manager keep the City Council informed. The City Manager respects that the final responsibility for establishing the policy direction of the City is held by the City Council. The City Manager communicates with City Council in various ways. In addition to the formal City Council meetings, there are periodic briefing meetings with individual Councilmembers and written memoranda and email. Communication must be undertaken in such a way that all Councilmembers are treated similarly and kept equally informed. It is also

important that the City Council provide ongoing feedback, information and perceptions to the City Manager including responses to written communications and surveys requesting feedback.

## **City Manager Code of Ethics**

The City Manager is subject to a professional code of ethics that binds the City Manager to certain practices that are designed to ensure his or her actions are in support of the City's best interests. Violations of such standards can result in censure. Appendix C is a copy of the City Manager's Code of Ethics.

## **City Council-City Attorney Relationship**

The City Attorney is the legal advisor for the City Council, City Manager and departments. The general legal responsibilities of the City Attorney are to: 1) provide legal assistance necessary for formulation and implementation of legislative policies and projects; 2) represent the City's interest, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings; 3) prepare ordinances, resolutions, contracts and other legal documents to best reflect and implement the purposes for which they are prepared; and 4) keep City Council and staff apprised of court rulings and legislation affecting the legal interest of the City. It is important to note that the City Attorney does not represent individual members of City Council, but the City Council as a whole.

## **Roles and Information Flow**

**Objectives:** It is the intent of staff to ensure Councilmembers have free and easy access to information from the City and to ensure that such information is communicated completely, with candor and without bias. Individual Councilmembers may not intervene in staff decision-making, the development of staff recommendations, scheduling of work, or executing department priorities without the prior knowledge and approval of the City Council as a whole. This is necessary to protect staff from undue influence and pressure from individual Councilmembers, and to allow staff to execute the priorities given by management and the City Council as a whole without fear of reprisal.

**City Council roles:** The full City Council retains power to accept, reject, amend, influence, or otherwise guide and direct staff actions, decisions, recommendations, service levels, workloads and schedules, departmental priorities, and the performance of City business. If a Councilmember wishes to influence the actions, decisions, recommendations, workloads, work schedule, and priorities of staff, that member must prevail upon the City Council to do so as a matter of policy.

Should a Councilmember become dissatisfied about a department, he/she should always talk it over with the City Manager, not the department head or staff. Concerns about a department head must be taken to the City Manager only.

**Access to Information:** Individual Councilmembers as well as the City Council as a whole shall receive the full cooperation and candor of staff in being provided with any requested information. The City Manager or appropriate staff will inform City Council when a critical or unusual event occurs about which the public would be concerned.

To assist the City Manager in his ability to monitor the flow of information, requests for information are best tracked if submitted in writing, either in memorandum form or through email. And to ensure proper responsiveness, Councilmembers are asked to “cc” both the department head and the City Manager on all correspondence with staff. Staff further encourages Councilmembers and constituents to utilize the service request tool “Government Outreach” web- based system that is accessed via the home page of the City’s website.

There are limited restrictions when information cannot be provided. Draft documents (e.g., staff reports in progress, administrative draft EIRs) under review are not available for release until complete and after review by city management. In addition, there are legal restrictions on the City’s ability to release certain personnel information even to members of the City Council. Certain aspects of Police Department affairs (access to restricted or confidential information related to crimes) may not be available to members of the City Council.

City Councilmembers have a responsibility in this information flow as well. It is critical that they make use of staff reports and commission minutes. Councilmembers should come to meetings well prepared – having read staff reports and attachments, and requesting in advance any necessary and available information from staff. If a Councilmember has questions on an agenda item, that member should preferably contact staff prior to the meeting in order to allow staff time to research a response for the meeting.

**Staff roles:** The City Council recognizes the primary functions of staff as serving the community, executing City Council policy and actions and in keeping the City Council informed. Staff is obligated to take guidance and direction only from the City Council as a whole or from the appropriate management supervisors. Staff is directed to report to the City Manager any attempts by individual members of the City Council to unduly direct or otherwise pressure them into making, changing or otherwise influencing recommendations.

City staff will make every effort to respond in a timely and professional manner to all requests made by individual Councilmembers for information or assistance; provided that, in the judgment of the City Manager, the request is not of a magnitude, either in terms of workload or policy, which would require that it would be more appropriately assigned to staff through the direction of the full City Council. If a request by an individual Councilmember is determined by the City Manager to take one hour or more of staff time to complete, that request may be included on the formal City Council agenda for full City Council discussion.

## **Dissemination of Information**

In cases where a staff response to an individual Councilmember request involves written materials that may be of interest to other Councilmembers, the City Manager will provide copies of the material to all other Councilmembers. In making this judgment, the City Manager will consider whether the information is significant, new, otherwise not available to the City Council or of interest to the City Council.

## **Magnitude of Information Request**

Any information, service-related request, or revised policy position perceived as necessary by individual Councilmembers, and that cannot be fulfilled based on the above guidelines, should be submitted by the individual Councilmember in writing to the City Council as a whole. When raised at a City Council meeting, the full City Council can decide whether and when to agendaize the request for further consideration. The City Manager will seek necessary clarification as to whether the City Council desires staff research or a report prepared; and, if so, the relative priority that should be given to such a request in light of other priorities and potential workload impacts.

## **Staff Relationship with Boards, Commissions, and Advisory Bodies**

Staff support and assistance is typically provided to commissions and task forces. However, advisory bodies do not have authority over City employees. While staff may work closely with advisory bodies, staff members remain responsible to their immediate supervisors and ultimately the City Manager and City Council. The members of the commission/ board/committee are responsible for the functions of the advisory body, and the chairperson is responsible for committee compliance with City policies and practices as outlined in the Commission Handbook.

Staff support often includes preparation of an agenda and its posting in compliance with the Brown Act. Staff may also prepare reports providing background on the issue, alternatives, a recommendation, and appropriate backup materials, if necessary. Advisory body members should have sufficient information to reach decisions based upon a clear explanation of the issues. The assigned staff person may serve as secretary, taking minutes as needed. Staff members are to assist the advisory body chair to ensure appropriate compliance with state and local laws and regulations.

It is important that advisory bodies wishing to communicate recommendations to the City Council do so through approved City Council agenda procedures. In addition, if a commission wishes to correspond with an outside agency, that correspondence will be prepared by staff for review by the City Manager and possible approval by the City Council. Individuals who would like staff to perform research or for the commission to review a particular issue must gain the approval for such a request from the full City Council before any work is planned or done. The annual work plan for the City's commissions is determined by the City Council at its priority-setting that precedes the

adoption of the fiscal year budget.

## **Restrictions on Political Involvement by Staff**

Local governments are non-partisan entities. Professional staff, as reflected within the principles of the Council-Manager form of government, formulates recommendations in compliance with City Council policy and for the good of the community and is not influenced by political factors. For this reason, it is very important to understand the restrictions of staff in any level of political involvement through campaigns, fundraisers, or other means.

By working for the City, staff members do not surrender rights to be involved in local elections. Indeed, laws are in place to preserve those rights. However, there are limitations to such involvement. Different restrictions apply to management and to general employees.

General employees have no restrictions while off the job. No participation in campaigns or other activities may take place while on the job. No City resources may be used by staff in support of any campaign. Even while off the job, no employee may participate in campaign or other activities in a City uniform. For example, posing for a promotional photograph for a candidate for local office while in uniform is inappropriate. The support of the City Council in these matters is requested. A Councilmember asking staff to sign petitions or similar items can similarly create an awkward situation.

For management staff, the City Manager strongly discourages any involvement in a local campaign even while on personal time. Such involvement could erode the tenet that staff is to provide an equal level of service to all members of the City Council. The City Manager specifically prohibits any political involvement in local campaigns by department heads.

# Support Provided to City Council

## Staff Support

General administrative support to members of the City Council is provided through the City Manager's Office. Secretarial services including scheduling of appointments, receipt of telephone messages, and word processing are available as needed. In addition to supporting the five City Councilmembers, administrative support staff members also assist the City Manager, Senior Management Analyst, City Clerk, City Attorney, and City Treasurer. Sensitivity to the workload of support staff members in the City Manager's Office is appreciated. Should requested tasks require significant time commitments, prior consultation with the City Manager is requested.

## Office Equipment

To enhance Councilmembers' ability to communicate with staff and the public, the City Council office is equipped with a computer and telephones with voicemail. The City Council can also receive and send faxes.

Councilmembers may be connected from their home to the City's email system via the internet. While staff will maintain those computer applications related to City affairs, staff cannot provide assistance for personal computer applications. When individual Councilmembers have completed their term of office.

These technologies facilitate efficient communication by Councilmembers. However, their use also raises important legal issues to which Councilmembers must pay special attention. First, the Brown Act prohibits members from using "technological devices" to develop a concurrence by a majority regarding an action to be taken by the City Council. "Technological devices" under the Brown Act include phones, faxes, computer email, public access cable TV and video. Councilmembers should not use e-mail, faxes or phones for communicating with other Councilmembers in order to develop a majority position on any particular issue that may come before the full City Council. Particular caution is advised when using or responding to email received via the "CCIN" feature on the City's website and email directory. Correspondence sent using CCIN automatically goes to all five Councilmembers, certain staff and to the local newspapers.

Second, be aware that most emails sent by Councilmembers probably are public records under the Public Records Act. Even though it does not create paper, sending email is more similar to mailing a letter than placing a telephone call. The information in the email is stored on the computer network until deleted, and may continue to exist on the network's back-up systems even after being deleted. As a result, emails can become records of the City maintained in the course of business, and thus available for public disclosure under the Public Records Act.

## **Meeting Rooms**

An office is available adjacent to the City Manager's Office for shared use by members of the City Council in conducting official city business. Councilmembers can also reserve larger meeting space for use by contacting the City Manager's Office staff.

## **Mail, Deliveries**

Members of the City Council receive a large volume of mail and other materials from the public, private interests and staff. The City Manager's Office staff maintains a mailbox for each member. Meeting agenda materials are delivered or available for pick up in the office, as well as posted on the City's website. Members are encouraged to return unwanted reports and documents to staff for distribution to the public or for recycling.

# Financial Matters

## **City Council Compensation**

State law and the Municipal Code provide for modest compensation to members of the City Council. Currently, Councilmembers receive a stipend of \$500 per month, plus \$400 per month car allowance, and \$75 per month phone/technology allowance. Councilmembers are also eligible for participation in group insurance benefits including retirement, medical, dental, vision, and life insurance plans available at the level provided to management employees.

## **Expenditure Allowance**

The annual city budget includes limited funding for members to undertake official City business. Eligible expenses include travel for attendance at conferences or educational seminars, and the purchase of publications and annual subscriptions. Travel expense reimbursement for meals does not allow reimbursement for alcohol.

## **Expenditure Guidelines**

It is important to note that any expense must be related to City affairs. Public property and funds may not be used for any private or personal purpose. Courts have ruled that this prohibition includes personal political purposes. For example, reimbursement could not be allowed to pay for meals at a meeting designed to discuss political or campaign strategies. It is also inappropriate for City funds to pay for a meal or other expenses of a private citizen.

City budgetary practices and accounting controls apply to expenditures within the City Council budget. Reimbursement requests should be made through the standard reimbursement process with receipts. Expenditure records are public information. Questions arising as to the proper application or interpretation of the adopted policy will result in the City Manager conferring with the Mayor.



# Conflicts & Liability

## Conflict of Interest

State laws are in place to prevent an action by a Councilmember that would or may constitute a conflict of interest. The purpose of such laws and regulations is to ensure that all actions are taken in the public interest. At any time a Member believes a potential for conflict of interest exists, he/she is encouraged to consult with the City Attorney or private legal counsel for advice. Staff may also request an opinion from the City Attorney regarding a member's potential conflict. Laws that regulate conflicts are very complicated. Violations may result in significant penalties including criminal prosecution.

There are two primary laws that govern conflicts of interest for public officials in California - the Political Reform Act and Government Code §1090. In general terms, the Political Reform Act prohibits a public official from having a financial interest in a decision before the official;

§1090 prohibits a public official from having an interest in government contracts.

The Political Reform Act prohibits public officials from making, participating in, or in any way attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. Therefore, if a public official has a conflict of interest, the official must disqualify himself or herself from acting on or participating in the decision before the City. Once a year Councilmembers and certain staff are required to file statements of economic interests.

Government Code §1090 is similar to the Political Reform Act, but applies only to City contracts in which a public official has a financial interest. The financial interests covered by

§1090 are different from those in the Political Reform Act. A Member having an interest in a contract may preclude the City from entering into the contract at all. In addition, the penalties for violating §1090 are severe. If a Councilmember believes that he or she may have any financial interest in a contract that will be before the City Council, the Member should immediately seek advice from the City Attorney or the Member's personal attorney.

There are a number of other restrictions placed on City Council actions that are highlighted in the League of California Cities' *Guide*. Such restrictions include prohibitions on secrecy and discrimination as well as assurance that all city funds are spent for public purposes. Violations of these restrictions may result in personal liability for individual Councilmembers.

## City Attorney Advice

The City Attorney has an affirmative duty to protect the City and City Council from conflicts of interest wherever possible. It is critical to note that while the City Attorney

can render advice on the interpretation of State laws and regulations on conflict matters, such advice is solely an interpretation of the law. The only authority that can provide binding interpretations on such matters is the State Fair Political Practices Commission (FPPC). Members or the full City Council may also solicit opinions on such matters directly from the FPPC; however, such opinions often take time to develop and may not readily respond to urgent matters. It is important to note that the City Attorney does not represent individual members of City Council, but the City Council as a whole.

## **Conflict of Interest Forms**

Annual disclosure statements are required of all Councilmembers, designated commissioners and senior staff which indicate potential conflicts of interest including sources of income, ownership of property and receipt of loans and gifts. Councilmembers and the City Manager often serve on the governing board of other agencies as a result of their positions. These agencies also require submittal of disclosure forms. These forms require information including income, loans, receipt of gifts, and interest in real property among other items.

## **Liability**

The City is a large institution offering a variety of services and may occasionally find itself subject to legal actions through lawsuits. For example, those involved in automobile accidents sometimes choose to take actions against a City since the accident occurred on a City roadway. The City must always approach its responsibilities in a manner that reduces risk to all involved; however, with such a wide variety of high-profile services all risk cannot be eliminated. The City belongs to an agency with other governments to manage insurance and risk activities.

It is important to note that violations of certain laws and regulations by individual members of the City Council may result in that member's being personally liable for damages which would not be covered by the City's insurance. Examples may include discrimination, harassment or fraud.

# Additional Training & Resource Materials

## **League of California Cities**

The League is an association of virtually all cities in California. It provides many services including the production of educational conferences for local officials, publication of various newsletters and the monthly magazine *Western City*. The League has lobbyists on staff to represent the interest of cities before the state legislature and federal government and supports committees having local officials as members that are organized to address issues as they arise. The League has an Internet web site at [www.cacities.org](http://www.cacities.org). The City of Manhattan Beach participates in League activities through the Los Angeles County Division.

## **Local Government Commission**

The Commission is a California-based organization that focuses largely on planning and resource conservation issues. It conducts workshops, offers periodic seminars, and publishes newsletters.

## **International City/County Management Association (ICMA)**

ICMA is a professional association of local government chief executives/city managers. The association has an extensive list of publications to assist local officials.

## **Other Reference Material Available**

The Brown Act - Open Meetings for Local Legislative Bodies

Report on City Participation in Ballot Measure Campaigns

A Guide to the Political Reform Act

Elected Officials Handbooks:

Setting Goals for Action: An Overview of Policy Development

Building a Policy-Making Team Setting Policies for Service Delivery Pursuing Personal Effectiveness

City of Manhattan Beach Municipal Code

## **APPENDIX A – Reference Guide to Motions**

<b>Type of Motion</b>	<b>Second Required</b>	<b>Debatable</b>	<b>Amendable</b>	<b>Priority Over Pending Motion</b>	<b>Reconsidered</b>	<b>Interrupt Speaker</b>
Adjourn	Y	n/a	n/a	Y	n/a	n/a
Amend or Substitute <sup>1</sup>	Y	Y	Y	Y	Y	n/a
Appeal	Y	Y	n/a	n/a	Y	Y
Call the Question <sup>7</sup>	Y	n/a	n/a	Y	n/a	n/a
Take Up New Business Past 11 pm <sup>8</sup>	Y	Y	n/a	Y	n/a	n/a
Limit Debate	Y	n/a	Y	Y Except “table”	Y	n/a
Main Motion	Y	Y	Y	n/a	Y	n/a
Nominations	n/a	Y	n/a	n/a	n/a	n/a
Personal Privilege or Point of Order	n/a	n/a	n/a	Y	Y	Y
Postpone to Time Certain	Y	Y	Y	Y	Y	n/a
Previous Question	Y	n/a	n/a	Y	Y	n/a
Recess or Adjourn to Time Certain	Y	Y	Y	n/a	n/a	n/a
Reconsider	Y <sup>2</sup>	Y <sup>3</sup>	n/a	n/a	n/a	<sup>4</sup>
Table or Take From Table	Y	n/a	n/a	Y <sup>5</sup>	n/a	n/a
Take up Out of Order	Y	n/a	n/a	n/a	n/a	n/a
Withdraw a Motion <sup>6</sup>	n/a	n/a	n/a	Y	Y	Y

“Y” indicates that this action can be taken, is necessary, is required, is permitted or is applicable

“n/a” indicates that this action cannot be taken, is unnecessary or is inapplicable

<sup>1</sup> Limit of three substitute motions.

<sup>2</sup> May only be made by a person who voted on prevailing side; not applicable to “table” motions. Must be made within two meetings of original action.

<sup>3</sup> If prior motion was debatable.

<sup>4</sup> Except for request for later action.

<sup>5</sup> Highest subsidiary motion – takes precedence over all motions except adjourn and privilege.

<sup>6</sup> Must be voted unless there is no objection.

<sup>7</sup> Requires 4/5 vote.

<sup>8</sup> Requires 4/5 vote taken by 10:30 p.m. to extend.

## **APPENDIX B**

### **SAMPLE LEGISLATIVE POLICY GUIDE**

#### **The City Council of Manhattan Beach believes:**

- *In conducting the business of government with openness, respect, and civility, and including the involvement of all stakeholders in establishing goals and in solving problems.*
- *The vitality of cities is dependent upon their fiscal stability and local autonomy, and that local self-governance is the cornerstone of democracy.*

#### **Therefore:**

- The City supports legislation that reflects the need to conduct the public's business in public.
- The City opposes legislation that mandates costly and unnecessary procedures.
- The City supports the use of the general plan as a guide to meeting community planning needs, and opposes mandatory review or approval by another level of government and legislation that restricts the land use authority of cities.
- The City emphasizes efficiency and effectiveness to achieve the best possible use of city resources and believes the state should implement fiscal and legislative reforms in order to allow local government to adequately finance its service responsibilities, with accountability to the taxpayers for its programs.
- The City supports additional funding for local transportation and other critical unmet infrastructure needs and enhanced autonomy for local transportation decision-making.
- The City supports strategic alliances with counties, schools, other cities and local agencies, nonprofit and civic organizations and business and professional associations.

# APPENDIX C – CITY MANAGER CODE OF ETHICS

## ICMA Code of Ethics

The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in May 1998.

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide.

To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

1. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.
2. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.
3. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.
4. Recognize that the chief function of local government at all times is to serve the best interests of all of the people.
5. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.
6. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.
7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.
8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.
9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.
11. Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.
12. Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.

## MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: City Attorney  
DATE: July 31, 2013  
SUBJECT: Making Meetings Manageable: Meeting Management Tips for Mayors and Council Members

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The following is a compilation of guidelines which have proven effective in some communities.

### I. GOALS OF MEETING MANAGEMENT

- A. Complying with legal requirements for public participation in a way that balances public participation with the need to get the City's business done;
- B. Making meetings shorter, while allowing thorough and meaningful discussion;
- C. Relieving Council Members and City staff of "meeting anxiety";
- D. Dealing effectively with speakers;
- E. Preventing rules of parliamentary procedure from become obstacles to, rather than tools for, meeting management;
- F. Presenting a "public face" for the City of competence, civility, and efficiency; and,
- G. Accomplishing these goals without violating the Brown Act, due process rights of constituents, or the privacy rights of City employees.

### II. TYPES OF MEETINGS

- A. *Formal*
  - Roles of participants are strictly observed;

- Audience speaks only when called on;
- Time limits established for speakers;
- Council Members speak when called on;
- Everyone sticks to the issue at hand;
- Debates are not allowed; one-way communication only; and
- Rules of decorum and procedure are strictly followed.

B. *Informal*

- Fewer barriers between audience and Council;
- Town-meeting atmosphere; and
- Less structured.

Every Council must decide on the degree of formality that works best to accomplish its goals. Some factors to consider include:

- A. How many people come to the meetings?
- B. How controversial are the issues?
- C. How well does the Mayor keep the meeting on track?
- D. Is audience disruption a regular problem?
- E. How long is a typical agenda?
- F. How big is the Council chamber?
- G. Are the meetings broadcast or videotaped?

Each Council must decide what degree of formality works best depending on the combination of these factors. Generally, more control can be obtained if the meeting is



more formal. Meetings need not be uniformly of one type or another; each meeting may be more or less formal than the last, depending on how the above factors are operating; but if so, the inconsistency should be explained. (Example: “We’ve got a lot more folks here than usual tonight, so in order to stay organized, we’re going to use speaker slips and limit everyone to three minutes.”)

Formality has the advantage of keeping tighter control over the meeting, appearing more businesslike and moving through the agenda more quickly. However, it is less personal, may be more intimidating to the public and allows less spontaneity. Less formal meetings may offer a more approachable government, but are more difficult to manage, especially with larger audiences. Even with a small audience, an extremely informal approach, where the audience is given unfettered discretion to participate, often leads to long-winded discussions and lengthy meetings. Obviously, though, an overly formal meeting style would look silly if only a handful of people regularly attend meetings. Thus, you should adjust to your own particular situation and use those elements of formality necessary to accomplish your objectives.

### **III. WHY MEETINGS GO ON ... AND ON ... AND ON**

- A. Audience: hostile audience, disruptive “regulars,” exceeding time limits, wandering from the subject, speaking on every issue, speaking when it’s obvious the Council is doing what the speaker wants, rude behavior and personal attacks.
- B. Staff: unprepared, incomplete staff reports, non-responsive answers, overly talkative.
- C. Agenda: poorly organized agenda, overly packed agenda, timing of closed sessions, placing matters on the agenda before they are ready for decision or after the time when productive discussion can be had.
- D. Mayor: a Mayor who fails to move the meeting along, an autocratic Mayor who invites resistance and argument from the Council or audience, an unprepared Mayor, a disorganized Mayor, a Mayor who fails to perceive the feelings and desires of the audience and Council and allows one person to drag on a discussion when the bulk of the group is ready to move on.

- E. Council Member: Council Members who talk too much, who don't distinguish between important and unimportant issues, who aren't prepared and delay the meeting while they read the staff report, who are disorganized and waste time trying to remember what it is they wanted to know or say about an item.

#### **IV. DEALING WITH PERSISTENT AND VICIOUS PUBLIC COMMENTARY**

Listed below are some common methods of dealing with persistent and vicious public commentary at public meetings:

- A. Rise above it by ignoring it, smiling, and thanking each speaker for his/her comments; effective use of appropriate humor can also be helpful;
- B. Periodically remind the audience to be civil and observe commonly understood rules of decent behavior;
- C. Meet with the offenders privately to see if their concerns can be resolved; and
- D. Compliment them when they behave well, praise their commitment to the community in attending meetings, and give them the attention they may be seeking in positive ways that encourage positive behavior.

It is always best to treat the audience with respect and in a manner that responsible adults prefer to be treated. In general it is better to serve as an example than to be perceived as a bully or an object of ridicule.

Be aware of your body language, both positively and negatively. Reaching for the microphone is a non-disruptive way to ask for the floor. Crossing your arms, rolling your eyes, turning your chair, etc., indicates to the speaker that you are not listening. Facing the speaker, sitting still, making eye contact, indicates that you are listening.

#### **V. TECHNIQUES FOR MANAGING MEETINGS**

- A. Tell people what is going on as you work through the agenda so that the audience is fully informed. People are more likely to participate if they

don't feel lost and intimidated. Try to make the public feel comfortable participating in the meeting.

- B. Organize your agenda in a way that makes the most sense, prevents pent-up frustration due to long waits and is responsive to the audience.
- Schedule public hearings early, especially if you know people are present to testify, so people can speak on the item and then leave. You may want to schedule early agenda items of interest to children, invited guests and others who may not wish to stay for the whole meeting.
  - Be prepared and organized so the business moves along smoothly, in an orderly and businesslike fashion. Read the agenda well in advance and direct routine questions to staff before the meeting. Write down your comments and questions in anticipation of the meeting. Remember, there are two different reasons to ask a question: to get the answer and to make a public point. You can get your answers before or after the meeting. Making a public point may require a public question. Even if the question must be asked at the meeting, staff will be grateful, and answers will be more useful, if you let staff know to prepare for the question.
  - Start on time and finish at a reasonable hour; otherwise you communicate to the public that you do not mind wasting their time and do not invite their participation.
- C. Be polite and encourage politeness; but do it firmly. The audience can be told to quiet down and a speaker can be told to conclude politely, rather than by bullying. Be firm about heckling, booing and harassment of other speakers.
- D. You can accord speakers a meaningful opportunity to be heard without giving them unlimited time:
- Use speaker slips; announce who will speak next so they can be ready and it isn't necessary to wait for them to get up to the podium;

- Enforce reasonable time limits;
  - Insist that the speaker address the Council as a whole and not the audience, the television audience or an individual Council Member;
  - Allow Council Members to ask questions of speakers but avoid debates, cross-examination and abusive exchanges between the Council and speakers or among audience members;
  - Avoid debates between Council Members and staff;
  - Consider using an informal “Council Member response” period after audience comments so Council Members can respond or give staff direction immediately, yet not when a speaker is at the podium; likewise, a “staff response” time can avoid encouraging debates.
- E. You can eject disruptive people from meetings, but before doing so, you should establish a “record” by giving them clear and ample warnings and alternatives, providing the person an opportunity to leave or reform his/her behavior voluntarily, and calling upon the sergeant at arms as a last resort. Alternatives include simply taking a short recess to cool things down, or clearing the room under Government Code Section 54957.9. Consider efforts outside the public meeting to address the concerns of persistent or regular citizen complainers. This could be a conversation with the complainers or with the Council Members or staff members who react to the complainers in a counterproductive way. Whatever your style, don’t make threats you won’t carry out. Ejecting someone from a Council meeting and clearing the room are serious legal matters and can lead to lawsuits, so we recommend consulting with the City Attorney before doing so.

(For further information about disruptive behavior, please refer to “Protocol for Dealing with Disruptive Persons during Public Meetings.”)

- F. When you have a full house and many members of the audience want to speak, you can encourage people to avoid repetition (and even interrupt to remind them not to repeat what prior speakers have said), ask for a showing of hands as an alternative to individual comments, ask for a

“spokesperson” from a group and give him or her more time than the others, firmly curb straying from the subject, discourage applause and other demonstrative activity, enforce time limits, prohibit dialogues and encourage written testimony. Written testimony is especially useful in complex matters. “Reflective listening” -- in which the Mayor or a Council Member summarizes what has been said and encourages input which is not repetitious -- tells people that you are listening, that they have been heard, and they needn’t belabor the point.

- G. Use study sessions to tackle difficult and time-consuming issues in a more informal setting, so that they do not interfere with regular Council meetings. Schedule closed sessions so that they do not interfere with the public portion of the agenda.
- H. In your enthusiasm to shorten meetings, be careful not to pre-decide issues outside the meeting, to prematurely cut-off audience input (especially in a public hearing setting), or otherwise give the impression that you are steam rolling through the agenda in a predetermined direction without regard to public input.
- I. Cooperate to create a positive image for the City. Like it or not, the Council is likely to be perceived by the community as a whole, not as five individuals.
- J. Don’t send people home angry if you can avoid it, even if only by thanking them for coming and speaking.
- K. Encourage staff to summarize, rather than read, their staff reports; reading the entire report wastes time and suggests to the public (and Council Members) that the Council is not (or need not be) prepared. Provide enough information to allow the public to understand the item.
- L. Manage conflict. Conflict among Council Members can lead to repeated debates which waste time. It may be best to agree to disagree respectfully and to encourage the Mayor to manage or prevent debates. Obviously, the Mayor should not get so involved in debate that he or she forgets that it is his or her primary responsibility to manage the meeting. If the Mayor gets into a prolonged debate, it is difficult for anyone else

present to get the meeting back on track (although the Mayor Pro Tem or Vice-Chairperson might take on this role).

- M. Don't attack or embarrass staff. The City will look better, and the Council, too, if you avoid "ambushing" or embarrassing staff. You look like a bully if you attack the people who work for you: they can't fight back. You also increase disrespect for the City as an institution and ultimately for you. You can respectfully disagree with staff recommendations; but address the issues, not the personalities.

## **VI. WRITTEN PROCEDURES**

- A. Consider written rules of decorum.
- B. Disseminate written rules governing meeting procedures and public participation by placing them at the back of the room with the agendas and speaker slips.

**Agenda Date:** 8/13/2013

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**TO:**

Honorable Mayor and Members of the City Council

**FROM:**

David N. Carmany, City Manager

**SUBJECT:**

Final Report from the Ad Hoc Open Government Subcommittee Seeking City Council Action on Remaining Open Government Initiatives; Authorization for the City Manager to Adopt the Public Records Act Protocol; and Direction on Future Open Governmental Initiatives.

RECEIVE PUBLIC INPUT, DISCUSS, AND TAKE ACTION ON OPEN GOVERNMENT INITIATIVES

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**RECOMMENDATION:**

Staff recommends that the City Council:

1. Provide direction on the Remaining Open Government Initiatives
2. Authorize the City Manager to Adopt the Public Records Protocol
3. Provide Direction on the Forum for Considering Future Open Governmental Initiatives.

**FISCAL IMPLICATIONS:**

There are no fiscal implications with the recommended actions.

**BACKGROUND:**

The Ad Hoc Open Government Subcommittee ("Ad Hoc Open Government Subcommittee") was formed in June 2011 to discuss and consider and make recommendations to the City Council regarding open government initiatives. Its two members have been Mayor Lesser and Mayor Pro Tem Howorth. Since its formation, the Ad Hoc Open Government Subcommittee has held eight publicly noticed meetings to receive public input, establish goals, create a vision statement, and develop initiatives to improve openness and transparency in City government. Each meeting was videotaped and archived and is available for viewing on the City website.

The May 21, 2013 City Council Agenda Staff Report, attached as Attachment 1, describes the various Open Government Initiatives the subcommittee has explored since 2011. The initiatives were compiled for ease of reference on a "Matrix," which is attached as Attachment 2. The Matrix lists 28 open government initiatives, six of which are outstanding and require direction by the City Council.

The City Council received public input on the six remaining initiatives of the Open Government Ad Hoc Subcommittee and began discussion of the initiatives at its July 2, 2013 meeting. At the conclusion of the discussion, Council directed the item be placed on the agenda of the July 16, 2013 meeting to provide the public with an additional opportunity for public input before the City Council takes action on the remaining issues.

What follows below are summaries of the six remaining open government issues and recommendations by City staff for public comment and direction by the City Council:

1. Special Meetings (Matrix Item No. 2)

The state Brown Act requires that the City provide not less than 24 hours' notice of special meetings by the City Council.

Issue: Should the City provide an additional notice period beyond the requirements of the Brown Act in advance of City Council special meetings?

Recommendation: Continue to comply with the Brown Act. In addition, direct the City Clerk to provide at least one week notice for City Council workshops, budget study sessions, and strategic plan meetings whenever staff is aware of such meetings in advance.

2. Format of City Council Minutes: Action or Summary? (Matrix Item No. 8)

Minutes serve as the official legislative record of City Council meetings and are intended to be a written account of the actions taken on the items presented at a meeting.

There are several styles of minutes including action minutes, summary minutes and verbatim/semi-verbatim minutes. As explained more fully in Attachment 1, City staff and the City Clerk's Association of California recommend action minutes. Every City Council meeting is recorded and archived and each set of minutes contain a reference and link to the video with the following statement, "For video of meeting, click on the following link."

Issue: Should the City Clerk take action minutes or summary minutes as a record of City Council meetings?

Recommendation: Continue the City's practice of using action minutes for City Council meetings.

3. Public Input on Staff Reports prior to Publication (Matrix Item No. 18)

Residents have requested an opportunity to provide input on City Staff Reports prior to publication. See discussion in Attachment 1.

Issue: Should residents be provided with an opportunity to comment on or supplement City Staff Reports prior to their publication?

Recommendation: Direct City staff to explore additional opportunities for public outreach and input prior to finalizing staff report and direct the City Clerk to distribute correspondence from the public prior to Council meetings so Council members may consider such input prior to making a decision.

4. Public Records Act Protocol (Matrix Item 20)

The California Public Records Act is a State law that establishes and guides the public's right to access records concerning the conduct of the people's business. In March 2011, the City entered into a settlement agreement with the late Richard McKee (the "McKee Settlement Agreement") regarding litigation he filed against the City seeking relief for alleged violations of the Brown Act and the Public Records Act. A copy of the McKee Settlement Agreement is attached as Attachment 3.

Section 1a(iv) of the McKee Settlement Agreement provides for the City Manager to "develop and adopt a protocol for responding to requests for public records which complies with the Public Records Act." In accordance with that provision, the City Manager developed a "Public Records Act Protocol ("Protocol") consistent with the Public Records Act which is attached as Attachment 4. While the Protocol has been developed and its guidelines are being followed by City staff, it has not been formally adopted. It was discussed by the Ad Hoc Open Government Subcommittee and the City Manager has deferred its adoption until the subcommittee's recommendations were considered by the City Council.

Staff also developed a Public Records Act Request Log ("Log") attached as Attachment 5, which the City Clerk has used since July 2012 to track City Public Records requests.

Issue: Should the City Manager adopt the Public Records Act Protocol and Public Records Act Log?



Recommendation. Direct the City Manager to adopt the Public Records Act Protocol and Public Records Act Log.

5. Direction on Future Open Government Initiatives

An outstanding question is whether new open government initiatives should be developed by an ad hoc subcommittee of the City Council or the full City Council. The work of the Ad Hoc Open Government Subcommittee over the past two years raised the profile of open government initiatives and the adoption of various recommendations, but the City staff member and legal counsel who supported much of its work are no longer affiliated with the City. In the absence of City staff to develop new initiatives, biannual City Council Strategic Plan meetings provide a forum for exploring new open government initiatives.

The City is deeply committed to serving the public and increasing public participation. Regardless of the forum selected, City staff will continue to explore and identify additional opportunities for public participation and greater transparency for consideration by the City Council. For example, City staff members are developing a public engagement manual as a guide for staff to be presented to City Council at an upcoming meeting.

Issue: Should open government initiatives be developed by City staff for discussion at City Council Strategic Plan sessions or through a City Council ad hoc subcommittee?

Recommendation. Continue to encourage broad public engagement in community decision-making and develop open government initiatives at future City Council Strategic Plan meetings.

6. Agenda Structure and Process, Sticking to the Agenda, City Council Meeting Consent Calendar Content, Follow-up of Items requested to be placed on the Agenda of a Future Meeting to Ensure Items are Brought Back (Matrix Item Nos. 9, 13, 15)

This item is addressed in the meeting management staff report.

For ease of reference, the March 12, 2013 Ad Hoc Open Government Subcommittee agenda, staff reports and attachments that were attached to the May 21, 2013 City Council agenda report are attached as Attachment 6.

CONCLUSION:

Staff recommends that the City Council:

1. Provide direction on the Remaining Open Government Initiatives
2. Authorize the City Manager to Adopt the Public Records Protocol
3. Provide Direction on the Forum for Considering Future Open Governmental Initiatives.

Attachments:

1. May 21, 2013 City Council Agenda Report from the Ad Hoc Open Government Subcommittee
2. Open Government Initiatives Matrix
3. McKee Settlement Agreement
4. Public Records Act Protocol
5. Public Records Act Log
6. March 12, 2013 Ad Hoc Open Government Subcommittee Agenda, Staff Reports and Attachments

**TO:**

Honorable Mayor and Members of the City Council

**FROM:**

David N. Carmany, City Manager

**SUBJECT:**

Report from the Ad Hoc Open Government Subcommittee Seeking City Council Direction on Remaining Open Government Initiatives; Authorization for the City Manager to Adopt the Public Records Act Protocol; and Direction on Future Open Governmental Initiatives.

**DISCUSS, AUTHORIZE ADOPTION, AND PROVIDE DIRECTION**

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**RECOMMENDATION:**

Staff recommends that the City Council:

1. Review Remaining Open Government Initiatives considered by the Ad Hoc Subcommittee.
2. Authorize the City Manager to adopt the Public Records Protocol.
3. Provide Direction as to Future Open Government Initiatives.

**FISCAL IMPLICATIONS:**

There are no fiscal implications with the recommended action at this time.

**BACKGROUND:**

The Ad Hoc Open Government Subcommittee was formed in June 2011 to discuss and consider and make recommendations to the City Council regarding open government initiatives. Its two members have been Mayor Lesser and Mayor Pro Tem Howorth. Since its formation, the Ad Hoc Subcommittee has held eight publicly noticed meetings to receive public input, establish goals, create a "vision statement," and develop initiatives to improve openness and transparency in City government. Each meeting was videotaped and archived and is available for viewing on the City website. Open Government Initiatives considered by the Ad Hoc Subcommittee were compiled for ease of reference on a Matrix (Attachment 1).

The public has provided many helpful suggestions to the work of the Ad Hoc Subcommittee and been an active partner in developing open government initiatives. For instance, members of the public have suggested listing upcoming meetings at the end of each agenda (Matrix Item No. 4), allowing the City Council to pull Consent items first (Matrix Item No. 14), and have the City Manager to report on conferences/travel of senior staff (Matrix Item No. 17).

Prior to the formation of the Ad Hoc Subcommittee the City entered into a settlement agreement in March 2011 with the late Richard McKee regarding litigation he commenced alleging violations of the state Brown Act and the California Public Records

Act (“the Act”). Among the settlement agreement provisions is a requirement for the City Manager to develop and adopt a protocol (“Protocol”) for responding to requests for public records which complies with the Act. While the settlement agreement delegates responsibility for developing a Protocol to the City Manager, it was included as an Item on the Matrix for review and public input (Matrix Item No. 19).

On January 3, 2012, the Ad Hoc Subcommittee provided City Council with an update on its development of open government initiatives. The City Council discussed each item on the Matrix and provided the Ad Hoc Subcommittee with direction on certain items but requested it return regarding other items which would require policy direction from the entire City Council.

The Ad Hoc Subcommittee subsequently conducted three public meetings to review items on the Matrix, provide direction to City staff, and determine which items should return to City Council. The Protocol was presented at public meetings on July 19, 2012, and August 30, 2012. At those meetings there was discussion of revisions to the Protocol and whether the City should consider broader open government initiatives known as "Sunshine Ordinances."

On March 12, 2013, the Ad Hoc Subcommittee met to review the status of outstanding items on the Matrix, the Protocol, and how to proceed. Most items listed on the Matrix have now been implemented. For example, the City does now list upcoming meeting on each agenda, agenda posting boards have been color coded to allow for easier identification of meeting agendas for different commissions and meeting bodies, the 15-minute cumulative limit on Audience Participation was removed, etc. Several items identified on the Matrix as “implemented” are nevertheless “ongoing,” such as training City staff (Item Nos. 3, 28) and implementing Grancius software and hardware (Items Nos. 22, 23, 24, and 25).

The Ad Hoc Subcommittee believes it is appropriate to return to the City Council at this time for (1) Direction on remaining open government initiatives, (2) Authorization for the City Manager to adopt the Protocol, and (3) Direction on future open governmental initiatives. The Ad Hoc Subcommittee is an advisory body with a limited purpose to review certain open government initiations on the Matrix and make recommendations to City Council. In addition, the arrival of new City Council members suggests a need for the full Council to provide direction on any new initiatives.

## **DISCUSSION:**

### **1. Remaining Open Government Initiatives**

The Matrix developed by the Ad Hoc Subcommittee with public input contains a total of 28 items. As stated above, almost all Matrix items have been implemented but the items below have policy implications requiring direction from City Council.

#### **a) Limitations on Special Meetings (Matrix Item No. 2)**

Pursuant to the Brown Act, a legislative body (e.g., City Council) can hold three types of meetings: regular, special or emergency.

Almost all City Council meetings are “regular” meetings. A “regular” meeting is one that occurs on a legislative body’s established meeting day and time. Agendas for a regular meeting must be publicly posted 72 hours in advance of the meeting in a place that is freely accessible to the public and contain a brief general description of each item of business to be transacted or discussed at the meeting. Regular meetings can be adjourned to other days, times or places.

Legislative bodies can also hold a “special” meeting at a time or place other than the time and place established for regular meetings. For special meetings, the “call and notice” of the meeting and the agenda must be posted at least 24 hours prior to the meeting. Under the Brown Act, the Mayor or a majority of the legislative body may call a special meeting at any time.

It is rare for cities to adopt limits on the use of such meetings. For almost all cities, the calling of a special meeting is unusual. Most cities do not conduct regular and general city business at special meetings. Special meetings are typically utilized in the case of scheduling conflicts with the regular meeting dates, when there is an urgent need or some other legal reason to take action before the next regular council meeting or if there is a need to devote an entire meeting to a specific topic or agenda item.

The adoption of policies or ordinances placing restrictions on special meetings limits the flexibility provided in the Brown Act for calling special meetings. Also, the City Attorney’s office does not recommend any policy that could hamper its ability to meet litigation deadlines or limit its negotiation position. It believes City Council and future City Councils should maintain the flexibility provided in the Brown Act to hold special meetings. For example, if the City Council desired to start a regular meeting earlier and did not adjourn to that earlier meeting time, the new start time for its regular meeting would have to be noticed as a “special meeting.” Adopting restrictions on special meetings would limit the Council’s ability to do. The Ad Hoc Subcommittee recommends that the Council consider the following options. Both options acknowledge that for some matters - litigation, urgent items, etc. – only a 24-hour notice (in full compliance with the Brown Act) will be possible.

City Council options:

1. Direct the City Clerk to provide at least a one week notice for workshops, budget study sessions, strategic plan meetings and other special meetings whenever practical.
2. Direct the City Attorney to draft an ordinance for City Council consideration to require no less than 72 hours’ notice of workshops, study sessions, budget study sessions and strategic plan meetings.

**b) Format of City Council Minutes: Action or Summary? (Matrix Item No. 8)**

Minutes of City Council meetings are required by Government Code Section 36814 and 40801. In addition, the City’s Municipal Code provides that the City Clerk “shall be charged with keeping an accurate record of the proceedings of the City Council . . . .” [MBMC Section 2.08.150]. Accordingly, minutes serve as the official legislative record of City Council meetings and are intended to be a written account of the actions taken on the

items presented at a meeting. State law, however, does not address the format of minutes.

There are several styles of minutes. Industry standards describe the formats as action minutes, summary minutes or verbatim/semi-verbatim minutes. Regardless of the format, minutes must be accurate, clear and state the action taken. Action minutes can be described as minutes with very little narrative, if any, included with motions and votes listed in the record. Summary minutes provide some City Council and staff comments as well as notations on members of the public who speak on agenda items. Verbatim/semi-verbatim minutes include detail of each agenda item listed but also discussion on each agenda item.

Cities throughout the state use various styles of minutes. The City Clerk's Association of California informed us that best practices dictate the use of "action" minutes for several reasons. First, the duty of the minutes-taker is to record the action taken by the legislative body. Minutes are not meant to be a transcript of the meeting. Action meetings record what occurs. Second, the general rule of transcription is for every hour of meeting time, there should be at least three hours allocated for transcription. Action minutes reduce the amount of staff time spent in transcribing the minutes especially if the minutes are heavily detailed and/or verbatim. Third, narrative on the dialogue that occurs during a meeting can lead to issues related to the interpretation of comments. Action minutes eliminate a discussion about "who said what" or the comment, "I meant to say . . . ." , Minutes are not a transcript of the meeting and with the advent of technology, the video is available if there is a desire to view and hear a full recounting of an item or the meeting.

Residents who favor summary minutes state that such minutes provide a fuller account of comments by residents and policymakers and assist facilitating research on legislative intent. However, summary minutes will impact staff resources and be more expensive.

The format of minutes is a matter of preference or policy by the City Council. Consistent with industry standard, the City Clerk utilizes action minutes for City Council meetings. Certain City commissions use summary minutes based on long standing practice.

*Recommendation:*

Continue the City's practice of action minutes. In the alternative, if the City Council desires to provide summary minutes, direct the City Manager to create a budget request for further discussion during this year's budget study sessions.

**c) Public Input on Staff Reports prior to Publication (Matrix Item No. 18)**

Item No. 18 explores the concept of whether members of the public should provide written input to City staff for incorporation into the final staff report. No city presently allows for input in this fashion and staff does not recommend such a policy. There should, however, be a discussion of how to provide broader opportunities for the public to participate. Certain issues may lend themselves to alerting stakeholders in advance of City Council discussion of the item. For example, with regard to Sand Dune Park, the City Council directed staff to seek public input with regard to park operations before a decision was

made. Another example was the Six-Man volleyball tournament where staff solicited input from stakeholders with respect to the event. Another way to include public input is to include a section in staff reports where staff can inform the public and City Council as to stakeholder input and comments.

*Recommendation:*

Do not adopt a policy on this item and recommend that additional opportunities for public input be explored.

***d. Agenda Structure and Process, Sticking to the Agenda, City Council Meeting Consent Calendar Content, Follow-up of Items requested to be placed on the Agenda of a Future Meeting to Ensure Items are Brought Back (Matrix Item Nos. 9, 13, 15)***

These Items will be addressed at a future meeting when the City Council revisits its resolution establishing rules of order for City Council meetings. In addition, “sticking to the agenda” was addressed at the City Council teambuilding exercise on March 21, 2013.

The City Manager has also assigned staff to make a list of items that come up during a meeting that need follow-up and/or need to be placed on a future agenda. Those lists will be reviewed at the department head meetings immediately following the City Council meetings to ensure that it is placed on the future agenda list, tracked and a staff person assigned to the item for appropriate follow-up.

**2. Public Records Act Protocol (Matrix Item 20)**

The California Public Records Act (“Act”) is the State law that establishes and guides the public’s right to access records concerning the conduct of the people’s business. In accordance with the McKee settlement agreement of March 2011, staff prepared a “Public Records Act Protocol (“Protocol”) consistent with the Act. Staff has also developed a Public Records Act Request Log (“Log”) which it has used since July 2012 to track City Public Records requests.

The purpose of the Protocol is to affirm in writing the public’s right to access City Public Records and to set forth the procedures by which they are made available to the public in accordance with the Act. City staff receives requests for City Public Records frequently. Responding promptly and appropriately is an important aspect of the City’s open government process.

The McKee settlement agreement delegated to the City Manager the authority to develop and adopt the Protocol. However, the Ad Hoc Subcommittee listed the development of a Protocol on the Matrix (Item No. 20), and reviewed it at three Ad Hoc Subcommittee meetings. The Ad Hoc Subcommittee and members of the public provided staff with helpful input on the Log, such as adding a column to indicate the date staff completes a City Public Records Act request and including additional narrative information to explain where there are gaps in producing responsive records.

Recommendation:

Review and adopt the Public Records Act Protocol and Public Records Act Log.

**3. Direction on Future Open Government Initiatives**

The City is deeply committed to serving the public and increasing their participation. The City has implemented numerous open government initiatives and the process of identifying how city government operates in an open and transparent manner is ongoing. As an example, to further this commitment and provide continuous staff training and improvement, the City will be developing a public engagement manual which will serve as a record of methods and practices currently in use and be a guide for staff going forward. The City will continue to explore and identify additional opportunities and bring them to the City Council for consideration.

Additionally, several residents suggested to the Ad Hoc Subcommittee that the City consider adopting a “Sunshine Ordinance.”

In California, the Brown Act is California’s sunshine law. The Brown Act’s key provision is its requirement that “all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.” The remaining provisions work together to ensure transparency in government. In the context of open government, transparency means that citizens must be able to “see through” the workings of local government. The Brown Act, the Public Records Act and to some extent the Political Reform Act ensure that the workings of local government are transparent and provide for a means for the public to participate in government.

A sunshine ordinance takes a sunshine law (i.e., the Brown Act) and expands upon it to create new local laws regarding public meetings and, in some versions, access to public records. Terms of sunshine acts adopted by or proposed for California cities vary widely. Common provisions in sunshine ordinances include extending open meeting requirements to more situations (i.e. additional meeting bodies, types of meetings, etc.), requiring earlier access to meeting materials (earlier agenda postings), expedited schedules for producing public records, etc. Included in Attachment 2 are an August 30, 2012, report and a March 12, 2013, report that address sunshine ordinances in more detail and provide a general overview of sunshine ordinances that have been adopted by various cities in California.

Recommendation

Direct the City Manager to continue to follow best practices that encourage broad public engagement in community decision-making and open and transparent government, and explore additional initiatives. In addition, revisit these issues at the next Strategic Plan meeting, scheduled for July 10, 2013.

**CONCLUSION:**

Staff recommends that the City Council take action on the recommendations of the Ad Hoc Subcommittee and provide direction as appropriate.

Attachments:

1. Open Government Initiatives Matrix
2. March 12, 2013, Ad Hoc Open Government Subcommittee Agenda, Staff Reports and Attachments
3. Public Records Act Protocol
4. Public Records Act Log



Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
1	Public Forums, Hearings, and Meetings	Short	1/3/2012	Send out reserved meeting notices as soon as a meeting is set, with the agenda to follow (e.g. color coded posting boards)	E-Notify, City Website	City Clerk	Scheduling of limited staff, unbudgeted expenses	None; exceeds legal minimum requirements		IMPLEMENTED
2	Public Forums, Hearings, and Meetings	Medium		Explore concept and limits of the use of special meetings (policy)	City Council Policy	City Attorney		Limits Flexibility Provided by the Brown Act		FOR CITY COUNCIL REVIEW
3	Public Forums, Hearings, and Meetings	Short	1/3/2012	Train City Council and Staff on types of meetings (regular, special, emergency, etc)	1-page handout	City Attorney	None	None		IMPLEMENTED Proposed training is to be scheduled
4	Public Forums, Hearings, and Meetings	Short	1/3/2012	Include a schedule of upcoming meetings on each agenda	Modify the current Agenda Template	City Clerk	None	None		IMPLEMENTED
5	Public Forums, Hearings, and Meetings	Medium	6/5/2012	Provide for meeting broadcasting capabilities at the Police/Fire Conference Room, Joslyn Center, Library	Purchase of necessary equipment, additional I.S. Division staff required	I.S. Manager	Scheduling of limited staff, unbudgeted expenses	None	Cost of I.S. staff	IMPLEMENTED Scheduled to be complete by June 30, 2013
6	Public Forums, Hearings, and Meetings	Medium		Provide for interim recording of meetings held outside City Council Chambers	Small investment for equipment, and ongoing staffing	I.S. Manager	Scheduling of limited staff, unbudgeted expense	None	Cost of I.S. staff	IMPLEMENTED
7	Public Forums, Hearings, and Meetings	Short	1/3/2012	Timely completion and posting of City Council, Subcommittee, and Commission meeting minutes	Staff will develop an administrative policy setting the desired turnaround time for meeting minutes and distribute to all departments responsible for commissions or development of minutes	City Clerk	Staffing, day to day operations interrupt this activity	None		IMPLEMENTED
8	Public Forums, Hearings, and Meetings	Short		Policy on the format of minutes (action vs. summary)	City Council Policy	City Clerk	Staffing, day to day operations interrupt this activity			FOR CITY COUNCIL REVIEW
9	Knowledge Acquisition and Information Accessibility	Medium	10/16/2012	Agenda Structure and Process	Survey other cities,	City Manager / City Clerk				IMPLEMENTED City Council Revised Agenda Procedures
10	Public Forums, Hearings, and Meetings	Longterm	10/16/2012	Sticking to the Agenda	Facilitated teambuilding after new agenda process is tested.	City Manager				IMPLEMENTED City Council Teambuilding Meeting on March 21, 2013

Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
11	Public Forums, Hearings, and Meetings	Short	6/5/2012	Evaluate the policy on time limits for audience participation (currently policy of 3-min individual and 15-min cumulative is set by City Council resolution)	City Council Policy	City Clerk	None			IMPLEMENTED City Council Revised Agenda Procedures
12	Public Forums, Hearings, and Meetings	Short	6/5/2012	Evaluate the order/placement of audience participation on the agenda; review other cities' audience participation models	City Council Policy	City Clerk	None			IMPLEMENTED City Council Revised Agenda Procedures
13	Public Forums, Hearings, and Meetings	Short		Consent Calendar content (include routine items only)	Mayor and City Manager currently work together to set the agenda	City Manager	None			IMPLEMENTED
14	Public Forums, Hearings, and Meetings	Short	1/3/2012	Pulling of Consent items: City Council should pull 1 <sup>st</sup> with staff introduction of the item included; clarifying questions and statements that could be addressed quickly vs. pulling an item.	City Council Policy	City Clerk	None			IMPLEMENTED
15	Public Forums, Hearings, and Meetings	Short		Follow-up of items that need to be agendized for a future meeting; ensuring that items are brought back	Staff will make a list of items requested to be agendized during each City Council meeting and the list is discussed at the first Dept Head meeting immediately following City Council meeting.	City Manager / City Clerk	None	None		IMPLEMENTED
16	Knowledge Acquisition and Information Accessibility	Short	1/3/2012	Councilmembers provide oral report of conferences/travel (first meeting after the event – per AB1234) and written reports with attachments (cover page or outline plus supplemental materials) available for public review	Staff will develop a 1-page cover sheet for use by Councilmembers. They will have the ability to attach supplemental materials. This will be kept on file in the City Clerk's office for public review.	City Attorney	None	City Councilmembers will still be required to provide an oral report of their conferences / travel at the first meeting following a trip (per AB1234)		IMPLEMENTED
17	Knowledge Acquisition and Information Accessibility	Short		City Manager to report on conferences/travel of senior staff	Staff will develop a 1-page cover sheet for use by senior staff. They will have the ability to attach supplemental materials. This will be provided to the City Manager within 1-week of the event. City Manager will provide a brief oral summary of senior staff travel at the next City Council meeting under the City	City Manager		None		IMPLEMENTED
18	Public Forums, Hearings, and Meetings	Short		Staff Reports: how to or not to include the public/stakeholders	City staff to include stakeholder input as appropriate.	City Manger				FOR CITY COUNCIL REVIEW

Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
19	Knowledge Acquisition and Information Accessibility	Medium		Public Records Requests	Staff will develop an administrative policy setting Public Records Act procedures ensuring compliance with the law and timely response to all requests	City Clerk / City Attorney				FOR CITY COUNCIL REVIEW
20	Knowledge Acquisition and Information Accessibility	Medium		Provide written guidelines to staff and the public regarding the California Public Records Act and the Brown Act in accordance with the McKee settlement	Written guidelines in the form of a handout will be provided to staff and available for review by the public in the City Clerk's office	City Attorney	None	None		FOR CITY COUNCIL REVIEW
21	Public Forums, Hearings, and Meetings	Medium		Electronic Community Discussion Board	Staff will bring options to the subcommittee and City Council for consideration	City Manager		City Attorney will review	Cost of I.S. staff	
22	Public Forums, Hearings, and Meetings	Short	1/3/2012	Evaluation of Meeting Management Software/Technology Tools to aid in meeting operation and audience participation	Staff will bring to City Council options for enhancing current meeting management software.	City Clerk / I.S. Manager	unbudgeted expense, training of staff for new software; additional /dedicated I.S. staff support during City meetings	None	Cost of I.S. staff	IMPLEMENTED
23	Public Forums, Hearings, and Meetings	Medium	1/3/2012	Voting Touch Device	(included as part of meeting management software/technology)	City Clerk / I.S. Manager	unbudgeted expense, training of staff for new software modules; additional / dedicated I.S. & Clerk staff support during City meetings	None	Cost of I.S. staff	IMPLEMENTED
24	Public Forums, Hearings, and Meetings	Medium	1/3/2012	Public Timer	Implement solution related to Granicus	City Clerk / I.S. Manager	Granicus software configuration and training of staff	None		IMPLEMENTED
25	Public Forums, Hearings, and Meetings	Longterm	1/3/2012	Electronic Agenda Packets	Staff will bring to City Council options for implementation of an electronic agenda packet.	City Clerk / I.S. Manager	unbudgeted expense, training of staff for new software and/or procedures; additional I.S. staff support	None		IMPLEMENTED

Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
26	Public Forums, Hearings, and Meetings	Longterm		Quarterly Work Plan updates at City Council meetings and ongoing updates posted to the City website** **The City adopted a "Strategic Plan" and no longer utilizes the quarterly work plan concept.	Modify the current Work Plan website page to a chart form that will be updated on an ongoing basis. An agenda item for "Work Plan Status Update" will be added to the City Council Agenda for the second regular meeting of each month: July, October, January, April.** **The City adopted a "Strategic Plan" and no longer utilizes the quarterly work plan	City Manager	None	None		IMPLEMENTED
27	Public Forums, Hearings, and Meetings	Short	1/3/2012	Scheduling of Annual Work Plan Meetings** **The City adopted a "Strategic Plan" and no longer utilizes the quarterly work plan concept.	A Work Plan meeting to set the coming year's goals typically occurs in January of each year so that items requiring budgetary consideration will be vetted and presented during the budget process.** The City adopted a Strategic Plan and has a Strategic Plan Session every 6 months, which	City Manager	None	None		IMPLEMENTED
28	Open Government Consensus and Commitment Building	Medium		City Council and Staff Training	Review current training offerings, budgets, and opportunities provided to City Council and staff	City Manager / Human Resources Director		None		IMPLEMENTED On-going training will be provided to Staff. Annual training provided to commissions on Brown Act, Public Records Act and Conflicts

## SETTLEMENT AGREEMENT AND RELEASE

**THIS SETTLEMENT AGREEMENT** (“Agreement”) is made and entered into as of this 15 day of March, 2011 (the “Effective Date”) by and between the City of Manhattan Beach and the Manhattan Beach City Council (collectively, the “City”) and Richard P. McKee (“McKee”) (collectively referred to herein as the “Settling Parties”).

### RECITALS

A. In late 2009 Geoff Dolan left the employ of the City of Manhattan Beach as its City Manager pursuant to a release and resignation agreement and the City Council thereafter appointed Director of Community Development Richard Thompson as Interim City Manager.

B. In March, 2010, Richard McKee demanded in writing that the City cure certain Ralph M. Brown Act violations he alleged had been committed in connection with the actions identified in Recital A above.

C. Dissatisfied with the City Attorney’s response to his demand, McKee filed a lawsuit entitled *Richard P. McKee v. Manhattan Beach City Council and the City of Manhattan Beach*, Los Angeles County Superior Court Case No. BS126038 (the “Action”), seeking a writ of mandate and injunctive and declaratory relief for alleged violations of the Brown Act and the California Public Records Act.

D. In the interest of avoiding the time, expense and risk of litigation, the Settling Parties wish to resolve and settle the Action and all causes of action set forth therein on the terms set forth herein.

E. The Settling Parties intend for this Agreement to resolve and extinguish all claims arising from the Action.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements described below, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Settling Parties hereby agree as follows:

1. Obligations of the Settling Parties. The Parties shall execute the stipulation attached to this Agreement as Exhibit B within 10 days of the execution of this Agreement. The parties agree, pursuant to Code of Civil Procedure section 664.6, that the court will retain jurisdiction over the parties to enforce this settlement until full performance of the terms of the settlement.

a. Obligations of City.

(i) Within ten (10) days of execution of this Agreement, City shall deliver a check made payable to Law Offices of Kelly Aviles in the amount of \$70,000 in reimbursement of and to resolve all claims for McKee’s attorneys fees and costs associated with this matter.

(ii) Concurrently with execution of this Agreement, City shall issue a



press release in the form attached hereto as Exhibit A. By its release, the City acknowledges the unintentional violations of Government Code sections 54957, 54954.5, and 54956.9(b) as described in the press release.

(iii) Within 90 days of execution of this Agreement, City shall conduct a training program for City staff that manage public records on the requirements of the California Public Records Act (California Government Code Section 6250 *et seq.*) ("Public Records Act"). City shall allow Californians Aware to participate in the preparation of the training program and materials and the training program shall not be conducted by City Attorney Robert Wadden. Within 180 days, the City shall conduct a Brown Act training for all members of city boards and commissions subject to the Brown Act, which training shall also not be conducted by Robert Wadden; City shall allow Californians Aware to participate in the preparation of the Brown Act training program and materials.

(iv) The City Manager shall develop and adopt a protocol for responding to requests for public records which complies with the Public Records Act.

(v) The City Manager shall place on an upcoming City Council agenda a recommendation to reduce the fee for copies of public records from the current \$0.40 per page to \$0.10 per page.

(vi) The City will produce all public records in its possession responsive to McKee's public record requests of the City pertaining to the subject matter of the Action within 30 days of the execution of this Agreement. The City further states that the offer of the Resignation and Release Agreement was approved unanimously on December 12, 2009 and accepted by Mr. Dolan on December 13, 2009.

b. Obligations of McKee.

(i) Within 5 days of receipt of the payment described in paragraph (a) (i) above, McKee shall file the stipulation for judgment and proposed judgment set forth in Exhibit B. The Settling Parties both agree to any further acts and to execute and deliver any further documents that may be required by the Court to conclude this action.

(ii) McKee hereby represents and warrants that he agrees with the statements contained in the press release attached hereto as Exhibit A and may express agreement with and shall not in any manner contradict the statements contained in the press release attached hereto as Exhibit A.

2. Release.

McKee hereby fully and forever releases and discharges the City, its officers, employees, agents, attorneys and consultants from any and all past, present or future claims, actions, losses, liabilities, causes of action, liens, demands, rights, damages, costs, attorneys' fees, interest, expenses, reimbursement and compensation of any nature whatsoever, whether known or unknown, disclosed or undisclosed, and whether or not anticipated, in any way related to the Action

(a) Except as otherwise provided in this Agreement, McKee waives any and all claims for the recovery of any costs, expenses or fees, including attorneys' fees, against the City associated with the matters and claims released herein.

(b) In connection with the release of the claims described in this Agreement, McKee waives any and all rights that he may have under the provisions of California Civil Code §1542, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

In the event that any waiver of the provisions of Section 1542 of the California Civil Code provided for in this Agreement shall be judicially determined to be invalid, voidable or unenforceable, for any reason, such waiver to that extent shall be severable from the remaining provisions of this Agreement, and the invalidity, voidability or unenforceability of the waiver shall not affect the validity, effect, enforceability or interpretation of the remaining provisions of this Agreement.

(c) This Agreement shall constitute an absolute bar to any future action or proceeding of any kind in any venue by Settling Parties or any person or entity acting in cooperation or conjunction with them or on their behalf against City relating to the matters raised in the Action.

(d) The provisions of this Section 2 will survive the execution and delivery of this Agreement.

(e) The provisions of this Section 2 shall not apply to an action by McKee to challenge the amount of the City's per page charge for copies of public records only if the City fails to reduce the per page copy cost to no more than \$0.10 within 180 days of the execution of this Agreement.

### 3. Representations and Warranties.

a. McKee hereby represents and warrants, as of the Effective Date, as follows:

(i) He has not heretofore assigned or transferred, or purported to assign or transfer, to any party not named herein any released matter or claim, or any part or portion thereof.

(ii) To the best of his knowledge, McKee is not aware of any existing claims nor of any facts that might give rise to any claims of any type or nature against City pertaining to the Action, whether asserted or not, that has not been fully released and discharged by the release set forth in this Agreement.

(iii) McKee is fully authorized to commit and bind himself to each and all of the commitments, terms and conditions hereof, and to release the claims

described herein, and that all documents and instruments relating thereto are, or, upon execution and delivery will be, valid and binding obligations, enforceable against him in accordance with their respective terms.

(iv) McKee has freely entered into this Agreement and is not entering into this Agreement because of any duress, fear, or undue influence and this Agreement is being entered into in good faith.

(v) McKee has made such investigation of the facts pertaining to this Agreement as he deems necessary.

(vi) McKee has, prior to the execution of this Agreement, obtained the advice of independent legal counsel of his own selection regarding the substance of this Agreement, and the claims released herein.

b. In executing this Agreement, each of the Settling Parties acknowledges, represents, and warrants to each other that he/it has not relied upon any statement or representation of any other party nor of any officer, agent, employee, representative, or attorney for any other party regarding any facts not expressly set forth within this Agreement. In entering into this Agreement, he/it assumes the risk of any misrepresentations, concealment or mistake, whether or not it should subsequently discover or assert for any reason that any fact relied upon by him/it in entering into this Agreement was untrue, or that any fact was concealed from him/it, or that his/its understanding of the facts or of the law was incorrect or incomplete.

c. The representations and warranties of each of the Settling Parties set forth in this Section 3 and elsewhere in this Agreement will survive the execution and delivery of this Agreement and are a material part of the consideration to each of the other Settling Parties in entering into this Agreement.

#### 4. Interpretation.

a. All Settling Parties have cooperated in the drafting and preparation of this Agreement and in any construction or interpretation to be made of this Agreement, the same shall not be construed against any such Settling Party. This Agreement is the product of bargained for and arms length negotiations between the Settling Parties and their counsel. This Agreement is the joint product of the Settling Parties.

b. This Agreement is an integrated contract and sets forth the entire agreement between the parties hereto with respect to the subject matter contained herein. All agreements, covenants, representations and warranties, express or implied, oral or written, of the parties hereto with regard to such subject matter are contained in this Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made or relied on by any party hereto.

c. This Agreement may not be changed, modified or amended except by written instrument specifying that it amends such agreement and signed by the party against whom the enforcement of any waiver, change, modification, extension or discharge is sought. No waiver of any provision of this Agreement shall be deemed or



shall constitute a waiver of any other provision whether or not similar, nor shall any waiver be deemed a continuing waiver; and no waiver shall be implied from delay or be binding unless executed in writing by the party making the waiver.

d. All of the covenants, releases and other provisions herein contained in favor of the persons and entities released are made for the express benefit of each and all of the said persons and entities, each of which has the right to enforce such provisions.

e. This Agreement shall be binding upon and inure to the benefit of each of the Settling Parties, and their respective representatives, officers, employees, agents, heirs, devisees, successors and assigns.

f. Each party acknowledges and agrees that this Agreement is a compromise and settlement of their disputes and differences, and except as is set forth in Exhibit A and paragraph 1(a)(ii), is not an admission of liability or wrongdoing by any party.

g. McKee recognizes and acknowledges that nothing in this Agreement constrains the City's exercise of the full measure of its police powers and that all such powers are hereby reserved.

5. Further Cooperation. Each party shall perform any further acts and to execute and deliver any further documents that may be reasonably necessary or appropriate to carry out the provisions and intent of this Agreement.

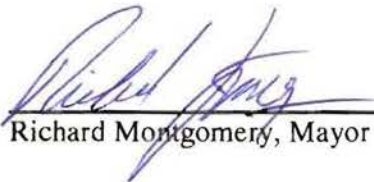
6. Attorneys' Fees. In the event of any litigation or arbitration claim concerning any controversy, claim or dispute between the parties arising out of or relating to this Agreement or the interpretation or enforcement thereof, other than as provided in Section 2(e), the prevailing party shall be entitled to recover from the other party its expenses and costs, including reasonable attorneys fees, incurred in conjunction therewith or in the enforcement or collection of any judgment or award rendered therein. The "prevailing party" means the party determined by the court to have prevailed, even if such party did not prevail in all matters, not necessarily the one in whose favor a judgment or award is rendered. Except as provided elsewhere in this Agreement, each party to this Agreement shall bear its own costs, attorneys' fees and other expenses incurred in association with negotiation and execution of this Agreement.

7. Governing Law; Venue. This agreement shall be governed by, and construed in accordance with, the laws of the State of California, without regard to any otherwise applicable principles of conflicts of laws. Any action arising out of this agreement must be commenced in the state courts of the State of California, County of Los Angeles, and each party hereby consents to the jurisdiction of the above court in any such action and to the laying of venue in the State of California, County of Los Angeles, and agrees that such courts have personal jurisdiction over each of them.


8. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Settling Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

CITY OF MANHATTAN BEACH and  
MANHATTAN BEACH CITY COUNCIL

  
Richard Montgomery, Mayor

ATTEST:

 for Liza Tamura  
~~Liza Tamura, City Clerk~~  
Terri Aliabadi, Sr. Deputy City Clerk



RICHARD P. MCKEE

  
Richard McKee

APPROVED AS TO FORM:

Christi Hogin  
Jenkins & Hogin LLP  
Attorneys for City of Manhattan Beach  
and Manhattan Beach City Council

  
Christi Hogin

- 6 -

Kelly A. Aviles  
Law Offices of Kelly A. Aviles  
Attorney for Richard P. McKee



Kelly A. Aviles

Dennis A. Winston  
A Professional Law Corporation  
Attorney for Richard P. McKee

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Dennis A. Winston

***DRAFT Press Release***

The Manhattan Beach City Council has entered into a settlement with Richard McKee of the lawsuit he filed last year questioning the City's compliance with the Brown Act and the Public Records Act concerning the separation of former City Manager Geoff Dolan from the City.

Relying on the advice of the City Attorney in late 2009, the City Council met in closed session to discuss what it believed to be anticipated litigation and, in the course of those discussions, entered into a Resignation and Release Agreement with Geoff Dolan and took action to appoint an interim city manager to fill the management gap created by the Agreement with Dolan. Although the Agreement included a release of liability relating to potential litigation, the Agreement also served as Mr. Dolan's resignation, thus addressing a personnel matter.

After seeking outside legal advice from a law firm specializing in public law and consulting with Mr. McKee of Californians Aware, the City Council realizes that the agenda descriptions for the closed sessions involving these matters were unintentionally inadequate to meet the requirements of the Brown Act.

What began as closed session discussions to consider potential litigation, later included discussions that should have been agendized as personnel matters pursuant to the Brown Act. To the extent that the closed session discussions related to specific threats of litigation pursuant Government Code 54956.9(b), it is now clear that the City Attorney would have been required to publicly release the facts and circumstances behind this threat of litigation. This Brown Act requirement is meant to give the public the information it needs to be involved in the discussion of whether to seek a settlement or to move forward to oppose the threat.

Because this information was not released, the City Council understands some residents felt surprised and left in the dark when the City announced Mr. Dolan's abrupt resignation and the severance payment. The City Council will not make this mistake in the future.

At the same time, the City was also advised that the Resignation and Release Agreement with Mr. Dolan was a confidential personnel document not to be released. Again, upon consultation with outside legal counsel, the City Council now understands the Agreement and other documents associated with this matter are public records. These are now available to the public upon request.

The Council regrets these unintentional violations and the confusion they may have caused. The City Council was acting in good faith and in reliance on the City Attorney's advice to address a sensitive matter; however, the Council is dissatisfied with anything short of full compliance with both the spirit and the letter of the open meeting and public records laws. For this, Californians Aware has expressed its understanding and has pledged its support.

The Council believes that the City would be well served by conducting a mandatory training in the Public Records Act for all members of staff responsible for handling public records. The new City Manager will also be reviewing the City's protocol for responding to public records requests to ensure full compliance with the spirit and the letter of the law. Finally, to facilitate access to public records, the City Manager has indicated that he will recommend the City Council reduce the fee for copies of public records to from 40¢ per page to 10¢ per page. That recommendation will appear on an upcoming City Council agenda.

These actions and the payment of \$70,000 in attorneys fees has resulted in the settlement of the litigation.

###

**CITY OF MANHATTAN BEACH**  
**PUBLIC RECORDS ACT PROTOCOL**

**I. INTRODUCTION/PURPOSE**

The California Public Records Act (“Act”) is the State law that establishes and guides the public’s right to access records concerning the conduct of the people’s business. The purpose of this protocol (known as the “Public Records Act Protocol”) is to affirm in writing the public’s right to access City Public Records and to set forth the procedures by which such Public Records will be made available to the public in accordance with the Act. City staff receives requests for Public Records frequently. Responding promptly and appropriately to public records requests is an important aspect of the City’s open government process.

**II. GENERAL RESPONSIBILITIES**

The City Clerk’s Office shall be responsible for accepting Public Records requests from members of the public and transmitting responsive records to the person making a Public Records request. Each department shall be responsible for providing the City Clerk with Public Records under the Department’s control.

**III. DEFINITIONS**

- A. “City Clerk” shall mean the City Clerk of the City of Manhattan Beach or her designee.
- B. “Public Records” includes any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by the City of Manhattan Beach regardless of physical form and characteristics.
- C. “Writing” means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored.

**IV. PROCEDURES FOR MAKING PUBLIC RECORDS ACT REQUESTS**

- A. Public Records Act requests can come in different forms: (i) letter requests; (ii) email requests; (iii) fax requests; (iv) phone requests; and (v) requests made in person.

- B. Requests to be Submitted to the City Clerk's Office. Requests for Public Records should be made on the Request for Public Records Form ("Form") and should be submitted to the City Clerk's Office. Written requests reduce any misunderstandings between the requestor and City staff, which allows City staff to respond to records requests in a timely manner and with greater efficiency. However, the City will not deny a request for Public Records solely because it is not submitted in writing.
1. If the Form is not completed by the person making the request, the Form should be prepared by City staff; and if applicable, City staff should attach the letter, email, or other writing prepared by the requestor. If a request is received by phone or made in person and the person making the request is unable or unwilling to complete the Form, the Form should be prepared by City staff. A notation should be made on the Form stating the manner by which the request was received.
  2. Requests for inspection and/or copies of specifically identified and readily available Public Records such as limited sections of City regulatory documents, specific sections of the Zoning Code, and specifically identified resolutions, do not require completion of the Form, and such requests should be handled as soon as possible and copies provided expeditiously, ideally on the day they are requested.
  3. If City staff must search and examine files or collect records from a variety of departments or the request requires research as to the existence of the requested Public Records and/or their location, a Form should be completed.
- C. Requests Should Identify the Public Records. The person making the request should, in writing, specify the Public Records to be inspected/copied with sufficient detail to enable the City to identify the particular Public Records. If the request seems ambiguous or unfocused, City staff should make a reasonable effort to obtain additional clarifying information from the requestor that will help identify the Public Record(s). Pursuant to Government Code Section 6253.1, City staff shall do all of the following, to the extent reasonable under the circumstances:
1. Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
  2. Describe the information technology and physical location in which the records exist.

3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

D. Right to Inspect Public Records. Public Records are open to inspection at all times during regular City business hours. The Act provides that every person has a right to inspect any public record, except as otherwise provided in the Act. Upon receipt of a written or oral request for inspection of Public Records, the City shall make the records promptly available to the requestor. However, the City does not maintain a centralized system for all City records. Therefore, some requests to inspect records may require that the City locate, review and assemble records before fulfilling the request.

E. Any department that receives a request for a copy of Public Records shall time stamp the request and promptly forward the request to the City Clerk's Office.

#### V. PROCEDURES FOR HANDLING PUBLIC RECORDS ACT REQUESTS.

The City Clerk, upon a request to inspect or obtain a copy of Public Records, shall, within ten (10) days, determine whether the request, in whole or in part, seeks disclosable Public Records in the possession of the City. The ten (10) day time period shall be calculated from the date the request is received during regular City Hall business hours. The following procedures shall be followed within the ten (10) days after receipt of a request.

A. Upon receipt of a request, the Clerk's Office shall immediately enter the request into the "Public Records Act Request Log" maintained by the City Clerk's Office. The City Clerk shall then forward the request to the appropriate Department Head or department designee.

B. Upon receipt of the Public Records request by the Department Head or designee, the department shall promptly begin reviewing the request and department files to determine if the department has the requested Public Records in its possession. The Department Head or designee may note his or her calendar with the last date to respond to the request as required under Government Code Section 6253(c). The department shall contact the City Clerk to provide an estimated amount of time needed to prepare the records (i.e., search for, gather, review and copy the records), and an estimate as to the duplication charges (if possible). If the request seeks a voluminous amount of Public Records, the department shall contact the City Clerk's office prior to preparing the records. If the department has determined that it does not maintain any Public Records responsive to the request, the department shall immediately notify the City Clerk.

C. Upon receipt of the information from the department, the City Clerk shall respond to the person requesting Public Records by advising the



requestor in writing as to whether the request, in whole or in part, seeks copies of disclosable Public Records in the possession of the City, and if so, the estimated date and time when the records will be made available and the estimated duplication charge (if available). This determination shall be communicated to the requestor within the ten (10) day time period. The City is required to make the Public Records promptly available to any person upon payment of fees covering the direct costs of duplication, or a statutory fee if applicable.

- D. Requests that are related to pending or potential litigation shall be coordinated with the City Attorney's office. Questions regarding the Act or regarding whether or not any Public Record is subject to disclosure shall promptly be forwarded to the City Attorney's office for review.
- E. In unusual circumstances, the ten (10) day period for determining whether the request, in whole or in part, seeks copies of disclosable Public Records in the possession of the City may be extended by written notice from the City Clerk or City Attorney to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be made in the manner set forth in Government Code Section 6253. No notice shall specify a date that would result in an extension for more than fourteen (14) days. The written determination shall include the estimated date and time when the Public Records shall be made available.
- F. If a request for Public Records seeks the production of records or documents that are not in existence at the time the request is made, the City is not obligated to create a document in order to respond to the request.
- G. A determination that a Public Record is exempt from disclosure under the Act shall be made in consultation with the City Attorney's office.

## VI. TRANSMITTAL OF RECORDS

- A. Unless otherwise directed by the City Clerk, the department shall forward the Public Records and the final cost of duplication to the City Clerk within the time period estimated by the department.
- B. The City Clerk's office shall then make the Public Records available to the requestor upon payment of fees covering the direct costs of duplication or a statutory fee, if applicable.

VII. GENERAL

- A. Each department shall designate a person or persons, who will be responsible for responding to Public Records Act requests and coordinating the response with other City departments, when appropriate.
- B. If a request for Public Records is denied in whole or in part, the denial shall be in writing and shall contain the names and titles or positions of each person responsible for the denial as required by Government Code Sections 6253(d) and 6255(b).
- C. Nothing in this Public Records Act Protocol shall be construed to permit the City to delay or obstruct the inspection or copying of Public Records, nor shall the Public Records Act Protocol be construed as limiting the City's rights under the Act and applicable case law.

VIII. ATTACHMENT:     Public Records Request Transmittal Form  
                              Sample of Public Records Act Request Log

APPROVED:

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City Manager

PUBLIC RECORDS ACT REQUESTS - TRACKING LOG					
BEGINNING JULY 27, 2012					
	DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
1	7/27/2012	7/27/2012	TransFirst	last three months of merchant processing statements	following 2 requests for extensions, records were e-mailed to Mr. Marquis on 9/21/12
2	8/17/2012	8/21/2012	Carmen Smarandoiu	Dept Homeland Security Immigration Detainer	letter sent out 8/31/12
3	8/22/2012	8/22/2012	George Mishalany	stop sign Highview & MBB	e-mail sent on 8/31/12 Need more time (Completed 9/6/12 e-mail)
4	08/23/112	8/23/2012	Viet Ngo	copies of all checks paid to outside law firms	Letter and copies made available 8/31/12
5	8/29/2012	8/29/2012	Bill Victor	what % of Uyeda's pension is paid by the public	Letter mailed on 9/5/12
6	9/5/2012	9/5/2012	Debbie Shelvin	having trouble looking up Ordinance on-line	e-mailed Ord 9/7/5
7	9/5/2012	9/5/2012	Sara Le	Type 1 crimes of Manhattan Beach	9/14/12 letter sent requesting additional time. 9/18/12 PD clarified request via e-mail. 9/24 PD requested check for \$15 for info.
8	9/6/2012	9/11/2012	George Mishalany	Additional e-mail question on Highview & MBB	e-mailed responses on 9/11/12
9	9/10/2012	9/10/2012	Liz Spear	Community Services Officer compensation range	response e-mailed on 9/10/12
10	9/13/2012	9/12/2012	Robert Johnson	fiscal records concerning unclaimed, undeliverable, overdue and/or outstanding funds, obligations, payments or checks/warrants owed by your government entity	9/13/12 sent e-mail that we have no records that meet his criteria
11	9/17/2012	9/24/2012	Public Works Contract Compliance	prevailing wages for sheet metal workers	Gave contact info and referred to LA Cnty - not City project.
12	9/25/2012	9/25/2012	Viet Ngo	Policy for giving keys to City, any written documentation for giving to Maria Sharapova, approved by council or just mayor, cost of key, if known	Letter prepared on 10/12/12 - no documents within the scope of his request
13	9/26/2012	9/26/2012	Dante	Phone request for 8/28/2012 Water Main Replacement Project (970)712-5370 request@bidocean.biz	9/26/2012 e-mailed bid
14	9/27/2012	9/27/2012	National Waste Associates	Commercial Refuse Rates	rates were e-mailed to requester same day
15	9/27/2012	9/27/2012	Garcia Juarez Construction	Inspectors dailies and notes for sewer main rehab project	10/30/12 info provided via e-mail.
16	9/27/2012	10/2/2012	Ramon Lopez, Case Investigator	Manhattan Heights Joslyn Center & Begg Pool	e-mailed payroll and fringe benefit info on 11/09/2012
17	??		Mark Athan	arrest report for Matthew Barnes	City Attorney determined that the requested record is exempt from disclosure
18	10/2/2012	10/2/2012	Viet Ngo	questions Re Mayor Powell's I HEART MB program	Letter of response prepared 10/12/12

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19	10/2/2012	10/2/2012	Viet Ngo	documents Re Geoff Dolan	Letter with partial info sent on 10/12/12 - requested additional time RE remainder
20	10/3/2012	10/3/2012	Viet Ngo	Manhattan Village Shopping Center land for sale	Letter prepared 10/15/12. Item No. 1 only document available. Others no records.
21	10/3/2012	10/3/2012	Bill Victor	all city costs related to the Vitality Cities program	Centennial Foundation Bylaws, Centennial Foundation officers & attachment #9 to this week's Vitality City/Blue Zones Initiative was e-mailed 10/12/12
22	10/4/2012	10/5/2012	Ryan Wolfe	how it is determined what streets are designated as alleys	Nhung Madrid e-mailed him a GIS map
23	10/4/2012	10/5/2012	Vida M. Holguin, Employment Lawyer	current construction at Mira Costa on Peck Avenue	Letter sent on 10/15/12 requesting additional 14 days
24	10/4/2012	10/25/2012	Mike Zislis	complaints about Shade Hotel	PD will let him know if specific info requested is available. Information was provided on 10/31/12.
25	10/8/2012	10/9/2012	Kristin Agostoni	construction work at Joslyn	info was gathered, but was not picked up until 10/25/12.
26	10/6/2012	10/9/2012	Ryan Wolfe	Where is the definition of an alley that your provided	Nhung responded that it is from our Planning Code
27	10/9/2012	10/9/2012	Pam Fees	Political signs	e-mailed her our Sign and Advertisement Regulations
28	10/12/2012	10/12/2012	Bill Victor	amount of staff time for support and accounting of the Centennial Committee	e-mail from Finance Director explaining that time not tracked therefore, no such records
29	10/17/2012	10/17/2012	Wow1110	additional questions on speed survey	10/19/12 Nhung e-mailed 2009 Citywide Engineering and Traffic Survey
30	10/23/2012	10/23/2012	Carl Lopez	Bid Results	e-mailed to him on 10/23/12
31	10/30/2012	10/31/2012	Richard Hoop	request for Claim for Damage form	claim form mailed on 10/31/12.

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	DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
32	11/1/2012	11/1/2012	Joe Mendoza	wants copy of current US Flag policy	e-mailed policy on 11/8/12
33	11/1/2012	11/1/2012	Jerry Hodge	list of all residential structures presently deemed to be in "substandard condition and other building related questions	E-mail and letter sent on 11/7/12 explaining that does not have any "public records" responsive to your request.
34	11/5/2012	11/5/2012	LA Party Works	Information Regarding entity known as Manhattan Beach Home town Fair	letter stating we have no responsive records mailed on 11/14/12
35		11/20/2012	Daniela Bursey	Tree maintenance contract	Letter stating we need additional time was sent on 11/29/12. on 12/18/12 Maint Superintendent Juan Price "I have it 99% complete. Bonnie was out yesterday and I need some detailed info to finish." 12/31/12 I have been in touch with Ms. Bursey, and she will receive this letter when I get some tree count info from Bonnie who is on vacation. I believe she will be back Wednesday. I need two numbers and it will be good to go. This is a draft minus two tree count numbers. Final letter mailed out by Juan Price on 1/2/13.
36		12/5/2012	Jose Perez	winning Fixed Route Transit RFP	After receiving payment, e-mailed and mailed hard copy 12/5/12
37	12/10/2012	12/10/2012	Lillian Bow	Lexipole Agreement	PD Mngmt Analyst Dahlgren and Fire Chief Chiella spoke with her about the agreement.
38	12/11/2012	12/11/2012	Dawn Omori	Number of Social host citations & fines paid since adoption of Ordinance	PD responded to the requester on 12/21/12
39	12/12/2012	12/13/2012	Doug Couper	traffic volume/counts for Artesia Boulevard at the intersection of PCH	Mngmt Analyst Madrid e-mailed spreadsheet with data
40	12/13/2012	12/13/2012	Viet Ngo	Docs authorizing the use of City property, officials, etc. to Leadership Manhattan Beach & copy of DVD	Letter written by City Attorney's Office sent to Mr. Ngo on 12/27/12 in response. DVD provided to Mr. Ngo on XXXXX.
41	12/17/2012	12/17/2012	Viet Ngo	Business License of PC Help Professionals	Mr. Ngo picked up copies of Mitch Ward's business license on 1/31/12.

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	DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
42	12/17/2012	12/17/2012	Viet Ngo	copy of recording, agendas, staff reports, etc. for Leadership MB meeting on 12/13/12	Letter written by City Attorney's Office sent to Mr. Ngo on 12/27/12 in response.
43	12/17/2012	12/17/2012	Viet Ngo	Docs authorizing the use of Wayne Powell's IHEART MB on City's web site; docs permitting Mitch Ward to run for Council again; Letter from City Clerk authorizing Ward's Ballot Designation; Election Law requirement to file complaint to City Clerk against Powell, Ward & Burton for violation of Election Code.	Letter written by City Attorney's Office sent to Mr. Ngo on 12/27/12 in response.
44	12/18/2012	12/18/2012	Viet Ngo	Copy of PRR from Bill Victor to Clay Curtin and each and all docs provided or will provide to Bill Victor	Mr. Ngo reviewed the information that was provided to him on 1/2/13
45	12/19/2012	12/20/2012	Center for Contract Compliance	General Contractor, Sub-Contractors List, Multiple Prime Contractor's if any, Estimated Start & Completion Date, Bid Advertisement Date and Award Date for Greenbelt Low Flow Infiltration Project	Ken Kim provided info on 12/20/12.
46	12/20/2012	12/20/2012	Ed Caprielian	All docs Re sexual misconduct of Geoff Dolan and settlement with Geoff Dolan	12/28/12 A letter was e-mailed to Mr. Caprielian (because the mail had already gone out that day) followed up by a mailed hard copy, Re court documents and the settlement agreement.
47	12/21/2012	12/21/2012	Viet Ngo	All docs submitted by Wayne Powell for 3/5/13 election& request that City Clerk Tamura reject Wayne's Ballot Designation.	Mr. Ngo viewed eth documents on 1/xx/13.
48	12/21/2012	12/21/2012	Viet Ngo	Term limits Ord & Measure 2005-A	Mr. Ngo was given the Resolution declaring the official results and a Sample Ballot from the 1996 election
49	12/26/2012	12/26/2012	Mark Abramson	Ords 1832, 1838 & 1891 along with staff reports	Materials provided. Comm Dev Director Thompson responding to questions Re view ordinance
50	12/31/2012	12/31/2012	Viet Ngo	business license of Mark Lipps	Letter stating that no such records exist was given to Mr. Ngo on 1/2/13.

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51	12/31/2012	12/31/2012	Viet Ngo	business license of Wayne Powell	Letter stating that no such records exist was given to Mr. Ngo on 1/2/13.
52	12/31/2012	12/31/2012	Viet Ngo	copy of all documents authorizing MB Resident's Association to use Council Chambers, city staff, employees or city funds for the 2/7/13 Candidate forum.	Response letter provided on 1/8/13
53	1/4/2013	1/4/2013	Viet Ngo	I HEART MB Art Contest	Response letter provided on 12/11/12
54	1/7/2013	1/7/2013	Viet Ngo	Leadership MB simulation & DVD	Response letter provided on 12/27/12
55	1/7/2013	1/7/2013	Kirk Strassman	parking citation processing & collection services	Left phone message that docs are ready and can be picked up or to call and set up electronic credit card authorization
56	1/7/2013	1/7/2013	Viet Ngo	Copy of checks paid to Leadership & DVD	Response letter provided on 12/27/12
57	1/7/2013	1/7/2013	Viet Ngo	Leadership business license info	Response letter provided on 12/27/12
58	1/8/2013	1/8/2013	Viet Ngo	Lipps Business License, tax info & redaction	Response letter provided on 1/8/13
59	1/8/2013	1/8/2013	Rosellen Trunnell	listing of candidates for the March Elections	01/08/2013 e-mailed back how to obtain this info on our website
60	1/10/2013	1/10/2013	Ed Caprielian	Electronic copies of Planning file 1148 Manhattan Ave (Talia's)	1/11/13 was notified that we could not give him the file electronically (it is too large) He said he does not want hard copies of the planning file - it would be too burdensome on us. Therefore, request is closed.
61	1/10/2013	1/10/2013	Ed Caprielian	Crime reports	Mr. Caprielian has been added to the weekly crime report e-mail list and documents will be made available to him by 2/14/13.
62	1/10/2013	1/10/2013	Viet Ngo	Employees involved with 3/5/13 Election	Letter sent 1/23/13 stating no such records exist.
63	1/10/2013	1/10/2013	Viet Ngo	Business License of MB Business & Professional Assoc	Mr. Ngo picked up copies on 1/25/13.

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	DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
64	1/15/2013	1/15/2013	Center for Contract Compliance	Contractor/Subcontractor, estimated start & completion times, advertisement date & award date for Water Main 2012-13	Completed contractor questionnaire returned to requestor on 1/12/13.
65	1/17/2013	1/17/2013	Beverly Palmer (Strumwasser & Woocher, LLP)	Compliance of Condition 25 of Reso 11-02 (The Strand House)	Letter indicating records would be available by 2/1/13 was e-mailed and mailed on 1/28/13. 2nd letter sent 1/31/13. Copies picked up on 2/1/13.
66	1/18/2013	1/18/2013	Diane Carrothers	arrest record	Verdesiah explained that we have no records for Ms. Carrothers (AKA: Diane Lipton) in our files for 1969 – 1973
67	1/28/2013	1/28/2013	Chester Powelson	Any documents related to building a hospital in the South Bay	Response letter stating no records found sent 2/5/13
68	1/29/2013	1/29/2013	Josh	written guidelines that say that MB PD can operate outside of the city	Response letter stating no public records responsive to his request sent 2/5/13
69	1/29/2013	1/29/2013	Viet Ngo	I HEART MB Art Contest	Mr. Ngo was called & response letter composed 2/8/13. As of 2/13/13 he has not responded.
70	1/29/2013	1/29/2013	Viet Ngo	Appointment of City Clerk and her salary	Mr. Ngo was called & response letter composed 2/8/13. As of 2/13/13 he has not responded.
71	1/31/2013	1/31/2013	Rick Bender	Election registration information	info sent via e-mail 1/31/13
72	2/1/2013	2/1/2013	Bill Victor	12/1/12 warrant register questions	
73	2/1/2013	2/1/2013	Bill Victor	charges for Pumpkin Race	Letter and docs provided & Mr. Victor reviewed 2/7/13
74	2/1/2013	2/1/2013	Bill Victor	questions Re Mike Messina & Assoc	Response letter stating no public records responsive to his request sent 2/13/13
75	2/1/2013	2/1/2013	Bill Victor	purchase of movie tickets	Letter and docs provided & Mr. Victor reviewed 2/12/13
76	2/5/2013	2/5/2013	Bill Victor	25 checks and backup	Letter & information provided 2/15/13
77	2/5/2013	2/5/2013	Bill Victor	checks Re LEAPS, CAHN & BAIT	Letter & information provided 2/15/13
78	2/5/2013	2/8/2013	Mary Grace	copies of the two final proposals of #886-13 Emergency medical billing	A determination letter was e-mailed to her on 2/19/13 denying her request to receive copies at this time until the negotiations have been completed
79	2/11/2013	2/11/2013	Mr. Berkowitz	2009 & 2011 election results	e-mailed results 2/11/13



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80	2/11/2013	2/11/2013	Erika Patterson	solid waste records & franchise agreement	E-mailed response letter indicating that additional time will be needed to gather some of the information. Contract & letter e-mailed 2/20/13.
81	2/12/2013	2/12/2013	Ed Caprielian	Crime reports	Per Chief Irvine, this report will not be available until March 15th
82	2/12/2013	2/12/2013	Kelly Hamm	Sand Dune Park attendance for 2012	e-mailed response received from Parks & Rec 2/13/13
83	2/13/2013	2/13/2013	Brad Austin	Bonds and unclaimed recoveries	Letter & documents e-mailed 2/22/13
84	2/15/2013	2/15/2013	Mark Rocchio	contract between CMB & DMBBPA RE Farmer's Market	Spoke to Mr. Rocchio on 2/25/13 telling him that there is no separate contract with the DMBBPA for the Farmer's Market.
85	2/15/2013	2/15/2013	Jeff Buckley	list of polling locations	e-mailed Sample Ballot 2/15/13
86	2/16/2013	2/16/2013	Edward Teyssier	Resolution or Ordinance that repealed the City's Business License administrative processing fee	
87	2/19/2013	2/19/2013	Disability Rights Legal Center	Various issues Re public parks	
88	2/19/123	2/19/2013	Ed Caprielian	DUI arrests 2012 - 2013	e-mailed response letter and info on 2/20/13.
89	2/19/2013	2/19/2013	Doc Morino	RFP #886-13 Emergency medical billing ( signed contract, awarded vendors proposal, how vendors were scored & companies who submitted).	
90	2/20/2013	2/20/2013	Property Solutions	Various questions Re 1112 Ocean Blvd.	Records were e-mailed by Roz in Comm Dev on 2/26/13.
91	2/22/2013	2/22/2013	Bill Victor	questions on various warrants	
92	2/25/2013	2/25/2013	Steiner & Libo	itemized billing Re Fire Dept transport	
93	2/25/2013	2/25/2013	Asset Management Consultants	spreadsheet, ledger or other record of active cash and cash-convertible sureties and escrow accounts	
94	2/25/2013	2/25/2013	Viet Ngo	copy of election officers and polling places and notices of vote-by -mail processing	
95	2/25/2013	2/25/2013	Viet Ngo	copy of memo/document authorizing the Chamber of Commerce and Mark Lipps to use the Council Chamber for a Candidate forum	

## Ad Hoc Open Government Subcommittee

### Meeting

Tuesday, March 12, 2013

6:30 PM

City Council Chambers



*Mayor David J. Lesser*  
*Mayor Pro Tem Amy Howorth*

#### Executive Team

David N. Carmany, City Manager

Jim Arndt, Public Works Director  
Robert Espinosa, Fire Chief  
Cathy Hanson, Human Resources Director  
Bruce Moe, Finance Director  
Richard Thompson, Community Development Director

Quinn Barrow, City Attorney  
Richard Gill, Parks & Recreation Director  
Eve R. Irvine, Police Chief  
Liza Tamura, City Clerk

#### **MISSION STATEMENT:**

**The City of Manhattan Beach is dedicated to providing exemplary municipal services, preserving our small beach town character and enhancing the quality of life for our residents, businesses and visitors.**

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**THE AD HOC OPEN GOVERNMENT SUBCOMMITTEE WELCOMES YOU!**

*WELCOME . . . By your presence, you are participating in the process of representative government. To encourage that participation, the Ad Hoc Open Government Subcommittee has specified a time for citizen comments on its agenda, at which time citizens may address the subcommittee concerning matters relating to the open government process. The Ad Hoc Open Government Subcommittee consists of two members of the City Council (Mayor Pro Tem Lesser and Councilmember Howorth) who have been asked by the City Council to develop recommendations with respect to open government. The subcommittee's recommendations will be considered by the City Council at a future City Council meeting.*

*Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at [www.citymb.info](http://www.citymb.info), at the County Library located at 1320 Highland Avenue, the Police Department located at 420 15th Street, and are also on file in the City Clerk's Office for public inspection. Any person who has any question concerning any agenda item may call the City Clerk's office at (310) 802-5056 to make an inquiry concerning the nature of the item described on the agenda.*

*In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact the City Clerk's Office at (310) 802-5056 (voice) or (310) 546-3501 (TDD). Notification 36 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.*

**A. CALL TO ORDER****B. PLEDGE TO THE FLAG****C. ROLL CALL****D. AUDIENCE PARTICIPATION****E. GENERAL BUSINESS**

1. Report by Special Counsel on Sunshine Ordinances and Recommendation that the Subcommittee Seek Further City Council Direction [13-0134](#)

**SEEK CITY COUNCIL DIRECTION**

**Attachments:** [Attachment 1 - Sunshine Ordinance Staff Report from August 30, 2012](#)

2. Public Records Protocol and Review of Public Records Act Request Log [13-0135](#)  
**APPROVE**

**Attachments:** [Attachment 1 - Public Records Protocol Staff Report from August 30, 2012](#)

[Attachment 2 - Public Records Protocol](#)

[Attachment 3 - Public Records Act Request Log](#)

3. Status Update on Various Open Government Initiatives: Use of Special Meetings, Policy on Minutes, Consent Calendar Content, Follow-Up on Agenda Items, Staff Reports and Including Public/Stakeholders, Agenda Structure and Process

[13-0136](#)

**DISCUSS AND PROVIDE DIRECTION**

**Attachments:** [Attachment 1 - Open Government Initiatives Matrix](#)  
[Attachment 2 - Agenda for the March 21, 2013, Teambuilding Meeting](#)

**F. ADJOURNMENT**

**G. FUTURE MEETINGS**

**CITY COUNCIL MEETINGS**

*Mar. 19, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Mar. 21, 2013 – Thursday – 8:30 AM – City Council Teambuilding Meeting*  
*Apr. 2, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Apr. 16, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Apr. 23, 2013 - Tuesday - X:00 - Board & Commission Interviews*  
*Apr. 30, 2013 - Tuesday - X:00 - City Council Study Session*  
*May. 7, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*May. 9, 2013 – Thursday – 6:00 PM – City Council Budget Study Session #1 ( Tentative)*  
*May. 14, 2013 – Tuesday – 6:00 PM – City Council Budget Study Session #2 ( Tentative)*  
*May. 16, 2013 – Thursday – 6:00 PM – City Council Budget Study Session #3 ( Tentative)*  
*May. 21, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jun. 4, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jun. 18, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jul. 2, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jul. 10, 2013 – Wednesday – 8:30 AM – City Council Strategic Plan Meeting*  
*Jul. 16, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Aug. 6, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Aug. 20, 2013 – Tuesday – 6:00 PM – City Council Meeting*

**BOARDS, COMMISSIONS AND COMMITTEE MEETINGS**

*Mar. 13, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*Mar. 25, 2013 – Monday – 6:30 PM – Parks & Recreation Commission*  
*Mar. 27, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*Mar. 28, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission*  
*Apr. 3, 2013 – Wednesday – 6:00 PM – North Manhattan Beach Business Improvement District*  
*Apr. 8, 2013 – Monday – 6:30 PM – Library Commission*  
*Apr. 9, 2013 – Tuesday – 6:00 PM – Cultural Arts Commission*  
*Apr. 10, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*Apr. 22, 2013 – Monday – 6:30 PM – Parks & Recreation Commission*  
*Apr. 24, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*Apr. 25, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission*  
*May. 1, 2013 – Wednesday – 6:00 PM – North Manhattan Beach Business Improvement District*  
*May. 8, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*May. 13, 2013 – Monday – 6:30 PM – Library Commission*  
*May. 14, 2013 – Tuesday – 6:00 PM – Cultural Arts Commission*  
*May. 22, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*May. 23, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission*  
*Jun. 5, 2013 – Wednesday – 6:00 PM – North Manhattan Beach Business Improvement District*  
*Jun. 10, 2013 – Monday – 6:30 PM – Library Commission*  
*Jun. 11, 2013 – Tuesday – 6:00 PM – Cultural Arts Commission*  
*Jun. 12, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*Jun. 24, 2013 – Monday – 6:30 PM – Parks & Recreation Commission*  
*Jun. 26, 2013 – Wednesday – 6:30 PM – Planning Commission*  
*Jun. 27, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission*

**H. CITY HOLIDAYS****CITY OFFICES CLOSED ON THE FOLLOWING DAYS:**

*May. 27, 2013 – Monday – Memorial Day*  
*Jul. 4, 2013 – Thursday – Independence Day*  
*Sep. 2, 2013 – Monday – Labor Day*  
*Oct. 14, 2013 – Monday – Columbus Day*  
*Nov. 11, 2013 – Monday – Veterans Day*  
*Nov. 28-29, 2013 – Thursday & Friday – Thanksgiving Holiday*  
*Dec. 25, 2013 – Wednesday – Christmas Day*  
*Jan. 1, 2014 – Wednesday – New Years Day*  
*Jan. 20, 2014 – Monday – Martin Luther King Day*  
*Feb. 17, 2014 – Monday – President's Day*  
*May. 26, 2014 – Monday – Memorial Day*

**Agenda Date:** 3/12/2013

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**TO:**

Ad Hoc Open Government Subcommittee

**THROUGH:**

David N. Carmany, City Manager

**FROM:**

Roxanne Diaz, Special Counsel

**SUBJECT:**

Report by Special Counsel on Sunshine Ordinances and Recommendation that the Subcommittee Seek Further City Council Direction

**SEEK CITY COUNCIL DIRECTION**

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**RECOMMENDATION:**

Staff recommends the Open Government Ad Hoc Subcommittee refer to the City Council the question of whether the City should engage in a process of reviewing “sunshine ordinances.”

**FISCAL IMPLICATIONS:**

No fiscal implication is associated with this recommendation.

**BACKGROUND:**

At the August 30, 2012, Ad Hoc Subcommittee meeting, there was a lengthy discussion regarding the interplay of the Public Records Act Protocol and “sunshine ordinances.” The direction of the Ad Hoc Subcommittee was to bring back to a subsequent meeting a more robust review of sunshine ordinances and how they might operate in the City of Manhattan Beach.

**DISCUSSION:**

Notwithstanding the direction at its last meeting, the question of whether the City should engage in a process of reviewing “sunshine ordinances” is an item that should be reviewed by the entire City Council rather than the Ad Hoc Subcommittee at this time. The Ad Hoc Subcommittee is an advisory committee with a limited purpose. It has a specific task-to go through a Matrix of Open Government Initiatives (the “Matrix”) and make recommendations to the City Council. Once that task is complete, the Ad Hoc Subcommittee dissolves. When the City Council received an update on the Matrix on January 3, 2012, a discussion regarding sunshine ordinances was not on the list of Matrix initiatives nor was it discussed by the City Council or the Ad Hoc Subcommittee.

In addition, two new City Council members are scheduled to be sworn-in on March 19, 2013. It is appropriate for the new Council to provide direction before the Ad Hoc Subcommittee embarks on a review of new initiatives. An August 30, 2012, Staff Report providing an overview on sunshine ordinances is attached for reference (Attachment 1).

**CONCLUSION:**

Staff recommends the Open Government Ad Hoc Subcommittee refer to the City Council the question of whether the City should engage in a process of reviewing “sunshine ordinances.”

Attachment:

1. Sunshine Ordinances Staff Report from the August 30, 2012, Ad Hoc Subcommittee Meeting



# Staff Report

## City of Manhattan Beach

**TO:** Mayor Pro Tem Lesser and Council Member Howorth  
Open Government Ad Hoc Committee

**THROUGH:** Quinn Barrow, City Attorney

**FROM:** Roxanne Diaz, Esq.

**DATE:** August 30, 2012

**SUBJECT:** Overview and Discussion of Sunshine Ordinances

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### **RECOMMENDATION:**

It is recommended that Legal Counsel provide an overview of what is a “Sunshine Ordinance” and the Ad Hoc Open Government discuss and provide comments.

### **BACKGROUND:**

To protect transparency in government, every state in the United States has some type of law mandating that government business be conducted in open to which the public has access. These types of laws are sometimes referred to as “sunshine laws.”

In California, the Brown Act is California’s sunshine law. Passed in 1952, the Brown Act’s key provision remains unchanged 60 years after its adoption—it is a requirement that “all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.” The remaining provisions of the Brown Act flow from this single sentence such as requirements for agenda posting, adequate agenda descriptions, distribution of written material, etc. The provisions work together to ensure transparency in government.

Merriam-Webster’s dictionary defines “transparency” as “fine or sheer enough to be seen through.” In the context of open government, transparency means that citizens must be able to “see through” the workings of local government. The Brown Act, the Public Records Act and to some extent the Political Reform Act ensure that the workings of local government are transparent and provide for a means for the public to participate in government.

A “sunshine ordinance” is not the same as a “sunshine law” although both have the same purpose. A sunshine ordinance takes a sunshine law and expands upon it or enhances it to create new local laws regarding meetings and sometime public records. This report provides a general overview of “sunshine ordinances” that have been adopted by various cities in California.



## **DISCUSSION:**

As stated above, the Brown Act was created to ensure that local government business, such as meetings, are conducted in a public forum. The Public Records Act ensures that members of the public have timely access to public records. Both of these laws set the standards that cities and counties are required to follow. Sunshine ordinances are intended to supplement or enhance the provisions of the Brown Act and the Public Records Act. Of the 530 cities and counties in California, there are only a handful of public entities that have adopted their own sunshine ordinance and they are as follows: Alameda, Benicia, Berkeley, Contra Costa County, Gilroy, Milpitas, Oakland, Richmond, Riverside, San Bernardino County, San Francisco, San Jose and Vallejo.

A sunshine ordinance is not the type of ordinance that is "one size fits all." While there may be a common theme among the ordinances, the ordinances are all different in scope and application. An ordinance for one city may not be the right type of ordinance for another city. For example, the sunshine provisions for the City of Riverside are located in the City's Charter and are about one page long whereas the sunshine ordinance for the City of Alameda is 28 pages long and City of San Francisco is 39 pages long. The process for adoption is also not simple and it takes time to review and analyze the various provisions and its impact to the organization. While such ordinances are advanced to provide the public with greater opportunities to access public meetings and information, these ordinances also create special and additional obligations on city employees to ensure that these opportunities are satisfied.

## **Topics Addressed by Sunshine Ordinances**

Based upon a general review of several sunshine ordinances, there are three aspects of open government that these ordinances generally address. They include the following: (1) the agenda process; (2) conduct of meetings; and (3) public records. Numerous sections of the various sunshine ordinances reviewed are simply a restatement of or repeat the provisions of the Brown Act. That is, the language recited in the sunshine ordinance does not enact any new or unique provision. Below is a general overview of the more prevalent provisions that are included in sunshine ordinances.

### **Posting:**

- Berkeley has an agenda committee that meets 15 days prior to each council meeting which sets the agenda. Once the agenda is set, no item can be added without going through an additional process. The agenda packet is then required to be distributed 11 days prior to a regular meeting and no additional item may be placed on that agenda without going through an additional process.
- Vallejo does not have any special requirements and posts 3 days in advance.
- Alameda requires regular meeting agendas to be posted 12 days in advance of the council meeting and 7 days in advance of special meetings (with an exception for urgent matters).
- Benicia requires regular meeting agenda to be posted 6 days in advance of the council meeting and reports can be supplemented within 72 hours of the meeting.

### **Minutes:**

- Benicia requires that minutes contain certain specified information and that draft minutes be available no later than 5 business days prior to meeting at which they are to be adopted.

- Alameda requires that minutes contain certain specified information and that draft minutes be available no later than 10 working days after the meeting.

**Closed Session:**

- Benicia requires that an announcement be made regarding the reasons for going into closed session and requires that the body explain and cite the statutory or case authority under which the closed session is held.
- Alameda requires that the agenda contain additional information regarding the closed session and that minutes be taken at the closed session by the City Clerk.
- Vallejo requires that an announcement be made regarding the reasons for going into closed session and requires that the body explain and cite the legal authority under which the closed session is held.
- Milpitas requires that for existing litigation items that the agenda identify the date the case was filed on the written agenda in addition to the court and case number.

**Public Records:**

In general, most of the ordinances reviewed eliminate a number of the statutory exemptions regarding public records. The more common theme relates to how quickly the public entity must respond to public records requests.

- Benicia requires requests be satisfied within 5 business days of receiving the request.
- Alameda provides that certain records are to be made available within 3 business days.
- Vallejo requires that if a request is received before noon, that the request be satisfied no later than the close of business that same day if the request is marked “immediate disclosure request.”

As stated previously, in general, sunshine ordinances create additional requirements that are undertaken by city employees to ensure that the ordinance provision is satisfied. It should be pointed out that in addition to a number of other policy considerations, compliance with sunshine ordinances is not without some additional cost to the local entity. For example, recent newspaper and other internet articles chronicle that San Francisco has expended \$3 million dollars towards satisfying the provisions of the Brown Act, with almost \$1million towards it own local sunshine ordinance. The City of Berkeley has stated that compliance with a proposed ordinance will cost \$1.5 to \$2 million dollars annually.

The above is a cursory summary of provisions common among the sunshine ordinances. I have included samples of several ordinances to provide the Ad Hoc Committee with a sense of the variety of ordinances that have been adopted throughout California. I also include a summary chart prepared by the City of Encinitas in 2009. This chart lists the applicable law, the practice of the City of Encinitas as it relates to the law, and a reference to ordinances that exceed state law. Encinitas reviewed 6 city ordinances and noted that many of the sunshine provisions adopted by those cities were restatements of existing law and thus the chart only included references to where a particular city actually adopted a provision that was unique.

**CONCLUSION:**

In conclusion, sunshine ordinances are adopted to enhance existing state law requirements. Legal counsel will be available to answer any questions.

**Attachments:**

- A. Sunshine Ordinance Adopted by City of Berkeley in February 2011
- B. Sunshine Ordinance Adopted by the City of Alameda
- C. Sunshine Ordinance Adopted by the City of Vallejo
- D. Sunshine Ordinance Proposed by Residents in the City of Berkeley
- E. Sunshine Ordinance Comparison Table Drafted by the City of Encinitas in June 2009

**Agenda Date:** 3/12/2013

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**TO:**

Ad Hoc Open Government Subcommittee

**THROUGH:**

David N. Carmany, City Manager

**FROM:**

Roxanne Diaz, Special Counsel

**SUBJECT:**

Public Records Protocol and Review of Public Records Act Request Log

**APPROVE**

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**RECOMMENDATION:**

Staff recommends that the Open Government Ad Hoc Subcommittee forward the Public Records Act Protocol to the City Council for review and approval and provide feedback on the Public Records Act Request Log.

**FISCAL IMPLICATIONS:**

There are no fiscal implications associated with this action.

**BACKGROUND:**

In March 2011, the City Council entered into a settlement agreement with the late Richard McKee with regard to the lawsuit he filed seeking relief “for alleged violations of the Brown Act and the California Public Records Act.”<sup>1</sup> As part of the settlement agreement, the City agreed to “develop and adopt a protocol for responding to requests for public records which complies with the Public Records Act.”<sup>2</sup> In 2011, the Ad Hoc Subcommittee was directed to review initiatives on open government, conduct research, and report back to Council. While the settlement agreement with Mr. McKee delegated to the City Manager the authority to develop and adopt a Public Records Act protocol, development of a policy regarding Public Records Act procedures and the implementation of the settlement agreement were listed as items on an Open Government Initiatives Matrix (“Matrix”).<sup>3</sup> Accordingly, the proposed Public Records Act Protocol (“Protocol”) was presented to the Ad Hoc Subcommittee for review at its public meetings on July 19, 2012, and August 30, 2012.

At the August 30, 2012, Ad Hoc Subcommittee meeting there was a lengthy discussion regarding the interplay of the Protocol and “sunshine ordinances.” The direction of the Ad Hoc Subcommittee was to bring back the Protocol to a subsequent meeting and include a

more robust discussion of sunshine ordinances. As indicated in the Staff Report for the agenda item on the sunshine ordinance, Staff is recommending that the question of whether to consider a sunshine ordinance for the City of Manhattan Beach be referred to the City Council.

Accordingly the Protocol should be viewed as a stand-alone item unless otherwise directed by the City Council. The remainder of this report provides additional information regarding the Protocol. For background regarding the substance of the Protocol, the Staff Report on the Protocol from the August 30, 2012, Ad Hoc Subcommittee meeting is attached (Attachment 1). The Protocol is also attached to this report (Attachment 2).

## **DISCUSSION:**

### Reason for the Protocol

The Protocol should be viewed as a stand-alone item based on the McKee litigation. The settlement agreement requires the adoption of a "protocol for responding to requests for public records which complies with the Public Records Act." While this office did not handle the matter, from our review of the litigation file from activities that took place three years ago as well as information provided by third parties, the issue that was brought to the forefront by the McKee litigation was that the City was not complying with the Public Records Act. That is, there were examples presented where the City had not responded to requests, the City was not complying with the statutory deadlines in the Act, the City took months to provide responsive records or in the case of the McKee litigation, the City withheld records that were public. Accordingly, the settlement agreement required the City to comply with state law at a minimum.

The Protocol presented to the Ad Hoc Subcommittee does exactly what the settlement agreement intended. It is a document that sets forth in writing the procedures City Staff must follow in responding to Public Records Act requests. This certainly was important for the parties in the McKee matter because from their point of view the City was not always in compliance with the Act. In addition, the Protocol informs the public of the procedures by which it may request a public record and will be followed in responding to their requests.

### Adoption of a policy or protocol is not unique among cities

The adoption of a Public Records Act policy or protocol is common and such policies come in many forms. There are cities that have adopted formal written policies regarding the public's right to access records and those policies include procedures describing how records will be made available. Cities that have adopted such policies include San Jose, Oakland, Azusa and Vernon.<sup>4</sup>

Other cities have included information regarding the Public Records Act procedures simply as part of information provided on the city website such the Cities of Mission Viejo and Berkeley.<sup>5</sup> Other cities such as Seaside and Lomita have more detailed information on a "form" they ask members of the public to utilize when making requests.

### Provisions of the Protocol that go beyond the text of the statute

While the Protocol is not a "sunshine regulation," the City does strive to exceed the mandates required by State law as summarized below.

*1. Requests for Inspection/Copies of Identified and Readily Available Records*

Under the Public Records Act, the City has 10 days to respond to any request for public records. Oftentimes, however, members of the public seek records that are easily identifiable and readily available. In those instances, the City has committed to provide these records “expeditiously” and ideally on the day they are requested. This has been incorporated into the Protocol so that City Staff knows that while ten days is the law, the expectation is that straightforward records requests should be responded to quickly-the 10 day rule should not be the floor

*2. Maintenance of a Public Records Act Request Log*

The Protocol requires the City Clerk’s office to enter all records request into a “Public Records Act Request Log” (“Log”). The maintenance of this Log is not required by state law yet it provides important information for both the public and Council in terms of the City’s adherence to the Protocol and State law. Even though the Protocol has not been adopted by the City, the City Clerk and the City Attorney began implementation of the practices discussed in the Protocol including the maintenance of the Log, which is attached as Attachment 3.

There are several observations from the Log. First, since July 27, 2012, through February 25, 2013, the City Clerk has logged 95 Public Records Act requests. Second, a review of the Log indicates that when the request is for a document that is easily identifiable, Staff has responded quickly. For example, requests no. 6, 9 and 14 sought records such as a provision of the municipal code, the compensation range for a community services officer and commercial refuse rates. These requests were completed on the day the request was received and in one instance within two days of receipt. Last, a review the Log indicates that certain requests by their very nature require staff to conduct more research to understand what is being requested or to look for the responsive records and thus additional time was needed. The action of City staff is noted in the last column.

The Log, while not required by state law, is an important piece of the City’s commitment to transparency so the public as well as the City Council can have a tool to measure the City’s commitment in providing the public access to records. We request that the Ad Hoc Subcommittee provide its feedback on the Log so that it can be a useful tool for both the City and the public.

**CONCLUSION:**

Staff recommends that the Open Government Ad Hoc Subcommittee forward the Public Records Act Protocol to the City Council for review and approval and provide feedback on the Public Records Act Request Log

Attachments:

1. Staff Report on the Protocol from the August 30, 2012, Ad Hoc Subcommittee meeting.
2. Public Records Protocol
3. Public Records Act Request Log

End notes:

1. Recital C of the Settlement Agreement and Release dated March 15, 2011.
2. Section 1(a) (iv) of the Settlement Agreement and Release dated March 15, 2011.

3. The Matrix was developed by the Ad Hoc Subcommittee to list open government initiatives and was subsequently reviewed by the City Council on January 3, 2012.
4. It should be noted that both San Jose and Oakland have “sunshine ordinances” yet both cities adopted a separate “policy” to inform the public about the procedures for making public records act requests and how city staff responds to those requests.
5. It should be noted that Berkeley has adopted a “sunshine ordinance” and the information regarding their policies on obtaining public records is separate and apart from their sunshine ordinance.



# Staff Report

## City of Manhattan Beach

**TO:** Mayor Pro Tem Lesser and Council Member Howorth  
Open Government Ad Hoc Committee

**THROUGH:** Quinn Barrow, City Attorney

**FROM:** Roxanne Diaz, Esq.

**DATE:** August 30, 2012

**SUBJECT:** Discussion and Direction Regarding Public Records Protocol

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### **RECOMMENDATION:**

It is recommended that the Open Government Ad Hoc Committee discuss the Public Records Act Protocol and provide comments and/or direction to Staff.

### **BACKGROUND:**

In March 2011, the City Council entered into a settlement agreement with Richard McKee with regard to the lawsuit he filed seeking relief “for alleged violations of the Brown Act and the California Public Records Act.”<sup>1</sup> As part of the settlement agreement, the City agreed to “develop and adopt a protocol for responding to requests for public records which complies with the Public Records Act.”<sup>2</sup> While the settlement agreement delegated to the City Manager the authority to develop and adopt a Public Records Act protocol, Staff believes it would be appropriate for the Open Government Ad Hoc Committee to provide its input on the protocol prior to implementation.

### **DISCUSSION:**

The California Public Records Act codified at Government Code Section 6250 et. seq., is a California statute that affords the public the right to obtain a copy of and the right to inspect most government records retained by State and local agencies. The fundamental principal is that records of a state or local agency (as defined by the Public Records Act) shall be disclosed to the public upon request, unless there is a legal basis not to do so.

The Public Records Act permits local agencies to adopt regulations stating the procedures to be followed when making their records available to the public. Accordingly, the proposed Public Records Act Protocol (“Protocol”) is a formal written policy affirming the public’s right to access records as well as set forth the procedures by which such records will be made available to the public. The Protocol also describes the process for City Staff to follow when responding to requests for public records. The Protocol is summarized below.

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<sup>1</sup> Recital C of the Settlement Agreement and Release dated March 15, 2011

<sup>2</sup> Section 1(a)(iv) of the Settlement Agreement and Release dated March 15, 2011.



### **Procedures for Making Public Records Act Requests.**

The Protocol provides that requests for public records should be made on a "Request for Public Records Form" ("PRA Form") and be submitted to the City Clerk's Office. If a request for public records, however, is not placed on the PRA Form, the City cannot deny the request. The Protocol recognizes that public records requests come in variety of ways such as email, phone requests, fax, letter and in person. In cases where the requestor does not complete the PRA Form, the PRA Form shall be filled out by City Staff. The central reason for the PRA Form is to reduce any misunderstandings between the requestor and City Staff as to what records are sought. The PRA Form also serves as the basis for tracking requests to ensure that Staff responds to records requests in a timely manner and with greater efficiency.

Under the Public Records Act and as reflected in the Protocol, persons making requests should specify the records to be copied or inspected with sufficient detail to allow the city to identify the responsive public records. If City Staff determines that the request is unfocused or not clear, it is the role of the Staff to make a reasonable effort to obtain information from the requestor to clarify the request or otherwise assist the requestor in identifying records that may be responsive to a request. This is more fully discussed in Section IV.C. of the Protocol.

Last, the Protocol recognizes that the public has the right to not only request a copy of a public record, but that the public may also request to "inspect" a public record. Accordingly, the Protocol provides that public records are open to inspection during regular City business hours. The City, however, does not maintain a centralized system for all City records. Therefore the Protocol provides that requests for inspection of specifically identified and readily available public records should be handled as soon as possible, ideally on the day they are requested. However, some requests may require the City to locate, review and assemble records before fulfilling the request. Therefore in such cases it is likely that inspection will not be contemporaneous with the request.

### **Procedures for Processing Public Records Act Requests.**

The Protocol centralizes the processing and handling of public records requests in the Office of the City Clerk. Under the Protocol, the City Clerk's office is responsible for accepting public records requests as well as transmitting responses and responsive public records to persons making a request. The Public Records Act provides that a local agency has 10 calendar days from receipt of the public records request to notify the requestor "whether the request, in whole or in part, seeks copies of discloseable public records in the possession of the [city]. . . ." Accordingly, the Protocol provides that the process for handling records requests shall be implemented within the ten days after receipt of a request. The process is summarized below:

1. Upon receipt of a public records request, the City Clerk's Office enters the request into the "Public Records Act Request Log."
2. The City Clerk's Office forwards the request to the appropriate City department for processing.
3. The designated department employee(s) reviews the request and its files to determine whether the department has the requested public records in its possession.

4. If the department determines it has responsive public records, the department is required to contact the City Clerk to provide an estimated amount of time needed to prepare the records and an estimate of the copying charges if possible.
5. If the department determines that it does not maintain any responsive records, the department must immediately notify the city clerk.
6. After receipt of the information from the department, the City Clerk responds to the requestor by advising the requestor in writing whether the request, in whole or in part, seeks copies of discloseable public records in the possession of the City. The City Clerk shall also provide an estimated date as to when the records will be made available and the estimated copying charges, if available.

Although the Act prescribes the time for responding to a records request, the law does not provide a specific time-frame in which a local agency is required to disclose the records. The Act provides that copies of records must be provided "promptly." That said, the Protocol requires the department to provide the City Clerk with the estimated amount of time needed by the department to prepare the records (i.e. search for, gather, review and copy the records). The expectation is that the department will forward the responsive records to the City Clerk within this time-frame so that the City Clerk can make those records available to the requestor upon the payment of the fees to cover the costs of duplication.

If a request for public records is denied in whole or in part, the requestor must be notified in writing.

**CONCLUSION:**

In conclusion, it is recommended that the Open Government Ad Hoc Committee discuss the Public Records Act Protocol and provide comments and/or direction to Staff

- Attachments: A. Public Records Act Protocol  
B. Public Records Request Log

**CITY OF MANHATTAN BEACH**  
**PUBLIC RECORDS ACT PROTOCOL**

**I. INTRODUCTION/PURPOSE**

The California Public Records Act ("Act") is the State law that establishes and guides the public's right to access records concerning the conduct of the people's business. The purpose of this protocol (known as the "Public Records Act Protocol") is to affirm in writing the public's right to access City Public Records and to set forth the procedures by which such Public Records will be made available to the public in accordance with the Act. City Staff receives requests for Public Records frequently. Responding promptly and appropriately to public records requests is an important aspect of the City's open government process.

**II. GENERAL RESPONSIBILITIES**

The City Clerk's Office shall be responsible for accepting Public Records requests from members of the public and transmitting responsive records to the person making a Public Records request. Each department shall be responsible for providing the City Clerk with Public Records under the Department's control.

**III. DEFINITIONS**

- A. City Clerk shall mean the City Clerk of the City of Manhattan Beach or her designee.
- B. Public Records includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the City of Manhattan Beach regardless of physical form and characteristics.
- C. Writing means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored.

**IV. PROCEDURES FOR MAKING PUBLIC RECORDS ACT REQUESTS**

- A. Public Records Act requests can come in different forms: (i) letter requests; (ii) email requests; (iii) fax requests; (iv) phone requests; and (v) requests made in person.

- B. Requests to be Submitted to the City Clerk's Office. Requests for Public Records should be made on the Request for Public Records Form ("Form") and should be submitted to the City Clerk's Office. Written requests reduce any misunderstandings between the requestor and City Staff, which allows City Staff to respond to records requests in a timely manner and with greater efficiency. However, the City will not deny a request for Public Records solely because it is not submitted in writing.
1. If the Form is not completed by the person making the request, the Form should be prepared by City Staff and if applicable, City Staff should attach the letter, email, or other writing prepared by the requestor. If a request is received by phone or made in person and the person making the request is unable or unwilling to complete the Form, the Form should be prepared by City Staff. A notation should be made on the Form stating the manner by which the request was received.
  2. Requests for inspection and/or copies of specifically identified and readily available Public Records such as limited sections of City regulatory documents, specific sections of the Zoning Code, and specifically identified resolutions, do not require completion of the Form, and such requests should be handled as soon as possible and copies provided expeditiously, ideally on the day they are requested.
  3. If City Staff must search and examine files or collect records from a variety of departments, or the request requires research as to the existence of the requested Public Records and/or their location, a Form should be completed.
- C. Requests Should Identify the Public Records. The person making the request should, in writing, specify the Public Records to be inspected/copied with sufficient detail to enable the City to identify the particular Public Records. If the request seems ambiguous or unfocused, City staff should make a reasonable effort to obtain additional clarifying information from the requestor that will help identify the Public Record(s). Pursuant to Government Code Section 6253.1, City staff shall do all of the following, to the extent reasonable under the circumstances:
1. Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
  2. Describe the information technology and physical location in which the records exist.

3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

D. **Right to Inspect Public Records.** Public Records are open to inspection at all times during regular City business hours. The Public Records Act provides that every person has a right to inspect any public record, except as otherwise provided in the Act. Upon receipt of a written or oral request for inspection of Public Records, the City shall make the records promptly available to the requestor. However, the City does not maintain a centralized system for all City records. Therefore, some requests to inspect records may require that the City locate, review and assemble records before fulfilling the request.

E. Any department that receives a request for a copy of Public Records shall time stamp the request and promptly forward the request to the City Clerk's Office.

V. **PROCEDURES FOR HANDLING PUBLIC RECORDS ACT REQUESTS.**

The City Clerk, upon a request to inspect or obtain a copy of Public Records, shall, within ten (10) days, determine whether the request, in whole or in part, seeks disclosable Public Records in the possession of the City. The ten (10) day time period shall be calculated from the date the request is received during regular City Hall business hours. The following procedures shall be followed within the ten days after receipt of a request.

A. Upon receipt of a request, the Clerk's Office shall immediately enter the request into the "Public Records Act Request Log" maintained by the City Clerk's Office. The City Clerk shall then forward the request to the appropriate Department Head or department designee.

B. Upon receipt of the Public Records request by the Department Head or designee, the department shall promptly begin reviewing the request and department files to determine if the department has the requested Public Records in its possession. The Department Head or designee may note his or her calendar with the last date to respond to the request as required under Government 6253(c). The department shall contact the City Clerk to provide an estimated amount of time needed to prepare the records (i.e. search for, gather, review and copy the records), and an estimate as to the duplication charges (if possible). If the request seeks a voluminous amount of Public Records, the department shall contact the City Clerk's office prior to preparing the records. If the department has determined that it does not maintain any Public Records responsive to the request, the department shall immediately notify the City Clerk.

C. Upon receipt of the information from the department, the City Clerk shall respond to the person requesting Public Records by advising the

requestor in writing as to whether the request, in whole or in part, seeks copies of disclosable Public Records in the possession of the City, and if so, the estimated date and time when the records will be made available and the estimated duplication charge (if available). This determination shall be communicated to the requestor within the 10 day time period. The City is required to make the Public Records promptly available to any person upon payment of fees covering the direct costs of duplication, or a statutory fee if applicable.

- D. Requests that are related to pending or potential litigation shall be coordinated with the City Attorney's office. Questions regarding the Public Records Act or regarding whether or not any Public Record is subject to disclosure shall promptly be forwarded to the City Attorney's Office for review.
- E. In unusual circumstances, the 10 day period for determining whether the request, in whole or in part, seeks copies of disclosable Public Records in the possession of the City, may be extended by written notice from the City Clerk or City Attorney to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be made in the manner set forth in Government Code Section 6253. No notice shall specify a date that would result in an extension for more than 14 days. The written determination shall include the estimated date and time when the Public Records shall be made available.
- F. If a request for Public Records seeks the production of records or documents that are not in existence at the time the request is made, the City is not obligated to create a document in order to respond to the request.
- G. A determination that a Public Record is exempt from disclosure under the Public Records Act shall be made in consultation with the City Attorney's office.

## VI. TRANSMITTAL OF RECORDS

- A. Unless otherwise directed by the City Clerk, the department shall forward the Public Records and the final cost of duplication to the City Clerk within the time period estimated by the department.
- B. The City Clerk's office shall then make the Public Records available to the requestor upon payment of fees covering the direct costs of duplication or a statutory fee, if applicable.

**VII. GENERAL**

- A. Each Department shall designate a person or persons, who will be responsible for responding to Public Records Act requests and coordinating the response with other City Departments, when appropriate.
- B. If a request for Public Records is denied in whole or in part, the denial shall be in writing and shall contain the names and titles or positions of each person responsible for the denial as required by Government Code Section 6253(d) and 6255(b).
- C. Nothing in this Public Records Act Protocol shall be construed to permit the City to delay or obstruct the inspection or copying of Public Records, nor shall the Public Records Act Protocol be construed as limiting the City's rights under the Public Records Act and applicable case law.

**VIII. ATTACHMENT:**      Public Records Request Transmittal Form  
   Sample of Public Records Act Request Log

APPROVED:

\_\_\_\_\_  
City Manager

PUBLIC RECORDS ACT REQUESTS - TRACKING LOG				
BEGINNING JULY 27, 2012				
DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	
			ACTION TAKEN	
1	7/27/2012	TransFirst	last three months of merchant processing statements	following 2 requests for extensions, records were e-mailed to Mr. Marquis on 9/21/12
2	8/17/2012	Carmen Smarandoiu	Dept Homeland Security Immigration Detainer	letter sent out 8/31/12
3	8/22/2012	George Mishalany	stop sign Highview & MBB	e-mail sent on 8/31/12 Need more time (Completed 9/6/12 e-mail)
4	08/23/12	Viet Ngo	copies of all checks paid to outside law firms	Letter and copies made available 8/31/12
5	8/29/2012	Bill Victor	what % of Uyeda's pension is paid by the public	Letter mailed on 9/5/12
6	9/5/2012	Debbie Shelvin	having trouble looking up Ordinance on-line	e-mailed Ord 9/7/5
7	9/5/2012	Sara Le	Type 1 crimes of Manhattan Beach	9/14/12 letter sent requesting additional time. 9/18/12 PD clarified request via e-mail. 9/24 PD requested check for \$15 for info.
8	9/6/2012	George Mishalany	Additional e-mail question on Highview & MBB	e-mailed responses on 9/11/12
9	9/10/2012	Liz Spear	Community Services Officer compensation range	response e-mailed on 9/10/12
10	9/13/2012	Robert Johnson	fiscal records concerning unclaimed, undeliverable, overdue and/or outstanding funds, obligations, payments or checks/warrants owed by your government entity	9/13/12 sent e-mail that we have no records that meet his criteria
11	9/17/2012	Public Works Contract Compliance	prevailing wages for sheet metal workers	Gave contact info and referred to LA Cnty - not City project.
12	9/25/2012	Viet Ngo	Policy for giving keys to City, any written documentation for giving to Maria Sharapova, approved by council or just mayor, cost of key, if known	Letter prepared on 10/12/12 - no documents within the scope of his request
13	9/26/2012	Dante	Phone request for 8/28/2012 Water Main Replacement Project (970)712-5370 request@bidocean.biz	9/26/2012 e-mailed bid
14	9/27/2012	National Waste Associates	Commercial Refuse Rates	rates were e-mailed to requester same day
15	9/27/2012	Garcia Juarez Construction	Inspectors dailies and notes for sewer main rehab project	10/30/12 info provided via e-mail.
16	9/27/2012	Ramon Lopez, Case Investigator	Manhattan Heights Joslyn Center & Begg Pool	e-mailed payroll and fringe benefit info on 11/09/2012
17	??	Mark Athan	arrest report for Matthew Barnes	City Attorney determined that the requested record is exempt from disclosure
18	10/2/2012	Viet Ngo	questions Re Mayor Powell's I HEART MB program	Letter of response prepared 10/12/12



PUBLIC RECORDS ACT REQUESTS - TRACKING LOG  
BEGINNING JULY 27, 2012

DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
19	10/2/2012	Viet Ngo	documents Re Geoff Dolan	Letter with partial info sent on 10/12/12 - requested additional time RE remainder
20	10/3/2012	Viet Ngo	Manhattan Village Shopping Center land for sale	Letter prepared 10/15/12. Item No. 1 only document available. Others no records. Centennial Foundation Bylaws, Centennial Foundation officers & attachment #9 to this week's Vitality City/Blue Zones Initiative was e-mailed 10/12/12
21	10/3/2012	Bill Victor	all city costs related to the Vitality Cities program	
22	10/4/2012	Ryan Wolfe	how it is determined what streets are designated as alleys	Nhung Madrid e-mailed him a GIS map
23	10/4/2012	Vida M. Holguin, Employment Lawyer	current construction at Mira Costa on Peck Avenue	Letter sent on 10/15/12 requesting additional 14 days
24	10/4/2012	Mike Zisilis	complaints about Shade Hotel	PD will let him know if specific info requested is available.
25	10/8/2012	Kristin Agostoni	construction work at Joslyn	Information was provided on 10/31/12. info was gathered, but was not picked up until 10/25/12.
26	10/6/2012	Ryan Wolfe	Where is the definition of an alley that your provided	Nhung responded that it is from our Planning Code
27	10/9/2012	Pam Fees	Political signs	e-mailed her our Sign and Advertisement Regulations
28	10/12/2012	Bill Victor	amount of staff time for support and accounting of the Centennial Committee	e-mail from Finance Director explaining that time not tracked therefore, no such records
29	10/17/2012	Wow110	additional questions on speed survey	10/19/12 Nhung e-mailed 2009 Citywide Engineering and Traffic Survey
30	10/23/2012	Carl Lopez	Bid Results	e-mailed to him on 10/23/12
31	10/30/2012	Richard Hoop	request for Claim for Damage form	claim form mailed on 10/31/12.

PUBLIC RECORDS ACT REQUESTS - TRACKING LOG  
BEGINNING JULY 27, 2012

DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
32	11/1/2012	Joe Mendoza	wants copy of current US Flag policy	e-mailed policy on 11/8/12
33	11/1/2012	Jerry Hodge	list of all residential structures presently deemed to be in "substandard condition and other building related questions	E-mail and letter sent on 11/7/12 explaining that does not have any "public records" responsive to your request.
34	11/5/2012	LA Party Works	Information Regarding entity known as Manhattan Beach Home town Fair	letter stating we have no responsive records mailed on 11/14/12
35	11/20/2012	Daniela Bursey	Tree maintenance contract	Letter stating we need additional time was sent on 11/29/12. on 12/18/12 Maint Superintendent Juan Price "I have it 99% complete. Bonnie was out yesterday and I need some detailed info to finish." 12/31/12 I have been in touch with Ms. Bursey, and she will receive this letter when I get some tree count info from Bonnie who is on vacation. I believe she will be back Wednesday. I need two numbers and it will be good to go. This is a draft minus two tree count numbers. Final letter mailed out by Juan Price on 1/2/13.
36	12/5/2012	Jose Perez	winning Fixed Route Transit RFP	After receiving payment, e-mailed and mailed hard copy 12/5/12
37	12/10/2012	Lillian Bow	Lexipole Agreement	PD Mngmt Analyst Dahlgren and Fire Chief Chiella spoke with her about the agreement.
38	12/11/2012	Dawn Omori	Number of Social host citations & fines paid since adoption of Ordinance	PD responded to the requester on 12/21/12
39	12/12/2012	Doug Couper	traffic volume/counts for Artesia Boulevard at the intersection of PCH	Mngmt Analyst Madrid e-mailed spreadsheet with data
40	12/13/2012	Viet Ngo	Docs authorizing the use of City property, officials, etc. to Leadership Manhattan Beach & copy of DVD	Letter written by City Attorney's Office sent to Mr. Ngo on 12/27/12 in response. DVD provided to Mr. Ngo on XXXXX.
41	12/17/2012	Viet Ngo	Business License of PC Help Professionals	Mr. Ngo picked up copies of Mitch Ward's business license on 1/31/12.

PUBLIC RECORDS ACT REQUESTS - TRACKING LOG  
BEGINNING JULY 27, 2012

DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
42	12/17/2012	Viet Ngo	copy of recording, agendas, staff reports, etc. for Leadership MB meeting on 12/13/12	Letter written by City Attorney's Office sent to Mr. Ngo on 12/27/12 in response.
43	12/17/2012	Viet Ngo	Docs authorizing the use of Wayne Powell's IHEART MB on City's web site; docs permitting Mitch Ward to run for Council again; Letter from City Clerk authorizing Ward's Ballot Designation; Election Law requirement to file complaint to City Clerk against Powell, Ward & Burton for violation of Election Code.	Letter written by City Attorney's Office sent to Mr. Ngo on 12/27/12 in response.
44	12/18/2012	Viet Ngo	Copy of PRR from Bill Victor to Clay Curtin and each and all docs provided or will provide to Bill Victor	Mr. Ngo reviewed the information that was provided to him on 1/2/13
45	12/19/2012	Center for Contract Compliance	General Contractor, Sub-Contractors List, Multiple Prime Contractor's if any, Estimated Start & Completion Date, Bid Advertisement Date and Award Date for Greenbelt Low Flow Infiltration Project	Ken Kim provided info on 12/20/12.
46	12/20/2012	Ed Caprielian	All docs Re sexual misconduct of Geoff Dolan and settlement with Geoff Dolan	12/28/12 A letter was e-mailed to Mr. Caprielian (because the mail had already gone out that day) followed up by a mailed hard copy, Re court documents and the settlement agreement.
47	12/21/2012	Viet Ngo	All docs submitted by Wayne Powell for 3/5/13 election & request that City Clerk Tamura reject Wayne's Ballot Designation.	Mr. Ngo viewed eth documents on 1/xx/13.
48	12/21/2012	Viet Ngo	Term limits Ord & Measure 2005-A	Mr. Ngo was given the Resolution declaring the official results and a Sample Ballot from the 1996 election
49	12/26/2012	Mark Abramson	Ords 1832, 1838 & 1891 along with staff reports	Materials provided. Comm Dev Director Thompson responding to questions Re view ordinance
50	12/31/2012	Viet Ngo	business license of Mark Lipps	Letter stating that no such records exist was given to Mr. Ngo on 1/2/13.

PUBLIC RECORDS ACT REQUESTS - TRACKING LOG						
BEGINNING JULY 27, 2012						
DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN		
51	12/31/2012	Viet Ngo	business license of Wayne Powell		Letter stating that no such records exist was given to Mr. Ngo on 1/2/13.	
52	12/31/2012	Viet Ngo	copy of all documents authorizing MB Resident's Association to use Council Chambers, city staff, employees or city funds for the 2/7/13 Candidate forum.	Response letter provided on 1/8/13		
53	1/4/2013	Viet Ngo	I HEART MB Art Contest	Response letter provided on 12/11/12		
54	1/7/2013	Viet Ngo	Leadership MB simulation & DVD	Response letter provided on 12/27/12		
55	1/7/2013	Kirk Strassman	parking citation processing & collection services	Left phone message that docs are ready and can be picked up or to call and set up electronic credit card authorization		
56	1/7/2013	Viet Ngo	Copy of checks paid to Leadership & DVD	Response letter provided on 12/27/12		
57	1/7/2013	Viet Ngo	Leadership business license info	Response letter provided on 12/27/12		
58	1/8/2013	Viet Ngo	Lipps Business License, tax info & redaction	Response letter provided on 1/8/13		
59	1/8/2013	Rosellen Trunnell	listing of candidates for the March Elections	01/08/2013 e-mailed back how to obtain this info on our website		
60	1/10/2013	Ed Caprielian	Electronic copies of Planning file 1148 Manhattan Ave (Talia's)	1/11/13 was notified that we could not give him the file electronically (it is too large) He said he does not want hard copies of the planning file - it would be too burdensome on us. Therefore, request is closed.		
61	1/10/2013	Ed Caprielian	Crime reports	Mr. Caprielian has been added to the weekly crime report e-mail list and documents will be made available to him by 2/14/13.		
62	1/10/2013	Viet Ngo	Employees involved with 3/5/13 Election	Letter sent 1/23/13 stating no such records exist.		
63	1/10/2013	Viet Ngo	Business License of MB Business & Professional Assoc	Mr. Ngo picked up copies on 1/25/13.		

PUBLIC RECORDS ACT REQUESTS - TRACKING LOG  
BEGINNING JULY 27, 2012

DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN
64	1/15/2013	Center for Contract Compliance	Contractor/Subcontractor, estimated start & completion times, advertisement date & award date for Water Main 2012-13	Completed contractor questionnaire returned to requestor on 1/12/13.
65	1/17/2013	Beverly Palmer (Strumwasser & Woocher, LLP)	Compliance of Condition 25 of Reso 11-02 (The Strand House)	Letter indicating records would be available by 2/1/13 was e-mailed and mailed on 1/28/13. 2nd letter sent 1/31/13. Copies picked up on 2/1/13.
66	1/18/2013	Diane Carrothers	arrest record	Verdesiah explained that we have no records for Ms. Carrothers (AKA: Diane Lipton) in our files for 1969 - 1973
67	1/28/2013	Chester Powelson	Any documents related to building a hospital in the South Bay	Response letter stating no records found sent 2/5/13
68	1/29/2013	Josh	written guidelines that say that MB PD can operate outside of the city	Response letter stating no public records responsive to his request sent 2/5/13
69	1/29/2013	Viet Ngo	I HEART MB Art Contest	Mr. Ngo was called & response letter composed 2/8/13. As of 2/13/13 he has not responded.
70	1/29/2013	Viet Ngo	Appointment of City Clerk and her salary	Mr. Ngo was called & response letter composed 2/8/13. As of 2/13/13 he has not responded.
71	1/31/2013	Rick Bender	Election registration information	info sent via e-mail 1/31/13
72	2/1/2013	Bill Victor	12/1/12 warrant register questions	
73	2/1/2013	Bill Victor	charges for Pumpkin Race	Letter and docs provided & Mr. Victor reviewed 2/7/13
74	2/1/2013	Bill Victor	questions Re Mike Messina & Assoc	Response letter stating no public records responsive to his request sent 2/13/13
75	2/1/2013	Bill Victor	purchase of movie tickets	Letter and docs provided & Mr. Victor reviewed 2/12/13
76	2/5/2013	Bill Victor	25 checks and backup	Letter & information provided 2/15/13
77	2/5/2013	Bill Victor	checks Re LEAPS, CAHN & BAIT	Letter & information provided 2/15/13
78	2/5/2013	Mary Grace	copies of the two final proposals of #886-13 Emergency medical billing	A determination letter was e-mailed to her on 2/19/13 denying her request to receive copies at this time until the negotiations have been completed
79	2/11/2013	Mr. Berkowitz	2009 & 2011 election results	e-mailed results 2/11/13

PUBLIC RECORDS ACT REQUESTS - TRACKING LOG					
BEGINNING JULY 27, 2012					
DATE OF REQUEST	DATE RECEIVED	REQUESTOR	SUBJECT	ACTION TAKEN	
80	2/11/2013	Erika Patterson	solid waste records & franchise agreement	E-mailed response letter indicating that additional time will be needed to gather some of the information. Contract & letter e-mailed 2/20/13.	
81	2/12/2013	Ed Caprielian	Crime reports	Per Chief Irvine, this report will not be available until March 15th	
82	2/12/2013	Kelly Hamm	Sand Dune Park attendance for 2012	e-mailed response received from Parks & Rec 2/13/13	
83	2/13/2013	Brad Austin	Bonds and unclaimed recoveries	Letter & documents e-mailed 2/22/13	
84	2/15/2013	Mark Rocchio	contract between CMB & DMBBPA RE Farmer's Market	Spoke to Mr. Rocchio on 2/25/13 telling him that there is no separate contract with the DMBBPA for the Farmer's Market.	
85	2/15/2013	Jeff Buckley	list of polling locations	e-mailed Sample Ballot 2/15/13	
86	2/16/2013	Edward Teyssier	Resolution or Ordinance that repealed the City's Business License administrative processing fee		
87	2/19/2013	Disability Rights Legal Center	Various issues Re public parks		
88	2/19/123	Ed Caprielian	DUI arrests 2012 - 2013	e-mailed response letter and info on 2/20/13.	
89	2/19/2013	Doc Morino	RFP #886-13 Emergency medical billing ( signed contract, awarded vendors proposal, how vendors were scored & companies who submitted).		
90	2/20/2013	Property Solutions	Various questions Re 1112 Ocean Blvd.	Records were e-mailed by Roz in Comm Dev on 2/26/13.	
91	2/22/2013	Bill Victor	questions on various warrants		
92	2/25/2013	Steiner & Libo	itemized billing Re Fire Dept transport		
93	2/25/2013	Asset Management Consultants	spreadsheet, ledger or other record of active cash and cash-convertible sureties and escrow accounts		
94	2/25/2013	Viet Ngo	copy of election officers and polling places and notices of vote-by-mail processing		
95	2/25/2013	Viet Ngo	copy of memo/document authorizing the Chamber of Commerce and Mark Lipps to use the Council Chamber for a Candidate forum		

**Agenda Date:** 3/12/2013

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**TO:**

Ad Hoc Open Government Subcommittee

**THROUGH:**

David N. Carmany, City Manager

**FROM:**

Roxanne Diaz, Special Counsel

**SUBJECT:**

Status Update on Various Open Government Initiatives: Use of Special Meetings, Policy on Minutes, Consent Calendar Content, Follow-Up on Agenda Items, Staff Reports and Including Public/Stakeholders, Agenda Structure and Process

**DISCUSS AND PROVIDE DIRECTION**

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**RECOMMENDATION:**

Staff recommends that the Open Government Ad Hoc Subcommittee receives a status update and discuss and provide direction on the Open Government Initiatives Matrix as outlined in this report and forward its recommendation to the City Council.

**FISCAL IMPLICATIONS:**

There are no fiscal implications with the recommended action at this time.

**BACKGROUND:**

The Ad Hoc Subcommittee has been reviewing and providing direction to staff on the items listed on the Open Government Initiatives Matrix (Attachment 1) and to date a majority of the items listed on the Matrix have been implemented. On January 3, 2012, the City Council was provided an update on the Matrix and the Council provided the Ad Hoc Committee with further direction on the Matrix initiatives with respect to certain items that require policy direction from the entire City Council. The purpose of this report is to provide further information on those items to the Ad Hoc Subcommittee so that the Subcommittee can discuss and provide its recommendation to the City Council for a future City Council meeting.

**DISCUSSION:**

Question: Should there be any restrictions on the calling of special meetings?

Item 2 on the Matrix is to explore the concept and limits of the use of special meetings. By way of background, in the context of the Brown Act, there are three types of meetings that a

legislative body can hold: regular, special or emergency meetings. Pursuant to the Brown Act, every legislative body must establish a time and place for holding regular meetings. In addition, the Brown Act requires that a legislative body publicly post an agenda prior to holding a meeting.

Almost all meetings of a legislative body, such as meetings of the city council, are “regular” meetings. A “regular” meeting is a meeting that occurs on the legislative body’s established meeting day. Agendas for a regular meeting must be publicly posted 72 hours in advance of the meeting in a place that is freely accessible to the public, and must contain a brief general description of each item of business to be transacted or discussed at the meeting.

Legislative bodies can also hold a “special” meeting. A “special” meeting is a meeting that is held at a time or place other than the time and place established for regular meetings. For special meetings, the “call and notice” of the meeting and the agenda must be posted at least 24 hours prior to the meeting. Under the Brown Act the Mayor or a majority of the legislative body, may call a special meeting at any time.

Last, legislative bodies can hold “emergency” meetings. An “emergency” meeting may be called to address certain emergencies, such as a terrorist act or crippling disaster, without complying with any notice requirements. Notwithstanding, certain requirements apply for notifying the press and for conducting closed sessions as part of those meetings, and except as specified, all other rules governing special meetings apply.

As it pertains to special meetings, it is rare for cities to adopt limits on the use of such meetings. For almost all cities, the calling of a special meeting is not the norm. Most cities do not conduct regular and general city business at special meetings. Special meetings are typically utilized in the case of scheduling conflicts with the regular meeting dates, when there is an urgent need or some other legal reason to take action before the next regular council meeting or if there is a need to devote an entire meeting to a specific topic or agenda item. The cities that do have limits on the use of special meetings are those cities with sunshine ordinances that have included limitations or other requirements that must be met before a special meeting can be called.

For example, in the City of San Jose a special meeting agenda must be posted 4 days in advance of the meeting. In the City of Oakland, a special meeting agenda must be posted 48 hours in advance of the meeting excluding weekends and holidays. Notwithstanding, their ordinance allows the posting requirement to be satisfied for a Monday special meeting if the agenda is posted by Friday at noon.

In addition to augmenting the notice requirements for special meetings, other sunshine ordinance provisions limit the “reasons” for calling special meetings. A proposed ordinance in Dixon provides that special meetings may be called to take action on “an urgency matter that must be addressed sooner than the next regular meeting . . . .” The ordinance then provides numerous examples such as compliance with a court or other legal deadlines, taking a ceremonial action that is non-controversial because of a scheduling conflict of the person being recognized, or the need to address a complex matter that needs more time than that at a regular meeting.



As demonstrated by these examples, the adoption of such policies or ordinances greatly limits the flexibility provided in the Brown Act for calling special meetings. Also, the City Attorney's office does not recommend any policy that could hamper its ability to meet litigation deadlines or limit its negotiation position. We believe that it is important for the City Council and future City Councils to maintain the flexibility provided for in the Brown Act to hold special meetings. For example, if the City Council desired to start a regular meeting earlier and did not adjourn to that earlier meeting time, the new start time for its regular meeting would have to be noticed as a "special meeting." The various provisions discussed above would limit the council's ability to do this under the facts presented. Accordingly, Staff seeks the direction of the Ad Hoc Subcommittee on this matter.

Question: Should the policy on the content of minutes be altered?

Item 8 on the Matrix is the discussion of a policy on the format of minutes (action vs. summary). By way of background, minutes of city council meetings are required by Government Code Section 36814 and 40801. Government Code Section 36814 provides that "the council shall cause the clerk to keep a correct record of its proceedings. At the request of a member, the city clerk shall enter the ayes and noes in the journal." Further, Government Code Section 40801 provides: "the city clerk shall keep an accurate record of the proceeding of the legislative body . . . in books bearing appropriate titles and devoted exclusively to such purposes, respectively." In addition, the City's municipal code provides that the City Clerk "shall be charged with keeping an accurate record of the proceedings of the City Council . . ." [MBMC Section 2.08.150]. Accordingly, minutes serve as the official legislative record of City Council meetings and are intended to be a written account of the actions taken on the items presented at a meeting. State law, however, does not address the format of minutes.

There are several styles of minutes. Industry standards describe the formats as action minutes, summary minutes or verbatim/semi-verbatim minutes. Regardless of the format, minutes must be accurate, clear and state the action taken. Action minutes can be described as minutes with very little narrative, if any, included with motions and votes listed in the record. Summary minutes provided some City Council and staff comments as well as notations on members of the public who speak on agenda items. Verbatim/semi-verbatim minutes include detail of each agenda item listed but also discussion on each agenda item.

Cities throughout the state use various styles of minutes. In speaking to the City Clerk's Association of California, I was informed that best practices dictate the use of "action" minutes for several reasons. First, the duty of the minutes-taker is to record the action taken by the legislative body. Minutes are not meant to be a transcript of the meeting. Action meetings record what occurs. Second, the general rule of transcription is for every hour of meeting time, there should be at least three hours allocated for transaction. Action minutes reduce the amount of staff time spent in transcribing the minutes especially if the minutes are heavily detailed and/or verbatim. Third, narrative on the dialogue that occurs during a meeting can lead to issues related to the interpretation of comments. Action minutes eliminate a discussion about "who said what" or the comment, "I meant to say . . ." Again, minutes are not a transcript of the meeting and with the advent of technology, the video is available if there is a desire to view and hear a full recounting of an item or the meeting.

That said the format of minutes is a matter of preference or policy by the City Council. The

City Clerk utilizes action minutes for City Council meetings and this is consistent with industry standard. If an alternative format of minutes is desired, the Ad Hoc Subcommittee must consider the staffing resources of the City Clerk's office, which is currently understaffed and well as the budget implications. Expectations of the role of the City Clerk have changed over time and city clerks have a more participatory role in local government than just being the minute-taker. In fact, the City Clerks Association of California has provided city clerk's throughout the state with a business card to hand out when someone asks the question, "What is a City Clerk."

The business card provides that the City Clerk is:

Elections Official  
Local Legislation Auditor  
Municipal Officer  
Political Reform Filing Officer  
Records & Archives  
Public Inquiries & Relationships  
City Council Support Services

Moreover, with new technology and methods of archiving, the City Clerk position has taken on more of a role in records management and the new trend in City Clerk offices is to have such a position on staff.

Question: Should a process be adopted to allow members of the public to provide input into staff reports drafted by professional city staff?

Item 18 pertains to City Staff Reports on how to or not to include the public and stakeholders. Specifically this item explores the concept of whether members of the public should provide written input to City Staff for incorporation into the final staff report. We have not found any city that allows for input in this fashion and do not recommend such a policy.

That said, public participation on agenda items happens in a variety of ways. First and foremost, members of the public can submit their comments to council members via email, letter or telephone prior to the council meeting. Second, comments can be submitted in person orally or written during the discussion of the item at the city council meeting. Also, to encourage more public participation City Staff intends to launch the eComment feature of the Granicus program that it recently implemented by July 2013. eComment is a web-based form that is integrated into the published agenda. Members of the Public can review staff reports and indicate their position on an item and leave feedback. The City Clerk can then collate this information and provide it to the City Council at the meeting. Finally, staff incorporates public input on agenda reports as appropriate. For example, when the City Council was considering the issue at the Sand Dunes, public feedback was an important piece of the decision making process. Accordingly, the City Council was informed of the outreach conducted by Staff on the matter in the Staff Report.

Staff recommends that we continue on the track to implement eComment and include public input as appropriate.

Question: Are any further changes warranted to the agenda structure and processes?

Items 9, 13 and 15 pertain to agenda structure and process. Specifically the items are as follows:

1. Agenda Structure and Process
2. Sticking to the Agenda
3. Consent Calendar Content (include routine items only)
4. Follow-up of Items that need to be agendized for a future meeting ensuring that items are brought back

The following is a status on the completion of these items.

As to agenda structure and process, City Staff surveyed a number of cities and gleaned the following information. First, most cities do not allow the public to pull consent items from the agenda. This process is unique to Manhattan Beach. Second, audience participation time limits were in line with Manhattan Beach's limits. Third, order of audience participation was generally in the beginning similar to Manhattan Beach, however most communities did not have a separate community announcement prior like Manhattan Beach. Again, this is another area where Manhattan Beach is unique in this regard.

At the October 16, 2012 City Council meeting, the City Council reviewed the City's agenda format and the City's processes. As the Ad Hoc Subcommittee may know, the City Council has adopted a series of resolutions over the years outlining its agenda and meeting procedures. At the October 16th meeting the City Council took action to amend its procedures to facilitate effective meeting management as follows:

1. Amend the City Council meeting start time to 6:00 p.m.
2. Added approval of the agenda to the beginning of the agenda.
3. Adjourn each regular meeting by 11:00 p.m. except that the Council may by a 4/5th vote, waive or extend the deadline.
4. Clarifying the items that may be considered during "Other Council Business, Committee and Travel Reports"
5. Permitting members of the public to comment for a total of 3 minutes prior to the Council's consideration of items removed from the consent calendar.

With regard to the "sticking to the agenda" initiative, the City Council agreed to facilitate a teambuilding exercise after this new agenda process was tested. That meeting will occur on March 21, 2013 at 8:30 a.m. in the City Council chambers. A copy of the agenda is attached (Attachment 2).

At that same meeting, the City Council also discussed the content of the consent calendar and the City Council directed staff to arrange an opportunity for the Mayor and Mayor Pro Tem to meet with the City Manager to review the draft agenda prior to setting the agenda. This is routine in cities and does help in determining the items that should be placed on consent taking into considerations matters of efficiency and public interest.

As for the last item of following up on items that need to be placed on future agendas, the City Manager has assigned Staff to make a list of items that come up during a meeting that need follow-up and/or need to be placed on a future agenda. Those lists will be reviewed at

the department head meetings immediately following the City Council meetings to ensure that it is placed on the future agenda list, tracked and a staff person assigned to the item for appropriate follow-up.

Last, at the October 16th meeting, staff was directed to bring back the topic of agenda structure and processes to the newly constituted City Council sometime in the spring. Accordingly, this item will be brought to the full City Council for review at a future meeting.

**CONCLUSION:**

Staff recommends that the Open Government Ad Hoc Subcommittee receives a status update and discuss and provide direction on the Open Government Initiatives Matrix as outlined in this report and forward its recommendation to the City Council.

Attachments:

1. Open Government Initiatives Matrix.
2. Agenda for March 21, 2013, Teambuilding Meeting.

Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
1	Public Forums, Hearings, and Meetings	Short	1/3/2012	Send out reserved meeting notices as soon as a meeting is set, with the agenda to follow (e.g. color coded posting boards)	E-Notify, City Website	City Clerk	Scheduling of limited staff, unbudgeted expenses	None; exceeds legal minimum requirements		IMPLEMENTED
2	Public Forums, Hearings, and Meetings	Medium		Explore concept and limits of the use of special meetings (policy)	City Council Policy	City Attorney		Limits Flexibility Provided by the Brown Act		AWAITING AD HOC SUBCOMMITTEE DIRECTION FOR CITY COUNCIL REVIEW
3	Public Forums, Hearings, and Meetings	Short	1/3/2012	Train City Council and Staff on types of meetings (regular, special, emergency, etc)	1-page handout	City Attorney	None	None		IMPLEMENTED Proposed training is to be scheduled
4	Public Forums, Hearings, and Meetings	Short	1/3/2012	Include a schedule of upcoming meetings on each agenda	Modify the current Agenda Template	City Clerk	None	None		IMPLEMENTED
5	Public Forums, Hearings, and Meetings	Medium	6/5/2012	Provide for meeting broadcasting capabilities at the Police/Fire Conference Room, Joslyn Center, Library	Purchase of necessary equipment, additional I.S. Division staff required	I.S. Manager	Scheduling of limited staff, unbudgeted expenses	None	Cost of I.S. staff	IMPLEMENTED Scheduled to be complete by June 30, 2013
6	Public Forums, Hearings, and Meetings	Medium		Provide for interim recording of meetings held outside City Council Chambers	Small investment for equipment, and ongoing staffing	I.S. Manager	Scheduling of limited staff, unbudgeted expense	None	Cost of I.S. staff	IMPLEMENTED
7	Public Forums, Hearings, and Meetings	Short	1/3/2012	Timely completion and posting of City Council, Subcommittee, and Commission meeting minutes	Staff will develop an administrative policy setting the desired turnaround time for meeting minutes and distribute to all departments responsible for commissions or development of minutes	City Clerk	Staffing, day to day operations interrupt this activity	None		IMPLEMENTED
8	Public Forums, Hearings, and Meetings	Short		Policy on the format of minutes (action vs. summary)	City Council Policy	City Clerk	Staffing, day to day operations interrupt this activity			AWAITING AD HOC SUBCOMMITTEE DIRECTION FOR CITY COUNCIL REVIEW
9	Knowledge Acquisition and Information Accessibility	Medium	10/16/2012	Agenda Structure and Process	Survey other cities,	City Manager / City Clerk				IMPLEMENTED City Council Revised Agenda Procedures
10	Public Forums, Hearings, and Meetings	Longterm	10/16/2012	Sticking to the Agenda	Facilitated teambuilding after new agenda process is tested.	City Manager				IMPLEMENTED City Council Teambuilding Meeting on March 21, 2013



Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
11	Public Forums, Hearings, and Meetings	Short	6/5/2012	Evaluate the policy on time limits for audience participation (currently policy of 3-min individual and 15-min cumulative is set by City Council resolution)	City Council Policy	City Clerk	None			<b>IMPLEMENTED</b> <b>City Council Revised Agenda Procedures</b>
12	Public Forums, Hearings, and Meetings	Short	6/5/2012	Evaluate the order/placement of audience participation on the agenda; review other cities' audience participation models	City Council Policy	City Clerk	None			<b>IMPLEMENTED</b> <b>City Council Revised Agenda Procedures</b>
13	Public Forums, Hearings, and Meetings	Short		Consent Calendar content (include routine items only)	Mayor and City Manager currently work together to set the agenda	City Manager	None			<b>IMPLEMENTED</b>
14	Public Forums, Hearings, and Meetings	Short	1/3/2012	Pulling of Consent items: City Council should pull 1 <sup>st</sup> with staff introduction of the item included; clarifying questions and statements that could be addressed quickly vs. pulling an item.	City Council Policy	City Clerk	None			<b>IMPLEMENTED</b>
15	Public Forums, Hearings, and Meetings	Short		Follow-up of items that need to be agendized for a future meeting; ensuring that items are brought back	Staff will make a list of items requested to be agendized during each City Council meeting and the list is discussed at the first Dept Head meeting immediately following City Council meeting.	City Manager / City Clerk	None	None		<b>IMPLEMENTED</b>
16	Knowledge Acquisition and Information Accessibility	Short	1/3/2012	Councilmembers provide oral report of conferences/travel (first meeting after the event – per AB1234) and written reports with attachments (cover page or outline plus supplemental materials) available for public review	Staff will develop a 1-page cover sheet for use by Councilmembers. They will have the ability to attach supplemental materials. This will be kept on file in the City Clerk's office for public review.	City Attorney	None	City Councilmembers will still be required to provide an oral report of their conferences / travel at the first meeting following a trip (per AB1234)		<b>IMPLEMENTED</b>
17	Knowledge Acquisition and Information Accessibility	Short		City Manager to report on conferences/travel of senior staff	Staff will develop a 1-page cover sheet for use by senior staff. They will have the ability to attach supplemental materials. This will be provided to the City Manager within 1-week of the event. City Manager will provide a brief oral summary of senior staff travel at the next City Council meeting under the City Manager's report.	City Manager		None		<b>IMPLEMENTED</b>
18	Public Forums, Hearings, and Meetings	Short		Staff Reports: how to or not to include the public/stakeholders	City staff to include stakeholder input as appropriate.	City Manger				<b>AWAITING AD HOC SUBCOMMITTEE DIRECTION FOR CITY COUNCIL REVIEW</b>

Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
19	Knowledge Acquisition and Information Accessibility	Medium		Public Records Requests	Staff will develop an administrative policy setting Public Records Act procedures ensuring compliance with the law and timely response to all requests	City Clerk / City Attorney				<b>AWAITING AD HOC SUBCOMMITTEE DIRECTION FOR CITY COUNCIL REVIEW</b>
20	Knowledge Acquisition and Information Accessibility	Medium		Provide written guidelines to staff and the public regarding the California Public Records Act <del>and the Brown Act</del> in accordance with the McKee settlement	Written guidelines in the form of a handout will be provided to staff and available for review by the public in the City Clerk's office	City Attorney	None	None		<b>AWAITING AD HOC SUBCOMMITTEE DIRECTION FOR CITY COUNCIL REVIEW</b>
21	Public Forums, Hearings, and Meetings	Medium		Electronic Community Discussion Board	Staff will bring options to the subcommittee and City Council for consideration	City Manager		City Attorney will review	Cost of I.S. staff	
22	Public Forums, Hearings, and Meetings	Short	1/3/2012	Evaluation of Meeting Management Software/Technology Tools to aid in meeting operation and audience participation	Staff will bring to City Council options for enhancing current meeting management software.	City Clerk / I.S. Manager	unbudgeted expense, training of staff for new software; additional /dedicated I.S. staff support during City meetings	None	Cost of I.S. staff	<b>IMPLEMENTED</b>
23	Public Forums, Hearings, and Meetings	Medium	1/3/2012	Voting Touch Device	(included as part of meeting management software/technology)	City Clerk / I.S. Manager	unbudgeted expense, training of staff for new software modules; additional / dedicated I.S. & Clerk staff support during City meetings	None	Cost of I.S. staff	<b>IMPLEMENTED</b>
24	Public Forums, Hearings, and Meetings	Medium	1/3/2012	Public Timer	Implement solution related to Granicus	City Clerk / I.S. Manager	Granicus software configuration and training of staff	None		<b>IMPLEMENTED</b>
25	Public Forums, Hearings, and Meetings	Longterm	1/3/2012	Electronic Agenda Packets	Staff will bring to City Council options for implementation of an electronic agenda packet.	City Clerk / I.S. Manager	unbudgeted expense, training of staff for new software and/or procedures; additional I.S. staff support	None		<b>IMPLEMENTED</b>



Ref. #	Effectiveness Area	Implementation Timeline	City Council Approval Date	DESCRIPTION	How will this be accomplished	Project Lead	Admin. Challenges	Legal Challenges	\$\$\$ Impact	Current Status
26	Public Forums, Hearings, and Meetings	Longterm		<p><b>Quarterly Work Plan updates</b> at City Council meetings and ongoing updates posted to the City website**</p> <p>**The City adopted a "Strategic Plan" and no longer utilizes the quarterly work plan concept.</p>	<p>Modify the current Work Plan website page to a chart form that will be updated on an ongoing basis. An agenda item for "Work Plan Status Update" will be added to the City Council Agenda for the second regular meeting of each month: July, October, January, April.**</p> <p>**The City adopted a "Strategic Plan" and no longer utilizes the quarterly work plan</p>	City Manager	None	None		IMPLEMENTED
27	Public Forums, Hearings, and Meetings	Short	1/3/2012	<p>Scheduling of Annual Work Plan Meetings**</p> <p>**The City adopted a "Strategic Plan" and no longer utilizes the quarterly work plan concept.</p>	<p>A Work Plan meeting to set the coming year's goals typically occurs in January of each year so that items requiring budgetary consideration will be vetted and presented during the budget process.**</p> <p>The City adopted a Strategic Plan and has a Strategic Plan Session every 6 months, which</p>	City Manager	None	None		IMPLEMENTED
28	Open Government Consensus and Commitment Building	Medium		City Council and Staff Training	Review current training offerings, budgets, and opportunities provided to City Council and staff	City Manager / Human Resources Director		None		<p>IMPLEMENTED</p> <p>On-going training will be provided to Staff. Annual training provided to commissions on Brown Act, Public Records Act and Conflicts</p>



## City Council

### Team Building Meeting

Thursday, March 21, 2013

8:30 AM

City Council Chambers



*Mayor David J. Lesser*  
*Mayor Pro Tem Amy Howorth*  
*Councilmember Richard P. Montgomery*  
*Councilmember Nicholas W. Tell, Jr.*  
*Councilmember Wayne Powell*

Executive Team

David N. Carmany, City Manager

Jim Arndt, Public Works Director  
Robert Espinosa, Fire Chief  
Cathy Hanson, Human Resources Director  
Bruce Moe, Finance Director  
Richard Thompson, Community Development Director

Quinn Barrow, City Attorney  
Richard Gill, Parks & Recreation Director  
Eve R. Irvine, Police Chief  
Liza Tamura, City Clerk

### MISSION STATEMENT:

**The City of Manhattan Beach is dedicated to providing exemplary municipal services, preserving our small beach town character and enhancing the quality of life for our residents, businesses and visitors.**

**MANHATTAN BEACH'S CITY COUNCIL WELCOMES YOU!**

*Your presence and participation contribute to good city government.*

*By your presence, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments at two places on the agenda - once following the "Approval of the Agenda" at which time citizens may address the City Council concerning any brief item of community interest not on the agenda and not-to-exceed three minutes in duration for any speaker; and again following "Review and Revise the Three-Year Goals" at which time citizens may address the City Council on any matter of City business on the agenda with each speaker limited to three minutes.*

*Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at [www.citymb.info](http://www.citymb.info), at the County Library located at 1320 Highland Avenue, the Police Department located at 420 15th Street, and are also on file in the Office of the City Clerk for public inspection. Any person who has any question concerning any agenda item may call the City Clerk's office at (310) 802-5056 to make an inquiry concerning the nature of the item described on the agenda.*

*In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Office of the City Clerk at (310) 802-5056 (voice) or (310) 546-3501 (TDD). Notification 36 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.*

**A. PLEDGE TO THE FLAG****B. ROLL CALL****C. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING**

*I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, state under penalty of perjury that this notice/agenda was posted on Friday, March 15, 2013, on the City's Website and on the bulletin boards of the City Hall and the Library.*

*Date: 03/15/2013 Signature: /s/ Liza Tamura*

**D. WELCOME, INTRODUCTION OF THE FACILITATOR AND RECORDER, PURPOSE OF THE RETREAT**

*- Mayor David Lesser*

**E. AUDIENCE PARTICIPATION**

*This portion of the meeting is to provide an opportunity for citizens to address the City Council regarding community announcements. While all comments are welcome, the Brown Act does not allow City Council to take action on any item not on the agenda. Thank you!*

**F. ROLE OF THE FACILITATOR, RECORDER, GROUP, AND PUBLIC**

*- Marilyn Snider, Facilitator, Snyder and Associates*

**G. APPROVAL OF AGENDA**

*By motion of the City Council this is the time to notify the public of any changes to the agenda and/or rearrange the order of the agenda.*

**H. INTRODUCTIONS OF THE CITY COUNCIL AND THE MANAGEMENT TEAM****I. WHAT ARE THE STRENGTHS AND ACCOMPLISHMENTS OF THE CITY OF MANHATTAN BEACH IN THE PAST YEAR?****J. IDENTIFY AND DISCUSS THE BEHAVIORAL WORK STYLES OF THE PARTICIPANTS****K. CLARIFICATION OF EXPECTATIONS/NEEDS TO BE ABLE TO WORK TOGETHER EFFECTIVELY:**

- **What Do the City Council Members Expect/Need from a City Manager and Executive Management Team?**
- **What Does the City Manager and the Executive Management Team Expect/Need from a City Council / City Council Members?**
- **What Do the City Council Members Expect/Need from Each Other?**
- **What Does the City Council Expect/Need from a Mayor?**
- **What Does the Mayor Expect/Need from a City Council?**

**L. IDENTIFY NEXT STEPS / FOLLOW-UP PROCESS****M. SUMMARY OF THE RETREAT****N. CLOSING REMARKS****O. ADJOURNMENT****P. FUTURE MEETINGS****CITY COUNCIL MEETINGS**

*Apr. 2, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Apr. 16, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Apr. 23, 2013 - Tuesday - 6:00 PM - Board & Commission Interviews*  
*Apr. 30, 2013 - Tuesday - 6:00 PM - City Council Study Session*  
*May. 7, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*May. 9, 2013 – Thursday – 6:00 PM – City Council Budget Study Session #1 (Tentative)*  
*May. 14, 2013 – Tuesday – 6:00 PM – City Council Budget Study Session #2 (Tentative)*  
*May. 16, 2013 – Thursday – 6:00 PM – City Council Budget Study Session #3 (Tentative)*  
*May. 21, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jun. 4, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jun. 18, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jul. 2, 2013 – Tuesday – 6:00 PM – City Council Meeting*  
*Jul. 10, 2013 – Wednesday – 8:30 AM – City Council Strategic Plan Meeting*

**BOARDS, COMMISSIONS AND COMMITTEE MEETINGS**

Mar. 25, 2013 – Monday – 6:30 PM – Parks & Recreation Commission  
Mar. 27, 2013 – Wednesday – 6:30 PM – Planning Commission  
Mar. 28, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission  
Apr. 3, 2013 – Wednesday – 6:00 PM – North Manhattan Beach Business Improvement District  
Apr. 8, 2013 – Monday – 6:30 PM – Library Commission  
Apr. 9, 2013 – Tuesday – 6:00 PM – Cultural Arts Commission  
Apr. 10, 2013 – Wednesday – 6:30 PM – Planning Commission  
Apr. 22, 2013 – Monday – 6:30 PM – Parks & Recreation Commission  
Apr. 24, 2013 – Wednesday – 6:30 PM – Planning Commission  
Apr. 25, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission  
May. 1, 2013 – Wednesday – 6:00 PM – North Manhattan Beach Business Improvement District  
May. 8, 2013 – Wednesday – 6:30 PM – Planning Commission  
May. 13, 2013 – Monday – 6:30 PM – Library Commission  
May. 14, 2013 – Tuesday – 6:00 PM – Cultural Arts Commission  
May. 22, 2013 – Wednesday – 6:30 PM – Planning Commission  
May. 23, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission  
Jun. 5, 2013 – Wednesday – 6:00 PM – North Manhattan Beach Business Improvement District  
Jun. 10, 2013 – Monday – 6:30 PM – Library Commission  
Jun. 11, 2013 – Tuesday – 6:00 PM – Cultural Arts Commission  
Jun. 12, 2013 – Wednesday – 6:30 PM – Planning Commission  
Jun. 24, 2013 – Monday – 6:30 PM – Parks & Recreation Commission  
Jun. 26, 2013 – Wednesday – 6:30 PM – Planning Commission  
Jun. 27, 2013 – Thursday – 6:30 PM – Parking & Public Improvements Commission

**Q. CITY HOLIDAYS****CITY OFFICES CLOSED ON THE FOLLOWING DAYS:**

May. 27, 2013 – Monday – Memorial Day  
Jul. 4, 2013 – Thursday – Independence Day  
Sep. 2, 2013 – Monday – Labor Day  
Oct. 14, 2013 – Monday – Columbus Day  
Nov. 11, 2013 – Monday – Veterans Day  
Nov. 28-29, 2013 – Thursday & Friday – Thanksgiving Holiday  
Dec. 25, 2013 – Wednesday – Christmas Day  
Jan. 1, 2014 – Wednesday – New Years Day  
Jan. 20, 2014 – Monday – Martin Luther King Day  
Feb. 17, 2014 – Monday – President's Day  
May. 26, 2014 – Monday – Memorial Day