

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
REGULAR MEETING OF  
DECEMBER 5, 2006**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 5<sup>th</sup> day of December, 2006, at the hour of 6:30 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**PLEDGE TO FLAG**

Kyle Cohen, 5<sup>th</sup> Grade Student, Pacific Elementary School, led the pledge of allegiance.

**ROLL CALL**

Present: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Absent: None.  
Clerk: Tamura.

**CEREMONIAL CALENDAR**

06/1205.1 Presentation of Certificates to the Winners of the 2006 Manhattan Beach Library Children's Bookmark Contest

Mayor Tell introduced **Los Angeles County Youth Services Librarian Melissa Messner** who along with the City Council presented certificates to the following winners of the 2006 Manhattan Beach Library Children's Bookmark Contest: Isabella Spadone, Carley Resin, Nicholas Lee, Tyler Jansen, Vejas Vasiliauskas, Haley Suh, Kaitlyn Kwon, Carina Marsella, Barbara Blumenthal, Chari Noddings, Michael Hadley and Tori Jasuta.

06/1205.2 Presentation of "There's No Place Like Manhattan Beach" Commendation to Robinson Elementary School in Recognition for their Extraordinary Contribution to the Community

On behalf of the City Council, Mayor Tell presented Principal Nancy Doyle of Robinson Elementary School with the "There's No Place Like Manhattan Beach" plaque commending the school on their extraordinary contributions to the City of Manhattan Beach.

Principal Nancy Doyle then introduced Franny Hocking, Marisa Hyams, Chase Williams, John Brady and Meghan McMahan who cited reasons why they enjoy attending Robinson Elementary School.

**CONSENT CALENDAR**

The Consent Calendar (Item Nos. 3 through 12), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Fahey, seconded by Councilmember Montgomery and passed by unanimous roll call vote with the exception of Item No. 8, which was considered later in the meeting under *Items Removed from the Consent Calendar*.

Ayes: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: Aldinger (Item No. 11).

06/1121.2-3 Approve Minutes of the City Council Regular Meeting of November 8, 2006  
(Continued from the November 21, 2006 City Council Meeting)

The Council approved the subject minutes.

06/1205.4 Approve Minutes of the City Council Regular Meeting of November 21, 2006

The Council continued the subject minutes to the December 19, 2006 City Council Meeting.

06/1121.18-5 Adoption of an Ordinance Increasing the Compensation for Elected Officials

The Council adopted Ordinance No. 2094.

**ORDINANCE NO. 2094**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF MANHATTAN BEACH, CALIFORNIA, ADDING A  
NEW SECTION 2.010.100 TO CHAPTER 2.01 OF TITLE II  
OF THE MANHATTAN BEACH MUNICIPAL CODE  
SETTING ELECTED OFFICIAL SALARIES**

06/1205.6 Consideration of Financial Reports - Ratification of Demands: November 30,  
2006

The Council approved with no exception Warrant Register No. 12B in the amount of \$3,325,866.91 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register.

06/1205.7 Authorize the Purchase of Nine Budgeted, Replacement Vehicles for the Police,  
Fire and Public Works Departments to Burch Ford (\$213,543.69) and Villa  
Ford (\$28,152.55)

The Council approved splitting the award of RFB #699-07 to Burch Ford in the amount of \$213,543.69 for the budgeted purchase of two Public Works trucks and six Police patrol cars and to Villa Ford in the amount of \$28,152.55 for the budgeted replacement of a Fire utility vehicle.

06/1205.8 Approval of Language for the Plaque on Bruce's Beach Monument Sign  
(Formerly Parque Culiacan) and Allocate \$8,000 from the City Council  
Contingency for the New Monument Sign

Item No. 8 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR".

06/1205.9 Disbursement of Progress Payments:

- a) Progress Payment No. 19 in the Net Amount of \$188,658.00 to S.P. Pazargad Engineering Construction, Inc. for the Strand Improvement Project
- b) Progress Payment No. 1 in the Net Amount of \$313,587.00 to John T. Malloy, Inc. for the Peck Reservoir Blending Line Project

The Council approved the issuance of the subject progress payments.

**Planning Commission**

06/1205.10 Consideration of a Sign Exception for the Addition of a Pole Sign at 909 North Aviation Boulevard

The Council received and filed the Planning Commission's approval of the Sign Exception for the addition of a pole sign at 909 North Aviation Boulevard.

06/1205.11 Consideration of Planning Commission Approval of a Use Permit for Construction of a 2-Story Youth Center/Assembly Hall, Establish a Site-Wide Parking Requirement and Variance for a New Elevator Shaft/Bell Tower Which Would Exceed the 30-Foot Height Limit for the Manhattan Beach Community Church at 303 Peck Avenue

The Council received and filed the subject report.

06/1205.12 Consideration of Planning Commission Denial of a Variance for Construction of a Deck Approximately 11.5 Feet High, Within the Rear Yard Setback on the Property Located at 1908 Magnolia Avenue

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

**COMMUNITY ANNOUNCEMENTS**

06/1205.17 Ron Newman Re: Beach Cities Toy Drive Fundraiser

**Ron Newman, No Address Provided**, announced that the Beach Cities Toy Drive fundraiser will be held at Beaches Restaurant, at 4:00 p.m., on Saturday, December 9, 2006, noting the key contact people for the two beach cities to be Manhattan Beach Councilmember Richard Montgomery and Hermosa Beach Mayor Sam Edgerton. He encouraged everyone to participate by donating cash and toys and started off by providing the first cash donation of \$500 from Sharkey's.

Councilmember Montgomery further added that the toy wrapping party will be held at the Manhattan Beach Joslyn Community Center on Saturday, December 16, 2006, at 11:00 a.m.

06/1205.18 Maureen McBride Re 10<sup>th</sup> Street Fire Fund

**Maureen McBride, President of the Downtown Business Association**, extended thanks to the community, the Fire Department and the Police Department for keeping the community safe; announced the establishment of a 10<sup>th</sup> Street Fire Fund; stated that donations can be made online at [www.10thstreetfirefund.com](http://www.10thstreetfirefund.com); and reported that an event is being planned with the Chamber of Commerce to be held at the upcoming Holiday Fireworks Festival.

06/1205.19 Charles Mau Re Underground Assessments Being Tax Deductable

**Charles Mau, No Address Provided**, requested that the city determine if any part of the undergrounding assessments are tax deductible.

City Attorney Robert Wadden responded that, while he is not a tax expert and advises everyone to consult with their tax advisor, it is his understanding that no part of the undergrounding assessment (principal or interest), is tax deductible.

06/1205.20 Manhattan Beach Fire Department Spaghetti Dinner

Manhattan Beach Firefighter Steve Fairbrother announced the hosting of the 10<sup>th</sup> Annual Spaghetti Dinner, at the new Fire Facility, on Sunday, December 9, 2006, from 3:30 p.m. to 7:00 p.m., prior to the Holiday Fireworks Festival. He further stated that all proceeds will go to the victims of the 10<sup>th</sup> Street and Aviation Boulevard fires.

06/1205.21 Viet Ngo Re Various Issues

**Viet Ngo, No Address Provided**, asked Council to set aside \$80,000 from underground business to help the 10<sup>th</sup> Street fire victims and invited the Federal Bureau of Investigation and the District Attorney's office to intervene and save Manhattan Beach from public corruption.

Mayor Tell reminded **Mr. Ngo** that this section of the agenda is for *Community Announcements* and that the proper time for his comments is at the end of the meeting under *Audience Participation*.

06/1205.22 Patrick McBride Re Upcoming Events for Seniors

**Patrick McBride, 5<sup>th</sup> and Peck**, announced several activities of the Senior Resources Committee, including scrabble and bag-making, to be held at the Joslyn Center Oasis.

06/1205.23 Frank Matranga Re Art Exhibition

**Frank Matranga, 2<sup>nd</sup> Street and Ardmore Avenue**, announced his annual exhibition of pottery and sculpture at his studio, 100 Block of North Ardmore, on December 9-10, 2006; asked residents to view his work; encouraged them to see what's going on in Manhattan Beach in the art community; and noted that one of his wall murals was destroyed at the El Sombrero restaurant and, because of that, he will be donating a percentage of his proceeds to the 10<sup>th</sup> Street Fire Fund.

06/1205.24 Casey Matranga Re Art Exhibition

**Casey Matranga, 2<sup>nd</sup> Street and Ardmore Avenue**, welcomed everyone into their home for the sale, noting that one of the things that makes their home so unusual is a 7 ft. mural over the fireplace which was designed by her husband, Frank Matranga.

06/1205.25 Parks & Recreation Director Richard Gill Re Annual Holiday Fireworks

Parks and Recreation Director Richard Gill announced that the annual Holiday Fireworks Festival will be held on Saturday, December 9, 2006, with entertainment starting at 4:00 p.m., and the fireworks starting at 6:30 p.m.

Mayor Tell also reminded the public that there will be a “Snow Park” for the children.

06/1205.26 Councilmember Ward Re Youth Recognition Award

Councilmember Ward announced that applications are being accepted for the Manhattan Beach Youth Recognition Award for 2006-2007 to be awarded in Spring of 2007. He asked that anyone seeking information to contact him at [mward@citymb.info](mailto:mward@citymb.info) and also reported that financial commitments have been received by Southern California Edison and Waste Management, as well as his own company, noting that this will allow for scholarships to be awarded to the winners.

06/1205.27 Mayor Pro Tem Aldinger Re City’s General Municipal Election

Mayor Pro Tem Aldinger announced that the deadline for submitting nomination papers to run for City Council is this Friday, December 8, 2006.

06/1205.28 Councilmember Montgomery Re Revised UUAD Website

Councilmember Montgomery congratulated staff on the revised undergrounding website which can be found through the City’s website.

06/1205.29 Mayor Tell Re Fire Funds

Mayor Tell clarified that there are two separate funds set up for the 10<sup>th</sup> Street fire and Aviation fire. He reported that the 10<sup>th</sup> Street Fire Fund was established by the Downtown Business Association at Washington Mutual Bank and that the Aviation Fire Fund was established by the Chamber of Commerce at Union Bank. Noting that further information is available on the city’s website, he indicated that the public can contact Helen Duncan at the Chamber of Commerce (for the Aviation Fire Fund) or Carole Rowe with the Downtown Business Association (for the 10<sup>th</sup> Street Fire Fund) for further information.

**PUBLIC HEARINGS**

None.

**GENERAL BUSINESS**

06/1205.13 Discussion Regarding Existing Artistic Memorial Benches on the Strand

**Parks and Recreation Director Richard Gill** addressed Council with a PowerPoint presentation regarding the issue of the three artistic memorial benches which have been donated and placed on the Strand over the past 15 years. He explained that the **Carol Escobar Bench**, which was approved by Council and consists of two benches side by side, received only favorable comments until it was brought to staff’s attention that a small portion of **Mrs. Escobar’s** ashes was mixed in and added following her death, and that it is unclear to staff if this aspect of the bench was included in the approval process and emphasized that, since placement of the benches, both positive and negative comments have been received, as outlined in the staff report; pointed out that the **Dubose Bench** has received only positive comments and recommended that Council approve retention of that bench; and reported that, following the installation of the third bench, the **Karen Lowerre Salem Bench**, a moratorium was imposed until after the renovation of the Strand and to allow the City time to determine the direction it would take regarding memorial benches on the Strand. He explained that the City has a

contractual agreement with each of the donors which allows the City flexibility, including returning the benches back to the donors.

In response to Mayor Pro Tem Aldinger's request for clarification regarding the timing of the moratorium, City Manager Dolan confirmed that the first bench was approved by Council, and following the approval of the next two benches by staff, Council imposed a moratorium.

In response to Councilmember Ward's inquiry regarding the placement of the black box with the ashes, Parks and Recreation Director Gill explained that the family states that they told the former cultural arts manager that the remains would be included in the bench; it is unclear whether the removal of the black box would affect the integrity of the bench.

**The following individuals spoke on this item:**

- **Candy Duncan, 200 Block of Grandview Avenue**
- **Dustin Salem, No Address Provided, Son of Karen Salem**
- **Viet Ngo, No Address Provided**
- **Alise Longyear, No Address Provided, Daughter of Carol Escobar**
- **Frank Matranga, No Address Provided**
- **Bev Morse, No Address Provided**
- **Vince Salem, No Address Provided, Husband of Karen Salem**
- **Will Longyear, 600 Block of 35<sup>th</sup> Street, Carol Escobar's Son-in-Law**
- **Kristin Vale, No Address Provided**
- **Karol Walberg, No Address Provided**

In response to Councilmember Ward's questions regarding the placement of the block containing human ashes on one of the benches, **Ms. Alice Longyear** stated that this aspect of the bench was approved by the former Director of Parks & Recreation.

In response to comments made related to the legality of destroying/changing the artistic benches, City Attorney Wadden explained that the city is only covered by the contract with the donors; the artists' rights statute doesn't cover every type of artwork; and it is clear that it does not cover these benches.

Councilmember Ward pointed out that, at the time the benches were approved, the process was not as refined as it is now; stated that it's very important to the **Salem Family** and the town that the bench recognize what **Karen Salem's** death stood for; and that while it is not the bench he would have chosen, based on the material used, it was approved by City staff and he does not believe there is another appropriate location for the bench that would be satisfactory to the family and he supports keeping the bench there. He expressed concern with the possibility that Council approval of the **Carol Escobar Bench** may have been subsequently changed by the addition of the small black box.

Councilmember Fahey expressed support for keeping all three benches, pointing out that, with the exception of the two benches, the Strand renovation has been a positive experience, as intended, and celebration of a beautiful part of the City that means so much to so many. She explained that the moratorium came as a result of several complaints about the City starting to create the appearance of memorials along the Strand in order to allow Council to reconsider this policy. She said as a result, the new process is in place looking to the future to create benches, memories and experiences on the Strand in a more uniform way through public discussion and considerable input by commissioners and Councilmembers. She argued that not putting the benches back will cause pain to many people, but returning them may only annoy

some people, and that these benches represent the love these folks had for the City and she sees no reason not to return all of the benches.

Mayor Pro Tem Aldinger agreed with the comments thus far, noting that he supports the moratorium moving forward as an opportunity to sell the bench program, allowing people to purchase benches in honor or memory of members of the community. He said he realizes that the outpour of support by the community shows that people care deeply about the issue.

Councilmember Montgomery said it is not about whether the City can remove the benches or even whether they are considered art. He said that while he acknowledges that the procedure for approving the **Carol Escobar Bench** was flawed, he is in favor of returning the benches to the Strand.

Mayor Tell said that while he doesn't count the number of e-mails received, what impressed him was the positive comments made about the people for which the benches were placed and, while he may not have chosen the materials used, he is in support of keeping all three benches.

In response to Councilmember Ward's suggestion to impose a restriction regarding the placement of human remains in the benches, City Manager Dolan stated that the key issue is that nothing will get installed without Council approval.

Mayor Pro Tem Aldinger stated that while one Council is free to change a past Council's policy, the standing policy is to prohibit memorial benches on the Strand.

**MOTION:** Motion by Councilmember Ward to approve placement of the **Escobar Bench** and **Salem Bench** back on the Strand. Seconded by Councilmember Fahey and passed by the following unanimous roll call vote.

Ayes: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.

#### **RECESS AND RECONVENE**

At 7:50 p.m. the Council recessed and reconvened at 8:00 p.m. with all Councilmembers present.

*06/1205.14 Approval to Authorize the City Manager to Enter Into Contract with Kaku Associates and PCR to Prepare a Traffic Impact Study and the Environmental Impact Report for the Manhattan Village Shopping Center Expansion*

Senior Planner Laurie Jester addressed Council regarding the proposed contracts with **Kaku Associates and PCR** for the traffic impact study and the environmental impact report (EIR) related to the expansion of the Manhattan Village Shopping Center. She explained that the owners have submitted a Master Use application for a three-phase expansion of the shopping center and the EIR looks at all of the potential impacts of the expansion, during which time there will be significant public involvement; noted that the purpose is to comply with the California Environmental Quality Act (CEQA) requirements and help the public understand the potential impacts and how they can be mitigated through the public disclosure process; and explained that the developers will fully fund the preparation of the EIR, with staff responsible for working closely with the developer to ensure that the scope of the EIR is consistent with the

project description and for monitoring and administering the contracts. She indicated an anticipated timeframe of 6-9 months for the preparation of the EIR and completion of the public review process, with an additional period of time to respond to comments.

In response to questions from Council, Senior Planner Jester reviewed the three-phases of the expansion as outlined in the staff report, noting that there is no schedule for the completion of each phase and explained that the staff recommendation includes approval of up to a 10% contract amendment if, through the scope of analysis, it is determined that additional work is necessary.

In response to Mayor Pro Tem Aldinger's inquiry regarding who is responsible for funding the EIR, City Attorney Robert Wadden explained that state law requires the City to control the EIR process but the studies are required because of the project and these are legitimate fees imposed on the contractor.

In response to questions from Council regarding how inclusive the EIR will be as it relates to noise and traffic at Rosecrans/Sepulveda and Marine/Sepulveda and the noise that will affect the village residential community, as well as how the 13 locations for noise and traffic studies were determined, Senior Planner Jester explained that an acoustical engineering firm will analyze the construction noise and post-operational noise and provide a complete analysis and mitigation measures, if it is determined to be necessary; and staff has pre-approved the 13 proposed locations for noise and traffic studies as a result of meetings with the traffic engineer.

In response to Mayor Pro Tem Aldinger's inquiry whether an economic analysis would be conducted on this property and, if so, who would be responsible for funding it, City Manager Dolan explained that, while it is not required by CEQA, the economic analysis for the Metlox project was paid for by the City in order to determine the return on the city's investment. Senior Planner Jester explained that while the matter will not be heard by the PPIC, it would ultimately be heard by the Planning Commission because it is a land use decision.

Councilmember Fahey suggested, and the Council concurred, that a committee of two Councilmembers work with staff during the EIR process, similar to the Metlox project, in order to make a recommendation to Council and avoid spending many hours at council meetings reviewing the entire project. Councilmembers Montgomery and Ward, Mayor Pro Tem Aldinger and Mayor Tell all stated that they would be willing to serve on the committee when it's created.

In response to Mayor Tell's inquiry regarding the process and what happens if only one phase is built, Senior Planner Jester explained that the EIR would address each phase individually, as well as the comprehensive proposal.

There was no public comment on this item.

**MOTION**: Councilmember Fahey moved to authorize the City Manager to enter into contracts with Kaku Associates and PCR for the preparation of a Traffic Impact Study and Environmental Impact Report for the Manhattan Village Shopping Center Phased Expansion Project, and authorize staff to approve contract amendments of up to 10% of the original approved contract amounts. The motion was seconded by Mayor Pro Tem Aldinger and passed by the following unanimous roll call vote.



Ayes: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.

06/1205.15 Consideration of the Finance Subcommittees Recommendation to Issue Pension Obligation Bonds for the Fixed Unfunded Liabilities in the Police and Fire Department Retirement Plans with CalPERS

**Finance Director Bruce Moe** addressed Council regarding the recommendation to issue Pension Obligation Bonds as a way to reduce the cost of the City's pension plans of \$4.4 million for Police and \$2.1 million for Fire, as outlined in the staff report. He said with the current interest rate of 7.75%, to refinance and issue bonds at a 5.5% interest rate would result in a savings of \$361,000 present value. He noted that the Finance Subcommittee has reviewed and approved this action.

There was no public comment on this item.

**MOTION:** Mayor Pro Tem Aldinger moved to approve the issuance of Pension Obligation Bonds for the fixed unfunded liabilities in the Police and Fire Department Retirement Plan with CalPERS; adopt Resolution No. 6075 which includes approval of the Trust Agreement, and authorize a validation action through the Superior Court. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote.

Ayes: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.

06/1205.16 Consideration of Voting Delegate and Alternate Delegate for the Metropolitan Transportation Authority (MTA) Southwest Corridor Sector

City Manager Geoff Dolan explained because Mayor Tell may have a scheduling conflict, it is necessary to appoint an alternate for this position.

There was no public comment on this item.

**MOTION:** Mayor Pro Tem Aldinger moved to appoint Councilmember Montgomery to be the alternate delegate to the Metropolitan Transportation Authority (MTA) Southwest Corridor Sector. The motion was seconded by Councilmember Fahey and passed by the following unanimous roll call vote.

Ayes: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

06/1205.8 Approval of Language for the Plaque on Bruce's Beach Monument Sign (Formerly Parque Culiacan) and Allocate \$8,000 from the City Council Contingency for the New Monument Sign

City Manager Dolan reviewed for the record the recommended change to the original staff memorandum: "...the only resort in the state of California for all races" be changed to read "...the only beach resort in Los Angeles County for all people."

**The following individual spoke on this item:**

- **Patrick McBride, 5<sup>th</sup> Street and Peck Avenue**
- **Bev Morse, 900 Block of 1<sup>st</sup> Street**
- **Sandra Seville-Jones, 6<sup>th</sup> Street**

In response to concerns from members of the public regarding the wording of the plaque, Council discussed various ways to change the phrase "*this two block neighborhood also housed several minorities*" and concurred to substitute the language to state, "*this two block neighborhood was home to several minorities...*"

Councilmember Ward commented that the current proposal is simple and positive and he believes the reference to Leadership Manhattan Beach Class of 2003 should be included.

Councilmember Fahey said she believes the experts on this subject are the residents; that the city is simply trying to commemorate a park and reflect an experience; and that she is not opposed to continuing the matter for two weeks if there is important information that should be included.

Mayor Tell expressed his desire to focus on the positive element, noting the importance of recognizing the historic facts and mention the sad element, but not emphasize what a few horrible people did.

Councilmember Ward pointed out that the comment "*those tragic circumstances reflected the views of a different time*" says enough and no further explanation is necessary.

Councilmember Montgomery said he agrees with the proposed language change and supports approval.

**MOTION:** Councilmember Fahey moved to approve the amended recommended wording for the plaque as proposed by City Manager Dolan "*...the only beach resort in Los Angeles County for all people.*" and approved the recommended wording for the plaque as proposed by Council "*This two block neighborhood was home to several minorities...*". The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote.

Ayes: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Noes: None.  
Absent: None.  
Abstain: None.

Councilmember Montgomery asked staff to retain the existing plaque, for archival purposes.

## AUDIENCE PARTICIPATION

### 06/1205.30 Robert Bush Re Undergrounding of Utilities

**Robert Bush, No Address Provided**, read a statement into the record regarding his opposition to undergrounding of utilities; expressed concern regarding the acceptance by the City of payment of \$80,000 by undergrounding proponents to influence the undergrounding decision; and accused Council by making the rules and then changing them.

In response to **Mr. Bush's** comments, Mayor Tell explained that the Council merely voted to move forward with a Proposition 218 vote and that the donation of \$80,000 was accepted to pay for the preparation of the engineering study in order to figure out how much the undergrounding will cost so it can then go to a vote of the people whether or not they wish to underground. Councilmember Fahey noted that because the only use for the \$80,000 is to pay to prepare the engineering study, there is no risk to the city of losing money and, therefore, Council allowed the vote to be lower than 60%.

### 06/1205.31 Viet Ngo Re Accusations of Council Violations

**Viet Ngo, No Address Provided**, stated that he strongly supports the legal theory proposed by **Mr. Bush** and reminded Council of his opinion that federal statute 666 prohibits bribery and theft of public funds. He asked **Mr. Bush** or other residents to refer this matter to the FBI for prosecution and offered evidence of case law to support it. He said the evidence that Council has stolen public money violates Section 53232.4 of the Government Code, in violation of expense reporting policy; he said he would refer the matter to the FBI and District Attorney and asked Council to return the many thousands of dollars taken against the policy of the U.S. Government.

### 06/1205.32 Gary Osterhout Re Commercialism at City's Annual Pier Lighting Event

**Gary Osterhout, 31<sup>st</sup> and Blanche**, expressed disappointment at the City's Annual Pier Lighting Festivities by the presence of two prancing nuts handing out free pistachio samples and commercial advertising aspect of the event; reminded Council that the Parks and Recreation background summary of this type of business arrangement includes a statement that the residents of Manhattan Beach are accustomed to city events that are free of blatant commercialism; noted that Council objective is to improve marketing in a tasteful manner that satisfied residents, but this partnership is neither tasteful, satisfactory or an improvement; asked where the promised strict and direct control by Council has gone; questioned the justification by Parks and Recreation Director Gill as appealing to local businesses that want to promote their businesses when supporting the City, noting that the company is not local and the business is not being promoted—the product is. He expressed concern about the future and what might appear next year at some other event; recommended the program be abandoned and that Council should designate the city events which will remain commercial free and always be funded by the City, such as concerts in the park or the pier lighting, and then segregate all other events which are believed to be in demand without leveraging off those programs residents hold dear.

In response to Mayor Pro Tem Aldinger's comment that, as a member of the subcommittee, he was unaware that these characters were going to be present and while he recalled that the subcommittee did not approve a fashion show of some sort, and he was surprised that there was any commercial activity at the event, Parks and Recreation Director Richard Gill said *Everybody's Nuts* was the original sponsor and they asked to hand out samples of pistachio nuts at this event and the holiday craft fair, commenting that it was done very discretely.

Councilmember Fahey disagreed, noting that they were not discrete at all and she did not know who they were or what they were giving away.

Mayor Tell said they did not get approved by the subcommittee and he was were surprised to see them there. He said while it was a wonderful event, it was odd that these characters were there and he asked staff to be more communicative on matters such as this to understand what's going to be done at the individual events and that they keep activities at holiday events specifically holiday related.

Councilmember Fahey asked for periodic updates (every six months) on the various packages implemented and what the benefits are so the Council can have input, noting that Council shouldn't judge the event by how many people who complained, but rather that can experience it and make decisions based on their comfort level.

Mayor Pro Tem Aldinger explained that the subcommittee was formed so every request won't have to come before Council; recognized that there needs to be more regular meetings with the consultants because the project has not gone the way it was anticipated; they are not raising as much money as they thought they would; and it is reverting back to what it was before.

In response to Councilmember Ward's inquiry regarding the upcoming fashion show, Parks and Recreation Director Gill explained that it was approved by the subcommittee for the Metlox 13<sup>th</sup> Street corner.

06/1205.33 Steve Morse Re Undergrounding

**Steve Morse, No Address Provided**, spoke regarding undergrounding and asked Council to think more about "morphing" and "gerrymandering" and permitting people to "jump-in" but not letting people "jump-out"; and asked Council to see fairness expressed from both sides of the issue.

06/1205.35 Bev Morse Re Language Change

**Bev Morse, No Address Provided**, thanked the Council for considering and approving the language change pertaining to Agenda Item No. 8.

**CITY MANAGER REPORT(S)**

06/1205.34 City Manager Dolan Re Annual Employee Breakfast

City Manager Dolan invited Council to participate in the Annual Employee Breakfast which is scheduled for Thursday, December 8, 2006, at 6:00 a.m. in the Joslyn Center.

**OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS**

06/1205.36 Councilmember Fahey Re Fashion Show

Councilmember Fahey asked for more information regarding the upcoming Fashion Show.

Parks and Recreation Director Gill stated that the Kohl's Fashion Show was approved by the subcommittee and will be held at the Metlox Plaza at 13<sup>th</sup> Street prior to the Fireworks Festival.

06/1205.37 Councilmember Ward Re Commemoration of City's Birthday

Councilmember Ward reported that he received a letter from a first grader regarding the City's birthday on December 7<sup>th</sup> wondering why the City doesn't do anything to recognize the City's birthday. He asked Council to consider doing something to commemorate the City's birthday.

City Manager Dolan stated that the City is currently planning for the City's 100<sup>th</sup> Birthday celebration.

06/1205.38 Mayor Pro Tem Aldinger Re 9/11 Memorial

Mayor Pro Tem Aldinger expressed concern, and Council agreed, regarding the appropriateness of the World Trade Center Art Project, noting that the memorial, as proposed, was not to scale and that the model did not appear to be as big as the final project.

City Manager Dolan said he will ask the artist for a model to scale prior to installation.

**ADJOURNMENT**

At 9:00 p.m. the meeting was duly adjourned to the 5:30 p.m. Adjourned Regular Meeting to be followed by the 6:30 p.m. Regular City Council Meeting on Tuesday, December 19, 2006, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

\_\_\_\_\_  
MERNA MARSHALL  
Recording Secretary

\_\_\_\_\_  
NICK TELL  
Mayor

ATTEST:

\_\_\_\_\_  
LIZA TAMURA  
City Clerk

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
ADJOURNED REGULAR MEETING  
DECEMBER 5, 2006**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 5<sup>th</sup> day of December, 2006, at the hour of 6:04 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**ROLL CALL**

Present: Montgomery, Fahey, Ward, Aldinger and Mayor Tell.  
Absent: None.  
Clerk: Wadden (Acting).

**CLOSED SESSION**

The Council recessed into Closed Session at 6:04 p.m. and moved to open session at 6:20 p.m.

**ADJOURNMENT**

The meeting was duly adjourned at 6:20 p.m.

ROBERT V. WADDEN, JR.  
Recording Secretary

NICHOLAS W. TELL, JR.  
Mayor

ATTEST:

LIZA TAMURA  
City Clerk