

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
REGULAR MEETING OF  
AUGUST 15, 2006**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 15th day of August, 2006, at the hour of 6:33 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**PLEDGE TO FLAG**

Police Chief Rod Uyeda led the pledge of allegiance.

**ROLL CALL**

Present: Aldinger, Montgomery, Tell and Mayor Ward.  
Absent: Fahey.  
Clerk: Aliabadi (Acting).

**CEREMONIAL CALENDAR**

None.

**CONSENT CALENDAR**

The Consent Calendar (Item Nos. 1 through 11), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Aldinger, seconded by Mayor Pro Tem Tell and passed by unanimous roll call vote, with the exception of Item No. 4 which was considered later in the meeting under *Items Removed from the Consent Calendar*.

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

**GENERAL CONSENT**

06/0815.1 Approve Minutes of the City Council Adjourned Regular and Regular Meeting of August 1, 2006

The Council approved the subject minutes.

06/0801.12-2 Adoption of an Ordinance Regarding Floodplain Management Regulations for Areas of Special Flood Hazards within Manhattan Beach

The Council adopted Ordinance No. 2087.

**ORDINANCE NO. 2087**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF MANHATTAN BEACH, CALIFORNIA, ADDING  
SECTION 9.78 OF THE MANHATTAN BEACH MUNICIPAL  
CODE REGARDING FLOODPLAIN MANAGEMENT**

**REGULATIONS FOR AREAS OF SPECIAL FLOOD  
HAZARDS WITHIN MANHATTAN BEACH**

06/0815.3 Consideration of Resolution Updating and Amending the City's Personnel Rules Regarding Applications and Applicants (Rule VI)

The Council adopted Resolution No. 6054.

**RESOLUTION NO. 6054**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING RESOLUTION 5898 OF SAID COUNCIL (PERSONNEL RULES) BY AMENDING RULE VI (APPLICATIONS AND APPLICANTS)**

06/0815.4 Consideration of Financial Reports:  
a) Ratification of Demands: August 10, 2006  
b) Investment Portfolio for the Month Ending July 31, 2006

Item No. 4 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

06/0815.5 Ratification of Motor Fuel Purchase from Falcon Fuels in the Amount of \$25,741.15

The Council approved the purchase of fuel from Falcon Fuels in the amount of \$25,741.15.

06/0815.6 Renewal of the Blu Moon, Inc. Marketing Plan for the Parks and Recreation Department in the Amount of \$36,000

The Council sub-committee and staff recommend that the City Council review and approve the renewal of the Blu Moon Marketing Plan and contract for 2006-2007.

06/0815.7 Appropriate \$107,496 From the Insurance Fund to Cover the Cost of Increased Insurance Premiums for 2006-2007

The Council approved and appropriated \$107,496 from the Insurance Fund to cover the cost of increased insurance premiums for Fiscal Year 2006-2007 and to reallocate those costs to the using departments.

06/0815.8 Disbursement of Progress Payment No. 4 in the Net Amount of \$17,507.16 to Williams Pipeline Contractors, Inc. for the 2002-2003 Water Main and 2003-2004 Sewer Main Replacement Project

The City Council approved the issuance of the subject progress payment.

**BOARDS AND COMMISSIONS**

**Parks and Recreation Commission**

06/0815.9 Consideration of Draft Minutes, Parks and Recreation Commission Meeting of July 24, 2006

The Council received and filed the subject draft minutes.

**Parking & Public Improvements Commission**

06/0815.10 Consideration of Action Minutes, Parking and Public Improvements Commission Meeting of July 27, 2006

The Council received and filed the subject action minutes.

**Planning Commission**

06/0815.11 Consideration of Action Minutes, Planning Commission Meeting of August 9, 2006

The Council received and filed the subject action minutes.

**COMMUNITY ANNOUNCEMENTS**

06/0815.18 Patrick McBride Re Senior Resources

**Patrick McBride, 5<sup>th</sup> Street & Peck Avenue**, announced the following Senior Resource Committee events which will take place at the Joslyn Center: the monthly movie, *A Love Divided*, will be shown tomorrow August 16, 2006 and artist Frank Matranga will display his art next Tuesday, August 22, 2006 at 1:00 p.m.

06/0815.19 Joe Franklin Re Booster Dinner

**Joe Franklin, 2000 Block of Pine Avenue**, announced that the Mira Costa Football Booster Fiesta Dinner to benefit the team will be held on Saturday, August 6, 2006 from 6:30 – 10:00 p.m. in the common area of Laurel Square and that ticket are \$20 each. He added that several Manhattan Beach restaurants are donating the food and encouraged the community to come and eat with the Mira Costa football families.

06/0815.20 Viet Ngo Re Anti-discrimination and Sexual Harassment Policy

**Viet Ngo, No Address Provided**, encouraged the Council to agendize an anti-discrimination and sexual harassment policy and procedure for City employees to file a grievance.

06/0815.21 Steve Morse Re Self Generating Solar System

**Steve Morse, No Address Provided** requested that the Council agendize a presentation on self generating solar systems and introduced Brad Bartz.

06/0815.22 Brad Martz Re Self Generating Solar System

**Brad Bartz, Rancho Palos Verdes Resident**, acknowledged that he is getting a lot of inquiries about self-generating solar systems and offered to give a presentation on the subject at a future Council meeting. He invited the community to get in touch with him, through Mr. Morse, if they have questions and to visit [www.abcsolar.com](http://www.abcsolar.com).

06/0815.23 Bev Morse Re Visit by Congresswoman Harman & Energy Seminar

**Bev Morse, No Address Provided**, reminded the community that Congresswoman Jane Harman will be speaking at the Redondo Beach Library at 6:00 p.m. tomorrow, August 16, 2006.

She also spoke of attending the meeting on solar energy and urged the Council to agendize the City Council Meeting Minutes of August 15, 2006

issue before making a decision on Utility Undergrounding Assessment District 4a.

06/0815.24    *Parks & Recreation Director Gill Re Metlox Events*

Parks and Recreation Director Richard Gill announced that this Saturday, August 19, 2006 from 11:00 a.m. to 4:00 p.m. the Metlox Town Square will hold an Open House and will provide entertainment, food, games and prizes. He also announced that next Thursday, August 24, 2006, is the kick off of the Thursday Night Entertainment Series in the Metlox Town Square that will take place every Thursday through October from 5:30 – 7:30 p.m.

06/0815.25    *Councilmember Montgomery Re Various Events*

Councilmember Montgomery thanked staff for their work on the Grand Prix Bike Race this past weekend; reminded the community that the Old Hometown Fair will be take place October 7-8, 2006 and that they can contact [www.mbfair.org](http://www.mbfair.org) for any questions regarding the Fair; he announced that the annual Manhattan Beach Mayor's Gold Tournament will take place on October 9, 2006 and anyone wishing more information should contact Jack Tarr at 310/ 344-0697.

06/0815.26    *Mayor Ward Re Donation by Mayor Pro Tem Tell*

Mayor Ward passed along thanks to Mayor Pro Tem Tell for his donation of a computer to the Columbia County Crisis Center, an organization that helps people faced with domestic problems and also those displaced by Hurricane Katrina.

06/0815.27    *Councilmember Aldinger Re the Association of Volleyball Professionals (AVP)*

In response to concerns from the public, Councilmember Aldinger communicated that he will do everything he can to keep the AVP in Manhattan Beach.

06/0815.28    *Lee Berouty Re Agenda Update Needed*

**Lee Berouty, No Address Provided**, pointed out that the address for the Police Department on the City Council Agenda is still listed as the Peck Avenue address and should be updated.

**PUBLIC HEARINGS**

06/0815.12    *Adoption of an Urgency Ordinance Extending the Moratorium on Medical Marijuana Dispensaries an Additional 22 Months and 15 Days*

City Attorney Robert Wadden addressed Council regarding the extension of the Medical Marijuana Dispensaries Ordinance for an additional 22 months and 15 days, that was adopted on July 18, 2006. He pointed out that there is no quick solution to the medical marijuana dispensaries issue or answers to the legality of such dispensaries in California and as this is an urgency ordinance it will require a unanimous vote of the four Councilmembers present in order to pass.

Mayor Ward opened the Public Hearing at 6:40 p.m.

**Viet Ngo, No Address Provided**, asked the Council to follow the lead of the City of Torrance in adopting a resolution to ban such businesses; reminded the Council of the DEA investigation in West Hollywood regarding the use of city property for such purposes; asked the Council to modify the resolution to honor federal law and totally ban such uses, emphasizing that these

businesses not be allowed at the Beach Cities Health District, stating the U.S. Department of Justice will hold the city responsible for tolerating such dispensaries.

**Bev Morris, 900 First Street**, urged Council not to place a moratorium on the dispensaries, stating that the community is extremely caring and there are many people in the community who need medical marijuana.

**Patrick McBride, 5<sup>th</sup> and Peck**, acknowledged concern expressed at the last public hearing about abuse of these types of clinics and expressed his hope to see clinics opened in time. He suggested Council adopt similar requirements as a club in Sonoma County, where patients can join only after receiving a prescription from a physician and if they are county residents who have been signed off by the District Attorney's office; argued that marijuana is a benign drug that is very helpful for many illnesses; and suggested that if such a dispensary were located at the new police building it could help many people with debilitating diseases who have no other alternative except medicines that make them sick.

**Mr. Lee Allen, No Address Provided**, stated that he is a marijuana producer, not to be confused with a marijuana grower; expressed his belief that Manhattan Beach residents are incredibly educated and would be compassionate in helping the needy and sick; and expressed interest in favor of investigating the owner of any dispensary that might some day be allowed in Manhattan Beach, but argued that a 22 month moratorium is too long. In reply to Councilmember Montgomery's question Mr. Allen said that the dispensary closest to Manhattan Beach is located at 148th Street and Hawthorne Boulevard.

Mayor Ward closed the Public Hearing at 6:57 p.m.

In response to Councilmember Montgomery's inquiry, City Attorney Wadden stated that the moratorium could be ended anytime before the expiration of the 22 months if a resolution was found.

Mayor Pro Tem Tell pointed out that no dispensaries are proposed for the City of Manhattan Beach and the ordinance is intended to be pro-active so should a dispensary be proposed, a structure is in place to ensure that potential establishments are regulated; that the operators of said establishments are investigated as we do need to control who ultimately runs the dispensaries. Mayor Pro Tem Tell firmly stated that the City Council is not lacking in compassion for those in need of such medication; The Council is trying to regulate something this is currently unregulated; and for that reason he is very much in favor of the moratorium.

Mayor Ward had questions regarding the impact on the ability of legal dispensaries in Los Angeles County to deliver to Manhattan Beach if the patient could not get to the location where the medical marijuana is available. City Attorney Wadden replied that the ordinance will not prevent the delivery or use of the medicine as long as there is an appropriate prescription; he emphasized that this is more of a land use issue as there are no zoning provisions for the location of a dispensary in Manhattan Beach, but there are questions about the impacts of that kind of use that need to be addressed in order to arrive at a land use recommendation.

Councilmember Montgomery stated that the moratorium gives the Council time to study what is going on and the effects dispensaries have had on other cities; and if a decision is reached before 22 months the moratorium can be lifted at that time.

Councilmember Aldinger agreed with Councilmember Montgomery, noting that he definitely wants to go slowly and develop a very clear policy at the Council level with regard to the purpose and desires of the City and he also stated that a moratorium is a good idea and he is in favor of it.

Concurring with council, Mayor Ward noted that the moratorium does not imply in any way that the Council is not compassionate for the people who have a true need for medicine, and as the delivery services are readily available and legal, he supports the moratorium.

**MOTION:** Councilmember Aldinger moved to adopt Urgency Ordinance No. 2088 extending a previously approved moratorium on medical marijuana dispensaries. The motion was seconded by Councilmember Montgomery and approved by the following unanimous roll call vote:

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

### **ORDINANCE NO. 2088**

#### **AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA EXTENDING THE MORATORIUM ON MEDICAL MARIJUANA DISPENSARIES IN THE CITY**

06/0815.13 Consideration of Planning Commission Approval of a Use Permit to Allow a Proposed New 5,800 Square Foot Retail Center Which Includes a Convenience Store With 24-Hour Operation and Alcohol Beverage License, and an Initial Study and Negative Declaration of Environmental Impacts, Located at 1727 Artesia Boulevard

Councilmember Montgomery recused himself from the hearing on this issue due to a conflict he has with both the applicant and the lender on property.

City Manager Geoff Dolan introduced Associate Planner Daniel Moreno who explained that the 5,800 square foot project unanimously approved by the Planning Commission would normally be on the Consent Calendar, but one of the conditions of the Planning Commission Resolutions requires a more restrictive trash pick up than the regular requirements and a public hearing before Council is required, and that also affords Council the ability to review the entire project. Associate Planner Moreno noted that while there is general support for the project, several neighbors spoke at the Planning Commission hearing and expressed their concerns regarding the 24-hour operation, the hours of alcohol sales, and the hours of trash pickup. He explained that staff has worked with the project architect and property owner over the last 8-10 months to achieve three goals for the site; 1) to find a compatible use for the site from several proposed uses; 2) to have an aesthetically pleasing building design; and 3) to minimize impacts to residential properties to the north. He stated that the Planning Commission agrees that the architect had designed an aesthetically pleasing building by the use of modern forms, materials and extensive natural lighting and the combination represents the contemporary nature of western cities and properties, and additionally the frontage, openings and access to the property are oriented toward Artesia Boulevard and away from the residential properties to the north. In

Conclusion, Associate Planner Moreno stated this was a use permit project; that the project required findings that have been met; the public hearing was properly published in the newspaper; and property owners 500 feet from the site.

In response to Mayor Pro Tem Tell's inquiry regarding assessment of the impact of the 24-hour  
City Council Meeting Minutes of August 15, 2006

operation on the residential neighborhood, Associate Planner Moreno stated that the prior use of the property was also open 24-hours with alcohol sales from 6 am to midnight and that there were no complaints on file.

Mayor Ward opened the Public Hearing at 7:14 p.m.

**Robert Harrow, representing the developer**, stated that during the Planning Commission hearing a restriction on the hours of sales of alcohol was placed until 12 a.m. rather than 2 a.m. and, based upon that restriction, the proposed tenant has written a letter of intent to terminate the lease and emphasized that although there is plenty of interest in the project, this tenant has been determined to be the perfect tenant for the property and he asked Council to reconsider the restriction, and that he doesn't see the difference the two additional hours would make.

In response to questions from Council regarding whether or not the use permit is specific to the proposed tenant and does the City have the right to deny a liquor license, City Attorney Wadden

clarified that the permit is not specific to the tenant but affects only the property owner and the property usage; that although this tenant has made some requests that are reflected in the permit, denial of a liquor license would be based on neighborhood compatibility issues; and as Council has concerns about it primarily becoming a liquor retail outlet, they can restrict the amount of liquor sales by percentage, i.e. the square footage devoted to liquor sales or the hours of sale of liquor. The Council expressed further concern that without knowledge of the proposed tenant it is very difficult to evaluate the impact the 24-hour operation and the alcohol sales may have on the overall neighborhood; and without knowledge of the owner and what type of retail use may occupy the space, causes additional concern as to whether it would be a business compatible with the City and would that business be in place for the long term. City Manager Dolan suggested Council consider the application without taking the proposed tenant into consideration, noting that the permit approves a building and an allowed use for the zone and if the tenant, materials, style were to change, the substantial project would remain the same and would not require additional further from Council.

Director of Community Development Richard Thompson concurred and then described the best case scenario as being when all proposed uses for the property are known; the plans include the type of retail uses within a particular configuration and architectural style; the appropriate number of parking spaces are allocated; and a new permit is not required each time there is a new tenant as long as said tenant and business complies with the original permit condition that the project be "in substantial conformance with the approved plans." He pointed out that the applicant is asking for sale of alcoholic beverages until 2 a.m. after agreeing to 12 midnight at the Planning Commission meeting following some negotiation regarding the 24-hour use and Director Thompson stated that it is entirely appropriate for the project to come to Council at this time, even if the current proposed tenant backs out.

**Stewart Zackley, project owner and resident of the 4100 block of The Strand**, conveyed that the plans are substantially complete and they would like to start building regardless of whether or not Famima is the tenant. He requested Council to thoughtfully determine whether 2 a.m. sales are appropriate, stating that their lease does not allow Famima to back out even if the City does not approve alcohol sales until 2 a.m. and offered to remove the 24-hours operating hours if Famima or a 7-11 doesn't go in there; and he said that the other tenant may be a bank.

Mayor Ward closed the Public Hearing at 7:35 p.m.

Council agreed that the discussion has significantly helped their comfort level with the project; the project is impressive, beautiful and will be built high-end retail as described; and they are in

favor of the Planning Commission recommendation.

**MOTION:** Councilmember Aldinger moved to adopt Resolution No. 6055. The motion was seconded by Mayor Pro Tem Tell and approved by the following roll call vote:

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

#### **RESOLUTION NO. 6055**

#### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A USE PERMIT FOR A 5,800 SQUARE FOOT RETAIL CENTER WHICH INCLUDES A CONVENIENCE STORE WITH 24-HOUR OPERATION AND ALCOHOL BEVERAGE LICENSE AT 1727 ARTESIA BOULEVARD**

#### **GENERAL BUSINESS**

06/0815.14 Consideration of a Resolution and Introduction of an Ordinance Amending the Contract Between the City of Manhattan Beach and the Board of Administration of the California Public Employees' Retirement System (PERS) to Provide Section 20965 (Credit for Unused Sick Leave) for Local Miscellaneous Members as Authorized in the 2006 – 2011 MOU Between the City of Manhattan Beach and California Teamsters Local 911

Human Resources Director Marcie Scott introduced Senior Human Resources Analyst Danielle Higdon who explained that on August 1, 2006, by approving the Memorandum of Understanding (MOU) between the City of Manhattan Beach and Miscellaneous Group represented by California Teamsters Local 911, Council agreed to amend its contract with the California Public Employees Retirement System (PERS) to provide an additional benefit that at the time of their retirement, allows employees to convert unused sick leave to service time at the rate of one year of service time for every 2000 hours of sick leave, which encourages employees to save sick leave to enhance their retirement benefit. She stated that based on actuarial studies from PERS, providing this benefit will affect the City's PERS employer rate by 0.27%. In closing Senior Analyst Higdon pointed out that the implementation of the contract amendment requires the adoption of a Resolution of Intent and the introduction of an Ordinance to amend the contract between the City of Manhattan Beach and the California Public Employee Retirement System.

**There was no public input on this item.**

**MOTION:** Councilmember Aldinger moved to adopt Resolution No. 6056, waive further reading and introduce Ordinance No. 2090. The motion was seconded by Councilmember Montgomery and approved by the following unanimous roll call vote:

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



**RESOLUTION NO. 6056**

**RESOLUTION OF INTENTION TO APPROVE AN  
AMENDMENT TO CONTRACT BETWEEN THE BOARD  
OF ADMINISTRATION CALIFORNIA PUBLIC  
EMPLOYEES' RETIREMENT SYSTEM AND THE CITY  
COUNCIL CITY OF MANHATTAN BEACH**

City Attorney Robert Wadden read aloud Ordinance No. 2090.

06/0815.15 Consideration of Ordinance No. 2089 Implementing A City Council Work Plan  
Item To Create A Recognition Process For Culturally Significant Landmarks

Responding to Mayor Ward's statement that he understood the Work Plan Item to be a preservation ordinance as opposed to one for identifying landmarks, City Manager Dolan explained that the various alternatives will be discussed this evening, with input from both City Attorney Robert Wadden and Community Development Director Richard Thompson. City Attorney Wadden iterated that Council had asked for a historical preservation ordinance at the City's Work Plan meeting two years ago. While cautioning staff not to put restrictions on property owners and their property rights, he explained that the proposed ordinance focuses on recognition of culturally significant properties and attempts to preserve them by drawing attention to their importance, and noted there a wide variety of tools is available if the Council would like to be more restrictive. He pointed out that the Planning Commission wanted to implement a voluntary Mills Act Ordinance, which would act as an incentive for property owners to voluntarily restrict modifications to their property for a period of at least ten years in exchange for a re-evaluation of the property and a reduction in property taxes during that period of time, and although this type of ordinance is legal and within the power of Council, it was not the direction given by Council during the Work Plan meeting. City Attorney Wadden explained how the proposed ordinance provides for recognition of private property only if is initiated by the property owner, and that any Manhattan Beach resident may nominate a publicly owned property for recognition. He further explained that the cultural criteria are broader than simply historical criteria, allowing for recognition of properties that have local and/or cultural significance but not necessarily have historical significance. City Attorney Wadden emphasized that the ordinance does not place restrictions on the use or demolition of the property, but simply allows a designation to be placed on the property with appropriate signage to memorialize the recognition. He stated that several suggestions from local historian Jan Dennis have been incorporated into the proposed ordinance, including the establishment of a task force to assist the City by providing local education, evaluate and review proposals and various other tasks, which the Community Development Department feels may be a good resource to assist is providing services associated with this ordinance and future local historical education.

In response to questions from Council regarding amount of staff time required to implement this ordinance versus a Mills Act ordinance, Community Development Director Richard Thompson explained that with assistance from the task force to evaluate and review proposals,

staff believes they can accommodate the proposed ordinance by using current staffing but estimate that it would take approximately a year for a full-time person to develop steps to make an effective Mills Act program, which entails each participating property owner entering into a contract requiring City authorization for any alterations to their house.

In response to questions from Council regarding the method of appointing the task force and whether the task force would approach property owners to suggest they apply for recognition, Community Development Director Thompson stated that while the Council would have ultimate authority to approve the members of the task force, it is his understanding that Jan Dennis already has a list of community members ready to serve on such a committee and that they may choose to ask property owners if they would like to participate.

In response to Mayor Ward's inquiry regarding the process if a property owner who had received designation later changed their mind, City Attorney Wadden stated that there is a process for them to come back to the City and ask for the designation to be taken away, but they couldn't just un-designate it themselves.

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

**Jan Dennis, No Address Provided**

Responding to Councilmember Aldinger's inquiry regarding the amount of work required if the City were to approve a Mills Act and whether she felt the committee could do the work, **Jan Dennis** stated: the City would maintain the contract but the committee would do a lot of the work; Federal money is available for administration of the Mills Act; all participating cities have committees or commissions that do the work and many have a historical society; and she emphasized that an owner cannot apply for the Mills Act unless the City is a participant in the program.

In response to Mayor Pro Tem Tell's concern that people wouldn't voluntarily ask for recognition unless there is an incentive, **Jan Dennis** assured Council that the committee could help find properties that would like to be involved in the Mills Act.

In response to Councilmember Aldinger's inquiry whether the Mills Act spells out what the actual property tax relief is, City Attorney Wadden explained that it is a re-evaluation of property taxes based on a formula. He stated that he does not believe the Mills Act is something that volunteers can do, noting that there is a lot of work involved when a property owner wants to do a remodel on the property.

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

**Jim Fucil, No Address Provided** commented that the proposed ordinance is the bare minimum the City should do, and asked Council to amend the ordinance to allow properties to be nominated by someone other than the owner and bring it to the Planning Department Staff's attention.

In response to Councilmember Montgomery's concern about nominating properties against the property owner's wish, Councilmember Aldinger pointed out that all requests would come to the Council before being designated and at that time the property owner could request not to be designated.

**Wayne Powell, 100 block of 36<sup>th</sup> Street** spoke as a former member of the Redondo Beach Preservation Commission said a landmark designation does nothing for preservation and suggested using the voluntary Redondo Beach ordinance as a model and making it a turn-key program. He argued that the proposed ordinance does nothing for preservation and pointed out that the Work Plan Item was supposed to do something to preserve our historic homes.

Councilmember Aldinger agreed that the Work Plan item refers to a Historical Preservation Ordinance, adding that he would like to try to find some volunteers to work on the Mills Act,

determine the cost, and perhaps work towards preserving some of the historical beach houses.

Councilmember Montgomery conveyed his strong reluctance to implement the Mills Act due to the fact that it would require a 10-year contract that would be binding on heirs and have an impact on the market value of the home. He expressed support for starting off slow by identifying the properties and working with the property owner to determine if they want to go forward, pointing out that the proposed ordinance can be implemented without additional staff and meets Council's intent, while not enforcing the Mills Act.

Mayor Pro Tem Tell stated there is a need to figure out what volunteer incentives are needed, as well as determining the true impact on staff time of the Mills Act. He agreed that the proposed ordinance is a good first step; expressed hope that the task force would work on the educational role to help determine the number of residents interested in participating; and emphasized that staff should not consider the Work Plan Item satisfied by the adoption of this ordinance.

Mayor Ward recalled a strong desire to not tie the hands of the property owners and offered this as a good step toward recognizing some significant properties in town. He noted that without sufficient information as to how the Mills Act will affect the rights of the property owner, he cannot support it at this time, adding that he supports the proposed ordinance which is a simple, totally voluntary program and will allow the city to determine how many properties will be affected by this ordinance and what level of demand there is for it.

Councilmember Aldinger thanked **Jan Dennis** for the education regarding the Mills Act; said he would like to move toward the Mills Act, noting that the proposed ordinance does not address historical preservation; acknowledged that staff time is an issue but emphasized that as long as the program is voluntary on the part of the property owner, he does not have a problem offering a program that would give property owners tax relief for the ten-year contracted period.

**MOTION:** Councilmember Aldinger moved to waive further reading and introduce Ordinance No. 2089. The motion was seconded by Councilmember Montgomery and approved by the following unanimous roll call vote:

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

City Attorney Robert Wadden read aloud Ordinance No. 2089.

06/0815.16 Update of City Council's Work Plan Item Regarding Bicycle Safety Awareness and Consideration of Ordinance Prohibiting Luge and Destructive Skateboarding Throughout the City

City Manager Geoff Dolan introduced Lieutenant Derrick Abel who addressed Council regarding a City Council Work Plan item aimed at prohibiting luge and destructive skateboarding throughout the City. He defined "luge" skateboarding as a gravity-powered activity that involves riding a skateboard in a seated, lying or prone position down a paved road, sidewalk or organized course that has more than a 3% grade; noted that Manhattan Beach has many streets that exceed the 3% grade with some as high as 19%; that skateboarders are allowed to ride in any area that has not been designated by the Chief of Police as being closed to such activities; and that presently there are no restrictions on luge or destructive skateboard

riding. Lieutenant Abel stated the Police Department believes that in addition to prohibiting this activity, it is imperative to educate the residents of Manhattan Beach and is taking a pro-active approach with a safety awareness campaign through community meetings; educational flyers citing the associated dangers, hazards and consequences of luge and destructive skateboarding; emphasis on the local laws that prohibit this activity; and prior to any enforcement distribute this information to the community and with the participation of the school offices, to the schools. The Police Department believes that taking pro-active steps will help in avoiding a potential tragedy and pointed out that a number of surrounding cities have adopted municipal codes that generally regulate the use of skateboards but none have specific language addressing luge or destructive skateboarding. He stated that City Attorney Wadden has proposed language that would prohibit luge and destructive skateboarding in all of Manhattan Beach and this additional language for Municipal Code 14.28.160 reads as follows: *“Notwithstanding the foregoing it shall be prohibited throughout the City, whether on public or private property, for any person to ride or propel a skateboard in such a way as to make contact with a planter, retaining wall, wall, railing, or decorative architectural feature of any kind. Signage shall not be necessary for enforcement of this subsection.”* Lieutenant Abel concluded by reiterating that the addition of the proposed municipal code along with the safety awareness campaign information is a positive step in informing the community and recommends prohibiting these activities within the City

Following discussion with Council regarding the proposed flyer, Lieutenant Abel agreed to make modifications to include destructive riding in addition to the dangerous luge skateboarding; change the graphic of the skateboarder to a seated position; and perhaps include a photo of a skateboarder engaged in destructive activity.

Councilmember Aldinger expressed support for an ordinance that eliminates luge skateboarding; noted that it will take a continuing educational program and additional flyers to get the word out to the community; expressed concern for the destructive skateboarding issue relative to planters, walls etc. but we need the ordinance and her supports it.

Councilmember Montgomery expressed support for both the intent and the ordinance.

Mayor Pro Tem Tell stated one of the most important results of this effort will be educational and expressed hope that the fact that the penalty is a misdemeanor there will be some behavioral changes.

Mayor Ward expressed support for the ordinance, noting that this is a liability issue the City doesn't need and he supports an ordinance to educate the children and adults on the proper way to skate within the City of Manhattan Beach.

**MOTION:** Councilmember Montgomery moved to waive further reading and introduce Ordinance No. 2091. The motion was seconded by Mayor Pro Tem Tell and approved by the following unanimous roll call vote:

Ayes: Aldinger, Montgomery, Tell and Mayor Ward.

Noes: None.

Absent: Fahey.

Abstain: None.

City Attorney Robert Wadden read aloud Ordinance No. 2091.

06/0815.17 Consideration of a Status Report on the Recruitment of a Steering Committee for the Community Facility Strategic Plan

City Manager Geoff Dolan reported that following extensive advertising, the City has received approximately 60 applications, a conference call was conducted with the committee members,

and applications are still being accepted.

Councilmember Aldinger stated that while there is a good list of names from which to choose, it is important to get the names out to the rest of the Council so they know who has applied and can approach anyone they would like to see on the committee but has not applied.

Mayor Pro Tem Tell conveyed the goal was to put together a committee of 10-15 diverse residents and added that there is still time to apply for any potential applicants who have not yet applied.

City Manager Dolan stated that the applications will be mailed to all Councilmembers at the end of the week and reminded everyone that the application is available from the City Manager's office or downloadable from the City's website.

Mayor Ward thanked all of the applicants for stepping forward for this purpose.

### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

06/0815.4 Consideration of Financial Reports:

a) Ratification of Demands: August 10, 2006

b) Investment Portfolio for the Month Ending July 31, 2006

Pointing out that the individual who pulled this item off the Consent Calendar was no longer present at the meeting, the following motion was made:

**MOTION:** Councilmember Aldinger moved to approve with no exception Warrant Register Nos. 30B & 4B in the amount of \$13,626,849.85 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 and received and filed the Investment Portfolio for the month ending July 31, 2006. The motion was seconded by Mayor Pro Tem Tell and passed by the following unanimous roll call vote:

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

### **AUDIENCE PARTICIPATION**

06/0815.29 Steve Shaw Re Residential Rentals

**Steve Shaw, No Address Provided**, spoke about the rights of property owners to rent out their homes and emphasized that most short-term tenants do not cause problems. He explained that most renters prefer to operate "under the radar" and that vacation rentals are a creative way for homeowners to pay their property taxes and mortgages. He urged the Council not to overreact because of one situation and not to place a burden on renters who are responsible residents.

In response to questions from Council, **Mr. Shaw** replied that tenants sign a lease and pay a deposit for the rental.

06/0815.30 Frank Stepczyk Re Undergrounding

**Frank Stepczyk, 100 Block of South Poinsettia**, explained to the Council that his home is located on the boundary of reformulated Utility Undergrounding Assessment District 4a; that he will pay at

least \$75,000 over a 20-year period; and that none of the poles within his view will come down. He stated that the City Council should protect those that can't protect themselves financially and that seniors shouldn't have to put liens against their home to pay to underground utility lines.

06/0815.31 Patrick McBride Re Wireless Communications

**Patrick McBride, 5<sup>th</sup> Street & Peck Avenue**, spoke of the different states that have wireless communications and how reasonable the costs are. He pointed out the number of companies that each have cables on utility poles in the City and how wireless communications would allow them to be bundled together or taken down entirely.

06/0815.32 Lee Berouty Re Undergrounding

**Lee Berouty, 1200 Block of 11<sup>th</sup> Street**, voiced her opposition to the City's attempt to underground utilities and the petitions that are being circulated in support of it.

Mayor Ward stressed that utility undergrounding is resident driven and that it is not proposed for the area in which Ms. Berouty lives.

06/0815.33 Michele McGarry Re Residential Rentals

**Michele McGarry, El Porto Resident**, concurred with Mr. Shaw's comments on residential rentals adding that, like most renters, she prefers the longer-term rentals, but would like to retain the flexibility of renting short term. She pointed out that just because a tenant rents for a longer period doesn't mean they won't have parties and that the minimum 2-week proposal does nothing to fix the problem.

06/0815.34 Terry Davenport Re Residential Rentals

**Terry Davenport, No Address Provided**, stated that in addition to the comments made by the previous speakers, by restricting the renters to a minimum of two weeks we are cutting back on their ability to spend money at the various venues in town. She said she has rented to longer-term tenants but has many renters who would not be able to afford the longer period of time. She said there are rules and ordinances on the books that can deal with the problems and everyone needs to take responsibility for being a good neighbor.

06/0815.35 Viet Ngo Re Misuse of Public Funds

**Viet Ngo, No Address Provided**, accused the City Council of misuse of funds for public utilities; asked Council to reverse the return the money, with full interest, to property owners in Underground Utility Districts 2 and 6, stating that he believes this is a conspiracy to take money from the property owners under the color of law; stated his belief that the property owners were victimized and deprived of their civil rights and they should contact the FBI and U. S. Attorney's office for assistance.

06/0815.36 Paul Gross Re Low Flying Aircraft

Reading from a letter addressed to the City Council., **Paul Gross, No Address Provided**, relayed his frustration in regard to the low flying airplanes that circled over the volleyball event last weekend. He urged residents to call Mike Marchand at the Federal Aviation Agency (FAA) at (310) 215-2150, extension 114, to register a complaint and put an end to this type of unsafe nuisance. He further urged the City to guide the FAA to "go after" the companies as well as the pilots of these aircrafts.

06/0815.37 Robert Bush Re Undergrounding

**Robert Bush, No Address Provided**, stated that he is a property owner in dissolved District 9, expressed concern that gerrymandering will resurrect the District, and asked that no more petitions be allowed to circulate in District 9. He said it is very difficult to imagine paying \$50,000 for something he doesn't want and argued that the only people who benefit from undergrounding are the real estate agents who get the listing for the houses that must be sold because the owners can't afford undergrounding. He said a resident satisfaction survey showed that only 1% of the residents thought that undergrounding would make the city any better; petitions and surveys should require 2/3 and not only 60% vote of all residents; there should not be gerrymandering for any district that has been dissolved; admitting a mistake is not a sign of weakness but is a tool to gain the trust of the residents; City Council should act in an ethical, moral non-covert and trustworthy manner so a democratic process for undergrounding can proceed in Manhattan Beach.

**CITY MANAGER REPORT(S)**

None.

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

06/0815.38 Councilmember Montgomery Re Clarification

Councilmember Montgomery brought up that due to the length and number of items at the last Council meeting, and the ensuing resident confusion, he asked for the return of the item regarding the percentage of returned surveys—whether it was a percentage of households or of the returned surveys. He stated that following the review of the video of the meeting, it was discovered that the motion did not include the household.

City Manager Dolan explained that it was included in the discussion and in the summary report, but it was not included in the motion.

Assistant City Manager Sherilyn Lombos explained that the discussion before the motion and in the recap following the vote included 60% of the total households.

In response to Mayor Pro Tem Tell's inquiry of Councilmember Montgomery regarding his intent in making the motion, City Manager Dolan explained that the specific motion did not include this item and technically the decision can be made the night the surveys come in, noting that it is Council policy.

City Attorney Wadden stated that, because the issue was not included in the original motion and it wasn't clear from the language of the motion, this is not the reconsideration of a motion because it is not a request to change the motion.

In response to Mayor Pro Tem Tell's inquiry regarding the procedure, City Attorney Wadden stated that the Council can hold discussion and remake the motion or not.

Councilmember Montgomery stated that this is a citywide going forward issue from this point and he would like to clear up the confusion.

In response to Mayor Ward's concern with opening up the entire matter just to clarify a motion that was clear in the throughout the discussion of the item and why it can't be approved by inference, Councilmember Montgomery stated that he has received several communications from people who are confused about what took place and he would like to clarify and make a

final motion and get some closure on it.

City Manager Geoff Dolan stated his understanding of Council direction that the specific issue—what threshold would be used (60% of households or surveys returned)—will be placed on an upcoming agenda in September or October.

**ADJOURNMENT**

At 9:24 p.m. the meeting was duly adjourned with the City Council adjourning to the 5:30 p.m. Adjourned Regular Meeting to be followed by the 6:30 p.m. Regular City Council Meeting on Tuesday, September 5, 2006, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.

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MERNA MARSHALL  
Recording Secretary

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MITCH WARD  
Mayor

ATTEST:

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TERRI ALIABADI  
Acting City Clerk



**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
ADJOURNED REGULAR MEETING  
AUGUST 15, 2006**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, scheduled for the 15<sup>th</sup> day of August, 2006, at the hour of 6:00 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City, was cancelled.