

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING OF
MARCH 7, 2006**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 7th day of March, 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

Brady Valashinas, an 8th Grade Student from Manhattan Beach Middle School, led the pledge of allegiance.

ROLL CALL

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

CEREMONIAL CALENDAR

None.

CONSENT CALENDAR

The Consent Calendar (Item Nos. 1 through 9), consisting of items under *General Consent and Boards and Commissions*, was approved by motion of Councilmember Aldinger, seconded by Councilmember Fahey and passed by unanimous roll call vote with the exception of Item Nos. 2, 5, and 6, which were considered later in the meeting under *Items Removed from the Consent Calendar*.

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

GENERAL CONSENT

06/0307.1 Approve Minutes of the City Council Adjourned Regular and Regular Meeting of February 21, 2006

The Council approved the subject minutes.

06/0307.2 Consideration of Financial Report: Ratification of Demands - February 23, 2006

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

06/0307.3 Consideration of a Resolution to Allow Option of Pre-Tax Payroll Deduction Plan for Service Credit Purchases From California Public Employees' Retirement System (CalPERS)

The Council adopted Resolution No. 6021 allowing pre-tax payroll deductions for service credit purchases from the California Public Employee's Retirement System (CalPERS).

RESOLUTION NO. 6021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A PRE-TAX PAYROLL DEDUCTION PLAN FOR SERVICE CREDIT PURCHASES (CONTRIBUTION CODE 14)

06/0307.4 Award of Contract (\$134,285) for the 2005-2006 Slurry Seal Project to American Asphalt South, Inc.

The Council approved the award of a contract for the 2005-2006 Slurry Seal Project to American Asphalt South, Inc. in the net amount of \$134,285.

06/0307.5 Disbursement of Progress Payment No. 10 in the Net Amount of \$336,946.62 to S.P. Pazargad Engineering Construction, Inc. for the Strand Improvement Project

Item No. 5 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

BOARDS AND COMMISSIONS

Library Commission

06/0307.6 Consideration of Draft Minutes, Library Commission Meeting of February 13, 2006

Item No. 6 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

Planning Commission

06/0307.7 Consideration of Action Minutes, Planning Commission Meeting of February 22, 2006

The Council received and filed the subject action minutes.

06/0307.8 Consideration of Planning Commission Approval of a Variance to Allow Construction of a 3-Story Single Family Residence to Project Into the Required Front Yard Setback, for the Property Located at 413 9th Place

The Council received and filed the subject report.

06/0307.9 Consideration of Planning Commission Approval of a Coastal Development Permit and a Vesting Tentative Parcel Map of 2 New Condominium Units for the Property Located at 4113 Ocean Drive

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

COMMUNITY ANNOUNCEMENTS

06/0307.15 *Mike Pitts Re Mira Costa High School Choir and Orchestra*

Mike Pitts, representing the Mira Costa High School Choir/Orchestra Booster Club, reminded the community that the Choir and Orchestra are playing at Carnegie Hall and invited everyone to a send-off concert on March 24, 2006, at 7:00 p.m., with tickets available at Dietz Brothers and the Strand Cleaners.

06/0307.16 *Doris Nickelson Re Kenny Nickelson Memorial Foundation*

Doris Nickelson, representing the Kenny Nickelson Memorial Foundation, presented the Council with a plaque and thanked the citizens of Manhattan Beach for contributions to and support of the Beach Cities Toy Drive on behalf of the needy children in Los Angeles County.

06/0307.17 *Bev Morse Re the Death of Dana Reeve*

Bev Morse, No Address Provided, expressed sorrow and read a statement made by Senator Feinstein on the recent death of Dana Reeve.

06/0307.18 *Bill Eisen Re Several Issues*

Bill Eisen, 3500 Block of Crest Drive, speaking as a private resident, and not as a member of the School Board, expressed his disappointment that the revenue generated by the sale of the Manhattan Heights Library was not used to expand the downtown library. He stated his belief that the City is improperly collecting several hundred thousand dollars per year as additional utility tax assessments; pointed out that utility undergrounding assessments are subject to the legal standing of reasonableness and asserted that he could get the assessments reduced by at least half if he were to file a lawsuit. He commented that the \$275,000 proposed for the website is a ridiculous amount to pay and encouraged residents to call him at 310-546-2085 to discuss these matters.

06/0307.19 *Viet Ngo Re Undergrounding*

Viet Ngo, No Address Provided, accused the Council of conspiracy against the community's civil rights as it relates to the undergrounding of utility lines; cited the Bane Act, Civil Code Section 52.1 as prohibiting this; and urged all affected citizens to contact the District Attorney's office and the Attorney General, as well as the United States Department of Justice and ask for an investigation into what he believes is extortion.

06/0307.20 *Bill Victor Re Police Watch*

Bill Victor, No Address Provided, stated that his *Police Watch* organization is still active, expressed disappointment in the Council that the survey regarding undergrounding still has not been sent out and encouraged residents who would like help regarding the undergrounding to call him at 310-318-5000 or 310-374-0086.

06/0307.21 *Councilmember Montgomery Re Hazardous Waste*

Councilmember Montgomery announced the upcoming Hazardous Waste Roundup on Saturday, March 25, 2006 from 9:00 a.m. to 3:00 p.m. at Northrop Grauman.

Mayor Ward thanked everyone for their support of the Manhattan Beach Youth Recognition Award event and silent auction and expressed gratitude for the thousands of dollars raised to be awarded to two deserving students.

PUBLIC HEARINGS

05/0705.16-10 Consideration of Planning Commission Recommendation for City Council 2005-2007 Work Plan Item to Amend the Tree Preservation Regulations, Section 10.52.120 of the Zoning Code, and Adoption of New Fees and Fines for Violation of the Ordinance

City Manager Geoff Dolan introduced Senior Planner Laurie Jester, who reviewed the changes made in the Ordinance and other recommendations according to direction given by Council at a recent meeting. These changes include the addition of language to: allow the relocation of protected trees with a permit; ensure that buildings will take precedence over protected trees in street-side setback areas; allow staff the flexibility to require a construction bond if it is deemed necessary (similar to right-of-way permits); require a signed acknowledgement/disclosure form indicating that trees are protected; and allowing the proposed adoption of a separate fee and fine resolution for consideration relating to illegal tree removal or other violations of the Ordinance. She added that Staff has met and discussed several ideas with the citizens committee and is close to reaching a consensus on what the role of the committee should be, with a recommendation to be brought back to Council at a later date.

In response to Councilmember Aldinger, Senior Planner Jester explained that buildings would take precedence over trees in street-side setbacks as well as front yard setbacks and that a tree could be removed in areas immediately adjacent to the front yard setback if it inhibits the building of a house.

In response to Mayor Pro Tem Tell's concern that the term "as feasible" could set a very low standard and question whether sidewalks and driveways are covered in the "required right-of-way improvements," Senior Planner Jester gave an example that if a front entry door could be moved a few feet in order to accommodate an existing tree or if a planter could be raised or lowered or relocated, that is the kind of design change they would expect a builder to make—but they would not require that a wall of a house be set back because of an existing tree. She also stated that sidewalks or driveways are covered in the "required right-of-way improvements" section that takes precedent over trees.

In response to Councilmember Aldinger's question regarding whether they would be allowed to put the protrusion in a scenario where a tree in the front yard setback that is bumping up against the 20 foot setback and where they are required to have quite a bit of relief in the front of the house, Senior Planner Jester explained that the problem is with the roots, not the canopy or branches of the tree—since the tree could possibly be trimmed but generally roots cannot be disturbed so severely.

In response to Mayor Ward's inquiry regarding the proposed fines to be imposed, if the fines are associated with the size of the tree illegally removed, and whether there are stiffer penalties for repeat offenders, City Attorney Robert Wadden explained that, although fines for repeat violators don't specifically factor in, fines are based on the nexus between the violation and the act and that repeat violators would probably be prosecuted for a misdemeanor.

In response to Councilmember Fahey's concern that the ability to require a bond is arbitrary and

could open up the City to discriminatory behavior and her request for an example of a situation where a bond might be required, City Attorney Wadden stated that this gives staff some discretion; that staff will document the reason for requiring the bond; and a fundamental right is being taken away.

Senior Planner Jester stated that, for example, if an addition were being added at the rear of the property but the protected tree is at the front of the property, she would not require a bond because construction is nowhere near the protected tree.

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

Mark Quigley, 1700 Block 14th Street, expressed concern that the Ordinance stipulated that buildings take priority over the trees and asked Council to keep it neutral and look at trees on a case-by-case basis.

Bill Victor, No Address Provided, expressed concern regarding the discretionary appeal method for the bonds, noting that it will be difficult, if not impossible, to not take into account who the applicant is when deciding whether or not to require a bond.

Acknowledging that people are concerned about their property rights and need to be educated about what they can do to maintain them, **Kaye Sherbak, 1800 Block of Agnes Road**, stressed that she would like to see an Ordinance passed that everyone can live with. She emphasized the importance of preserving trees and that buildings should have a blanket right and precedence over trees. She referred to her letter supported by 77 residents and commended staff for providing literature to help with community education. Lastly, she expressed concern regarding the fines and asked that people be held accountable for their actions quickly.

Agreeing with the previous speakers, **Karol Wahlberg, No Address Provided**, pointed out that, in the last few months, four large trees have been removed on her street and asked the Council to take an aggressive stand toward encouraging new trees. She added that so many trees have been removed over a long period of time and there needs to be more trees in the City.

Gerry O'Connor, 500 Block of Harkness Street, commended staff on their efforts and noted that, while he is anxious to see an Ordinance passed, he asked Council to reconsider inclusion of the text in the *Purpose* section of the Ordinance which reads: "...residential buildings shall take precedence over the preservation of trees." He stated his belief that that is a loophole and a step backwards to the implementation of the Ordinance. With regard to Section F.1, he asked why a tree permit is required; noting that tree permits are required for a request to remove a tree and pointed out that Sections H.4 & H.5 show two conflicting organizations.

Kaye Sherbak, 1800 Block of Agnes Road, urged Council to remove the language regarding buildings taking precedence over trees in the *Purpose* section.

Steve Morse, 900 Block of First Street, spoke regarding the height of trees that affect neighbors and that trees should have a height limitation similar to houses.

Mayor Ward closed the Public Hearing at 7:10 p.m.

In response to Councilmember Fahey's observation that a permit is not needed to protect a tree and request that the form be renamed "acknowledgement" or some other name to indicate that the property owner acknowledges that the tree is protected, Council held discussion regarding this and agreement was reached that the name of the document the applicant is being asked to sign acknowledging the preservation of the tree would be changed to reflect that it is a tracking system.

In response to a recommendation by **Mr. O'Connor** regarding an apparent conflict between Sections 2.H.4 and 2.H.5, Council agreed that reference to the International Society of Arboriculture (ISA) should be changed to the American National Standards Institute (ANSI A300).

Councilmember Fahey pointed out that the addition of the statement related to buildings taking precedence over trees in the *Purpose* section does not reflect what was intended as the purpose, which is to protect trees, and Council agreed that this statement should be removed from the *Purpose* section.

Mayor Pro Tem Tell expressed concern that the preservation of side yard trees, which will impose additional setbacks, could have a significant impact on the design of a house. He noted that this is not simply a replacement Ordinance, it is a preservation Ordinance, and recommended adding the phrase "with the proposed overall design of the project" to Section D.7, which will direct staff to work with the builder and property owner to do whatever is possible to preserve trees without absolutely demanding that a tree stay where it is.

In response to inquiries from Council, City Attorney Wadden explained: that while the fines are not punitive, they include an arborist report and a City fee based on the appraisal or replacement value, whichever is higher; that he believes that high fines will not be defensible; that the City cannot ban repeat offenders from building in the City; and that the appeal process is located in the administrative section of the Municipal Code and allows appeal of staff decisions to Council.

In response to Mayor Ward's inquiry regarding why the Ordinance still refers to the box size as opposed to the diameter of the trunk of the tree, Senior Planner Jester explained that because the box size is the standard and it is the minimum size, if the City did not use it as the guideline, it would be necessary to have an arborist report for every single project.

In response to Councilmember Montgomery's inquiry regarding what follow-up procedure will be implemented to make sure the trees that are replaced are maintained, Senior Planner Jester explained that she personally inspects the trees during the course of driving around town and agreed that it would be possible to use a tickle system to re-visit trees, if desired.

In response to Councilmember Fahey's question with regard to the tree that was severely pruned, Senior Planner Jester said that under the old Ordinance there was nothing the City can do about it but, under the new Ordinance property owners could be required to replace the tree at its value prior to pruning.

In response to Mayor Ward's inquiry whether there are height limits regarding trees, Senior Planner Jester stated that because the City does not have a view ordinance, there are no height limits for trees.

Council held discussion concurring with the following changes to Ordinance No. 2082: removal of the following statement from Section 10.52.120.A. Purpose: “when feasible; residential buildings shall take precedence over the preservation of trees”; the addition of the following phrase to the end of Section 10.52.120.D.7: “with the proposed overall design of the project”; the modification of Section 10.52.120.H.4 to reference ANSI A300 pruning standards; and in Section 10.52.120 F.1. the change of the name of the form from “Permit” to “Permit/Acknowledgement”.

City Attorney Robert Wadden read aloud the title of Ordinance No. 2082.

MOTION: Councilmember Montgomery moved to waive further reading; introduce Ordinance No. 2082 as amended; and adopt Resolution No. 6020. The motion was seconded by Councilmember Fahey and passed by the following unanimous roll call vote:

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

RESOLUTION NO. 6020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING THE SCHEDULE OF FEES TO ADD FINES AND PENALTIES FOR VIOLATIONS OF THE CITY TREE ORDINANCE

Councilmember Aldinger thanked the Committee for their work; commented that staff has the right idea going forth; cited a need to focus more on enforcement; and asked citizens to help out by flagging trees and figuring out ways to track them.

Mayor Ward pointed out that every time Ordinances are revisited, they are tightened up and the City now has a strong foundation to build upon that will be strengthened in the future.

GENERAL BUSINESS

06/0307.11 Approval of Contracts for Design and Implementation of a New City Website (Not-to-Exceed \$275,000)

Finance Director Bruce Moe explained that the implementation of the redesign of the City’s website is part of the 2004-2005 City Council Work Plan to look at the efficiency and effectiveness of the website, as well as the appearance, navigation and content management. He pointed out that improvements will include a section of Frequently Asked Questions (FAQs), a Citizen Request Management system allowing users to contact staff directly and assure follow-up, e-mail notification and contact with residents, subscription e-mail notification, and improved streaming video with an archiving and indexing component. He emphasized that the website has become a main source of information on and about the City, noting that, currently, it gets over 1 million hits per month. He introduced Information Systems Manager Leilani Emnace and thanked her and her staff for the hard work they do in the IT department.

Information Systems Manager Emnace reviewed the vendor selection process, which started with 32 vendors and was narrowed down to the final three. She noted that input was received from all department managers; that Councilmembers were invited to participate; and then introduced representatives from the three firms selected to work together on the project.

Tim Schmidt, Vision Internet, addressed Council with a PowerPoint presentation on their proposal, noting that they approach projects from a strategic perspective and are not a “cookie cutter” company. He explained that an analysis of information on the City’s website has determined that some of the information is difficult to find and that one of Vision Internet’s goal is to re-organize it in a way that it will be easier to find. He further reviewed the process used to determine the City’s needs: the purpose of the website; who is it designed to serve; and how to know when it is successful.

Willie Jester, Teleworks, congratulated the City on their vision and plan for improving communication with its citizens. He reviewed the history, experience and focus of **Teleworks** emphasizing that the focus is on making cities more efficient and effective by proactively working with citizens to answer their questions.

Kevin Vincent, Bureau Veritas, reviewed the system created by GovPartner (Citizen Request Management) and gave a quick overview of the system. He noted that because the system directs users to their servers, no server maintenance is required by the City. He reviewed several examples of uses available, such as notifying residents of a delinquent account, emergencies, road closures, street happenings, or traffic congestion and noted that, in some cases, the resident would have to opt in.

Information Systems Manager Emnace reviewed the recommended action to authorize the City Manager to enter into agreements with **Vision Internet** (not-to-exceed \$185,000); **Teleworks** (not-to-exceed \$55,000) and **Bureau Veritas** (not-to-exceed \$35,000) for the design, construction and functionality of a new City website. She noted that completion of the website with new functionality is anticipated by the end of the calendar year.

In response to Mayor Pro Tem Tell’s inquiry regarding what is included in **Vision Internet’s** expenses of \$185,000, **Mr. Schmidt** explained that the budget includes several interactive tools such as a calendar, document central, content management tool, newsletters, and migration of content from the current website to the new website. He reviewed the proposed staffing that will work onsite to develop the system, meet with departments to gather information and then take it back to their own location to create the final product. He concluded that the driving cost is the number of tools necessary to automate the site and make it easier for users.

Information Systems Manager Emnace emphasized that the project is mainly labor intensive, with the content management tool and other modules needing to be personalized; noted that the system includes Intranet, as well as Internet; and added that, once developed, **Vision Internet** will provide all source codes with full rights to make modifications and the City will own the content management solution and continue to use and manage the tools independently of **Vision Internet**. She reviewed the cost for service following the first year warranty, noting that an annual maintenance contract generally runs about 15% of the total cost.

The following individuals spoke on this item:

- **Yuri Gurvich, No Address Provided**
- **Viet Ngo, No Address Provided**
- **Bev Morse, No Address Provided**
- **Bill Victor, No Address Provided**

In response to inquiries as to how the final three vendors were chosen, Information Systems

Manager Emnace explained that both City Staff and Councilmembers were included in the process; however, moving forward it is possible to include the community, if desired. She reported that staff solicited proposals from 32 companies; that 17 proposals were received, out of the 17, 10 were invited to attend meetings with staff and then were narrowed down to 3 after an extensive background check was conducted.

Councilmember Aldinger stated that he has researched the credentials of the final three firms and agreed that they are top-notch firms. He expressed support for the redesign and encouraged the community to provide input on what they would like to see on the website. He said as far as return on investment, it is difficult to quantify but the level of service that will be provided will be a huge improvement.

Councilmember Fahey commented that the City is always looking for ways to improve outreach and agreed that this is an excellent way to do that. In response to her concern regarding the increased workload for the IT department, City Manager Dolan pointed out that Council already approved the addition of a new staff member to the department.

Councilmember Montgomery commented that Manhattan Beach residents demand access to information 24 hours a day; noted that this upgrade will allow the City to meet those demands now and in the future; applauded staff for this option and presentation; and expressed his full support.

Mayor Pro Tem Tell expressed support of the proposal and pointed out that we are buying ease of use and a better way to communicate with residents, and ultimately a reduction in staff time to input the information. He asked for more detail at the next City Council meeting to give the community a better sense of what they're getting for their money.

Councilmember Aldinger pointed out that, if the contracts are approved tonight, there is not much benefit in getting the information after the fact.

Mayor Ward agreed with Mayor Pro Tem Tell that it may be useful to have a better description of costs disclosed, but noting his familiarity with the cost of software applications, he was comfortable with the not-to-exceed costs. He spoke of numerous requests to put information on the City's web site and that it is not as simple as it sounds, however, these specialized tools will help make information easily accessible by residents.

In response to Mayor Ward's concerns over outsourcing, selling of lists and users being "spammed", **Mr. Jester** and Information Systems Manager Emnace explained that the information will reside on the City's network and hardware; that everything is encrypted and that the City maintains ownership.

Mr. Schmidt added that, generally, users do not provide credit card or social security numbers, but rather phone numbers and addresses; that security by the hosting company includes safeguards of the servers with hardware and software; that very few of their staff would have access to the information; and that they would have no motivation to access the information for malicious reasons.

Information Systems Manager Emnace concluded by stating that three sample websites will be designed based on conversations held over time, and assured Council that because Manhattan Beach isn't like any other city out there, neither will the website be.

MOTION: Councilmember Fahey moved to approve authorizing the City Manager to enter into agreements with Vision Internet (not-to-exceed \$185,000); Teleworks (not-to-exceed \$55,000) and Bureau Veritas (not-to-exceed \$35,000) for the design, construction and functionality of a new City website. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

RECESS AND RECONVENE

At 8:46 p.m. the Council recessed and reconvened at 8:54 p.m. with all Councilmembers present.

06/0307.12 Consideration of the City Council's Work Plan Item Regarding Traffic Issues and Photo Red Light Enforcement Technology

City Manager Geoff Dolan introduced Police Chief Rod Uyeda who addressed Council with a PowerPoint presentation regarding the Photo Red Light Enforcement technology. He reviewed the technological improvements and explained that statistics indicate that red light running in Manhattan Beach has not lead to a high number of collisions or injuries; that Citizen complaints in Manhattan Beach focus on neighborhoods, not busy thoroughfares where most red light running occurs; that it is estimated that the busiest intersections have in excess of 1,000 red light violators per month; that in approximately 80% of the cases, the registered owner is the driver; and that a sworn Police Officer must review the evidence and issue the citation. He explained that there would likely be no initial financial obligations to the City for installation, service or maintenance of the system, but the City would be required to pay the vendor a monthly fee for each approach (up to 4 directions of traffic) per intersection. He reported that the fine for a red light violation is \$351 and of this amount, Los Angeles County would receive \$207, the City would receive \$144 and the amount paid to the vendor would vary depending on the number of violators that pay the fine. Police Chief Uyeda concluded by pointing out that Photo Red Light Enforcement systems are generally put into place to save lives, prevent injuries, reduce traffic collisions, stop dangerous driving behaviors, and respond to community concerns.

In response to Mayor Ward's observation that, given the low number of collisions at City intersections, there doesn't seem to be a true benefit to installing the red-light cameras, Police Chief Uyeda agreed, noting that there is actually a high likelihood that rear-end collisions would increase.

In response to Mayor Pro Tem Tell's inquiry as to whether this type of enforcement would free up officers to provide services in neighborhoods, Police Chief Uyeda stated that there would not be much difference because officers are not normally stationed on the highway and implementation of the system would require a sworn officer to sit and review the citations before they are sent out.

The following individuals spoke on this item:

- **Dave Wachtfogel, No Address Provided**
- **Joe Moore, No Address Provided**
- **Bill Victor, No Address Provided**
- **Yuri Gurvich, No Address Provided**

Councilmember Fahey agreed with one member of the public that there are some intersections that are a problem but she does not believe this is the solution to the problem. She added that there are no statistics to justify the cameras and that the residents are not asking for it.

Councilmember Aldinger stated that he is more open to this type of enforcement on Sepulveda Boulevard than Councilmember Fahey, stating his belief that anything that can be done to improve safety would be a good thing.

Mayor Ward pointed out that CALTRANS would have to approve any cameras installed on Sepulveda Boulevard.

Mayor Pro Tem Tell agreed that there is no justification for cameras at this time and noted that it may detract from neighborhood enforcement due to the requirement for an officer to review the citations.

Councilmember Montgomery pointed out that 32 traffic collisions are only the reported ones and that this only affects residents who break the law. He asked whether a survey could be taken, without choosing a vendor, in order to show what the need is, and agreed that losing an officer to be on the desk is a no-win situation.

Mayor Ward stated that he does not support the program in Manhattan Beach or any other city, finding it to be over-intrusive. He pointed out that, given the City's statistics, it could increase congestion and cause rear-end collisions and that he does not see any benefit from this program.

City Manager Dolan stated that this was only brought before Council as a Work Plan item and he has clear direction that this item will not move forward.

05/1101.15-13 Status Report Regarding Implementation of a Fixed Route Weekend and Summer Trolley Service

City Manager Geoff Dolan introduced Management Analyst Rob Osborne, who addressed Council regarding the Fixed Route Weekend and Summer Trolley Service. He reported that a Request For Proposals (RFP) was sent out to a list of vendors in February and, unfortunately, no proposals were received. He explained that the reasons given by vendors for not responding included: the project is too small; the program is seen as experimental in nature; vendors don't see long-term profits; the seasonal nature poses scheduling problems; vendors prefer using their standard fleet vehicles rather than customized buses; and bad timing. He noted that a couple of vendors have indicated some interest in discussing what might be done to make it feasible for both sides. Management Analyst Osborne reviewed background information from the previous attempt at a trolley system in 1986 noting that the biggest problem was operator reliability and problems with scheduling leading to distrust among potential users which lead to ridership problems which caused the discontinuance after six months.

In response to Mayor Pro Tem Tell's inquiry regarding the companies that indicated they would be interested in working with the City, Management Analyst Osborne stated that they would be interested in presenting what might work for them to see if that would fit the City's needs.

The following individuals spoke on this item:

- **Gary Osterhout, 500 Block of 31st Street**
- **Yuri Gurvich, No Address Provided**
- **Viet Ngo, No Address Provided**
- **Bill Victor, No Address Provided**

Mayor Pro Tem Tell pointed out that there are a lot of complaints about congestion and

expressed his support of doing something about it. He suggested reaching out to those interested in running a trolley system to see what they would be willing to do, then go out to residents and see if it is something they want.

Councilmember Aldinger stated that he envisions something like they have in Mammoth, where they have a shuttle because of the lack of parking near the slopes. He expressed support of using the system during the school year and continuing to refine the system until it will work.

Councilmember Fahey stated that since some of the vendors are willing to work with the City, she suggested forming a subcommittee of Council and staff to find out whether or not the community would use it.

Councilmember Montgomery suggested keeping it simple, with routes in two directions for the purpose of moving people across Sepulveda Boulevard.

City Manager Dolan clarified that staff will ask one or two of the best vendors for a proposal of what they would charge for the service and attempt to convince them to set-up a program for the City.

Following some discussion regarding at what point Council should become involved in the process, City Manager Dolan agreed to include Councilmember Fahey and Mayor Pro Tem Tell in the discussions with vendors.

Mayor Ward concurred that this is a program worth pursuing in order to relieve some of the traffic congestion.

06/0307.14 Consideration of an Ordinance Clarifying Business License Tax Sections 6.01.010 and 6.01.020 of the Manhattan Beach Municipal Code

Commenting that there is no staff presentation on this item, City Manager Geoff Dolan offered to answer any questions.

Hearing none, the following action was taken.

City Attorney Wadden read aloud the title of Ordinance No. 2083.

The following individual spoke on this item:

- **Bill Victor, No Address Provided**

In response to **Mr. Victor's** comment, Mayor Ward read from the staff report explaining that the ordinance incorporates the personal liability of owners of corporations.

MOTION: Councilmember Aldinger moved to waive further reading and introduce Ordinance No. 2083. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

ITEMS REMOVED FROM THE CONSENT CALENDAR

06/0307.2 Consideration of Financial Report: Ratification of Demands - February 23, 2006

A member of the audience pulled this item from the Consent Calendar for Council discussion.

The following individual spoke on this item:

- **Viet Ngo, No Address Provided**

In response to **Mr. Ngo's** comments, Councilmember Fahey reported that there is a process in place for requests for specific information on expenditures and referred any interested parties to follow the process.

MOTION: Councilmember Fahey moved to approve with no exception Warrant Register No. 18B in the amount of \$3,499,109.21 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. The motion was seconded by Councilmember Fahey and passed by the following unanimous roll call vote:

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

06/0307.5 Disbursement of Progress Payment No. 10 in the Net Amount of \$336,946.62 to S.P. Pazargad Engineering Construction, Inc. for the Strand Improvement Project

A member of the audience pulled this item from the Consent Calendar for Council discussion.

The following individual spoke on this item:

- **Bev Morse, No Address Provided**

In response to **Ms. Morse's** comments, Councilmembers Aldinger and Fahey and City Manager Geoff Dolan explained that the total cost of the Strand Improvement Project is \$3.5 million; that this project was paid for by taxpayer monies because the facility is used by the whole community; that it has been needed for a long time; that the money was set aside over many years and is affordable, while undergrounding the whole City is not; and that the adjacent property owners are contributing to the cost of the project.

MOTION: Councilmember Aldinger moved to approve the issuance of the subject progress payment. The motion was seconded by Councilmember Aldinger and passed by the following unanimous roll call vote:

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

BOARDS AND COMMISSIONS

Library Commission

06/0307.6 Consideration of Draft Minutes, Library Commission Meeting of February 13, 2006

Mayor Pro Tem Tell explained that he pulled this item because the minutes reflect that the Los Angeles County Library has recently indicated that items donated by and earmarked as City property now belong to the County.

City Manager Dolan explained that the County has a policy that donations effectively become County property and, while frustrating to the City, the County will not accept a donation with any stipulations. He emphasized that the City will continue to challenge this ruling and emphasized that this situation may change if the City were to purchase the library, but, until that time, the County will not recognize these donations as City property.

In response to Councilmember Montgomery's inquiry regarding the Leadership Manhattan's donation of a projector, Councilmember Fahey explained that now that they realize this, they are considering making the donation to the Friends of the Library.

MOTION: Councilmember Aldinger moved to receive and file the subject draft minutes. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

AUDIENCE PARTICIPATION

06/0307.23 Dick Fruin Re Pier Cafe, Contribution and Grant

Dick Fruin, No Address Provided, addressed Council asking for them to consider the possibility of changing the operator of the Pier Cafe within the existing lease because *Rock N Fish* has lost interest in operating the lease and entering into a management contract with another entity. He said while they do not dispute that the operator has done an adequate job in running the cafe space, they would like for Council to consider allowing the Oceanographic Teaching Station (OTS) to take over the lease and utilize it as part of the science lab. He acknowledged that he provided information to the City about this matter in anticipation that they would make a recommendation to Council but they have declined and, thus, he is asking Council to consider it in the future. He pointed out that the West Basin Municipal Water District has given \$50,000 for operation of the cafe and the Andenburg Foundation has given a \$50,000 grant for classes for public school children in Manhattan Beach. **Mr. Fruin** concluded by reiterating the OTC's request for Council to consider the possibility of granting their request.

City Manager Geoff Dolan stated that there has been discussion regarding transferring the lease and that staff will agendize this matter at a future City Council meeting and invite all of the various parties.

06/0307.24 Bill Griffin Re Utility Undergrounding

Bill Griffin, 1200 Block of 8th Street, spoke of the bad effect that the fast-rising costs of undergrounding are having on the community; pointed out that the initial petitions to form a district were accomplished with a 60% vote and then the percentage was lowered to 51%, even if 49% objected; reminded Council that there is a substantial minority of residents who are elderly and have a fixed income; and asked Council to consider stopping any undergrounding that hasn't already been constructed and require at least 66% approval prior to implementation in the future.

Mayor Pro Tem Tell noted that a committee has been formed to discuss this issue and that a survey will be sent to the residents in districts that have not yet been assessed in order to determine how much support remains. He added that "Frequently Asked Questions" and an information summary will also be sent out to address some misinformation that has been circulated. He welcomed everyone to attend the next City Council meeting where these issues will be addressed.

06/0307.25 Frank Matranga Re Utility Undergrounding

Frank Matranga, 2nd and Ardmore, District 2, asked Council to recognize shortcomings in the undergrounding process such as the petition never being circulated to his home and not being given the opportunity to sign the petition or counter petitions. He reminded Council that they stated that they did not want to force undergrounding on anyone, but, by keeping them uninformed about the undergrounding efforts, did force it on them. He informed Council that Steps 6 and 7 of the petition were not followed, which will cause him and many of his neighbors to suffer, and asked Council to reverse the decision in District 2 and start over again.

06/0307.26 Dennis Fitzgerald Re Utility Undergrounding

Dennis Fitzgerald, 1400 Block of Ocean Drive, stated that he only moved into the neighborhood two years ago and that none of this was ever disclosed to him, either in escrow or by the former owners of his home. He said a number of new residents have moved into the City who did not have an opportunity to participate in the process and that they deserve to have input.

06/0307.27 Bev Morse Re Utility Undergrounding

Bev Morse, No Address Provided, spoke regarding undergrounding and quoted the Manhattan Beach Residents Association (MBRA) newsletter. She asked for information regarding District 4, which did not pass, and asked for assurance that the district will be considered a "non area" and be included in the survey. She said that most people had no idea that there were so many people who could not afford the undergrounding but now that it is known the right thing should be done.

Emphasizing that the MBRA Fact Sheet contains some misinformation, Councilmember Fahey stressed that it is important that residents understand that the MBRA survey regarding undergrounding is not the City-generated survey, which will be sent out separately.

06/0307.28 Joe Moore Re Utility Undergrounding

Joe Moore, 200 Block of South Ardmore, asked that the boundaries of Utility Undergrounding District 4 be stipulated and that the entire area be notified. Explaining that his property front is 75 feet wide, he declared that he will be forced out of the City if undergrounding goes through in his District; that there are no power lines on Ardmore Avenue between 2nd Street and Boundary Place; and that he has obtained signatures from nearly everyone on Boundary Place to opt out.

06/0307.29 Yuri Gurvich Re Utility Undergrounding

In regard to undergrounding, **Yuri Gurvich, No Address Provided**, commented that speakers have been begging and pointing out mistakes with the undergrounding procedure and that many of the people who were against undergrounding did not vote.

06/0307.30 Viet Ngo Re Utility Undergrounding

Viet Ngo, No Address Provided, quoted Public Utility Code 6297, which explains the duty and liability of the grantee; stated that case law prohibits using public money for reimbursement of the relocation of utilities underground; reminded Council that they have taken an oath to enforce the law; and accused the Council of trapping citizens to take their property under the “color” of official rights. He stated that he has asked the Attorney General, District Attorney and City Attorney to enforce the law but that the City Attorney has not done so.

06/0307.31 Bill Victor Re Utility Undergrounding

Bill Victor, No Address Provided, commented that the people are unhappy about the actions of Council related to undergrounding; stated that the actions of Council have caused several people to leave town; noted the importance of conducting a survey as soon as possible; and asked Council to reconsider their decision.

06/0307.32 Steve Morse Re Utility Undergrounding

Noting that he participated in a meeting last week in Hermosa Beach regarding undergrounding, **Steve Morse, 900 Block of 1st Street**, asked to participate in the drafting of the undergrounding survey; pointed out that Southern California Edison stated they are not an undergrounding company, they’re an above ground company; and added that garbage cans left on the street are more of a blight than utility wires.

06/0307.33 Jon Chaykowski Re Utility Undergrounding

Jon Chaykowski, No Address Provided, pointed out that the petitions were not circulated properly as required in Steps 6 and 7 of the petition; that the City has already confirmed that they have not verified the petitions; and that many unsuspecting residents have been shocked by actions taken years ago. He asked Council to admit their mistake and use it as a tool to gain the trust of the citizenry and reverse their decisions of the past and honor their commitment to Manhattan Beach that undergrounding will not be forced on its citizens.

06/0307.34 Patrick McBride Re Seniors

Patrick McBride, No Address Provided, reported on activities of the seniors in town and commented that the facilities in Manhattan Beach are under-utilized due to a lack of programs. He read about the history of the Joslyn Center, noting that the Council initially gave seniors control of the Center and that there were many well-attended events. He said it is important to have programs not just for seniors but also for children and noted that the leaders of the two groups that currently use the facility are not capable of sustaining the groups.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS

06/0307.35 Councilmember Montgomery Re Verizon Door Hanger

Councilmember Montgomery informed residents of the Tree Section that door hangers have been distributed indicating that Verizon will be working in their neighborhoods near their homes, however, the hangers do not have a contact phone number on them.

City Manager Geoff Dolan stated that he would ask Verizon to re-distribute the appropriate information.

06/0307.36 Mayor Ward Re Tone of Meeting

Mayor Ward commented that the City Council Chambers has been the place of civility for decades and that during his tenure as Mayor he intends to maintain that level of civility. He affirmed that, in a democracy, different points of view are appreciated; however, while Councilmembers know what comes with the territory; they will not be bullied.

ADJOURNMENT

At 10:55 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, March 21, 2006, in said City.

MERNA MARSHALL
Recording Secretary

MITCH WARD
Mayor

ATTEST:

LIZA TAMURA
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
ADJOURNED REGULAR MEETING
MARCH 7, 2006**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 7th day of March, 2006, at the hour of 5:43 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

ROLL CALL

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

CLOSED SESSION

The Council recessed into Closed Session at 5:43 p.m. and moved to open session at 6:29 p.m.

During the conference to discuss the City Manager and the City Attorney's Public Employee Performance Evaluation, City Manager Geoff Dolan and City Attorney Robert Wadden, Jr. were not present for some portions of the discussion.

ADJOURNMENT

The meeting was duly adjourned at 6:29 p.m.

NICK TELL
Recording Secretary

MITCH WARD
Mayor

ATTEST:

LIZA TAMURA
City Clerk