

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

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 7th day of February, 2006, at the hour of 6:32 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

PLEDGE TO FLAG

Michael Whinfrey, a 5th Grade student from Robinson Elementary School led the pledge.

ROLL CALL

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

CEREMONIAL CALENDAR

06/0207.1 Presentation of Commendation to The Hyperion Outfall Serenaders Recognizing their 30th Anniversary

Mayor Ward, on behalf of the Council, presented certificates to the Hyperion Outfall Serenaders consisting of Bob White, Dave Freeman, Fran Freeman, Jack Freeman, Jimmy Green, Karl Keller, Luis Pastor and Rod Norris on behalf of their 30th anniversary.

06/0207.2 Recognition of City of Manhattan Beach Employees:
a) City Employee of the Year
b) Fire Department's Firefighter of the Year
c) Police Department's Police Officer of the Year

Community Development Director Richard Thompson presented a certificate to Senior Planner Laurie Jester and announced that she is the "City Employee of the Year" for 2005.

The Council and Police Chief Rod Uyeda presented Officer John Loy with the 2005 "Officer of the Year" Award.

The Council and Fire Chief Dennis Groat presented Firefighter/Paramedic Tom Desmond with the 2005 "Firefighter of the Year" Award.

06/0207.3 Introduction of New Employees, Employee Promotions and Service Awards

City Manager Geoff Dolan presented an Employee Service Award and Service Pin to Public Works Director Neil Miller for 15 years of service to the City.

Fire Chief Dennis Groat presented an Employee Service Award and Service Pin to Fire Battalion Chief Frank Chiella for 25 years of service to the City.

Public Works Maintenance Superintendent Juan Price introduced Donald Powelson as the City's new Maintenance Worker I/II.

Police Chief Rod Uyeda introduced Community Services Officer KaShauna Pickens, Police

Records Tech/Matron Aprile Haynes and Police Records Tech/Matron Jennifer Witzman. Also recognized, but not in attendance, was Terrence Lee who was recently promoted to Police Services Officer.

Public Works Director Neil Miller recognized Lindy Coe-Juell on her promotion to Senior Management Analyst.

CONSENT CALENDAR

The Consent Calendar (Item Nos. 4 through 14), 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.

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

GENERAL CONSENT

06/0207.4 *Approve Minutes of the City Council Adjourned Regular and Regular Meeting of January 17, 2006*

The Council approved the subject minutes.

06/0207.5 *Consideration of the State Budget and Legislative Update from Shaw / Yoder, Inc., the City's Legislative Advocate*

The Council received and filed the November, 2005 Budget and Legislative Update from Shaw / Yoder, Inc.

06/0207.6 *Consideration of Financial Report: Ratification of Demands: January 26, 2006*

The Council approved with no exception Warrant Register No. 16B in the amount of \$2,956,120.86 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register.

06/0207.7 *Consideration of the 2005-2006 Mid-Year Budget Review*

The Council received and filed the subject report.

06/0207.8 *Consideration of a Resolution Adopting the Memorandum of Understanding Between the City of Manhattan Beach and the Manhattan Beach Firefighters' Association*

The Council adopted Resolution No. 6017.

RESOLUTION NO. 6017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADOPTING THE MEMORANDUM OF AGREEMENT (MOU) BETWEEN THE CITY OF MANHATTAN BEACH AND THE MANHATTAN BEACH FIREFIGHTERS' ASSOCIATION (MBFA)

06/0207.9 Authorize the Purchase of a Budgeted Pavement Marking Grinder for Public Works from SASE Company, Inc., in the Amount of \$23,593.59

The Council waived formal bidding per Municipal Code Section 2.36.140 (waivers) and approved a purchase order to SASE Company, Inc. in the amount of \$23,593.59.

06/0207.10 Donation of Surplus Fire Engine to Santa Rosalia, Mexico, Sister City of Manhattan Beach

The Council approved the donation of a surplus 1978 fire engine to the City's Sister City, Santa Rosalia Mexico.

06/0207.11 Disbursement of Progress Payment No. 9 in the Net Amount of \$133,328.30 to S.P. Pazargad Engineering Construction, Inc., for the Strand Improvement Project

The Council approved the issuance of the subject progress payment.

BOARDS AND COMMISSIONS

Library Commission

06/0207.12 Consideration of Draft Minutes, Library Commission Meeting of January 9, 2006

The Council received and filed the subject draft minutes.

Planning Commission

06/0207.13 Consideration of Planning Commission Approval of a Request for a One-Year Time Extension of Tentative Vesting Parcel Map No. 26943 for a 4-Unit Condominium Project, for the Property Located at 1457 12th Street

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

06/0207.14 Consideration of Planning Commission Approval of a Use Permit and Vesting Tentative Parcel Map No. 063627 to Allow Construction of 4 New Condominium Units for the Property Located at 1310 12th Street

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

COMMUNITY ANNOUNCEMENTS

06/0207.20 Connor Rowe Re Leadership Manhattan Beach

Connor Rowe, No Address Provided, announced plans by Leadership Manhattan Beach to raise \$5,000 to purchase a new digital projector for the Manhattan Beach Library by sponsoring a cocktail party on February 24, 2006, and a movie screening on April 28, 2006. For further information, he encouraged the public to contact leadershipmanhattanbeach.org.

06/0207.21 Bob Bohner Re Sister City of Manhattan Beach

Bob Bohner, President, Manhattan Beach Sister City Committee, shared input on plans to take approximately 18 Mira Costa High School students to Manhattan Beach's Sister City, Santa Rosalia, Mexico.

06/0207.22 Patrick McBride Re Manhattan Beach Senior Resource Committee

Patrick McBride, Co-Coordinator of Manhattan Beach Senior Resource Committee, invited those interested to attend "Stop in for Conversation" on Tuesdays, from 1:00 p.m. to 3:30 p.m., at the Joslyn Center, and at the same time on Thursdays at the Manhattan Heights Community Center.

06/0207.23 Bill Victor Re Utility Underground Assessment Districts

Bill Victor, No Address Provided, announced his plans to continue discussing the Utility Undergrounding issue with those interested and encouraged the public to call him at (310) 318-5000 or (310) 374-0086 or e-mail him at lalaw2002.net.

06/0207.24 Viet Ngo Re Equal Justice for All Task Force

Viet Ngo, No Address Provided, invited citizens suffering from financial difficulties and oppression associated with Utility Undergrounding to contact him at (310) 318-2769.

06/0207.25 Marissa Castro-Salvati Re New Southern California Edison Representative

Marissa Castro-Salvati, Public Affairs Manager, Southern California Edison, introduced herself as Edison's new representative to Manhattan Beach and read aloud a letter acknowledging the Manhattan Beach Police Department's assistance in repairing power lines resulting from a traffic accident.

06/0207.26 Mayor Ward Re Manhattan Beach Youth Recognition Award

Mayor Ward reminded high school juniors and seniors of the March 1, 2006 deadline to apply for the Youth Recognition Award, which includes two scholarships. He announced a related fund raiser on February 23, 2006, at 7:00 p.m. at the Shade Hotel and invited those interested in attending the event to contact him at mitchward.net.

06/0207.27 Mayor Ward Re United States Conference of Mayors

Mayor Ward shared information on discussions at the recent United States Congress of Mayors' Conference, including the appreciation expressed toward all who provided assistance to victims of Hurricane Katrina.

06/0207.28 Councilmember Aldinger Re South Bay Cities Council of Governments

City Council Meeting Minutes of February 7, 2006

Councilmember Aldinger announced the South Bay Cities Council of Governments Seventh Annual General Assembly entitled “The South Bay’s Digital Future: How It Will Change Everything” on February 23, 2006 and added that further information regarding the event could be attained at www.southbaycities.org.

06/0207.29 Councilmember Montgomery Re Mira Costa High School Music Groups

Councilmember Montgomery relayed that Mira Costa High School’s orchestra and choir will perform at Carnegie Hall on April 11, 2006; that there will be a send off on March 24, 2006; and that for further information and tickets, those interested should contact www.miracostamusic.com.

06/0207.30 Sanitation District Chief Engineer Jim Stahl Re Sewage Spill

Jim Stahl, Chief Engineer and General Manager, Los Angeles County Sanitation District, presented updated information about the pump station outage that occurred on January 15, 2006. Referring to a detailed report on the outage (provided to the Councilmembers), Mr. Stahl advised that the problems related to the unprecedented communications and pump control systems’ failures have been identified and repaired and that, as a result of this mishap, there is now redundancy in the pump station back ups. He gave a detailed explanation on the process being used to restore the beach, including the bleaching of the sand, and noted that the Sanitation District plans to communicate with each property owner near the spill to discuss restoration efforts.

During Council’s discussion of their concerns and frustration relevant to the spill, Mr. Stahl responded to numerous inquiries as follows: that Verizon’s system was recently converted from analog to digital, which should help prevent future sewage spills; that protocol and procedures for testing sand will be developed as a result of the sewage spill; that redundancy in Verizon’s telemetry system is being pursued; and that representatives from the Sanitation District are now individually assigned to each pump station to oversee any problems that might occur in the future. Highlighting the importance of being proactive in sanitizing the sand, Mr. Stahl said that alternatives to bleaching are being examined and reviewed the unprecedented string of system failures that led to the sewage spill.

Continuing to answer questions from the Council, Mr. Stahl explained the following: that chlorination in waste water has been used for many years, but it is groundbreaking to use it to clean sand; that the bleaching process is being closely monitored to ensure that it does not get into the ground water supply and the ocean; that the amount of chlorine used to clean the sand is very minimal; and that it would not be used if the Sanitation District did not feel it is safe. He indicated that the Los Angeles County Health Department will have the ultimate say regarding the safety of the beach; however, the Sanitation District, the Los Angeles County Board of Supervisors and representatives from UCLA with expertise in this area will assist in the final determination.

Phil Friess, Chief of Sewer Operations, Los Angeles County Sanitation District, came forward to explain the portion of the remediation process whereby sand is brought in and placed on top of the affected area.

Richard Wagoner, Director of Environmental Protection for Environmental Health, Department of Health Services, provided further explanation regarding the remediation/recovery process.

Mr. Stahl clarified the Health Services Department’s findings that no significant levels of bacteria were found on the surface of the sand. He shared information on the Sanitation

District's sand testing procedures and effective sand disinfecting efforts; the timeline for the beach remediation/recovery; and the idea of installing a cable modem system as a safeguard. He emphasized that the Sanitation District will make every effort to prevent future sewage spills and related the Sanitation District's appreciation of the Council and community's patience and apologized for this occurrence.

Concluding the discussion, Mayor Ward expressed the Council's appreciation of the Sanitation District's efforts to minimize the amount of sewage that spilled into the ocean. On behalf of the Council, he stressed the importance of preventing future sewage spills.

RECESS AND RECONVENE

At 8:00 p.m. the Council recessed and reconvened at 8:15 p.m. with all Councilmembers present.

At this time, Mayor Ward announced that due to the expected length of tonight's meeting, Agenda Item No. 19, "Discussion of City Subsidies of Community Events and Organizations" would be continued to February 21, 2006 City Council meeting.

PUBLIC HEARINGS

06/0207.15 Consideration of Proposed Exchange of Community Development Block Grant (CDBG) Funds Received by the City of Manhattan Beach to the City of Hawaiian Gardens and the Allocation of Funds for the 2006-2007 Fiscal Year

Assistant Planner Angela Ochoa provided the staff report on the Fiscal Year 2006-2007 exchange of Community Development Block Grant (CDBG) Funds for General Funds with the City of Hawaiian Gardens. She explained that \$151,652 in CDBG Funds would be exchanged (at a rate of \$.65 on the dollar) for \$98,073.80 in General Fund monies. Reviewing a related chart, Assistant Planner Ochoa advised that the exchange rate for 2006-2007 would be significantly lower than in the past because the agreement with Hawaiian Gardens is new.

City Manager Geoff Dolan clarified that the Beach Cities Health District (BCHD) and the City of Manhattan Beach split the cost of the BCHD's Senior Care Manager equally.

Mayor Ward opened the Public Hearing at 8:23 p.m.

Viet Ngo, No Address Provided, contended that the exchange of CDBG Funds for General Funds is illegal and that 75% of the allocation must be maintained in Manhattan Beach.

Mayor Ward closed the Public Hearing at 8:26 p.m.

In response to Mayor Ward's question regarding the legality of trading these funds, City Attorney Robert Wadden emphasized that Block Grant Funds are specifically permitted to be traded with other agencies and that this is not a violation of the law.

MOTION: Councilmember Montgomery moved to adopt Resolution No. 6016. The motion was seconded by Mayor Pro Tem Tell and passed by unanimous roll call vote as follows:

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

RESOLUTION NO. 6016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AN AGREEMENT BETWEEN THE CITY OF MANHATTAN BEACH AND THE CITY OF HAWAIIAN GARDENS REGARDING THE EXCHANGE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR THE FISCAL YEAR 2006-2007

MOTION: Councilmember Montgomery moved to authorize the City Manager to execute the draft Agreement with the City of Hawaiian Gardens; approve an allocation of General Funds received to the public service agencies listed in the staff report; and approve the contract with the Beach Cities Health District for the Senior Care Manager. 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.

06/0207.16 Consideration of the Planning Commission Recommendation for the City Council 2005-2007 Work Plan Item to Amend the Tree Preservation Regulations, Section 10.52.120 of the Zoning Code

Noting the 2 public comment letters distributed to the Council on the dais, Senior Planner Laurie Jester addressed Council with a PowerPoint presentation on the Tree Preservation Ordinance including the following: background information; current regulations; issues considered by the City Council and the Planning Commission; community input; revisions previously approved in concept; proposed revisions; and enforcement.

Councilmember Aldinger requested additional input on the success of the fines and penalties for removing trees without a permit.

Senior Planner Jester stated that fines for removing trees without a permit are very high; that the fines increase for repeated offenders; that the City is aware of only one individual who is a repeat offender; and that these fines seem to have dissuaded one-time violators.

Councilmember Fahey suggested that the City provide Tree regulations to realtors to pass on to newcomers to Manhattan Beach so that they do not unknowingly violate the Tree Ordinance. Referring to staff's recommendation that a citizens' committee not be established until the twelve month review of the Ordinance, she asked what role such a committee would assume.

Senior Planner Jester explained that while several citizens voiced an interest in taking on a very active role in reviewing tree permits, the possible role of the committee, as suggested by the Planning Commission, was in an advisory capacity to assist in implementing the Tree Ordinance and help protect trees.

In response to Mayor Pro Tem Tell's comment on the difficulty of defining "mature" trees and the question regarding if that is why they are now defined as those having a 12" or larger trunk, Senior Planner Jester stated that staff discussed the definition of "mature" trees with the City's arborist extensively and also examined other cities' definitions.

Councilmember Aldinger noted the positive aspects of the mature tree list compiled by the City of Pasadena.

Relating her understanding that tree issues are taking up an increased amount of staff's time, Councilmember Fahey asked if it would be of assistance to staff for residents knowledgeable in this area to assist them to which Senior Planner Jester indicated that it would be something to consider.

Senior Planner Jester clarified for Councilmember Montgomery that the fines implemented for intentionally removing trees were less than \$10,000 and more than \$5,000 and that West Coast Arborists is currently on retainer with the City.

At the request of Mayor Pro Tem Tell, Senior Planner Jester outlined the standards for granting a tree removal permit and replacing trees that have been removed.

Mayor Ward requested additional clarification regarding the role of the citizens' committee, as well as safeguards pertaining to trees in street side setbacks.

Senior Planner Jester shared input on current and proposed requirements for trees in street side setbacks and related her impression that residents would like to take on a number of different roles, including observing tree issues in the community and approving tree permits; however, there was no direction in this regard from the Planning Commission.

Senior Planner Jester explained the inclusion of a permit for tree relocation in the proposed Tree Ordinance and clarified that a tree permit would be required for tree relocation to enable staff to make a determination on the feasibility of relocating the tree.

Mayor Ward opened the Public Hearing at 9:05 p.m.

Patrick McBride, 5th Street and Peck Avenue, related his understanding that Redondo Beach residents can access tree permit information on their City's website. He felt that a tree inventory would be helpful; requested input on procedures to handle the problem of neighbors "butchering" another property owner's trees and suggested that fines related to tree removal without permits be used to enhance the City's tree program.

Joe Moore, 200 Block of South Ardmore Avenue, shared information about two trees in the vicinity of 1st Street and Ardmore Avenue that died and were blown down during a big wind. He also commented that many trees along Veterans' Parkway are dying as a result of tree trimmers and asked that City staff walk through that area to examine this problem.

Whitney Fiore, 36th Street & Alma, said that, while many aspects of the proposed Tree Ordinance are admirable, a certified arborist should be involved throughout the City's tree permit process; that there should be more than a one-to-one tree replacement ratio; that tree replacement should be throughout the lot, not just within the first twenty feet; and that the fines for tree removal, without a permit, should be very stiff.

Greg Robinett, 400 Block of 27th Street, voiced his opinion that the replacement of trees, shrubs and all plants, in existence many years ago, should be addressed. He provided Council with a letter and photographs showing the type of plants he recommends be added to the proposed Tree Ordinance.

Karol Wahlberg, No Address Provided, stated that tree removal fines should be much stronger; that a citizens' committee is absolutely necessary as it could review the replacement tree list; and that much attention should be given to "re-foresting" Manhattan Beach with trees with a large canopy. She related her understanding that the City of Miami replaced some Palm trees with other types of trees having large canopies.

Mark Quigley, 700 Block of 19th Street, pointed out that the regulations recommended by the Planning Commission will be a waste of time if they are not enforced; that the City did not enforce the removal of some trees by developers without permits; and that he would support the establishment of a citizens' committee. At the request of Mayor Ward, Mr. Quigley elaborated on the City's apparent negligence with regard to enforcing the removal of trees without permits in the vicinity of Pacific Avenue and 19th Street, 1808 Laurel and the vicinity of 17th Street and Elm Avenue.

Kaye Sherback, 1800 Block of Agnes Road, commented on the need to address the tree issue quickly in order to provide accountability for removing trees without permits. She reported that approximately nine trees have been removed from her neighborhood in the past 1 ½ years; that she supported the formation of a citizens' committee to be the "eyes and ears" to assist staff with tree issues; and suggested that the public visit gardenmagicco.com to become better educated about trees.

David Miller, 9th Street & Peck Avenue, contended that the proposed tree ordinance could affect personal property owners' rights and described his personal experience with trying to preserve a tree while building a home. He also commented on the school district removing trees.

Mayor Ward closed the Public Hearing at 9:20 p.m.

In response to questions from the Council, Senior Planner Jester explained that dead trees in the public right of way are removed by the City; that the City can require the removal of dead trees on private property if they are in eminent danger; and that the City does not have an employee in charge of looking at problematic trees, so the public should bring enforcement issues to the attention of City staff. She explained that while the City has not established set fines for tree removals without permits, she discusses the appropriate fine for the removal of mature trees with the City Attorney.

City Manager Dolan pointed out that the trimming of trees in the public right-of-way is handled by a private contractor and that City staff will contact the contractor to discuss the problem of dying trees along Veterans' Parkway as referred to earlier in this discussion.

City Attorney Wadden advised that, at this time, tree removal fines are negotiated, they are not built into the Tree Ordinance, and that the value of a tree removed without a permit is taken into account when negotiating the fine.

Addressing issues raised by Mr. Quigley, Senior Planner Jester related her understanding that the tree at 1808 Laurel Avenue was very severely trimmed, and the current Ordinance does not regulate that, and that the trees removed from the side yard at 19th Street and Laurel Avenue were not protected except one was a protected tree as it was largely in the public right-of-way.

City Manager Dolan advised that the proposed Tree Ordinance addresses the severe trimming of trees with the intent to kill them.

In response to Councilmember Fahey's question as to whether the fact that a tree removal permit would have been granted is taken into account when determining fines for trees removed without permits, City Attorney Wadden indicated that, depending on the circumstances, if a damaged tree is removed without a permit, a fine would most likely be imposed, but it could result in less punitive actions.

Senior Planner Jester explained that the situation of a neighbor severely trimming a tree on another individual's property is clarified in the proposed Tree Ordinance; that, should the tree be trimmed to the point that it is damaged, a fine would be imposed; that the idea of requiring a replacement tree would be discussed with the City Attorney; and that a citizens' committee could be beneficial to staff to act as the "eyes and ears" of the community in identifying tree issues.

Councilmember Fahey agreed with establishing a citizens' committee to watch for tree problems and provide residents with ideas about replacement trees; questioned the need for a full-time arborist and recommended that penalties for unpermitted tree removals be discussed separately from this item.

Councilmember Aldinger voiced his support for compiling a list of replacement trees similar to Pasadena's; agreed that a citizens' committee could act as a neighborhood watch; emphasized that repeat offenders should be fined; and agreed that there should be restrictions against severe pruning to destroy trees.

Councilmember Montgomery supported the compilation of a replacement tree list; a citizens' committee; and a replacement tree ratio of more than one-to-one. It was his opinion that the City's regulations should be simple; that older mature trees must be protected; that contractors could be required to post bonds to protect trees during construction; and that it could be within the citizens' committee's purview to determine if an arborist's opinion is needed.

Mayor Pro Tem Tell remarked that the proposed Tree Ordinance is a great improvement and agreed with establishing a citizens' committee, which could inventory the protected trees in Manhattan Beach. He commented on the importance of streamlining the standards for granting tree removal permits; agreed with tree relocation requirements, as long as the health of the tree is good; and entertained the idea of requiring a property buyer to sign a form acknowledging that certain trees on the property they purchase are protected. He also voiced his concern that the side yard setback detail will create availability issues and called attention to the inadequacy of the City's current tree provisions related to the sale of property.

Mayor Ward supported a measured approach to defining tree provisions rather than speeding the process along; commented that he did not see the need for a full-time arborist; and agreed with requiring a property buyer to sign a form acknowledging that certain trees are protected. He voiced his understanding that the proposed Tree Ordinance includes provisions to protect property owners' rights and agreed that a citizens' committee should be more of an advisory/review type group rather than an enforcer which pits one resident against another.

At the request of Councilmember Fahey, Senior Planner Jester shared information about provisions for protecting the rights of property owners building new homes and that information regarding trees in side yard setbacks is located in the "Purpose" section of the proposed Tree Ordinance. She explained that contractors doing work in the public right-of-way are required to post bonds and have liability insurance and that the formation of a species specific protected tree list would involve an arborist's report for every tree.

Councilmember Fahey agreed with requiring property buyers to sign a form acknowledging that certain trees on a property they purchase are protected. She also recommended, and Mayor Pro Tem Tell agreed, that the proposed Tree Ordinance include a section specifically devoted to balancing property owners' rights relative to new construction along with trees in street side setbacks.

City Manager Dolan pointed out that, during the first year of the Ordinance, a tree list compiled by City staff and the citizens' committee could be presented at the time of the first-year Ordinance review.

In response to questions from Council, Senior Planner Jester advised that there is no formal follow up on the survival of replacement trees, which must be replaced if they die, but, staff does informally follow up on them; that the City's updated draft street tree list, which is also used as a replacement tree list, contains approximately 80 trees, but, is not all-inclusive; and that staff could not support requiring an arborist's report for every tree to be removed.

Mayor Ward stated that he could not support a replacement tree list, particularly if tree removals would involve an additional cost to property owners to consult an arborist, and related his understanding that the City currently has an unofficial replacement tree list.

Councilmember Fahey asserted that a citizens' committee should be a resource - not a decision-making body and recommended adding language to the proposed Ordinance to include that the relocating of trees is permitted only when doing so does not affect the health of the trees.

Mayor Pro Tem Tell pointed out that, if need be, staff has the ability to seek the advice of an arborist and recommended that the proposed Tree Ordinance be modified to include guidelines for relocating trees, balancing the rights of property owners to build with trees in side yard setbacks and adding a tree disclosure form for individuals purchasing a property.

Councilmember Montgomery voiced his opinion that the cost of an arborist is minimal compared to the cost of constructing a home and that a construction bond requirement should be added to the proposed Tree Ordinance.

City Attorney Wadden questioned if the Council would like to add a construction bond requirement to protect all trees, or if requiring one should be within staff's discretion.

City Manager Dolan reviewed that information regarding the role of a citizens' committee, the requirement of a construction bond to protect trees, requiring disclosure forms be signed when trees are protected, the addition of wording relative to relocating trees will be added to the proposed Tree Ordinance and provided for the Council's review at a future City Council meeting, and clarification that buildings take precedence over streetside tree protection.

Councilmember Fahey concluded by expressing her concern that the City has very few employees who are knowledgeable about trees.

GENERAL BUSINESS

06/0117.12-17 Consideration of Utility Undergrounding Assessment Districts

Mayor Pro Tem Tell reported on the progress of the Utility Undergrounding Assessment District Finance Assistance Subcommittee to examine possible means of providing financial assistance to property owners negatively impacted by utility undergrounding and added that further information on the Subcommittee's recommendations will be presented to the Council in the near future.

Mayor Ward, on behalf of the Council, thanked Mayor Pro Tem Tell for serving as Chairman of

the Subcommittee and Councilmember Fahey for serving as Vice-Chairman, as well as the resident Subcommittee members who are volunteering their time.

Senior Civil Engineer Stephanie Katsouleas presented the staff report on the concept of establishing a policy to allow property owners in the newly-formed Utility Underground Assessment Districts (UUADs) to opt out. During a PowerPoint presentation, she reviewed the events leading up to this point, including the UUAD formation process noting that a UUAD is “initiated” when the City expends funds to begin the utility undergrounding design process. She explained the four factors identified by staff to consider when developing a policy to opt out: eligibility requirements; time limits and/or deadlines; district dynamics; and the signature threshold. She explained the staff recommendations as follows: consider the feasibility of opting out; consider the four factors in developing an opt-out policy; consider the increased financial burden placed on residents remaining in districts already initiated and the affects opting out will have on financial fairness; consider if changing district boundaries would be a misrepresentation of the original conditions under which property owners signed undergrounding petitions; require that requests to opt out be done before funds are spent to initiate the district so that opt-in residents are not adversely impacted financially; establish how opt-out requests should be made and approved, with the understanding that not all areas will qualify to opt out; and consider various proactive measures for districts that are not yet initiated.

City Attorney Robert Wadden clarified that, once a UUAD is approved by vote of property owners and some are allowed to opt out, the property owners remaining could not be required to provide additional funds to cover the cost of those opting out; and, the City could be put in the position of making up a significant shortfall.

Responding to questions from the Council, Senior Civil Engineer Katsouleas shared input on the following: the past timing of providing residents with cost estimates to underground their utilities; the revised design that would be necessary if a portion of a UUAD opted out and the revised costs related thereto that would be borne by the City; the cost estimates for design plans in Districts 7, 8 and 10; and the technical constraints within the utilities’ network that dictate the inclusion/exclusion into the network.

The following individuals spoke on this item:

- **Jim Irwin, 800 Block of Duncan Place**
- **Joseph Moore, No Address Provided**
- **Jack Jensen, 2800 Block of Maple Avenue**
- **Irl Cramer, No Address Provided**
- **Lynne Carscallen, 31st Street**
- **Bill Victor, No Address Provided**
- **Patrick McBride, 5th Street & Peck Avenue**
- **Ted Davis, 700 Block of Poinsettia Avenue**
- **Martha Andreani, Downtown Manhattan Beach**
- **Viet Ngo, No Address Provided**
- **Frank Matranga, 2nd Street & Ardmore Avenue**
- **Jan Dennis, No Address Provided**
- **Jon Chaykowski, 200 Block of 18th Street**
- **Doreen Mann, 15th Street**

Addressing comments made by individuals, Senior Civil Engineer Katsouleas offered information about the following: upfront costs paid by the City; future City procedures for verifying that all residents are contacted about the formation of the UUADs; that 100 to 300 homes is ideal to benefit from economies of scale and limit city exposure; and that, by default, the entire City can be considered as opted out unless they decide to opt in (i.e., form a district).

Council held discussion regarding the distribution of a survey, and directed staff to draft a survey to mail to property owners in Districts 7 through 10 asking them if they would continue to support utility undergrounding given current cost estimates, and stipulated that the survey should contain a provision for property owners to indicate if they would opt out should there be such an option.

City Manager Geoff Dolan confirmed that the survey will be drafted and provided to the Council in approximately one to two months. He pointed out that the survey returns could be enhanced by using registered mail and clarified that Senior Civil Engineer Katsouleas should be contacted by property owners wishing to further discuss opting out.

06/0207.18 Presentation of Status Report on the Mira Costa Override Parking Program

The Council continued Item No. 18 to the February 21, 2006 City Council Meeting.

06/0207.19 Discussion of City Subsidies of Community Events and Organizations

The Council continued Item No. 19 to the February 21, 2006 City Council Meeting.

AUDIENCE PARTICIPATION

06/0207.31 Patrick McBride Re Utility Underground Assessment Districts

Referring to a newspaper article, **Patrick McBride, 5th Street and Peck Avenue**, called attention to problems with undergrounded utilities in Northern California.

Mayor Pro Tem Tell invited Mr. McBride to discuss his concerns at the Utility Undergrounding Subcommittee meetings.

06/0207.32 Ted Davis Re Utility Underground Assessment Districts

Ted Davis, 700 Block of Poinsettia Avenue, contended that property owners were previously ill-informed about the formation of UUADs; that erroneous assessment methods were used; and that a higher majority should be required for the districts to pass. He stated his opinion that District 2 is the only District that will eventually be undergrounded.

06/0207.33 Bob Rupke, Re Utility Underground Assessment Districts

Bob Rupke, 600 Block of 19th Street, had no recollection of being contacted regarding utility undergrounding and asked that adequate notification be provided to property owners in the future.

06/0207.34 Martha Andreani Re Utility Underground Assessment Districts

Martha Andreani, Downtown Manhattan Beach, asked that attention be paid to the wording of the survey; asked that Council consider the financial burden that utility undergrounding would place on property owners; and stated that, while she agrees with the aesthetics of undergrounded utilities, she cannot support it because of the financial hardships it causes.

06/0207.35 Bill Victor Re Utility Underground Assessment Districts

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Bill Victor, No Address Provided, applauded Mayor Ward and Councilmember Fahey for the sensitivity they exhibited earlier this evening with regard to financial hardship and expressed his happiness that the Council is looking for a solution to this problem. He suggested that the survey also ask property owners if they were previously advised of the utility undergrounding.

06/0207.36 Viet Ngo Re Community Development Block Grant (CDBG) Funds

Citing a Federal Government case involving the illegal use of Community Development Block Grant (CDBG) Funds, **Viet Ngo, No Address Provided**, maintained that the City's exchange of CDGB Funds for General Funds for Fiscal Year 2006-2007 would be illegal.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS & COMMITTEE REPORTS

None.

ADJOURNMENT

At 11:40 p.m. the meeting was duly adjourned, in memory of Frank DeBose and Coretta Scott King, to the 5:30 p.m. Adjourned Regular Meeting, to be followed by the 6:30 p.m. Regular City Council Meeting, on Tuesday, February 21, 2006, in said City.

WENDY WEEKS
Recording Secretary

MITCH WARD
Mayor

ATTEST:

LIZA TAMURA
City Clerk

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

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 7th day of February, 2006, at the hour of 5:39 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 5:39 p.m. and moved to open session at 6:27 p.m.

ADJOURNMENT

The meeting was duly adjourned at 6:27 p.m.

ROBERT V. WADDEN, JR.
Recording Secretary

MITCH WARD
Mayor

ATTEST:

LIZA TAMURA
City Clerk