

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
REGULAR MEETING OF  
JANUARY 17, 2006**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 17<sup>th</sup> day of January, 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**

Fire Chief Dennis Groat led the pledge of allegiance.

**ROLL CALL**

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

**CEREMONIAL CALENDAR**

06/0117.1 Introduction of New Chief of Police Rod Uyeda

City Manager Geoff Dolan introduced the 12<sup>th</sup> Police Chief in the history of the City of Manhattan Beach, Rod Uyeda; Mayor Ward welcomed him on behalf of the City of Manhattan Beach, City Council and staff; and City Clerk Tamura administered the Oath of Office to Chief Uyeda.

Chief Uyeda introduced his wife Jennifer, an officer with the Torrance Police Department and their two children Ian and Ripley. He also recognized his former supervisor, Police Chief Bernard Melekian from the City of Pasadena, and thanked him for serving as his mentor for the past several years, enabling him to advance to the position of Police Chief himself.

**CONSENT CALENDAR**

The Consent Calendar (Item Nos. 2 through 8), 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**

06/0117.2 Approve Minutes of the City Council Adjourned Regular and Regular Meeting of January 3, 2006

The Council approved the subject minutes.

06/0117.3 Consideration of Financial Reports:

a) Ratification of Demands: January 12, 2006

b) Investment Portfolio for the Month Ending December 31, 2005

c) Financial Reports for the Month Ending December 31, 2005

The Council approved with no exception Warrant Register No. 15B in the amount of \$3,587,037.71 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; received and filed the Investment Portfolio for the month ending December 31, 2005 and received and filed the Financial Reports for the month ending December 31, 2005.

06/0117.4 Award of Four-Year Contract for Office Supplies to Office Depot (Estimated Value of \$80,000 Per Year)

The Council waived formal bidding per Municipal Code Section 2.36.150 (cooperative purchasing) and approved an award of order for a four-year office supplies contract to Office Depot (estimated value of \$80,000 annually).

06/0117.5 Ratification of Motor Fuel Purchase from Falcon Fuels in the Amount of \$21,227.27

The Council approved to ratify the purchase of fuel from Falcon Fuels in the amount of \$21,227.27.

06/0117.6 Award of Three-Year Contract for Auto Parts to Eddings Brothers, Inc. (Estimated Value of \$50,000 Per Year)

The Council approved an award of RFP #678-06 to Eddings Brothers, Inc. for a three-year auto parts contract (estimated value of \$50,000 per year).

06/0117.7 Disbursement of Progress Payment No. 5 in the Net Amount of \$32,265.00 to Cody Engineering, Inc. for the 2001-2002 Water Main Replacement; 2002-2003 Sewer Main Replacement Project

The Council approved the issuance of the subject progress payment.

**BOARDS AND COMMISSIONS**

**Planning Commission**

06/0117.8 Consideration of Action Minutes, Planning Commission Meeting of January 11, 2006

The Council received and filed the subject action minutes.

**COMMUNITY ANNOUNCEMENTS**

06/0117.14 Public Works Director Miller Re Recent Sewage Spill

Public Works Director Neil Miller expressed appreciation to the city staff, Fire and Police departments, as well as the entire Public Works department for their response to the recent emergency.

**County Sanitation District Chief of Sewer Operations Phil Friess** addressed Council regarding the recent sewage spill that occurred on Sunday, January 15, 2006 in the City of Manhattan Beach and apologized for the disruption and impact it caused the City and its residents. He explained that it is the Sanitation District's job to prevent occurrences such as this; accepted responsibility for the operation of the affected facilities; and added his personal apology to the City. **Mr. Friess** explained what the Sanitation District is doing to restore reliable operations of the pumping plant and the steps being taken to prevent further spills. He further added that, at this time, there is currently no accurate understanding of the cause and that they are currently conducting an investigation.

After Council held lengthy discussions with **Mr. Friess** regarding Verizon's communication failure; the Sanitation Districts mechanical and electrical systems; testing of the beach and health related issues, Mayor Ward summarized his understanding that based on the presentation tonight, the Sanitation District is not sure of the cause of the problem, however, will report back to the City Council when the cause is identified and corrective action is taken.

06/0117.15 Irma Cohen Re Seniors

**Irma Cohen, No Address Provided**, addressed Council regarding senior housing and other senior citizen needs, and the current crisis for seniors related to the undergrounding of utilities.

Mayor Ward reminded residents that this portion of the agenda is limited to comments related to *Community Announcements*.

06/0117.16 Irl Cramer Re Utility Undergrounding

**Irl Cramer, 100 Block of North Dianthus**, a resident of Undergrounding District 4, invited citizens of Manhattan Beach to attend the first meeting of undergrounding dialogue at the Kettle following discussion by Council, where residents will hold a good-faith discussion of differences with an eye of moving ahead for the benefit of the entire City.

06/0117.17 Bev Morse Re Sewage Spill

**Bev Morse, 900 Block of First Street**, addressed Council regarding the recent sewer spillage and expressed concern regarding the even greater damage that might have occurred had the utility lines been underground at this location.

**PUBLIC HEARINGS**

06/0117.9 Consideration of Resolution Approving and Adopting an Updated Urban Water Management Plan for the City of Manhattan Beach

Public Works Director Neil Miller explained that the public hearing is for the purpose of approving the adoption of the 2005 Updated Urban Water Management Plan prepared by the firm **Risk Management Professionals**. He introduced **Steve Mahrer and John Beshers of Rick Management Professionals**, who addressed Council with a PowerPoint Presentation related to the Urban Water Management Planning Act (AB 797) and the updated Urban Water Management Plan for the City of Manhattan Beach.

In response to Mayor Pro Tem Tell's inquiry whether the document is available on the City's website, City Manager Dolan explained that it is a very large document and, thus, not available on the website. He further indicated that the document is available for review in both the library and City Clerk's office.

In response to Councilmember Fahey's inquiry whether the Eighth Street Water Tower would be involved in this discussion, **Mr. Mahr** stated that the water tower was considered as part of the security of the site and Public Works Director Neil Miller explained that the decision of whether or not to keep the water tower was not considered, noting that conservation goals are voluntary as long as there are no drought conditions.

Mayor Ward opened the Public Hearing at 7:20 p.m.

Hearing no requests to speak, the Public Hearing was closed at 7:21 p.m.

Councilmember Aldinger complimented the authors of the plan and added that he believes the City's water supply is very safe, secure and capable.

**MOTION**: Councilmember Aldinger moved to adopt Resolution No. 6013 approving and adopting the Urban Water Management Plan for the City of Manhattan Beach. The motion was 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.

#### **RESOLUTION NO. 6013**

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AND ADOPTING AN URBAN WATER MANAGEMENT PLAN FOR THE CITY OF MANHATTAN BEACH**

#### **GENERAL BUSINESS**

##### *06/0117.10 Introduction of the City's On-Line Water Bill Payment Program*

Assistant Finance Director Russell Morreale announced the implementation of the City's on-line Water Bill Payment Program as part of the City Council Work Plan, giving Manhattan Beach citizens the opportunity to pay their water bill online by credit card in a secure environment. He noted that there are approximately 14,000 combined water-refuse-street sweeping accounts citywide, and explained the process for paying online.

Councilmember Montgomery congratulated staff on implementation of this program.

In response to Councilmember Aldinger's suggestion regarding the use of the user's email address as their ID, which would allow online billing as opposed to the mailing of bills, Assistant Finance Director Morreale explained that electronic bill presentment will be added to the system in approximately a year.

Mayor Ward encouraged residents to use the secure system as a convenient way to pay bills. He also requested that users be allowed to "opt out" of the electronic billing system, once implemented, but still be allowed to use the on-line pay system.

City Manager Geoff Dolan explained that this matter has been before Council several times; requested that Council postpone any formal action until budget time; and asked that Council provide direction on several key points.

Public Works Director Neil Miller addressed Council with a PowerPoint presentation regarding unfunded Capital Projects. He explained that several years ago City Council acted to “hold off” on funding more discretionary projects and save that money for more significant projects such as the Public Safety project and the Strand; that at the last Work Plan Meeting where the Council decided to set priorities for the coming year, Council funded four projects in October, 2005, including: the Facilities Strategic Plan; the City Hall Fire Alarm; the City Council Chambers Remodel; and the City Hall Interior Carpet and Paint; and that several other projects for prioritization were left to be considered for a future date. He also noted that the City Council has discussed consideration of a financing plan regarding the Utility Underground Districts; that an abundance of caution is being taken regarding the Public Safety Facility; and that staff is asking Council to postpone any approvals until closer to the end of the project to ensure that no surprises are left unaddressed. He concluded by asking Council to review the projects tonight and defer any action until the budget hearings in April or May.

In response to Mayor Pro Tem Tell’s inquiry regarding the timing on the financing mechanism for the Underground Utility Assessment Districts, City Manager Dolan stated that the Finance Department is looking at alternatives; that the Finance subcommittee will review this matter at their January 24<sup>th</sup> meeting; and that a report will be presented at one of the Council meetings in February.

In response to Mayor Pro Tem Tell’s inquiry regarding the prioritization of the park equipment at the various park locations, Parks and Recreation Director Richard Gill explained how the various projects were prioritized, noting that the play equipment at some facilities are newer and in better condition than others and that the needs are different at each location.

In response to Councilmember Aldinger’s inquiry regarding the artificial turf, Recreation Services Manager Mark Leyman explained that the cost recovery for financing the turf would vary depending upon how much time Council allocates to private versus community AYSO groups and whether a premium price was charged for the field.

Explaining that that one of the fields would be replaced with artificial turf, City Manager Dolan stated that the question is how long it would take to recover the cost of the turf. He acknowledged that, depending on what is charged and the number of private groups allowed, it could be paid back in as little as seven years or longer if it received less use. He also added that these new artificial turf fields are being used in municipalities throughout Southern California with great approval ratings from users and that while payback is fairly equal to the life of the field, there are more satisfied users.

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

- **Patrick McBride, 5<sup>th</sup> Street and Peck Avenue**

Councilmember Aldinger stated that he has been pushing for a prioritized list of facility needs and indicated his desire to include a dedicated senior center on the list. He said he cannot support the Begg Pool renovation or the expenditure of \$750,000 for artificial turf; he expressed support for the Strand stairs, downtown streetscape, and protective netting for the Manhattan

Heights Park; and recommended deferring the playground equipment to the next Capital Improvement Projects review in July.

Councilmembers Fahey and Montgomery agreed with Councilmember Aldinger regarding delaying the prioritization of the list until the Public Safety Facility is complete and until the undergrounding is decided.

Mayor Pro Tem Tell agreed that the prioritization of the list be delayed; noted that the playground equipment is a higher priority to him than Councilmember Aldinger; and recommended that it all be considered together during the budget hearings.

Mayor Ward agreed with delaying the prioritization of the list, noting that staff has direction that Council wants to wait on the projects given the current fiscal situation.

City Manager Dolan stated that if Council proceeds with the undergrounding assistance, it would reduce the funds available for CIP projects from the \$2.8 million, by whatever amount of money the Council chose to make available for the utility undergrounding. He noted that the Council would establish any parameters for eligibility in February and could then move forward independent from the rest of the CIP projects rather than waiting until July.

Mayor Pro Tem Tell stated that he would like to get the residents involved in setting the parameters for the undergrounding assistance.

#### **RECESS AND RECONVENE**

At 7:48 p.m. the Council recessed and reconvened at 8:00 p.m. with all Councilmembers present.

#### **06/0117.12 Status Update Regarding All Existing Utility Underground Assessment Districts (UUADs 1-6), and Consideration of Future Proposed Underground Utility Assessment Districts 7-14**

Senior Civil Engineer Stephanie Katsouleas addressed Council with a PowerPoint presentation, reviewing the background of the City's policy on the future proposed Underground Utility Assessment Districts; explained the status of current districts under construction (1,3,5), of current Districts 2, 4 and 6, and future Districts 7-14; the escalating cost of undergrounding caused by housing density, requirement to use prevailing wages for labor, price increase for materials and increased cost for working in sandy conditions. She reviewed the reason for the lower cost for Districts 1,3 and 5, including the fact that the Districts were significantly underbid, they were not bid under prevailing wage rules (60-65% of total cost), the omission of construction costs for undergrounding Adelphia's network due to an oversight by Adelphia, and the combination of the high housing density and the lower-than-actual construction price quotes; explained that the range in cost is caused by the various density factors in the different neighborhoods, with the lower density areas costing more per parcel and the sand section areas expected to see the lowest assessment overall; and noted that, ideally, there will be a relatively stable labor cost with the unknown being the cost of materials, with the delay undoubtedly causing additional cost. She concluded by stating that prices are not expected to escalate significantly like they did following the first districts and reviewed staff recommendations as identified in the staff report.

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

- **Jim Irwin, No Address Provided, District 4**
- **Gregory Cherep, El Porto, District 12**
- **Tomas Smid, No Address Provided**
- **Brian Sweeney, 11<sup>th</sup> and Ocean, District 8**
- **Jeanne Gardner, No Address Provided, District 2**
- **Margo Woodard, 2200 Block of Alma**
- **Richard Foss, District 10**
- **Michael Schmitt, 200 Block of John Street, District 2**
- **Paul Randall, 18<sup>th</sup> Street**
- **Peter McNeil, 500 Block of 6<sup>th</sup> Street**
- **Dave Harris, 100 Block of 15<sup>th</sup> Place, District 6**
- **Betty Herring, 200 Block of John Street, District 2**
- **Phil Reimert, No Address Provided**
- **Bev Morse, 900 Block of 1<sup>st</sup> Street**
- **Martha Andreani, 1<sup>st</sup> Street, District 8**
- **Viet Ngo, No Address Provided**
- **Dick Whilden, 100 Block of South Poinsettia**
- **Arpad Pallai, No Address Provided**
- **Matthew Reiser, 2400 Block of Manhattan Avenue**
- **Frank Matranga, 2<sup>nd</sup> Street and Ardmore Avenue**
- **Wendy Phillips, No Address Provided, District 5**
- **Cay Schreiber, 800 Block of 8<sup>th</sup> Street, District 2**
- **Julia Tedesco, 300 Block of 31<sup>st</sup> Street**
- **Bill Victor, No Address Provided**
- **Dan Napier, No Address Provided, District 2**
- **Dick May, No Address Provided, District 4**
- **Patrick McBride, 5<sup>th</sup> and Peck Avenue**
- **Esther Besbris, No Address Provided**
- **Steve Morse, 900 Block of 1<sup>st</sup> Street**
- **Paul Gross, No Address Provided, District 6**
- **Kay Ford, 5<sup>th</sup> Street and Highland Avenue**
- **Wendell Harter, No Address Provided, District 2**
- **Steven Sorell, Counsel for Certain Residents of Districts 2,4 and 6**
- **Joe More, 200 Block of South Ardmore**
- **Margaret Norem, 800 Block of 2<sup>nd</sup> Street**
- **Kevin McCarthy, John Street**
- **Noble Ford, 300 Block of 5<sup>th</sup> Street**
- **Paul Konwiser, 300 Block of 16<sup>th</sup> Street**
- **Leigh Bryan, No Address Provided, District 2**
- **Irl Cramer, 100 Block of North Dianthus**
- **Karol Wahlberg, No Address Provided**
- **Ron Freshman, 6<sup>th</sup> Street**
- **John Chaykowski, 200 Block of John Street**
- **John Lapham, No Address Provided, District 2**
- **Bob Tiedemann, 500 Block of John Street**
- **Ira Ruben, 600 Block of 14<sup>th</sup> Street**
- **Mike Geller, 100 Block of 18<sup>th</sup> Street, District 6**

In response to Councilmember Aldinger's inquiry regarding whose responsibility it would be for future upgrades, what approach are other cities in California taking, if the City has a fact sheet regarding utility undergrounding, and if there is a process for being removed from a district, Senior Civil Engineer Katsouleas explained that future upgrades would be the responsibility of the utility company; that there are a variety of options, including Rule 20A funds for heavy traffic areas; that major thoroughfares are eligible for Rule 20A funds; that cities are using a variety of means to move undergrounding forward; that there is a Frequently Asked Questions (FAQ) section on the City's website which has several bullet points; and that there currently is no appeal process but one would have to be established by the City Council.

In reply to Councilmember Aldinger's request for an explanation of Prop 218, City Attorney Robert Wadden explained that Proposition 218 requires a weighted vote based on the assessment of the property, with the higher assessment receiving a higher weighted vote.

Responding to Councilmember Fahey's inquiry if residents will be held responsible for future repairs, as she was told by Southern California Edison representative Scott Gobble, Senior Civil Engineer Katsouleas explained her understanding that, repairs on public property will be the responsibility of the utility company, but any private property failures would be paid for by the property owner and indicated that she would contact the new representative at Southern California Edison to clarify the policy regarding who is responsible

In response to Councilmember Fahey's inquiry regarding what happens if a homeowner is unable to pay for the hook-up fee, City Manager Dolan stated that the City has the authority to do the hook-up on behalf of the property owner and place a lien on the property, noting that any delays on individual properties can hold up the entire district.

Responding to Mayor Ward's concern regarding the cost of hook-up for which the property owner is responsible and what could happen if the property owner did not pay the cost of trenching to the property line, Senior Civil Engineer Katsouleas stated that costs will vary depending on the current condition of the property, ranging from no cost because they are already underground to the highest cost because of the need to trench through concrete, and she concurred with the statement that the City would have authority to do the hook-up and create a lien on the property.

In response to Mayor Ward's concern that a property owner could potentially lose their home because of a \$4,000 lien on their property and request for further information regarding the lien process, City Attorney Wadden explained that when a property owner defaults on a tax lien, penalties are imposed and, following a significant notification process, the County Assessor could potentially conduct a tax sale on the property.

Responding to Councilmember Fahey's observation that many of the older homes are set back much farther on the lot than the newer homes and, therefore, the trenching cost would most likely be higher for the older homes, Senior Civil Engineer Katsouleas explained that the cost will depend on the length of the trench, as well as what materials the trench would be dug through—either dirt or concrete.

Mayor Ward expressed concern that, while the City is trying to remain somewhat neutral and let undergrounding be resident-driven, the estimates of assessments provided by the City do not provide a clear picture of what the true cost would be for the undergrounding of utilities, since the assumption is being made that people will have the means to pay and not that they may have to spread it over several years. Senior Civil Engineer Katsouleas responded by explaining that the ballot included an estimated cost based on the current interest rate of 5%, as well as what it would cost if it were paid up front, thus avoiding bond costs.

Councilmember Aldinger stated that there is sufficient time to develop a fact sheet for Districts 7-14 that should clearly explain the actual costs and he does not see the need for a moratorium on these districts.

Mayor Ward requested that staff provide a fact sheet which would include a clear explanation of the total cost of the assessment when financed.

In response to Councilmember Fahey's inquiry whether there are any other situations where the City might put a lien against a property, City Attorney Wadden explained that a lien could be placed on property for abatement of a nuisance when a judgment was awarded the City.

Councilmember Fahey stated that the lawsuit that has been filed, in effect, creates a moratorium because the districts cannot go forward until the court rules preliminarily. She expressed concern regarding the divisiveness of this issue and noted that the only benefit of a lawsuit is that it gives everybody an opportunity to determine how residents can be helped in the districts where the City has already voted to go forward, urging that the additional time be utilized to try to begin a process that will bring people together. She stated that while it is good for residents to get together informally and discuss the issues, she believes it will take a group of caring, involved people to sit down and officially work together to see how the community can work together on this difficult issue. She said while she believes in the democratic process and that the vote should stand, at the same time, it's not too late to make it better and that we have the opportunity to do that.

Councilmember Aldinger agreed that this is a very divisive issue, as well as a very difficult one for him, and he stated that he does not want to see anyone have to leave town because of undergrounding. He said that Council voted in favor of Districts 2 and 6 to go forward based on the overwhelming majority in favor; noted that the lawsuit is a valid tool to use in society and, while it may be divisive, he does not see it as frivolous. He concluded by stating that he believes that the sooner the districts go forward then the lower the cost.

Councilmember Montgomery thanked staff for an excellent presentation regarding current information and cost; agreed that the fact sheet should be updated with as much information as is available; expressed his continued support for Districts 2, 4 and 6; and explained that while he does not support a moratorium, he does support looking into possible financial assistance for those in need.

Mayor Pro Tem Tell commented that reasonable people can differ as to the benefit of undergrounding, stating that this resident-driven process set by Proposition 218 is the purest form of democracy; noted that the lawsuit filed will be decided by the courts in the next 90 days; and that Council expects that the procedures followed will be confirmed. He said the elected officials must make sure that the majority vote does not hurt those in need and proposed the establishment of a committee to discuss financial assistance for those in need and recommended that the committee be comprised of residents, staff and Council representatives to define parameters regarding who should be included and what should be paid for (annual assessment or hookup costs). He proposed expediting as much as possible to avoid any further delays while focusing on ways to ensure that no one has to leave the community because of undergrounding.

Mayor Ward expressed concern with the unknown costs and how those who cannot afford to pay for it will be affected. He pointed out that in 1990 when Council decided to move forward with undergrounding, it was specifically stated that they did not want to force it on anyone, starting out with 2/3 required vote and later lowering it to 60%, and that they didn't want the City to be an active participant in the process. He argued that the City is being an active proponent of undergrounding and, therefore, should do a thorough assessment and plan for the costs city-wide

to address those citizens who might end up with a lien against their property and determine how it should be paid for. He agreed that a fact sheet should be prepared during the timeframe of the lawsuit and provided to affected property owners that clearly spells out the costs and process; and then if the people overwhelmingly vote for it, that would be fine. However, if they vote as they did in District 4 then he would vote against it. He urged the Council to better inform the property owners of exactly what is going on and how it could be paid for. He further stated that while some residents are willing to help pay for undergrounding for those who cannot afford it, there needs to be parameters and stipulations to determine who is eligible for those monies, and noted that he never anticipated the need for this.

Councilmember Fahey stated that she believes the process is slowing down and she would like to see the City determine how they can help financially, and how the residents who are proponents and willing to help financially would do so, and she would like to have recommendations coming to Council much more specific than being offered tonight.

Councilmember Aldinger noted that other cities have figured out ways to help people pay for undergrounding and he believes the City of Manhattan Beach has the capability to help and should find ways to help as well. He said the process works and, as painful as it is for everyone, it is the process in place.

Mayor Ward expressed concern with stating that financial aid is available, noting that the City of Manhattan Beach does not have a bottomless purse and he expressed concern with the impact on the City's budget and the basic way we operate business in the city. He said to move forward quickly is of concern to him.

Council discussed the preferred process for establishing a committee as soon as possible and asked that interested members of the community contact a member of the Council for consideration.

With Council consensus, Mayor Ward appointed Councilmembers Fahey and Tell to the sub-committee; he also clarified that the scope of the sub-committee will be to evaluate all the different alternatives in terms of providing financial assistance and to prepare recommendations, criteria, as well as process issues for Council consideration.

City Manager Dolan stated that, once established, the sub-committee meeting will be scheduled and will adhere to the Brown Act requirements. He also indicated that this item will be placed on the February 7<sup>th</sup> agenda for further Council consideration of the financial program.

Hearing no objections, Council received and filed the subject status reports and approved the appointments of Councilmembers Fahey and Tell to the sub-committee.

#### **RECESS AND RECONVENE**

At 10:46 p.m. the Council recessed and reconvened at 10:56 p.m. with all Councilmembers present.

06/0117.13 Consideration of a Final Report on the Metlox Construction Project and the Public Improvements Portion of the Civic Center Project, Consideration of a Status Report on the Police & Fire Facility Construction Project, Disbursement of Progress Payment #22 in the Net Amount of \$912,391 to Swinerton Builders and Approval of a Contract Extension for Hellmuth, Obata + Kassabaum for Architectural and Engineering Services

Deputy City Manager Sherilyn Lombos provided Council with a summary of City Engineer Dana Greenwood's presentation explaining that the work stems from the environmental impact analysis performed in 2000 associated with the Civic Center and Metlox projects; that the transportation circulation section specifically deals with the need to extend 13<sup>th</sup> Street, make Morningside one-way and make Valley two-way between 13<sup>th</sup> and 15<sup>th</sup> Streets; and that this final report will bring the analysis and recommendation full circle.

City Engineer Dana Greenwood addressed Council with a PowerPoint presentation related to the public improvement projects surrounding the Civic Center and Metlox Projects, including 15<sup>th</sup> Street surrounding the Police & Fire Facility; Valley and 15<sup>th</sup> Street intersection improvements; Valley Drive toward Live Oak Park; Valley Drive between Manhattan Beach Blvd. and 15<sup>th</sup> Street; 13<sup>th</sup> Street west of Valley Drive; and Morningside Drive, which is now a one-way street northbound.

In response to Councilmember Aldinger's inquiry regarding when Valley Drive will be made a two-way street going north, City Engineer Greenwood responded that once the civic center parking is available and the diagonal parking on the south side of 15<sup>th</sup> Street is eliminated, the right-hand turn lane will be re-installed and the appropriate traffic flow restored in order to make the street two-way.

Senior Planner Jester address Council with a PowerPoint presentation related to the \$14.1 million project on the Metlox Site, explaining the parking uses for the 200 first-level parking spaces and the 260 parking spaces on the lower level; reviewed the various uses for the escalators, stairwells and elevator; explained several art features throughout the project; identified that service uses are on the top level and retail on the lower level; explained that storefronts mimic the small-scale storefronts of the rest of downtown; pointed out that the utilization of the former parking lot on 13<sup>th</sup> Street created a pedestrian connection to the retail uses on the site; addressed that the incorporation of the "Metlox Potteries" sign was relocated into the parking lot entrance wall; and that the 13<sup>th</sup> Street garden which includes a fountain/water wall with water streaming down and landscaping on both sides, depicts the sand dunes with text panels which incorporates memories of the sand dunes.

In response to questions from Councilmembers, Senior Planner Jester stated that there are no more costs associated with the project and agreed that the fountain was designed for children to play on it and could perhaps use a sign encouraging the community to enjoy the fountain.

Councilmember Aldinger thanked everyone involved in the process, noting that it is exactly what he had envisioned for the site.

City Manager Dolan stated that while there was significant community divisiveness during the past eight years, the Council made two difficult and courageous decisions in the end regarding the inclusion of the second level parking and acquisition of the H2O parking lot.

Deputy City Manager Lombos reported on the status of the Police & Fire Facility, noting that things are positive, that the contractor is upbeat and that there is “a light at the end of the tunnel.” She reported that staff continues to operate under the theory of “no surprises”; reviewed the various links on the City website regarding the project; noted that the construction hotline 310-802-5299 is checked daily with daily follow-up on complaints; that the Construction Issues Committee meets monthly to discuss construction-related impacts; noted that telephone inquiries should be directed to the City Manager’s office at 802-5053; and that the construction newsletter is again being published and available on the City website, at city hall and via e-mail. She addressed Council with a PowerPoint presentation regarding the status of the Police & Fire facility, reporting that the project schedule has not slipped since the last report and that the contractor has expressed confidence that the substantial completion date set for April 13<sup>th</sup> and final completion of June 13<sup>th</sup> will not change. She added that staff is already planning a grand opening event for some time in May or June—which they believe will be a great event for the entire community. She reported on the various activities that have taken place since the last report as outlined in the staff report.

With regard to costs-to-date, Deputy City Manager Lombos explained that staff is confident that the project will remain on budget; pointed out that approximately 63% of the contingency has been spent to date, with the majority in change orders due to delay settlements and owner requests and unforeseen adjustments; and explained that the remaining adjustments from the contingency include extensions to the architecture engineer contract and the construction management through the end of 2005. She added that the budget includes \$90,000 to pay for the school district property through the end of 2005 and noted that adjustments still need to be made through the end of the project. She said that Progress Payment #22 in the amount of \$912,000 leaves \$4.5 million to be paid, noting that Swinerton is currently performing an analysis of the remainder of the progress payments and it will be provided to Council once received by staff.

Deputy City Manager Lombos further reported that the Council subcommittee met on January 11<sup>th</sup> to discuss a number of issues, including a staff recommendation to extend the scope of work for the architect engineer team through the end of the project (June 2006). She added that, in October 2005, Council approved an extension of the contract through December 2005 and approval tonight will extend the contract through the end of the project, explaining that the Architect and Engineer team has agreed to defer invoicing and payment until the end of the project, at which time staff will conduct an analysis of errors and omissions, and will then determine whether or not the architect will be paid in full.

Deputy City Manager Lombos pointed out that there is more time than money, noting that the police and fire services are being provided at their current location and staff is confident that the project is, currently, only over time but not over budget and that they will continue the policy of “no surprises.”

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

• **Bill Victor, No Address Provided**

In response to comments from **Mr. Victor**, City Manager Dolan clarified that the financing plan has occurred exactly as approved several years ago by Council; that certain street improvements were always approved as an individual public works project; and that all changes were approved by Council.

Mayor Ward explained that if the City is found to be at fault, then the City pays out monies and if the contractor is found to be at fault, then they pay, and this will all be determined at the end of the contract prior to final payments being made by the City.

In response to **Mr. Victor's** comments related to a \$45,000 change order for a sky light, Deputy City Manager Lombos explained that this expenditure is for 26 skylights, and not just one; and that the skylights (located throughout the building) were required as part of the Southern California Edison "Savings by Design" Energy Savings Program. She further explained that the City will receive an \$86,000 rebate for designing a more efficient building, but because the architect did not incorporate them into the original plan they had to be added into the plan.

Mayor Ward explained as a member of the building subcommittee which reviews the numbers and change order requests, he has been attempting to ensure that the costs are reasonable and within budget, and he is pleased that there are just finishing touches that need to be completed. He reported that the contractor had people on site in anticipation of possible problems as a result of the recent rain, but there were none, and noted that there is a renewed amount of energy and he is encouraged with the progress of the project. He said the cabinetry, tile and drainage issues being rectified and corrected are substantial movements and he does not see any major problems that would affect or delay the process.

Mayor Pro Tem Tell agreed that there has been a lot of progress in the last month and he was encouraged by the lack of problems caused by the recent rain at the end of the year, showing renewed commitment by Swinerton to avoid additional schedule changes and that it also shows a commitment by Swinerton to complete the project.

**MOTION:** Councilmember Fahey moved to receive and file the final reports on the Metlox construction project and the public improvements portion of the Civic Center Project, receive and file the status report on the Police & Fire Facility construction project; approve the issuance of the subject progress payment; and approve a contract extension with Hellmuth, Obata + Kassabaum (HOK) for architectural engineering services. 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.

In response to Councilmember Aldinger's request for the total dollar amount of all outstanding change orders and a weekly update on the project, Deputy City Manager Lombos responded that Potential Change Orders total approximately 20-30 for approximately \$300,000 and noted that Vanir and HOK have done a great job protecting the City's interest as it relates to change orders and reported that the contractor has made a commitment to providing weekly updates.

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

None.

## **AUDIENCE PARTICIPATION**

### *06/0117.18 Patrick McBride Re Councilmembers Not Addressing Concerns*

**Patrick McBride, no address provided**, expressed concern regarding comments he has heard that the Manhattan Beach City Council appears to be “imperial” based on the fact that speakers at Council meetings feel the Council does not address their concerns because they feel that what they say has not been addressed. He thanked Councilmember Fahey for attempting to address the issues in the past. He congratulated and welcomed Mayor Ward on his recent appointment as Mayor and expressed his hope that his style would translate to a less “imperial” City Council.

### *06/0117.19 David Wachtfogel Re Alternative Financing for Utility Undergrounding*

**David Wachtfogel, No Address Provided**, expressed concern regarding the use of private charity in public affairs and said that the financing of the undergrounding projects should be taken care of without private charity, stating that he preferred alternative financing programs whereby a person who cannot pay can borrow the money and not have to pay it until they die or sell the house, arguing that the City does not need to use its resources for this purpose. He further suggested that the City request information from a variety of financial institutions and, thereby, take the charity out of the program in the public forum.

### *06/0117.20 Bill Victor Re Utility Undergrounding*

**Bill Victor, No Address Provided**, said a financial aid program is demeaning to people, noting that people who need it the most didn't need it before the undergrounding. He said he was expecting to see an agenda item regarding how a home or group of homes can be removed from a district; noted that he was told months ago that he needed to ask Council about being removed from a district; and asked that it be placed on the next Council agenda.

In response to comments by **Mr. Victor**, City Manager Dolan explained that, in **Mr. Victor's** particular case, the area just south of his property is currently undergrounded and because of the location of the transformers, his block cannot be taken out of the District. He said the District has been formed and design work is underway.

Councilmember Fahey asked for an answer to the question from Southern California Edison of the inquiry on how do homes at the edge of a district, get removed.

After Council discussion, City Manager Dolan stated that every situation has to be looked at and **Mr. Victor's** situation, because he is between an underground area and a potential underground area, he can't be removed. He said he will have Senior Civil Engineer Stephanie Katsouleas address this matter at a future meeting.

## **CITY MANAGER REPORT(S)**

None.

## **OTHER COUNCIL BUSINESS & COMMITTEE REPORTS**

### *06/0117.21 Councilmember Montgomery Re Senate Bill 411*

Councilmember Montgomery asked for Council support of opposition to SB 411, reporting that the Independent Cities Association, the League of California Cities, and the California Association of Counties are all opposed to this bill.

City Manager Dolan reported that this item will be heard in the legislation prior to the next Council meeting; noted that staff supports the resolution in opposition to the bill; and explained that because this is an urgency matter that came to the City's attention today and action will be taken at the Senate prior to the next Council meeting, said it will require a 4/5 vote to take action.

In response to questions from Council, Public Works Director Neil Miller explained that the use of green waste as alternative daily cover constitutes basically the same as compost and should receive the same credit. He said that he believes there is a different point of view that somehow it is cheating the law because although it is green waste, it is still going to the landfill.

City Attorney Wadden explained that Council will need to make a "subsequent need" motion that requires 4/5 of Council vote and recommended that this take place as a separate procedural vote, with the findings that it arose after the posting of the agenda and there is a need to take action prior to the next meeting.

**MOTION:** Councilmember Fahey moved to approve placing the item on the agenda with the findings that it arose after the posting of the agenda and that there is a need to take action prior to the next meeting. 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.

**MOTION:** Councilmember Montgomery moved to adopt Resolution No. 6015. The motion was seconded by Mayor Pro Tem Tell and passed by unanimous roll call vote.

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

**RESOLUTION NO. 6015**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, OPPOSING SENATE BILL 411 (ELIMINATING DIVERSION CREDIT FOR GREEN WASTE)**

06/0117.22 Councilmember Aldinger Re South Bay Cities Council of Governments General Assembly

Councilmember Aldinger reported that the South Bay Cities Council of Governments (SBCCOG) will hold its annual General Assembly on February 23<sup>rd</sup> entitled the "South Bay Digital's Future", noting that this is a free conference about cable, fiber to the home, and changing the policy landscape. He noted that the conference is free and staff and elected officials are all invited.

**ADJOURNMENT**

At 12:06 a.m. the meeting was duly adjourned, in memory of Carl Fisher, former educator and Principal of Mira Costal High School, 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 7, 2006, in said City.

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MERNA MARSHALL  
Recording Secretary

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MITCH WARD  
Mayor

ATTEST:

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LIZA TAMURA  
City Clerk

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
ADJOURNED REGULAR MEETING  
JANUARY 17, 2006**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 17<sup>th</sup> day of January, 2006, at the hour of 5:51 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 5:51 p.m. and moved to open session at 6:10 p.m.

**ADJOURNMENT**

The meeting was duly adjourned at 6:10 p.m.

ROBERT V. WADDEN, JR.  
Recording Secretary

MITCH WARD  
Mayor

ATTEST:

LIZA TAMURA  
City Clerk