

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING OF
DECEMBER 6, 2005**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 6th day of December, 2005, at the hour of 6:34 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

PLEDGE TO FLAG

Danielle Kay, a 5th Grade Student from Pacific Elementary School, led the pledge of allegiance.

ROLL CALL

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

CEREMONIAL ITEMS

05/1115.2-1 Presentation of Commendation to Erin Duralde for Her “Extraordinary Citizenship” in Continuing with the Success of the “Reading By 9” Book Drive

Mayor Fahey, on behalf of the Council, presented Erin Duralde with a commendation for Extraordinary Citizenship for her continued success with the “Reading By 9” Book Drive.

05/1206.2 Presentation of Certificates Recognizing the Community Police Academy Graduates of the Manhattan Beach Police Department

Mayor Fahey, on behalf of the Council, along with Police Officer Stephanie Martin, Officer Scott Combs and Sergeant Nan Rados presented Certificates of Recognition to the Community Police Academy Graduates of the Manhattan Beach Police Department’s Community Police Academy Class # 5.

Police Chief Kleveshal thanked Police Sergeant Rados for an excellent job in putting together the program over the last five years.

05/1206.3 Annual City Recognition of Longstanding Local Businesses

Mayor Fahey, on behalf of the Council, presented certificates recognizing several longstanding local businesses that have been providing services to the community for 20 or more years.

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 Tell and passed by a unanimous roll call vote with the exception of Item No. 14 which was considered later in the meeting under *Items Removed from the Consent Calendar*.

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

GENERAL CONSENT

05/1206.4 Approve Minutes of the City Council Adjourned Regular and Regular Meeting of November 15, 2005

The Council approved the subject minutes.

05/1206.5 Approve Minutes of the City Council Adjourned Regular Underground Utility Assessment District Meeting of November 21, 2005

The Council continued the subject minutes to the December 20, 2005 City Council meeting.

05/1115.17-6 Consideration to Adopt an Ordinance to Amend the Construction Hours as Part of the Work Plan Regarding Residential Construction Impacts

The Council adopted Ordinance No. 2079 to add three holidays when construction will be prohibited.

ORDINANCE NO. 2079

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING SECTION 5.48.060 OF THE MANHATTAN BEACH MUNICIPAL CODE REGARDING HOLIDAYS ON WHICH CONSTRUCTION ACTIVITIES ARE PROHIBITED

05/0816.8-7 Follow-Up Review of Traffic Safety Conditions at the Driveway to the Manhattan Village Senior Villas

The Council received and filed the subject report.

05/1206.8 Consideration of Financial Reports:
a) Ratification of Demands: November 17, 2005 & December 10, 2005
b) Financial Reports for the Month Ending October 31, 2005

The Council approved with no exception Warrant Register No. 11B & 12B in the amount of \$5,039,459.15 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register and received and filed the Financial Reports for the month ending October 31, 2005.

05/1206.9 Return of Surplus Vehicles and Equipment Previously Obtained at No Cost Through the Federal Government's Surplus Program

The Council approved the return of four non-operable vehicles and one mobile generator unit back to the Federal Government's 1033 surplus program.

05/1206.10 Award of Three-Year Contract for Elevator and Escalator Maintenance Services to Amtech Elevator Service (Estimated Value \$34,920 Per Year)

The Council approved the award of RFP #672-06 to Amtech Elevator Service for a three-year elevator and escalator maintenance contract (estimated value of \$34,920 per year).

05/1206.11 This Space Intentionally Left Blank

BOARDS AND COMMISSIONS

Cultural Arts Commission

05/1206.12 Consideration of Draft Minutes, Cultural Arts Commission Meeting of November 8, 2005

The Council received and filed the subject draft minutes.

Parks and Recreation Commission

05/1206.13 Consideration of Draft Minutes, Parks and Recreation Commission Meeting of November 14, 2005

The Council received and filed the subject draft minutes.

Parking & Public Improvements Commission

05/1206.14 Uphold the Parking and Public Improvements Commission Recommendation to Modify Three Red Zones on the East Side of Walnut Avenue, North of Manhattan Beach Boulevard

Item No. 14 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

COMMUNITY ANNOUNCEMENTS

05/1206.20 Councilmember Montgomery Re South Bay Toy Drive

Councilmember Montgomery announced that the South Bay Toy Drive will be accepting toys at both Manhattan Beach Fire Stations until December 16, 2005 and encouraged participation in this worthwhile event.

05/1206.21 Public Works Director Miller Re Improvement Projects

Public Works Director Neil Miller announced the upcoming street improvements around Metlox and noted that Morningside Drive will become a one-way northbound street to help navigate the improvements, noting that signage will be posted at key points to alert traffic to the change.

Public Works Director Miller also announced that the refurbishment of Live Oak Park will begin in January, 2006.

05/1206.22 Mayor Fahey Re Holiday Fireworks

Mayor Fahey invited the public to enjoy the Holiday Fireworks display on Sunday, December 11, 2005 at 4:30 p.m. and noted that it will include a snow park for the children to enjoy.

05/1206.23 Mayor Fahey Re New Metlox Center and Downtown Businesses

Mayor Fahey encouraged residents to visit the new Metlox Center and to shop locally at downtown businesses this holiday season.

05/1206.24 Councilmember Aldinger Re Tree Lighting Ceremony

Councilmember Aldinger commented that the tree lighting ceremony held last weekend was very nice and lots of fun.

05/1206.25 Holiday Open House – Window Decorating Contest Winner

Council announced that the winner of the Holiday Open House window decorating contest went to Toy Jungle.

05/1206.26 Fire Chief Grout Re Spaghetti Dinner

Fire Chief Dennis Grout encouraged everyone to attend the fundraiser spaghetti dinner at the Fire Station on December 11, 2005 in conjunction with the fireworks display, noting that the funds are used for community projects and families in need.

PUBLIC HEARING

05/1206.15 Consideration of Planning Commission Recommendation to Approve Amendments to Title 10 of the Municipal Code (The Zoning Ordinance) and Title A of the Local Coastal Program (LCP) for the Purpose of Establishing a Maximum Lot Size for Residential Properties

City Manager Geoff Dolan explained that this item is a result of the Council Work Plan and noted that the Planning Commission has held two Public Hearings on this matter.

Senior Planner Rosemary Lackow addressed Council regarding the proposed ordinances that would revise the Zoning Code and Local Coastal Plan to establish a new standard for a maximum lot site size for residential properties throughout the City. She explained that, during the past several years, small houses have been demolished at a high rate and replaced by much larger houses, prompting Council to adopt three Work Plan items to address mansionization, including the maximum lot size ordinance currently under consideration. She explained that the purpose of the two ordinances is to limit combining more than two times the minimum lot area; to address building size by addressing the lot size; and address Council's concern, in part, regarding mansionization. She noted that the Planning Commission Public Hearings were advertised in the Beach Reporter as well as through letters to property owners and that these Public Hearings resulted in the Commission adopting a resolution recommending that the Council adopt the two proposed ordinances. She reviewed the typical lot size in the different areas; explained that the ordinances would require approval and adoption by the Coastal Commission; and that the new standard provides for a maximum site area of two times the minimum lot standard in each area. She pointed out that the Planning Commission received very little input from the public at the first public hearing and actually held it over to ensure that the City made its best effort to reach all affected property owners. She also pointed out that the other two Work Plan items (design standards and a development program that would affect structures) are not being addressed this evening but will be deferred to a future meeting. She went on to explain that, subsequent to the Planning Commission hearing, it was brought to staff's attention that there are a number of lots that exceed the minimum lot area standard and would be precluded from being merged if the standard "two-times the minimum lot area" is adopted. She added that because of this, Council is being asked to consider an option that would allow the Director of Community Development the ability to approve the merging of pre-existing lots if the maximum size did not exceed 2.6 times the minimum lot size; if the proposed site would not impact the neighborhood; and if it would blend with the pattern of adjoining and nearby properties, including but not limited to shape and orientation to the adjoining streets.

In response to Councilmember Tell's inquiry regarding the rationale for using the minimum lot size for defining the character of the neighborhood and how the minimum lot size became the standard, Senior Planner Lackow stated that historically, previous Councils had set a policy as to what size a single site should be and staff felt it was relative to each geographic area.

In response to Mayor Pro Tem Ward's question regarding how many properties throughout the City are affected by this ordinance and how the ordinance would address a property owner deciding to replace a multi-family unit with one large home, Senior Planner Lackow stated that the exact number has not been determined but estimated that it could be 10% in the beach area. She continued that the property containing the multi-family unit would not be allowed to follow through with this scenario if it exceeds 2.6 times the minimum lot size in the area, if the ordinance were adopted as presented.

In response to Mayor Fahey's inquiry regarding the status of the three lots on the Strand that are owned by the same person, which will be affected by these ordinances, Senior Planner Lackow stated that staff has seen a conceptual plan but that the owner has not yet applied for permits.

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

Rob DeSantis, No Address Provided, stated that he has lived in Manhattan Beach for 20 years; that he purchased the three contiguous lots on the Strand approximately 5 years ago with the intent of some day building his dream house on the property; and that his two project goals are a non-ostentatious, open, child-friendly home with a yard and a project that would be consistent with the local community and the town. He explained that the architect has been working on the concept for quite some time and that the proposed ordinance will impact the different ways they can go about the property. He said he is truly sorry that he is asking for changes at the last minute; that he has no conflict with the intent of the ordinance and could not agree more with the need to control mansionization; and that he believes there may be some interesting thoughts that could be incorporated.

Grant Kirkpatrick, 600 Block of 31st Street and Architect for Mr. DeSantis' project, acknowledged that they have come in at the last minute regarding this matter and apologized for not voicing their concerns during the Planning Commission stages. He acknowledged that the public notice was properly conducted, commended staff for a good job of helping Council maintain the neighborhood character in the City, and asked for consideration regarding the property on the Strand. He reported the assessor's map shows the property as a double lot and a single lot next door; that they realize the ordinance has been written in a way to impose a maximum lot size and, while they don't disagree with this concept, he expressed concern that the lot merger, as proposed, will restrict their ability to plan the property development. He stressed that the intent of **Mr. DeSantis'** project is to maintain the character and flow of the neighborhood and asked that, in lieu of controlling mansionization by limiting future development to only two lots, he be allowed to work with City staff to develop a process that will result in something mutually acceptable with regard to what they are trying to accomplish.

Robert Shuman, 3600 Block of the Strand, stated that he heard today that this item was on the agenda and commented that while the first meeting of the Planning Commission was well noticed, he does not believe the subsequent meetings were. He stated that there was extreme opposition from those who attended the first Planning Commission meeting and suggested that the City Council postpone action until proper notice could be sent to all potentially affected property owners by registered mail. He said he agrees with the intent to create greater quality but argued that it should not be done on a discriminatory basis by the arbitrary taking of property rights. He added that everyone should agree to have greater setbacks on the front, rear and side, but not have the few people with larger lots underwrite the problem of the entire City.

Mickey (last name inaudible), 300 Block of 18th Street, opposed the amendment, stating that it restricts the rights of property owners and imposes restrictions that are constrained to the point that the new homes are all very similar. He said it is very rare that three lots will be put together, and the right of the few that have them should not be taken away, noting that making everything conform will result in several single family homes on smaller lots rather than a larger home on larger lots.

Mayor Fahey closed the Public Hearing at 7:37 p.m.

Responding to **Mr. Shuman's** claim that the first meeting of the Planning Commission was attended by several people who were extremely opposed to the proposal, Senior Planner Lackow explained that the review by the Planning Commission that was tabled was for the development of standards for buildings on merged lots and the next two hearings will be related to regulating merging land. She pointed out that what staff is referring to has more to do with the basic subdivision patterns; that the basic policy decision to be made is whether this should be controlled with a maximum; and that this is not a discussion of side yard setbacks but rather how big an individual site can be.

City Manager Dolan pointed out that the pattern of development that is being addressed, and the policy question for Council, is whether the modification to the pattern of development is something that is acceptable to Council.

Mayor Fahey stated that she doesn't think an ordinance should be drafted with a particular property in mind; that she does not believe Council has enough expertise to anticipate any problems this type of decision could make; and that the whole issue of mansionization should be studied by people who work with it all of the time and can express what unique characters may be lost. She thereby recommended that a Resident Building Advisory Committee be created to look at these issues and come back to Council with recommendations.

Councilmember Tell expressed concern with using the minimum lot size as the basis for limiting the lot size; that the most alarming aspect is the possible size of the building with three lots merged together; and that it is a fear of what could happen, not what has happened. He stated that he supports Mayor Fahey's proposal to consider the three Work Plan items to address the problem in the context of mansionization, arguing that currently this is being done arbitrarily based on fear. He said that he is not sure that the right standard is two lots and suggested that, perhaps, it should be based on the pattern of the neighborhood, noting as long as the building is not built out to the maximum, perhaps exceptions could be allowed to the three lots if they conform to certain criteria.

Councilmember Aldinger disagreed, stating that the City has done a lot by increasing the setbacks on the second floor and allowing basements. He concurred that this is a difficult situation because there is someone who currently has a potential merger; expressed concern that, while this makes it difficult to go forward, there will be someone else in another area that will have the same situation and, because developers and architects would have no problem maximizing to whatever they can build, there needs to be guidelines in anticipation of the future.

In response to Councilmember Montgomery's comments that he does not want to have every property look alike, that staff cannot control the process and that the idea of having a resident committee may be desirable, Community Development Director Richard Thompson commented that staff has been working on mansionization for six years and what concerns him are the comments being made that staff does not have the expertise to make these decisions and that there is not enough citizen input. He commented that developers and architects are continually invited in to discuss the proposals and staff has done everything they can to get public participation. He pointed out that in order to go to the next step and focus on the structure itself, it will require including the size of the building (FAR), building height and building setbacks,

which will reduce the amount of square footage on a lot. He noted that during the Council Work Plan meeting, the Councils' direction was to address the three items, one at a time, and that addressing maximum lot size is turning out to be more difficult than first thought.

Mayor Fahey commented that while she doesn't disagree that staff has sufficient experience, she indicated that she believes the architects could provide her with insight as to what they could have built if ordinances were written differently that would have added to the uniqueness and creativity of the neighborhoods, as well as a wish list of things that may have been allowed – and that she doesn't know enough to ask intelligent questions. She added that there is a difference between inviting people to a hearing to speak for three minutes and putting together a committee for interactive discussion, noting that if the community doesn't want to get involved, we will know that by the first of the year.

Community Development Director Thompson pointed out that the Planning Commission is the expert advisory body that does its best to obtain input from the community and has done what they could in order to bring their proposal to Council. He said he does not believe the maximum lot size will affect many properties in the City, noting that since he has been with the City here there have been approximately nine lot mergers and perhaps that is why there hasn't been much input from residents, but a project where half of the block is one project and the other half is three lots, it completely changes the character of the block.

Councilmember Tell said it depends on the size of the building going on the three lots, noting that he the pattern of the neighborhood is more important than the random choosing of a maximum lot size and suggested allowing an exception of three lots to go forward with specific conditions, which could be determined by the proposed committee.

Councilmember Ward stated that he does not support the Mayor's proposal because, as a former Planning Commissioner, public input, including a group of architects, resulted in the changes that have already been made. He stated that Council needs to make a policy decision about the merger of the properties so there won't be a monolith in the middle of smaller properties; noted that he likes the proposed ordinances because they protect the character of the neighborhood; and argued that the home proposed for the Strand would drastically change the character of the neighborhood.

Community Development Director Thompson said that staff recognized that there are merged lots taking place and that they are not concerned with the merger of two lots, but in looking for a way to maintain status quo looked for a way to address requests to merge more than two lots.

In response to Councilmember Montgomery's inquiry whether there is a process for discretionary applications, Community Development Director Thompson explained that Council could decide to implement a Use Permit process.

In response to Councilmember Tell's statement that there may be other people who have assembled three lots and have the expectation of being able to build on the three lots and that a Use Permit may be the way to go, Community Development Director Thompson explained that notices were sent to everyone who owns three contiguous lots, even if they are not currently combined lots, and no responses were received from these property owners. He also pointed out that, by requiring a Use Permit, there is a risk of getting into design review for single-family residences.

City Manager Dolan suggested bringing this item back to the next City Council meeting with the ordinance as written adding the criteria for a Use Permit for anything that exceeds 2.6 the size of the minimum lot.

Stating that they are not in that big of a hurry, **Mr. Kirkpatrick** suggested that all three Work Plan issues be discussed at the same time. He volunteered to serve on the committee; gave his commitment that he would take the issues to heart and work with staff to “get it right”. He also expressed interest in helping to find others who would be willing to sit on a committee, along with a staff member and City Council representatives.

Mayor Fahey suggested that staff consult with an advisory group comprised of community members, Planning Commissioners, Councilmembers and local architects and builders with the goal of returning to Council with a proposal that will help Council become more aware of the pitfalls and provide concrete recommendations of ways to address the issues in a comprehensive manner.

Councilmember Ward questioned the intent of forming such a group emphasizing that the City has studied the various ways, in depth, to address mansionization and that he believes that 2.6 times the minimum lot size is reasonable and fair. He expressed his understanding of the Work Plan item stating that a monstrosity of a building that would change the character of the neighborhood could not be built.

Stating that he believes that the question is much narrower, Councilmember Tell noted that the issue is whether there would be any circumstances under which the lot size could go up to three times the minimum lot size. He added that there are other Work Plan items that could be addressed by this same committee, either at the same time or individually.

Community Development Director Thompson reiterated the two separate issues that are Work Plan items but are not part of this ordinance - the character of a block, the size and location of the building. He noted that there are a number of blocks with merged lots and larger homes and commented on the impact that would be made if several individual lots merged, ending up with only two homes on a block.

In response to Mayor Fahey’s statement that she is uncomfortable with drafting an ordinance when a particular property is affected and her inquiry whether it would be appropriate to grandfather the property that is currently known to be affected by this proposal, City Attorney Robert Wadden stated that any ordinance that is discriminatory under the Avco Case would be invalid, but he doesn’t think this particular ordinance is discriminatory because it applies to all properties that are of a particular size rather than one particular situation.

MOTION: Councilmember Tell moved to approve forming a residents’ committee, including two members of Council and a Planning Commissioner, to work on all three current Work Plan items related to the development of an incentive program; the maximum lot size in the Zoning Ordinance; and building size, getting appropriate input to address all three during the first six months of 2006, with hearings before the Planning Commission prior to returning to Council. The motion was seconded by Councilmember Montgomery.

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

In response to **Mr. Shuman's** offer to identify the affected property owners and underwrite the cost of public notice via certified mail to all property owners that might be affected by the proposal, Mayor Fahey suggested he work with staff to identify the property owners.

In summarizing Council's action, City Manager Dolan stated the following: that the Council has merged all 3 Work Plan items as stated above; that the Advisory Committee will include Councilmembers Tell and Montgomery, a Planning Commissioner, Grant Kirkpatrick, others from the development community and residents; and that sometime, during the first half of next year, the Committee will present their recommendations to the Planning Commission to be followed up with a presentation to the City Council.

RECESS AND RECONVENE

At 8:29 p.m. the Council recessed and reconvened at 8:37 p.m. with Councilmembers present.

05/1206.27 Mayor Fahey Re Adelpia's Technical Difficulties

Mayor Fahey announced that the first part of this City Council meeting was not televised due to technical difficulties. She reassured the public that the meeting was taped; that it was live streamed; and that the public watching Channel 8 was notified of the technical difficulties. She further indicated that anyone interested in viewing the re-broadcast of the meeting can view the meeting in its entirety this coming Thursday, at noon, on Channel 8.

GENERAL BUSINESS

05/1206.16 Consideration of Voting Results and Future of Proposed Utility Underground Assessment District 4

Mayor Fahey announced that the only Assessment District on this evening's agenda is District 4 and that discussion would be limited to this district. She further indicated that if anyone wanted to speak regarding Districts 2 or 6, they could do so under the *Audience Participation*.

Senior Civil Engineer Stephanie Katsouleas addressed Council with a PowerPoint presentation explaining the outcome of the Utility Underground Assessment District Election held November 21, 2005, and consideration for alternatives on how to address District 4 in order to obtain a clearer outcome of whether or not to form the district. She reviewed the outcome of the election, noting that 145 of the 168 ballots mailed out were returned (or 86%) with a weighted majority of 50.1% in favor of undergrounding. She reviewed the four options available to Council as outlined in the presentation including: Option 1 - reconsidering the action taken on November 21, 2005; Option 2 - initiating a new voting procedure; Option 3 - obtaining new cost estimates from utilities based on open market bids obtained in January for Districts 2 and 6; and Option 4 - modifying the district boundaries to include those residents most in favor of forming an underground assessment district, while excluding those most opposed, with the new district boundaries compatible with the current utility network system. She stressed that all of the options would include trying to reach the 14% of property owners that did not respond initially and that while the new construction costs are unknown, they are expected to be higher than the cost at today's rates. She pointed out that they are currently in the process of modifying the plans for District 2 with the assumption that District 4 does not exist; however, if District 4 passes before they get to District 2, the current plans can be used.

The following individuals spoke on this item:

- **Bill Bloomfield, 900 Block of 1st Street**
- **Joseph Moore, 200 Block of South Ardmore**
- **Joseph Gilligan, 2600 Block of Pacific Avenue**
- **Esther Besbris, 2nd Street**
- **Jim Irwin, District 4, 800 Block of Duncan Place**
- **Beverly Morse, 900 Block of 1st Street**
- **Bill Victor, No Address Provided**
- **Nancy Simpson, District 4, 100 Block of North Dianthus**
- **Jon Chaykowski, No Address Provided**
- **Paul Gross, District 6**
- **Patrick McBride, No Address Provided**
- **Greg Davis, District 4**
- **Steve Morse, 900 Block of 1st Street**
- **Mike Simpson, District 4, No Address Provided**
- **Steven Sorell, Resident of Pasadena, Representing Residents of District 4**
- **Karen Westover, District 4, 200 Block of South Dianthus**
- **Viet Ngo, No Address Provided**
- **Dick Willdan, District 4, 100 Block of South Poinsettia Avenue**
- **Irl Cramer, No Address Provided**
- **John Roehl, 100 Block of Duncan Avenue**
- **Michael Lesser, 200 Block of 29th Place**

Stating that this is a very difficult situation, Councilmember Aldinger stated that he doesn't want anyone to have to move because of undergrounding and while he is hopeful there is something that can be done to avoid that, he is still in favor of going forward. He pointed out that the number of residents who voted was 56% of raw votes in favor (in the same ballpark as the other districts that have passed); that Council is committed to working with the residents who are fearful; that he is somewhat uncomfortable because the costs are unknown; and that the sooner it is done the less it will cost. He emphasized that the people have spoken and said he would hate to see an area that wasn't undergrounded while the rest of the areas are.

Mayor Pro Tem Ward stated that he is not going to change his vote; that what we're looking for is a "do-over"; and that he is not willing to revisit the issue. He said the true measurement of the community is how well you treat the less fortunate, young, elderly and ill and while he is a big proponent of undergrounding, some look at it as a luxury decision while others see it as a matter of view and choice. He said he does not want to reconsider the decision and would only approve of Option 2 if it were to be done in all of the other districts as well. He pointed out that Options 3 and 4 increase the cost and burden upon the people who basically cannot afford it and stressed that he is not for the "gerrymandering" of districts. He suggested that a moratorium be placed on undergrounding until there is a better understanding of how to pay for it, adding that while everyone is rich on paper because of the value of their homes, no one should be forced to do something that they don't want to do and a person who has spent 20-25 years to pay off their home should not be forced to have another mortgage.

Councilmember Montgomery stated that he agreed with Councilmember Aldinger, noting that if the 50.1% of the people's vote is negated then you discount their vote entirely. He spoke in favor of determining a financing option so those who cannot currently afford to underground will be able to do so.

Mayor Fahey expressed concern that there is a lot of talk about the process, noting that some suggest that the Council, by voting as they did, ignored the democratic process - and nothing can be further from the truth. She explained that the process allows the vote to be taken by the property owners but that Council determines the final decision on whether or not to move forward. She said the process was put in place at a time when the situation was very different than it is today and when undergrounding was a matter of taste. She reiterated that the City has not taken a position on undergrounding but, rather, allowed residents to decide for themselves and whether they are willing to pay for it. She said that if past Councils had known the dollars amounts currently being considered, they might not have made the same decisions they did. She argued that in District 4, there was a greater voter turnout than the entire country has ever seen, and even with that tremendous voter turnout Council was left with an unclear position, certainly not an overwhelming majority that would justify property owners who voted against it being forced to pay for it. She said the attempt to go back and undo the vote, attempting to read the minds of people who voted and to exclude other people is unfair. She said the process in place is the most divisive in the community, causing a situation of long-term residents versus newer residents, adding that it's not about property or poles, it's about people. She said that perhaps a moratorium is the way to do it, but she is not willing to change her vote.

In response to Councilmember Aldinger's suggestion that Option 4, which is to recreate the boundaries for District 4 and potentially move forward, could be a viable option, Mayor Fahey stated that anyone who wishes to circulate a new petition for the district and further divide the community, they are able to do so but she doesn't think it's a good idea.

Mayor Fahey said that everyone agrees that people shouldn't be forced to move out of their home, but that "we" are minimizing the fact that this would force people to go into debt when they don't want to. She said the idea of a weighted vote with Proposition 218 is that those people who are going to bear the greater financial cost shouldn't have to bear that greater financial cost because of the actions of the minority who would pay far less. She said while Council followed the law, which gave the greater weight to those who wanted undergrounding, the law in Manhattan Beach is that the final decision is up to the City Council.

MOTION: Mayor Pro Tem Ward moved to deny all four options. The motion was seconded by Mayor Fahey and failed by the following roll call vote:

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

MOTION FAILED.

MOTION: Councilmember Aldinger moved to approve Option 4, which would redraw the District boundaries. The motion was seconded by Councilmember Montgomery.

Council held further discussion with City Attorney Robert Wadden.

In response to Mayor Pro Tem Ward, City Attorney Wadden clarified that the motion for reconsideration applies to Option 1 only, and since the other options are new concepts Councilmember Aldinger can therefore make the motion.

Councilmember Tell indicated that he had been silent all evening, however, since the proposed option will give an opportunity for the residents to define a district where the people are in favor of it, then he would support it.

Mayor Pro Tem Ward asked for clarification regarding Councilmember Tell's involvement on the subject matter and wanted to know if it was legal or ethical.

City Attorney Wadden clarified that Councilmember Tell, under the Political Reform Act requirements, was not legally required to abstain.

Councilmember Tell explained that the proposed option is to reform a new district as opposed to doing anything to do the district, and stated that he believes the residents have a right to do that.

Call for the vote.

MOTION: Councilmember Aldinger moved to approve Option 4, which would redraw the District boundaries. The motion was seconded by Councilmember Montgomery and passed by the following roll call vote:

Ayes: Tell, Aldinger and Montgomery.

Noes: Ward and Mayor Fahey.

Absent: None.

Abstain: None.

In response to Mayor Fahey's inquiry regarding the difference between this District and any other district application, as well as what does the statement "excluding those most opposed" mean, City Manager Dolan explained that while new Districts go into a queue behind all existing districts, if District 4 residents are able to collect the required number of signatures (60%) before construction begins, it could move forward faster.

In response to Councilmember Aldinger's comment that what residents will need to do is form a district based on the popular vote in order to convince dissenting Councilmembers to change their mind, Councilmember Tell suggested that, during discussions about the other Districts, Council should define what standard it would take for other Districts going forward.

Mayor Pro Tem Ward suggested Council initiate discussion regarding implementing a moratorium on undergrounding.

05/1206.17 Consideration of a Resolution Authorizing the City Manager to Execute an Agreement with The State of California for \$940,000 in Grant Funds for Pervious Pavement Parking Lots and Two Low Flow Diversions

Senior Management Analyst Lindy Coe-Juell addressed Council regarding a request for authorization to enter into an agreement with the State of California for \$940,000 in grant funds for pervious pavement parking lots and two low-flow diversions, as outlined in the staff report. She provided the background on the Proposition 50 grant program for these water quality improvement projects and noted that the City is required to provide a 20% match, which will be accomplished by in-kind services for project management, design and construction, with a minimum amount of contracting for hauling materials. She explained that the pervious pavement project involves the installation of porous material at five city-owned parking lots to allow water to infiltrate to the soil below rather than flow off the parking lots and into the storm drain system. The other project involves the installation of four catch basins and a seepage pit near Bryant Place and Voorhees Avenue that will divert water into a natural sump or low-lying area.

There was no public comment on this item.

MOTION: Councilmember Aldinger moved to adopt Resolution No. 6009 authorizing the City Manager to enter into an agreement with the State of California and designating the Director of Public Works to execute all related documents for Proposition 50 grant funds in the amount of \$940,000. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

RESOLUTION NO. 6009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AUTHORIZING ENTERING INTO AN AGREEMENT WITH THE STATE OF CALIFORNIA AND DESIGNATING A REPRESENTATIVE TO EXECUTE THE PROPOSITION 50 GRANT AGREEMENT AND ANY AMENDMENTS THERETO, FOR PERVIOUS PAVEMENT AND LOW FLOW DIVERSION PROJECTS

05/1206.18 Consideration of the Parks & Recreation Commission Recommendation to Approve an Off-Leash Dog Area at Marine Park

Parks and Recreation Director Richard Gill explained that in February 2005, the City opened an off-leash dog play area in Live Oak Park beyond the center field fence at Dorsey Field which became permanent in August because of its great success. He explained that, because of concerns from the public, Council asked that staff find another location for the dog obedience classes and, thus, they were moved to just beyond the racquetball pay-and-play courts at Marine Avenue Park. He pointed out that when the classes are not being conducted, the area could be opened up as an off-leash area for the public; noted that the Parks and Recreation Commission and FIDO dog group both reviewed the proposed move and supported it.

In response to Mayor Fahey's request that the hours of the dog obedience classes be posted so that residents will know when the run is available, Parks and Recreation Director Gill responded that signage notifying the public of the rules and hours of classes will be installed.

MOTION: Councilmember Aldinger moved to approve the recommendation from the Parks and Recreation Commission to install an off-leash area at Marine Park for dog obedience classes and general use by the public in a manner that promotes use by owners of small dogs. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

ITEMS REMOVED FROM CONSENT CALENDAR

05/1206.14 Uphold the Parking and Public Improvements Commission Recommendation to Modify Three Red Zones on the East Side of Walnut Avenue, North of Manhattan Beach Boulevard

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

The following individual spoke on this item:

- **Larry Smally, 3200 Block of Crest Drive and Owner of Strand Cleaners**
- **Rick Coleman, employed at 917 Manhattan Beach Blvd., Shorewood Blvd.**
- **Judy Pogreba, 900 block of Manhattan Beach Blvd.**

At this time, Councilmember Aldinger left the meeting (10:20 p.m.).

In response to **Mr. Smally's** comments, Traffic Engineer Eric Zandvliet explained that the original staff recommendation was to preserve one parking space on Walnut Avenue between Manhattan Beach Boulevard and the Strand Cleaners; however, the Parking and Public Improvements Commission (PPIC) has recommended that the red zone be shortened on the east side of Walnut Avenue south of the driveway approach to the Strand Cleaners by a total of 12 feet in order to provide room for one standard-length parking space and one compact space. He pointed out that the red curb allows residents to see as they exit the driveway as well as help patrons of the Strand Cleaners to see up the street and enter the parking lot from Walnut Avenue.

In response to Councilmember Montgomery's inquiry as to why the Strand Cleaner's employees do not park in the parking lot, Traffic Engineer Zandvliet explained that the business only provides the number of parking spaces required and employees are not required to park on site.

Traffic Engineer Zandvliet continued explaining that the proposal is to reduce the red curb on the east side of Walnut Avenue, south of the driveway by 12 feet, as well as eliminate the existing red zone north of the driveway. He noted that staff's original recommendation, from a traffic safety standpoint, was to leave the red curbs as they are; that there is no particular accident history in this area; but there is traffic congestion on this 24-foot wide street.

Mayor Fahey thanked **Mr. Smalley** for pulling the item from the Consent Calendar, commenting that there seems to be a significant parking issue in this neighborhood that could justify a neighborhood meeting.

In response to Councilmember Montgomery's inquiry regarding why the Manhattan Beach Boulevard area was painted red, Traffic Engineer Zandvliet said he is not aware of the specific reason but pointed out that while waiting on Walnut Avenue for westbound traffic on Manhattan Beach Boulevard, one needs to be able to see oncoming traffic.

MOTION: Councilmember Montgomery moved to approve the Parking and Public Improvements Commission recommendation to shorten the two existing red zones on the east side of Walnut Avenue south of the driveway approach to the Strand Cleaners by a total of 12 feet, to provide room for one standard-length parking space and one compact space, and direct staff to bring it back to the PPIC for further investigation regarding possibly reducing the red curb on Walnut and Manhattan Beach Blvd. The motion was seconded by Councilmember Tell and passed by the following roll call vote:

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

AUDIENCE PARTICIPATION

05/1206.28 Jon Chaykowski Re Opting Out of Utility Underground Assessment District 2

Jon Chaykowski, Resident of District 2, stated that the petition to opt out of District 2 was submitted on November 18, 2005, and, even with one modification, has a 59-60% support for the petition. He explained that following that date, a packet of supporting information was submitted to the City Council which described that the neighborhood in question is distinctly different than the rest of District 2 surrounding the neighborhood; that the neighborhood receives minimal benefits with serious negative impacts; that the neighborhood can be easily removed from the District with no negative impacts on the undergrounding exercise for the remainder of the District; and that this area is contiguous to District 4, which will not be undergrounded. He said to assure feasibility of the removal of the neighborhood, he has held detailed conversations with the City Engineering Staff to assure that a simple and clean separation can be effected and to make sure that the necessary pole locations for up and down wires were identified. He asked Council to approve the petition today, or, if not possible, place it on the next City Council agenda in order to effect the action prior to the December 31, 2005 due date for assessment payment. He also asked that if there are any actions that need to be completed and or filed that he be informed at this time. He asked the Council to please recognize that the petition represents residents who have lived in the neighborhood well over 30 years and asked several of them who were in the audience to stand.

05/1206.29 Beverly Morris Re Initiation of a Moratorium on Undergrounding

Beverly Morris, 1st Street, thanked Council for their action this evening regarding District 4 and asked Council to place a moratorium on undergrounding until it is determined how the City can work together as a team, and volunteered to participate in a committee, if formed.

05/1206.30 Ted Davis Re Appeal of Utility Undergrounding Assessment District 2

Reading his request into the record, **Ted Davis, 700 Block of Poinsettia Avenue**, requested a procedure for appealing his assessment, if allowed to do so.

05/1206.31 Esther Besbris Re Moratorium on Utility Undergrounding

Esther Besbris, No Address Provided asked Council to impose a moratorium on undergrounding at the December 20, 2005 City Council meeting and asked Council to agendaize it for discussion, emphasizing that it is important to find out exactly what is involved before going any further and causing further harm to residents.

05/1206.32 Frank Matranga, Re Utility Undergrounding

Frank Matranga, Second Street and Ardmore, stated that he was verbally appealing the City Council's decision from last month to proceed with undergrounding in District 2 and asked to be informed if there were proper forms or a different procedure so he can make the proper appeal if this is not sufficient. He stated that the poles and wires in the undergrounding plans on Ardmore Avenue are entirely on or over public property and completely outside of District 2; therefore, the aesthetic view and enhancement of the neighborhood are occurring outside of District 2 and benefiting Manhattan Beach in total, not solely in District 2. He added that the jogging park and

adjacent properties are being upgraded at the expense of District 2.

05/1206.33 George Cohn Re Water Tower on the 1400 Block of 8th Street

Referring to an article in the 1995 *Beach Reporter*, **George Cohn, 1400 block of 8th Street**, spoke regarding the elevated water tower the City Councilmembers, at the time, who said the water tower was to be dismantled within the next three years. He said he has spoken with Public Works Director Neil Miller and is aware that staff has been working on the issue, but no action has been taken since July 19, 1994, when removal of the water tower was part of the Water System Conversion Project approved in 1996-97 and in the 1998-99 Capital Improvement Plan budget. He requested that the removal water tower be put back on track and emphasized that the water tower wasn't safe when the Northridge earthquake hit and it is still not safe today.

05/1206.34 Patrick McBride Re Renaming Parque Culiacan

Stating that he had spoken with Bob Brigham, who supported his suggestion, **Patrick McBride, No Address Provided**, asked Council to consider renaming *Parque Culiacan* to *Rosa Parks Park*, explaining that all of the previous suggestions for a change of name included persons of huge personalities. He played Rosa Park's speech, given as she was released from jail, and asked Council to seriously consider his request.

05/1206.35 Bill Victor Re Utility Undergrounding

Bill Victor, No Address Provided, agreed that a moratorium on undergrounding would bring the community back together and asked Council to consider imposing one at either the next meeting or the first meeting in January. He also stated that following discussions with staff, he asked for direction on the process of applying for his neighborhood to secede from District 8.

In response to Mayor Fahey's inquiry regarding requests to appeal the undergrounding election results, City Attorney Wadden stated that no appeal is allowed; that the administrative portion of the formation of the District is over; that the Districts have been formed; and that the assessments has been levied by Council action.

In response to Mayor Fahey's inquiry regarding opting out of a District that has been formed, City Attorney Wadden stated that there is no opt out provision of the 1913 Act, which is in the Streets and Highway Code – it would have to come prior to the design of the District.

With regard to opting out of a District that has not yet been formed, City Manager Dolan stated that this issue will be brought before Council on January 17, 2006, and it can be addressed at that time.

In regard to **Mr. McBride's** comments, Mayor Fahey asked Council if there was support for discussing changing the name of *Parque Culiacan* at this time, noting the possibility of the history of the area being more consistent with *Rosa Parks Park*.

Councilmember Ward agreed that it might be worthy of a discussion and City Manager Dolan suggested it be referred to the Parks and Recreation Commission for consideration and recommendation.

In response to Mayor Fahey's inquiry regarding the status of the water tower, City Manager Dolan stated that the water system was to be prepared so that if the Council decided to remove it, they could. Acknowledging that this issue has been going on for a number of years, he explained the creation of a pressurized system and, that, when it is completed, and following discussion regarding the pros and cons of removal, the City Council would have the option of removing it.

CITY MANAGER REPORT(S)

05/1206.36 City Manager Dolan Re Employee Breakfast

City Manager Dolan reminded Council to attend the Annual Employee Breakfast on December 8, 2005 at the Joslyn Center.

OTHER COUNCIL BUSINESS & COMMITTEE REPORTS

05/1206.37 Councilmember Montgomery Re Condolences

Councilmember Montgomery offered condolences for former Councilmember Gil Archuletta's family on the tragic accident involving their son and his girlfriend.

05/1206.19 Councilmember Tell Re Subcommittee Report on Facilities Strategic Plan

Councilmember Tell explained that the Facilities Strategic Planning Subcommittee was set up in the budget with \$250,000 set aside to evaluate various City facilities in an attempt to figure out what additional services are needed and what additional requirements, such as senior services, a pool facility, a performing arts center and a library, need to be addressed. He stated that it is the Subcommittees' wish to address these needs in a comprehensive study with resident input and then figure out how to pay for it, rather than address them one step at a time. He noted that the Subcommittee met and discussed the variety of options available, ultimately deciding to do a Request for Qualifications (RFQ), rather than a Request for Proposals (RFP), to find someone to help define an approach.

City Manager Dolan stated that the draft RFQ should be available by the end of the year, with the contractor selected by the end of spring.

ADJOURNMENT

At 11:15 p.m. the meeting was duly adjourned to the 5:30 p.m. Adjourned Regular Meeting, to be followed by the 6:30 p.m. Regular City Council Meeting, on Tuesday, December 20, 2005, in said City.

MERNA MARSHALL
Recording Secretary

ATTEST:

JOYCE FAHEY
Mayor

LIZA TAMURA
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
ADJOURNED REGULAR MEETING
DECEMBER 6, 2005**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 6th day of December, 2005, at the hour of 6:04 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

ROLL CALL

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

CLOSED SESSION

The Council recessed into Closed Session at 6:04 p.m. and moved to open session at 6:27 p.m.

ADJOURNMENT

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

ROBERT V. WADDEN, JR.
Recording Secretary

JOYCE FAHEY
Mayor

ATTEST:

LIZA TAMURA
City Clerk