

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING OF
NOVEMBER 15, 2005**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 15th day of November, 2005, at the hour of 6:32 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

PLEDGE TO FLAG

Human Resources Director Marcie Scott led the pledge of allegiance.

ROLL CALL

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

CEREMONIAL CALENDAR

05/1115.1 Presentation of Certificates to the Winners of the 2005 Manhattan Beach Library Children's Bookmark Contest

Mayor Fahey introduced **Los Angeles County Youth Services Librarian Melissa Messner** who along with the Council presented certificates from the Council to the following winners of the 2005 Manhattan Beach Library Children's Bookmark Contest: Beth Scott, Sara Feld, David Figel, Jessica Miller, Julia Horwitz, Kati Mosteller, Cassie Shannon, Maura Chen, Kari Shannon and Danielle Hadley.

Lauren Scott and Erin Murphy were unable to attend.

Remarking that she attends almost every City Council meeting, Mayor Fahey recognized **Los Angeles County Librarian Leticia Tan** for the welcoming attitude and excellent programming she has brought to the community.

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

Mayor Fahey announced that **Erin Duralde** was not able to attend tonight's City Council meeting and that she will be rescheduled to attend in the near future.

05/1115.3 Presentation of Commendation to Michael Greenberg for His "Extraordinary Citizenship" in Establishing the Friendship Circle

Mayor Fahey announced that **Michael Greenberg** was unable to attend tonight's City Council meeting and that he will be rescheduled to attend in the near future.

05/1115.4 Presentation of Commendation to Tom Martin Recognizing His Outstanding Achievements and Dedicated Service to the City of Manhattan Beach

The Council presented a commendation and various mementos of appreciation to **Tom Martin** for his years of service to the South Bay and the City of Manhattan Beach.

Commenting that it is painful to suffer the illness of a loved one, **former City Councilmember Bill Switzer** spoke of **Tom Martin's** wisdom and knowledge.

Commenting that Tom Martin was his mentor, **Steve Napolitano, Deputy to Los Angeles County Supervisor Don Knabe**, spoke on **Mr. Martin's** behalf. He briefly spoke of Tom's father being the former City Manager of Manhattan Beach and emphasized the depth of gratitude that is owed to Tom for the 35 plus years he has served the South Bay.

CONSENT CALENDAR

The Consent Calendar (Item Nos. 5 through 16), consisting of items under *General Consent and Boards and Commissions*, was approved by motion of Mayor Pro Tem Ward, seconded by Councilmember Montgomery and passed by unanimous roll call vote with the exception of Item Nos. 21d and 21e which will be continued to the November 21, 2005 Adjourned Regular (Underground Utility Assessment District) City Council Meeting.

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

GENERAL CONSENT

05/1115.5 Approve Minutes of the City Council Adjourned Regular and Regular Meeting of November 1, 2005

The Council approved the subject minutes.

05/1115.6 Ratification of Motor Fuel Purchase from Merrimac Energy Group in the Amount of \$27,675.14

The Council approved to ratify the purchase of fuel from Merrimac Energy Group in the amount of \$27,675.14.

05/1115.7 Authorize the Purchase of Two Replacement Public Works Vehicles From Raceway Ford in the Amount of \$42,506.96

The Council approved the award of Request for Bid (RFB) # 669-06 to Raceway Ford in the amount of \$42,506.96 for the budgeted replacement of two Public Works vehicles.

05/1115.8 Consideration of Financial Reports:
a) Ratification of Demands - November 3, 2005
b) Investment Portfolio for the Month Ending October 31, 2005

The Council approved with no exception Warrant Register No. 10B in the amount of \$2,060,230.77 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register and received and filed the Investment Portfolio for the month ending October 31, 2005.

05/1115.9 Consideration of a Resolution Authorizing and Appropriating Funds for Grant Funded Purchases of State Homeland Security Program Grant Equipment in an Amount Not-to-Exceed \$23,300

The Council adopted Resolution No. 6003 approving and accepting the State Homeland Security Program Grant; appropriated \$23,300 from the General Fund to be offset by reimbursement of funds from the State Homeland Security Program; waived formal bidding per Municipal Code Section 2.36.140 (waivers); approved an award of order to Adamson Industries; and approved authorizing the City Manager to negotiate and execute the purchase of the items listed within the subject staff report in an amount not-to-exceed \$23,300.

RESOLUTION NO. 6003

CONSIDERATION OF A RESOLUTION APPROVING EXPENDITURE OF FUNDS UNDER A REIMBURSEABLE FISCAL YEAR 2005 STATE HOMELAND SECURITY PROGRAM GRANT AND AUTHORIZING THE EXPENDITURE OF THESE GRANT FUNDS FOR HOMELAND SECURITY EQUIPMENT

05/1115.10 Approve a Request from the Chamber of Commerce to Cover Parking Meters from Thursday, December 1, 2005 through Sunday, December 25, 2005, Excluding the Pier and El Porto Parking Lots

The Council approved the request from the Chamber of Commerce to cover all off-street and on-street parking meters from Thursday, December 1, 2005 through Sunday, December 25, 2005, excluding the pier and beach parking lots.

05/1115.11 Award a Contract (\$675,792) for the 2002-2003 Water Main Replacement Project and 2002-2004 Sewer Main Replacement Project to Williams Pipeline Contractors, Inc.

The Council approved an award of contract in the net amount of \$675,792 for the 2002-2003 Water Main Replacement Project and the 2002-2004 Sewer Main Replacement Project to Williams Pipeline Contractors, Inc., and approved authorizing the Director of Public Works to approve additional work in an amount not-to-exceed \$68,000, if required.

05/1115.12 Consideration of a Resolution Authorizing the Submittal of an Application to the California Integrated Waste Management Board for a Fiscal Year 2005-2006 Recycled Tire Product Grant Program (\$75,000) for Playground Resurfacing

The Council adopted Resolution No. 6005 authorizing the submittal of an application to the California Integrated Waste Management Board for a Fiscal Year 2005-2006 Recycled Tire Product Grant Program and, upon grant award, approved authorizing the City Manager to enter into an agreement with the California Integrated Waste Management Board for the purposes of securing grant funds.

RESOLUTION NO. 6005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR A FY 2005/2006 TIRE-DERIVED PRODUCT (TDP) GRANT PROGRAM

05/1115.13 Disbursement of Progress Payments:

- a) Progress Payment No. 3 in the Net Amount of \$32,254.20 to Cody Engineering, Inc. for the 2001-2002 Water Main Replacement; 2002-2003 Sewer Main Replacement Project
- b) Progress Payment No. 2 in the Net Amount of \$239,835.60 to Dominguez General Engineering Contractor for the Highland Avenue at 15th Place Storm Drain Project
- c) Progress Payment No. 7 in the Net Amount of \$50,009.02 to S.P. Pazargad Engineering Construction, Inc. for the El Porto Retaining Wall Project

The Council approved the issuance of the subject progress payments.

BOARDS AND COMMISSIONS

Planning Commission

05/1115.14 Consideration of Action Minutes, Planning Commission Meeting of November 9, 2005

The Council received and filed the subject action minutes.

05/1115.15 Consideration of a Planning Commission Approval of a Use Permit and Vesting Tentative Parcel Map No. 063242 to Allow Construction of 4 Condominium Units for the Property Located at 623 Aviation Way

The Council received and filed the subject report.

05/1115.16 Consideration of a Planning Commission Approval of a Coastal Development Permit to Allow Construction of a Storm Drain Low Flow Diversion Project Under the Public Beach Between 27th Street and 28th Street (Los Angeles County Public Works)

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

COMMUNITY ANNOUNCEMENTS

05/1115.22 Bill Victor Re Utility Undergrounding

Bill Victor, Property Owner, voiced his opinion that property owners were not the ones to create the boundaries of the Utility Underground Assessment Districts; that questions asked of the staff member hired to help property owners are being deferred to the City Council; that the method of counting votes is a violation of Proposition 13 and Proposition 218; and that the City is exposing property owners to an increase of their respective real estate assessments and “chasing” older residents out of town in order to raise the tax base. He encouraged anyone wanting more details to call him at (310) 318-5000 or (310) 374-0086.

02/1115.23 Carol Rowe Re Downtown Holiday Open House

Carol Rowe, Executive Director of the Downtown Business & Professional Association, invited everyone to attend tomorrow night's Holiday Open House from 5:00 p.m. to 9:00 p.m. She announced that Santa will be located in the Bank of America (BOA) parking lot; that there will be carolers; that several of Mira Costa High School's musical groups will perform; that stores will be open and several restaurants will give out samples; and that judges for the annual window decorating contest should meet in the BOA parking lot at 5:00 p.m.

05/1115.24 Viet Ngo Re Formation of Task Force

Viet Ngo, No Address Provided, announced the formation of the Equal Justice For All Task Force and encouraged those interested in bringing Jonathan Tolkin to justice to call him at (310) 318-2769.

05/1115.25 Jon Chaykowski Re Utility Undergrounding Meeting

Jon Chaykowski, No Address Provided, reminded the community that the Underground Utility Assessment District Meeting will take place this Monday, November 21, 2005, and encouraged residents to come early in order to get a seat.

In response to Mayor Fahey's request for clarification of what will take place at Monday's meeting, City Manager Geoff Dolan explained that the Public Hearing will be opened; the community will provide testimony and cast their ballot; and then, at the conclusion of the public

comment period, the ballots will be counted and the results will be announced.

05/1115.26 Mayor Fahey Re Community Events

Mayor Fahey announced that the Pier Lighting will take place on December 3, 2005, and that the Holiday Fireworks and snow park will take place on December 11, 2005.

City Manager Dolan added that the Metlox Ribbon Cutting will take place on December 1, 2005 at 4:00 p.m.

PUBLIC HEARINGS

05/1115.17 Consideration of an Ordinance and Resolution to Implement Actions Requested by City Council as Part of the Work Plan Regarding Residential Construction Impacts to Add a New Code Enforcement Officer, Amend the Fee Resolution, Appropriate Funding for Related Vehicle and Equipment, and Amend the Construction Hours Ordinance

Building Official Carol Jacobson reviewed Council's direction of the October 4, 2005 City Council meeting to hire a full time Code Enforcement Officer/Residential Construction Officer and the decision to take a more proactive approach to residential construction issues. She reported that since that meeting, a temporary part-time Code Enforcement Officer has been hired; that over 50 contractors attended last weeks Construction Community meeting to discuss the new procedures; that some concerns were raised regarding the additional 3 holidays in which construction will be prohibited; and reviewed the actions necessary in order to implement Council's direction.

Council held a brief discussion with Building Official Jacobson regarding the contractor's concerns of the new procedures.

Mayor Fahey opened the Public Hearing at 7:10 p.m.

Wayne Powell, 100 Block of 36th Street, stated that while there are several good local builders and developers in the City, there are some who do not follow the rules and it is because of them that a full time Residential Construction Officer is needed. He spoke about two construction projects near his home and the problems he had with them and emphasized that the City is well within its rights to pass the Ordinance and levy the 10% surcharge.

Lou Leroy, 500 Block of 27th Street, thanked the Council for taking on these issues and referred to the new procedures as a pay back to the community for the years of intrusive construction activities. He recalled that in the three and a half years that he and his wife have lived in Manhattan Beach, not a week has gone by without construction. He stated that the additional 3 holidays in which construction is prohibited are insignificant compared to the months of construction and that he fully supports the new procedures.

Stating that he doesn't see the need for the Code Enforcement Officer/Residential Construction Officer **Rich V.R., Builder**, stated that an additional City employee will burden good contractors with an additional expense and delay projects. He emphasized that no other surrounding cities enforce the three additional holidays and that the problem with the green mesh around building sites is that it becomes a surface for graffiti.

George Goff, 18th Street, explained that he has had several construction projects impacting his neighborhood over the last year and that just last week, the electricity was shut off, due to a construction project, without any notice. He stressed that Manhattan Beach is a vacation-type

City and that it is vital that the City have a dedicated person to oversee the vast amount of construction.

Emphasizing the need to put these new procedures in perspective, **Sandra Seville-Jones, 6th Street**, cited that these additional requirements are an incremental step to try to improve the quality of life for Manhattan Beach residents. She calculated out that the three additional holidays take away only 1 percent of the contractor's time allowed for construction per year and emphasized that there should be no additional burden to contractors if they are already doing what they should be doing.

Indicating that she is representing the **Manhattan Beach Resident's Association** as their **President, Martha Andreani, Downtown Manhattan Beach**, thanked the Council for taking action on these construction issues stating that she sees no down side to the new procedures. She pointed out that the primary problems of construction are trash, noise, traffic and some of the employees of the subcontractors. She added that builders not in favor of the Ordinance are probably those that don't follow the Code.

Referring to driving through her neighborhood as an obstacle course due to all of the construction, **Julia Tedesco, 300 Block of 31st Street**, suggested that construction projects be coordinated with City projects and staggered so there aren't so many in one area at the same time. She also suggested that the person filling the new Code Enforcement Officer/Residential Construction Officer position have the authority to check the licenses of contractors and subcontractors and be able to enforce safety issues such as not curbing the wheels on their vehicles.

Bill Victor, Property Owner, reported that many of the contractors and subcontractors don't know that there are rules regarding construction hours; suggested that contractors be made aware of the rules and penalties at the time they pull permits; and recommended that they be ticketed, after a warning, when they don't follow the rules.

Paul Gross, 1700 Block of the Strand, briefly reviewed the pros and cons of the new procedures acknowledging that while they may cost more and extend the length of projects; they will also help to bring a better quality of life to Manhattan Beach. He stressed that residential construction is a continual process that will not diminish and that it will be difficult to find the balance; however, it is important to have someone to enforce the rules.

Stating that this is a good first step, **Stan Niemczycki, Keats Street**, expressed his opinion that the additional 3 holidays will not impact contractors because they do not work on a regular day to day basis anyway. He questioned what resident's rights are; who residents can call when there is a problem; and suggested that a list with this information be posted within 100 feet or so of the construction project.

Dilip Adakar, Prospect Avenue, concurred with **Mr. Niemczycki** that residents need to know what the construction rules are; that contact information for the Enforcement Officer should be made available so anyone can call if someone is not following the rules; and that the rules should be posted at every construction site.

Jon Chaykowski, 200 Block of John Street, recalled an incident whereby a contractor working on a neighbor's house started work before the 7:30 a.m. start time, and, after informing him of the regulation, was verbally attacked. He commented that residents are not only at the mercy of contractors, but also the utilities; that he is afraid of what the Utility Undergrounding will hold; and suggested that there be more Police manpower.

Explaining that he has already had a few "run-ins" with the city's temporary Code Enforcement Officer/Residential Construction Officer, **Bryan Betham, Residential Design Builder**, voiced his concern that possibly the new Code Enforcement Officer will have personal problems with contractors and subcontractors. He also relayed that the new green mesh requirement will cause problems such as graffiti and the false sense of security that things can be stacked up against it. He questioned the amount of the surcharge for the new officer and whether some of that money will help to speed up the process for contractors.

Mayor Fahey closed the Public Hearing at 7:48 p.m.

Council held discussion with Building Official Carol Jacobson regarding the problem with graffiti on the green mesh; where the additional surcharge on permits is going; posting of construction rules and the Enforcement Officer's contact information on construction sites; and adding the new rules and resident rights to the neighbor notification process.

Stating that he regrets that these regulations weren't added three or four years ago at the height of the building boom, Councilmember Aldinger stated that he believes that this is a step in the right direction; that he is fully supportive of these new regulations; and that he would like to see a status report on construction issues every year.

Councilmember Tell relayed that he is in favor of the Code Enforcement Officer/Residential Construction Officer because it will help to assess where the City is going and can also help identify what additional issues need to be addressed. He emphasized that the purpose of the Enforcement Officer is not to be the enemy and cite contractors but rather to work with the surrounding neighbors to resolve issues equitably. He concurred with Mayor Fahey regarding the need to review the green mesh requirement for possible unintended consequences, however, fully supports the other proposed requirements.

Mayor Pro Tem Ward thanked the two audience members from the building community stressing the importance of involving the developers and striking a balance between builders and residents. He expressed his opinion that the three additional construction holidays should not be a problem for contractors; agreed that the green mesh regulation should be readdressed; and that he is also in favor of providing some type of a "list of rights" for neighbors.

Thanking everyone for their comments, Councilmember Montgomery stated that he had nothing further to add and that he supports the new requirements.

Mayor Fahey communicated that she believes that the builders are under the impression that the City is hiring someone who is going to make their jobs more difficult; however, she hopes that this person will become an effective liaison between residents and builders and take away the tensions between them. She emphasized that she believes that the Enforcement Officer position will help to reduce the tensions and be a very effective tool; however, she wants the Council to be made aware if this position is seen as vindictive by the contractors or causes unnecessary delays.

Council held an additional brief discussion adding that they would like the Enforcement Officer's contact information put on the signs at construction sites and on the City's web site.

City Attorney Robert Wadden read aloud Ordinance No. 2079.

MOTION: Councilmember Aldinger moved to approve the addition of one full time Code

Enforcement Officer (Residential Construction Officer) position; adopt Resolution No. 6004 amending the Fee Resolution by adding a building permit surcharge for the new position; appropriate \$68,626 for the new position, vehicle and equipment from the unreserved General Fund balance; waive further reading; and introduce Ordinance No. 2079 to prohibit construction activity on three additional holidays. 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. 6004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING SECTION 1 OF RESOLUTION NO. 5726, ESTABLISHING SCHEDULE OF FEES TO BE CHARGED BY VARIOUS DEPARTMENTS OF THE CITY REGARDING PERMITS AND SERVICES, TO ADD SECTION B, ESTABLISHING A 10% SURCHARGE TO BE CALCULATED AND CHARGED BY COMMUNITY DEVELOPMENT ON BUILDING PERMIT FEES TO FUND THE NEW POSITION OF CODE ENFORCEMENT OFFICER (RESIDENTIAL CONSTRUCTION OFFICER)

RECESS AND RECONVENE

At 8:03 p.m. the Council recessed and reconvened at 8:13 p.m. with Councilmembers Tell, Montgomery and Mayor Fahey present.

Councilmember Aldinger joined the meeting in progress at 8:15 p.m.

Mayor Pro Tem Ward joined the meeting in progress at 8:20 p.m.

GENERAL BUSINESS

05/1115.18 Presentation by the South Bay Regional Communications Center (RCC) on Improvements to the Cellular "911" System and the RCC's Website

City Manager Geoff Dolan introduced **Ralph Mailloux, Executive Director of the South Bay Regional Communications Center (RCC)**, who explained that the RCC has reinvented itself over the last seven to eight years through the Executive Board and through an aggressive change oriented approach. He reviewed how in the past, 911 calls from cellular telephones went directly to the California Highway Patrol who had to reroute them to the proper Public Safety Answering Point (PSAP); however, a new 911 system is now in place allowing calls from within the geographic footprint of any of the four member cities to go directly to the RCC. Addressing Council with a PowerPoint presentation, he illustrated what the dispatcher sees when they receive a 911 call including the latitude and longitude of the caller; whether they are on a landline or cell phone; possible addresses that the caller might be near; the caller's location on a map and the accuracy of that location. **RCC Executive Director Mailloux** concluded by stating that while it is not perfect, it is still better than having to go through the long, drawn out Highway Patrol process.

Council held discussion with **RCC Executive Director Mailloux** determining that all major

telephone carriers are now involved; that the RCC is on the cutting edge of this technology; that the direct dial number (545-4566) is still a failsafe way to reach the RCC; that the type of cell phone handset may determine the accuracy of its tracing capabilities; and that the RCC's equipment can see the caller's progression as they move from one location to another.

Continuing his presentation, **RCC Executive Director Mailloux** navigated through the RCC's web site (www.rcc911.org) illustrating what is new at the RCC; providing information on emergency preparedness; displaying articles on the Verizon 911 network failure; explaining the RCC's concern about the Voice Over Internet telephone service; and the RCC's state-of-the-art Radio Interoperability System allowing several agencies to talk to each other. He further detailed the 911 network failure explaining that all indications point to the failure of a "switch" that manages phone circuits and the additional failure of a backup system. He reported that a meeting has been set up with representatives of Pacific Bell, Verizon and the other PSAPs affected by this failure to ask Verizon and Pacific Bell what they are going to do to ensure that this situation doesn't happen again. **RCC Executive Director Mailloux** concluded that the outcome of this meeting will be reported back to the City Managers of the 4 member agencies.

City Manager Dolan complimented **RCC Executive Director Mailloux** commenting that he was the key person behind getting the new RCC facility built. He emphasized that 95% of 911 calls are answered within one ring allowing for the Fire and Police Department's excellent response times.

The following individuals spoke on this item:

- **Bill Victor, Property Owner**
- **Patrick McBride, No Address Provided**
- **Wayne Powell, No Address Provided**

Fire Chief Dennis Groat stressed that this is one area where a Joint Powers Agreement has proven to be very successful; that for \$1.3 million a year, Manhattan Beach has a 24 hour state-of-the-art facility; that it would not be economically feasible to provide this level of service without the other member agencies; and that he would be happy to speak to anyone who has any questions regarding the RCC.

Mayor Fahey added that emergency response is the only area that Council receives no complaints, only compliments and gratitude and that the only way that the Police and Fire Departments are able to respond so quickly is because of the RCC.

City Manager Dolan emphasized that there is no request for money attached to this presentation; this was merely a presentation on the RCC's expanded service.

The Council accepted the presentation and received and filed the subject report.

05/1115.19 Approve a Five-Year Contract with CleanStreet for the City's Street Sweeping Services and Exterior Custodial Maintenance Services for the Strand, Pier, Downtown Streetscape, and the Metlox and Civic Center Plazas

Acting Senior Management Analyst Lindy Coe-Juell addressed Council with a PowerPoint presentation on the proposed contract renewal for the City's street sweeping and exterior custodial maintenance. She explained that the previous contract with CleanStreet expired on October 31, 2005; that the City's Request for Proposal (RFP) process resulted in 2 actual bids; that the CleanStreet bid for street sweeping was \$90,000 lower than the other company; and that

CleanStreet was the only company to bid on exterior maintenance. She gave an overview of what services the contractor will provide including street and parking lot sweeping and exterior maintenance of the Pier, Strand, downtown streetscape & landscape and the Metlox and Civic Center plazas. She explained that while CleanStreet's current street sweeping services would not change, their prices would increase due to the purchase of a new alternative fuel sweeper (a requirement of the south Coast Air Quality Management District) and the rising cost of fuel and insurance; however, in comparison to other nearby cities, the cost is still reasonable. Reporting that funding for street sweeping comes from a User Fee adopted by the City Council last year, Acting Senior Management Analyst Coe-Juell pointed out that an additional appropriation of \$17,862 would be needed to cover the remainder of the current Fiscal Year (FY) and a fee increase would be necessary to cover the cost of the new proposed contract. She acknowledged that service improved once CleanStreet took over and that sufficient funds for parking lot sweeping services are budgeted for FY 2005-2006 in the Parking Fund. In regard to exterior custodial maintenance services, she explained the need for the increased level of service for the Strand and that the additional power washing service would require either an additional appropriation of \$22,500 for FY 2005-2006 or be rolled into the street sweeping user fee. She acknowledged the improved quality of service provided by CleanStreet in regard to the maintenance of the Pier and that sufficient funds are available to cover the annual cost. As for the downtown streetscape and landscape services such as cleaning of the public right-of-way, trash overflow and tree trimming, Acting Senior Management Analyst Coe-Juell reported that CleanStreet will provide an increased level of service. She added that these services will be paid through the Streetscape Assessment District and that sufficient funds are budgeted for FY 2005-2006 for these services. Explaining that maintenance services for the Metlox and Civic Center plazas will be a new service, she acknowledged that CleanStreet's proposal consists of daily spot cleaning, picking up of trash overflow, monthly power washing of the plaza areas and that sufficient funds are available through the Parking Fund. Acting Senior Management Analyst Coe-Juell concluded by summarizing the fiscal implications associated with the proposed new contract, clarifying that the total amount of the new contract would be \$513,461; that it would require an additional appropriation of \$40,362; that the monthly street sweeping User Fee would need to be increased from 6.38% to 8.29% just to cover the contract increase; and that an increase from 6.38% to 10.46% would cover the increase and include the Strand.

Council held discussion with Acting Senior Management Analyst Coe-Juell and City Manager Geoff Dolan determining that the Parking Fund can not be used for the Strand because the Strand doesn't have its own dedicated revenue source; that negotiations are under way in regard to the shared areas, but, Metlox will not reimburse the City for maintenance of the plaza because it is a City resource; that this new contract will include sweeping on the Strand by a mechanical sweeper; and that the City has the right to terminate the contract with True Green for landscaping services.

The following individuals spoke on this item:

- **Patrick McBride, No Address Provided**
- **Bill Victor, Property Owner**

Acting Senior Management Analyst Coe-Juell added that if Council chooses to increase the street sweeping User Fee, staff will return to the next City Council meeting for a Public Hearing and Resolutions to amend the fee.

Mayor Fahey expressed that she was uncomfortable with "hitting" City businesses with another increase, after the recent Waste Management increase, and questioned whether a shared cost between the User Fee and the General Fund was possible.

In response to Mayor Fahey's concern, City Manager Dolan clarified that the Waste Management increase was a unique situation affecting only downtown business owners and that

part of their increase was offset by additional recycling.

Mayor Fahey suggested that the Chamber of Commerce and Downtown Business and Professional Association provide input on the commercial street sweeping fee increase.

Council continued additional discussion with City Manager Dolan regarding cleaning of the Strand and concurred that rather than bringing this item back to the next Council meeting, that it should be brought back to the second Council meeting in December in order to allow enough time to meet with the Chamber of Commerce and Downtown Business and Professional Association to get their feedback.

MOTION: Councilmember Aldinger moved to approve authorizing the City Manager to execute a five-year contract with CleanStreet for the City’s Street Sweeping Services and Exterior Custodial Maintenance Services for the Strand, Pier, Downtown Streetscape and Metlox and Civic Center Plazas; approve an additional appropriation of \$40,362 from the Refuse Fund to cover the cost increases for services under the new contract; and set the Public Hearing for the December 20, 2005 City Council meeting regarding the street sweeping fee increase to cover the increased cost under the new contract and to potentially cover the cost of exterior custodial maintenance of the Strand. The motion was seconded by Councilmember Tell and passed by the following unanimous roll call vote:

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

05/1115.20 Status Report on the Strand Improvement Project and El Porto Retaining Wall Project

Senior Civil Engineer Mike Guerrero addressed Council with a PowerPoint and status report on the Strand Improvement Project. He reviewed that Phase I of the project began on March 28, 2005 and was generally completed by mid-August with the exception of turning on the electricity for the new lights and the new trash receptacles. He explaining that Phase II began in early August, 2005; that the working conditions in this area are very tight; that access to the site and delivery of materials is a big issue; that contractors have been working with property owners regarding their Strand gardens; and that one detail adding to the difficulty and slowing down the progress is that the contractor has to park his truck on Ocean Drive and pump concrete down the walk streets to the Strand. He explained that another factor slowing down the progress in Phase II is the installation of “stormceptor” units (storm water collection and treatment systems) because they are 10 feet deep and require substantial shoring. Pointing out that with any Capital Improvement Project there are ongoing construction issues, Senior Civil Engineer Guerrero highlighted the issues associated with Phase II of this project and reviewed the estimated project schedule which indicated that by accelerating Phases III and IV, the entire project should be completed by November of 2006.

Engineering Technician Ish Medrano continued the presentation reviewing that the El Porto Wall Project also fell behind schedule, due to unforeseen circumstances, and was granted an extension until the end of September. He explained that the original sequence of work was to construct the main retaining wall, from north to south, concurrently with the smaller wall on the east side; however, as the summer months neared, the smaller wall was put on hold. He reported that the involvement of other agencies slowed the progress; that installation of the stairs followed; that fabrication of the stair handrails could only be taken once the stairs were completed; and that delivery of the handrails is expected by December 10, 2005. Explaining that once construction of the east side wall was again underway, there was an additional three week delay because the

contractor had to obtain permits and dispose of the existing wood post wall at a landfill. He continued pointing out that November 30, 2005 is the date given by the contractor for substantial completion and that any remaining work, with the exception of the stair handrails, will be assessed liquidated damages. Engineering Technician Medrano concluded the PowerPoint presentation by illustrating pictures of the project walls, handrails, sidewalks, curbs and stairs.

Council held discussion with City Manager Geoff Dolan and Senior Civil Engineer Guerrero concluding that as fences are removed from property owner's Strand gardens, gates will not be allowed when the fences are replaced; that staff will make the contractor repair or replace any concrete that causes drainage issues; that the contractor should realistically be back on schedule by about mid way though Phase III; that liquidated damages would begin if the contractor is not finished with the Strand Project by November of 2006; and that there are no cost increases associated with any of these changes.

Mayor Pro Tem Ward complimented staff on the coordination of traffic in the El Porto parking lot and questioned how long the southern portion of the parking lot will be closed.

Engineering Technician Medrano responded that the contractor has been using the parking lot as a staging area and that it will probably take until late December for them to find another site.

In response to Councilmember Aldinger's question regarding a previous comment on a problem with the public notification process, Senior Civil Engineer Guerrero replied that staff wants to make sure that the public is getting enough notification especially in regard to the schedule changes.

The following individuals spoke on this item:

- **Bill Victor, Property Owner**
- **Paul Gross, Strand Resident**

The Council received and filed the construction update regarding the Strand Improvement Project and El Porto Retaining Wall Project.

In response to Councilmember Tell's comments about a resident letter he received regarding drainage on the Strand, Senior Civil Engineer Guerrero explained that a hydrology study was conducted resulting in changing the drainage from "west to east" to "east to west" which should result in a significant improvement.

City Manager Dolan conveyed that when staff responds to the letter, Council will be copied.

05/1115.21 Consideration of the Police & Fire Facility / Metlox / Public Improvements Project Status Report, Disbursement of Progress Payment #20 in the Net Amount of \$865,496.13 to Swinerton Builders and Consideration of a Change Order to Pankow Builders for Completion of the Metlox Town Square Project Elements

Reiterating that the presentation regarding progress on the Police & Fire Facility and the disbursement of the progress payment will be continued to the Adjourned Regular (Underground Utility Assessment District) City Council Meeting on Monday, November 21, 2005, City Manager Geoff Dolan introduced **Mike Zislis** to give an update on the Shade Hotel portion of the Metlox Project.

Mike Zislis, 400 Block of 29th Street and Owner of the Shade Hotel, addressed Council explaining that although the Shade Hotel is 4 months behind schedule and \$2 million over budget, after 14 months of construction, it will open tomorrow night for the Holiday Open House. He reported that all of the investors will be there for the Open House tomorrow night; that training of the Hotel staff will occur over the weekend; and that “real” occupants will be present on Monday night. He spoke of the many challenges in building the Hotel including: building on a “live” parking garage, dealing with 40 days of rain; and keeping contractors from leaving and going to another job. In conclusion, **Mr. Zislis** commented that he believes that the community will be proud of the Shade Hotel and that it is exactly what the downtown area needed.

Council shared their positive impressions of the Shade Hotel and concurred that they look forward to its opening.

Mr. Zislis added that he was able to create a level of detail that a “chain” hotel would not be able to accomplish; that the room rate would be \$250 a night; and that the web site is www.shadehotel.com.

Explaining that the next two items are related, City Manager Dolan introduced **Jonathan Tolkin, Metlox Project Developer**, to give an overview of the Project and to explain the Change Order request to Pankow Builders.

Jonathan Tolkin, Manager of Metlox, LLC, thanked **Mr. Zislis** and explained that because of his efforts with the Shade Hotel, he believes that revenue from the Metlox Project will exceed expectations. He handed out invitations to the City Council announcing the Metlox ribbon cutting which will take place on December 1, 2005 and shared pictures of the “cubistic dog” (which was an original Metlox figurine) sculpture piece that will be part of the fountain located in the plaza. He reviewed that the Tolkin Group signed a ground lease with the City in August of 2001 for the Metlox Project; that the public improvements would include a public parking garage, a town square and one of a kind art elements; and that the price agreed upon for these public developments was \$14 million. Indicating that he is here this evening to request a change order of less than 1% of the original \$14 million budget for the public improvements, **Mr. Tolkin** explained that once the original art pieces got underway, they simply cost more than what was originally budgeted. He pointed out that the Tolkin Group absorbed \$3.7 million in cost overruns for their project and that the team consisting of City staff, the contractor and the Project Manager are to be commended for their hard work and creativity. He explained that the need for the additional funds was not known sooner because the building permit for the art elements was just issued in September; that this is a one-time chance to “do the right thing” and spend a little more than what was originally budgeted so long ago; and that to come back and add these elements in the future would cost exponentially more. In conclusion, he pointed out that the Tolkin Group absorbed a large amount of overruns; that there were items in the Disposition and Development Agreement (DDA) totaling approximately \$90,000 that the Tolkin Group could have disputed with the City but didn’t; and that he encouraged the Council to move forward with the art pieces as designed.

City Manager Dolan summarized that the total dollar amount that **Mr. Tolkin** is requesting is \$111,897; that staff worked closely with **Mr. Tolkin** and believes that the project has been very well controlled; that **Mr. Tolkin** has been a good steward of the City’s resources; that staff supports his request; and that staff recommends that Council consider using the accrued interest from the bonds that were sold in 2003 and the balance from the Art Fund.

Council held discussion with City Manager Dolan determining that while the Cultural Arts Commission did not vote to give the money from the Art Fund, they understood the need for it; that money in the Art Fund must be spent within 5 years of collecting it; and that money was reallocated to painting graphics on the wall of the parking garage rather than painting the entire

garage.

In response to Councilmember Tell's question regarding process, hearing of the enhanced lighting for the first time this evening and whether it is the reason for the overrun, **Mr. Tolkin** explained that the original budget was for utilitarian lighting and included only 33 lights for the entire project. He continued explaining that approximately 2 years ago an additional lighting contractor was hired with the belief that money could be reallocated to cover this additional expense.

City Manager Dolan added that he shares Councilmember Tell's concern about process; that staff tries its best to be attentive to process; and that staff also believed that the additional costs would be able to be covered by the amount of interest that had accumulated up to that point, therefore, it was not brought to Councils' attention at the time staff was made aware of it.

In response to Councilmember Aldinger's question as to whether things such as the lighting could be reworked to come up with the \$100,000 plus needed for the art features, **Mr. Tolkin** stressed that the lighting will not return to the original plan because conduit and other materials have already been installed. He indicated that there are certain things that could be reworked such as reducing the width of the 13th Street fountain, using blue stucco instead of glass tiles and not using brick on the outside of the kiln element; however, cautioned that they would be visible.

City Manager Dolan stated that he believes that the Council would regret taking away these features and not approving the additional funds necessary to complete the Project as proposed.

Council continued discussion with City Manager Dolan and **Mr. Tolkin** regarding how it was determined that additional money was going to be needed for the art features which resulted in City Manager Dolan and **Mr. Tolkin** reiterating that the budget was established many years ago; that there was not enough detail regarding the art features at that time to be able to accurately cost them out; that additional engineers had to be hired for the fountain work; and that staff accepts some responsibility for not realizing the true costs.

The following individuals spoke on this item:

- **Patrick McBride, 5th Street and Peck Avenue**
- **Bill Victor, No Address Provided**

In response to Mr. McBride's remarks about a previous speaker referring to some audience members as "gadflies", Mayor Fahey asserted that there are people who routinely criticize staff, the Council and others; however, they have the right to express themselves and she won't cut them off for doing it.

Remarking that there is no question that the increase in construction that Mr. Tolkin spoke about is true, Mayor Fahey stated that she believes it would be foolish not to approve the additional appropriation. She spoke of Council's regrets with the Police & Fire Facility Project; how they went back and added things back in; and that like the Police & Fire Facility, the Metlox Project is a beautiful development, designed for the future and is something to be proud of. She emphasized that while \$100,000 plus is a large amount of money, the City should not cut corners; that the remaining work is public art; that to take out features would be a terrible mistake; and that she fully supports using the accrued interest and balance from the Art Fund to pay for these elements.

Councilmember Tell stressed that he is not worried about the magnitude of the Change Order; he is concerned about the process. He pointed out that this is a clear example of assessing the cost of a Change Order after the fact; that change is inevitable; and that it is always better to get a

committed cost up front. He assured Council and the community that this discussion will carry forward to next Monday's item on the Police & Fire Facility Change Order because he is concerned that Change Orders could be a bigger problem with the Police & Fire Facility Project. He concluded by concurring with Mayor Fahey that he would not be in favor of cutting corners on the Metlox Project.

Councilmember Aldinger relayed that he was troubled about the statement that some of the lighting could be cut out in order to save money because he didn't know what that meant; that he was concerned with staff dealing with amounts exceeding \$100,000; and that it is difficult to visualize what the changes are. He emphasized that he would rather use the Art Fund money for locations other than Metlox and that he would be much more comfortable using Capital Improvement Project (CIP) money instead of the Art Fund.

Councilmember Montgomery acknowledged his disappointment that this is the first time that Council is hearing about this issue and that staff did not "put the breaks" on this when they first found out about it. Pointing out that the Art Fund can be replenished and that Art Funds would not go toward helping the Tolkin Group build its Project; he stated that he would prefer to use the Art Fund as opposed to General Funds.

Stating that he agrees with each of the Council on certain points, Mayor Pro Tem Ward also emphasized that he would not want to cut corners at this point of the Project. He voiced reservations about taking money from the Art Fund to use on the Metlox art elements because of how long it takes to build up the Fund; because art projects are precious to the arts community; and because it doesn't seem to be what the Art Fund is all about. Mayor Pro Tem Ward agreed with Councilmember Tell regarding process; stated that in the grand scheme of things, the downtown area is well worth \$111,000, however, reiterated his concern about taking money from the Art Fund.

Council held a brief discussion regarding how much money they wanted to take from the different funds mentioned which lead to the following motion.

MOTION: Councilmember Tell moved to approve a change order in the amount of \$111,897 to Pankow Builders for final completion of the Metlox Town Square project elements and appropriate \$24,000 from the accrued bond interest savings, \$50,000 from the Art Fund and \$37,000 from the Capital Improvement Plan Fund. The motion was seconded by Mayor Pro Tem Ward 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 THE CONSENT CALENDAR

None.

AUDIENCE PARTICIPATION

05/1115.27 Jon Chaykowski Re Utility Undergrounding

Jon Chaykowski, No Address Provided, reviewed his previous comments that there are flaws with the Utility Undergrounding Assessment District including that the assessments are not equitable and were recognized by the City's Public Works Director as early as 1997. He voiced his opinion that District 2 boundaries were created by City staff based upon the location of wires, not benefits, which forced people into the Districts and, that based on the assessments, many

people are getting cheated. He reported that he followed Council's suggestion and contacted more than 60 residents in his area and of these 60; over 80% are extremely angry about the undergrounding process and will vote against it. He further stated that seniors are being unfairly treated and that funding Option III is not feasible for many residents because the income amount is so low. He concluded by asking the Council to take the high ground and make the difficult decision that residents expect of them and to please stop the undergrounding.

05/1115.28 Bill Victor Re Utility Undergrounding

Bill Victor, No Address Provided, asserted that it was disingenuous of the City to report that residents drew their own boundary lines for the Utility Undergrounding Assessment Districts and that the way in which things were handled is terribly unfair. He reported that he was originally given the false belief that he could withdraw from the district only to be told afterward that staff would have to look at the poles and later that the utility(s) would have to decide whether it would be economically feasible. He emphasized that a lot of people who don't want Undergrounding, don't need Undergrounding, won't benefit from Undergrounding are going to be hurt and that the Council should think about that.

05/1115.29 Patrick McBride Re Renaming Parque Culiacan

Patrick McBride, 5th Street and Peck Avenue, spoke of the history of Parque Culiacan and how the African American community was driven out of the Park. He played an audio recording from the recent funeral of black activist Rosa Parks and suggested that the Park be renamed in her honor.

Council held a brief discussion regarding the merits of renaming the Park and Councilmember Tell stated that he would bring up the idea with the Sister Cities organization since he is the Council Delegate to their Committee.

05/1115.30 Karol Wahlberg Re the Process of Utility Undergrounding Assessment

Karol Wahlberg, No Address Provided, voiced her opinion that the process by which residents were assessed for Utility Undergrounding is flawed, almost immoral, and that the lack of transparency is shocking. She explained that she retired from the finance industry and would never have allowed the type of things that have gone on with the Undergrounding to happen to her clients. She emphasized that suggesting the idea of a reverse mortgage is highly inappropriate; that she is very troubled that the community is not looking out for one another; and that if she were on the Council; she would be trying to think of a way to correct this problem.

Councilmember Tell asserted that he believes that there is a lack of understanding regarding reverse mortgages and that it can be very appropriate if done right.

Council held a brief discussion regarding some details of the Utility Undergrounding issue.

05/1115.31 Martha Andreani Re Utility Undergrounding

Martha Andreani, No Address Provided, stressed that the Utility Undergrounding Assessments are flawed; that they are in violation of Proposition 218 because it dictates that those that benefit should pay the higher assessment, however, that is not how the assessments were calculated.

Council began another discussion regarding Utility Undergrounding to which City Attorney Robert Wadden cautioned Council that this was not an agenda item and that to continue may constitute a Brown Act violation.

George Goff, Strand Resident, pointed out that residents living on The Strand will receive no direct benefit from Undergrounding, yet, he believes that just about everyone living on The Strand is in favor of it. He explained that he has been involved with this topic since the 1970s and that the original intent was to underground the entire City, however, because of the price, a process had to be developed to move forward a little at a time. He suggested that Council discuss whether they want to change the process.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS & COMMITTEE REPORTS

None.

RECESS AND RECONVENE

At 11:00 p.m. the Council recessed into Closed Session.

At 11:25 p.m. the Council returned to Open Session announcing that no actions were taken.

ADJOURNMENT

At 11:25 p.m. the meeting was duly adjourned to the 6:30 p.m. Adjourned Regular Underground Utility Assessment District Meeting on Monday, November 21, 2005, in said City.

TERRI ALIABADI
Recording Secretary

JOYCE FAHEY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
ADJOURNED REGULAR MEETING
NOVEMBER 15, 2005**

The 5:30 p.m. Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, scheduled for the 15th day of November, 2005, in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City, was continued until after the close of the City Council proceedings.

ROLL CALL

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

CLOSED SESSION

The Council recessed into Closed Session at 11:00 p.m. At 11:25 p.m. Council returned to Open Session announcing that no action was taken.

ADJOURNMENT

The meeting was duly adjourned at 11:25 p.m. to the 6:30 p.m. Adjourned Regular (Underground Utility Assessment District) City Council Meeting on Monday, November 21, 2005, in said City.

ROBERT V. WADDEN, JR.
Recording Secretary

JOYCE FAHEY
Mayor

ATTEST:

LIZA TAMURA
City Clerk