

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
REGULAR MEETING OF  
JUNE 7, 2005**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 7<sup>th</sup> day of June, 2005, at the hour of 6:30 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

**PLEDGE TO FLAG**

Cameron King, a 5<sup>th</sup> grade student from Meadows Elementary School, led the pledge of allegiance.

**ROLL CALL**

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

**CEREMONIAL ITEMS**

05/0607.1 Presentation of Commendations to "Sensational Seniors" and the Children Who Discovered Them; Presentation to Gladys Glover Damewood Bruchez and Frank DeBose as Recipients of the Irene Loud "Young at Heart" Award

Mayor Fahey summarized the "Sensational Senior" Program stating that, in honor of the City's oldest resident Irene Loud who passed away in January at the age of 105, the City conducted a search for all the "Sensational Seniors" in town. In order to find the "Sensational Seniors," Mayor Fahey reported that flyers were delivered to all the elementary schools and that the children conducted a "Treasure Hunt" to find all residents ages 90 and over. Mayor Fahey then read into the record a favorite saying by Irene Loud, "Life is not made up of years we live, but of the kindness we do and the happiness we can give."

Mayor Fahey and Council then presented Certificates of Appreciation to Sherry Kramer (for coordinating the floral arrangements with Annie's Flowers), Bruce Brown of Lickity Split Ice Cream (for donating gift certificates to the children), Chris Bennett of Good Stuff Restaurant (for donating gift certificates to the children), and Ann Bridgman of Annie's Flowers (for donating flower bouquets to the "Sensational Seniors". Mayor Fahey also thanked City Clerk Liza Tamura for her assistance with the "Sensational Senior" program.

The Council presented "goodie bags," City pins and Certificates of Recognition to the following children who discovered the "Sensational Seniors": Jessica Beeli, Sabrina Callender-Clewett, Lexy Cummings, Brittany Donalessen, Alexis Fahey, Selena Feliciano, Maddy Fredrick, Maggie Ginoza, Chris Golden, Isaac Jenkins, Matthew Phillips, Laila Samimi, Lauren Schnuckel, Emily Schugel, Sarah Schugel, Gabriella Segovia, Renee Ventura, Ryan Wendel, Brooke Winterhalder and Lauren Winterhalder.

Alexandra Baaden and Skye Norton were unable to attend the Council meeting.

The Council presented pillows which read, "Young at Heart," a bouquet of flowers donated by Annie's Florist, a Certificate of Recognition and a City pin to the following "Sensational Seniors": Margaret Ackerman, Elizabeth Case, Dorothy Custer, Lillian Cutler, Rouhllah Geola, J. Norman Hamilton, Alicia Kulczycki, Frieda Littlefield, Erno Pasztor, Kay Pierce, Jeanette Smith, Kenyon Smith, Fern Strong, Mary Tuchi and Nancy Stewart Wilson.

“Sensational Seniors” John Durbach, Oliver Evans, Aida Hanley, Helen Houghton, Al Martin, Bob Mohl, Dorothy Nicassio, Bill Whitehead and Ruby Whyte were unable to attend the Council meeting.

The Council presented the Irene Loud “Young at Heart” award to Frank Hora Debose who celebrated his 100<sup>th</sup> birthday in March 2005.

Unable to attend the Council meeting was Gladys Glover Damewood Bruchez, recipient of the Irene Loud “Young at Heart” award, who celebrated her 100<sup>th</sup> birthday in December 2004.

Mayor Fahey thanked the children for all their hard work in finding the “Sensational Seniors” and reminded them of the lesson that she learned tonight, “Don’t count the years, count the memories.”

Mayor Fahey also announced that the Leadership Manhattan Beach Class is providing a free fun family premiere of “Bridging the Generations” which will be shown on Sunday, June 12, 2005, from 4-5 p.m., at Mira Costa High School.

In celebration of the “Sensational Seniors” and the Children who found them, the City Council recessed for cake and punch.

### **RECESS AND RECONVENE**

At 7:31 p.m. the Council recessed and reconvened at 7:47 p.m. with all Councilmembers present.

### **CONSENT CALENDAR**

With regard to Item No. 11, *Adoption of Ordinances Approving a Municipal Code Amendment and Local Coastal Program Amendment Pertaining to the Regulation of Telecommunication Facilities on Public Right-of-Way, Public Property, and Private Property Citywide and Adoption of a Resolution Transmitting Telecommunication Ordinances to the Coastal Commission*, City Manager Geoff Dolan explained that two versions of the ordinance were attached to the staff report, one with strike-outs and one without, and that the correct version of the ordinance is the one without strikeouts.

In response to Mayor Pro Tem Ward’s inquiry regarding Item No. 14, *Award a Contract (\$272,656) for the Annual Water Main Replacement Project and the Annual Sewer Main Replacement Project to Cody Engineering, Inc.*, and whether the slurry seal project will follow the installation of the water main, City Engineer Dana Greenwood responded that proposals for the follow-up street project have just been received and that the street resurfacing will follow the water main project, with an estimated time of completion being Spring of next year, at which time the entire project will be completed.

The Consent Calendar (Item Nos. 2 through 16), consisting of items under *General Consent and Boards and Commissions*, was approved by motion of Councilmember Montgomery, seconded by Councilmember Tell and passed by unanimous roll call vote with the exception of Item Nos. 12 and 16, which were 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**

05/0607.2 Approve Minutes of the City Council Regular Meeting of May 17, 2005

The Council continued the subject minutes to the June 21, 2005 City Council Meeting.

05/0607.3 Approve Minutes of the City Council Adjourned Regular Meeting and the Adjourned Regular Budget Study Session Meeting of May 24, 2005

The Council approved the subject minutes.

05/0607.4 This Space Intentionally Left Blank.

05/0607.5 Consideration of a 5-Year Lease with the United States Postal Service for the Downtown Post Office

The Council approved a 5-year lease agreement with the United States Postal Service for the downtown post office.

05/0607.6 Consideration of the State Budget and Legislative Update from Shaw / Yoder, Inc., the City's Legislative Advocate

The Council received and filed the subject report.

05/0607.7 Status Report and Update on the Ocean Express Shuttle Service

The Council received and filed the subject report.

05/0607.8 Consideration of a Resolution Amending Personnel Rules Providing for the Fiscal Year 2005-2006 Adjustment of 4% to the Management / Confidential Salary Ranges and Other Benefit Modifications and Adjusting Two Positions within the Salary Schedule

The Council adopted Resolution No. 5988 amending the Management / Confidential Unit salary ranges to provide a 4% increase, modify the medical insurance contribution, provide a 2% contribution to the Retirement Health Savings Plan for Department Heads and move the Maintenance Superintendent and Assistant Finance Director classifications to schedule 6 and 7 respectively, in the salary schedule.

**RESOLUTION 5988**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING RESOLUTION 5898 OF SAID COUNCIL (PERSONNEL RULES) BY AMENDING RULE XI (ATTENDANCE AND LEAVES) AND RULE XII, (EXPENSE ALLOWANCES AND OTHER FRINGE BENEFITS) AND ADJUSTING THE SALARY RANGES OF MANAGEMENT/ CONFIDENTIAL EMPLOYEES**

05/0607.9 Consideration of Financial Report: Ratification of Demands - May 19, 2005 & June 2, 2005

The Council approved with no exception Warrant Register No. 24B and No. 25B in the amount of \$3,303,000.75 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.

05/0607.10 Authorize the City Manager to Enter into a Three-Year Contract with Verizon California Inc., to Provide Telephone Service (Estimated Value \$39,600)

The Council approved to waive formal bidding per Municipal Code Section 2.36.140 (waivers) and approved authorizing the City Manager to enter into a three-year contract with Verizon California Inc. to provide telephone carrier services with an estimated value of \$39,600.

05/0405.10-11 Adoption of Ordinances Approving a Municipal Code Amendment and Local Coastal Program Amendment Pertaining to the Regulation of Telecommunication Facilities on Public Right-of-Way, Public Property, and Private Property Citywide and Adoption of a Resolution Transmitting Telecommunication Ordinances to the Coastal Commission

The Council adopted Ordinance Nos. 2075 and 2076 approving the proposed amendment and adopted Resolution No. 5981 transmitting the telecommunication ordinances to the California Coastal Commission.

**ORDINANCE NO. 2075**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING THE MANHATTAN BEACH MUNICIPAL CODE PERTAINING TO REGULATION OF TELECOMMUNICATIONS FACILITIES ON PUBLIC AND PRIVATE PROPERTIES AND THE PUBLIC RIGHT OF WAY CITY-WIDE**

**ORDINANCE NO. 2076**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING THE MANHATTAN BEACH LOCAL COASTAL PLAN IMPLEMENTATION PROGRAM PERTAINING TO REGULATION OF TELECOMMUNICATIONS FACILITIES ON PUBLIC AND PRIVATE PROPERTIES AND THE PUBLIC RIGHT OF WAY WITHIN THE COASTAL ZONE**

**RESOLUTION NO. 5981**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, SUBMITTING ORDINANCE NO. 2076 TO THE CALIFORNIA COASTAL COMMISSION TO ADD ORDINANCE NO. 2075 TO CHAPTER 3 (IMPLEMENTING ORDINANCES) AND AMEND SECTIONS A.08.130, A.12.030, A.16.020, A.16.030, A.60.060 AND A.60.130 OF THE CITY OF MANHATTAN BEACH LOCAL COASTAL PROGRAM (LCP) - IMPLEMENTATION PROGRAM, RELATING TO TELECOMMUNICATIONS FACILITIES**

05/0607.12 Consideration of Participation by the City of Manhattan Beach in the Los Angeles Urban County Community Development Block Grant (CDBG) Program for the Three Year Funding Cycle Beginning July 1, 2006 and Ending June 30, 2009

Item No. 12 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

05/0607.13 Disbursement of Progress Payment No. 2 in the Net Amount of \$43,750.80 to S.P. Pazargad Engineering Construction, Inc. for the Strand Improvement Project

The Council approved the issuance of the subject progress payment.

05/0607.14 Award a Contract (\$272,656) for the Annual Water Main Replacement Project and the Annual Sewer Main Replacement Project to Cody Engineering, Inc.

The Council approved an award of contract for the Annual Water Main Replacement Project and the Annual Sewer Main Replacement Project to Cody Engineering, Inc for \$272,656 and authorized the Director of Public Works to approve additional work in an amount not-to-exceed \$27,000, if required.

**BOARDS AND COMMISSIONS**

**Cultural Arts Commission**

05/0607.15 Consideration of Draft Minutes, Cultural Arts Commission Meeting of May 10, 2005

The Council received and filed the subject draft minutes.

**Planning Commission**

05/0607.16 Consideration of Action Minutes, Planning Commission Meeting of May 25, 2005

Item No. 16 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

**COMMUNITY ANNOUNCEMENTS**

05/0607.24 Viet Ngo Re City's Financial State

**Viet Ngo, No Address Provided**, stated that it is his duty to inform the public that the financial situation of the City of Manhattan Beach is headed toward disaster, based on the ongoing wrong actions of the City Council, City Manager, and Financial Manager, excluding Councilmembers Montgomery and Tell. He asked the members of the public to join him in saving the financial situation of Manhattan Beach by calling the United States Department of Justice or FBI.

05/0607.25 Karen Carr Re Smoke Free Beaches

**Karen Carr from South Bay Coalition, Andy Delenbach from Surfrider Foundation, Barbara Mitchell from South Bay Coalition, Sonia Basquez from Girls Club of Los Angeles, and Lynette Ohls from L. A. County Tobacco Control and Prevention Program, on behalf of the South Bay Smoke Free Beaches Coalition**, presented an award of recognition to the City of Manhattan Beach for establishing smoke-free beach, pier and parks to help create a pristine and healthful environment in which to live and play.

05/0607.26 Elizabeth Stuart Re Richstone Family Center

**Elizabeth Stuart, representing the Richstone Family Center**, presented the City Council with a drawing which was made by one of the children at the Richstone Family Center. **Ms. Stuart** expressed her appreciation to Council for their continued support and reported that the recent Pier-to-Pier Walkathon raised approximately \$200,000.

**PUBLIC HEARINGS**

05/0503.8-17 Public Hearing for the Annual Levy and Collection of Street Lighting and Landscaping District Maintenance Assessments for Fiscal Year 2005-2006

Finance Controller Henry Mitzner reported that this public hearing, which was properly noticed, is the third in a series of Council actions regarding the Street Lighting and Landscaping District and noted the recommended action to adopt Resolution No. 5982, providing for the annual levy and collection of Street Lighting and Landscaping District maintenance assessments for Fiscal Year 2005-2006.

Mayor Fahey opened the Public Hearing at 7:57 p.m.

Hearing no requests to speak, Mayor Fahey closed the Public Hearing at 7:58 p.m.

**MOTION:** Councilmember Tell moved to adopt Resolution No. 5982 providing for the annual levy and collection of Street Lighting and Landscaping District maintenance assessments for the fiscal year 2005-2006. The motion was seconded by Councilmember Montgomery and approved by the following unanimous roll call vote:

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

**RESOLUTION NO. 5982**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, OVERRULING PROTESTS AND PROVIDING FOR THE ANNUAL LEVY AND COLLECTING OF ASSESSMENTS FOR CERTAIN STREET LIGHTING MAINTENANCE IN AN EXISTING DISTRICT, PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA**

05/0517.22-18 Public Hearing and Adoption of Fiscal Year 2005-2006 Proposed Operating Budget and the 2005-2010 Capital Improvement Plan

Finance Director Bruce Moe presented the proposed Budget and 2005-2010 Capital Improvement Plan reviewing that Council did not direct any changes at the May 24, 2005 Budget Study Session and pointing out that the proposed budget does have several housekeeping changes that do not affect the General Fund balance. These changes include a dual left-hand turn lane project at Manhattan Beach Boulevard and Sepulveda Boulevard, which will be considered in the future; the reassignment of personnel, which strictly entailed internal changes; \$10,000 for pump repairs (from the Wastewater Fund); and \$2,000 for diagnostic scanner items

(from the Public Works budget under “non-General Fund” funds). He noted that information is also provided regarding several items on which Council had requested additional information, and that the specific Capital Improvement Projects will be presented for Council consideration in the next few weeks. He recommended that Council conduct the public hearing and approve the budget and CIP by adopting Resolution Nos. 5984, 5985 and 5986, as well as appropriating \$695,000 from the General Fund unreserved fund balance to fund the Police Retiree Medical Plan in Fiscal Year 2004-2005 and appropriate \$355,000 from the General Fund unreserved fund balance to fund the Insurance Reserves at Policy Levels in Fiscal Year 2004-2005.

In response to Mayor Fahey’s inquiry regarding the source of funding should Council vote to increase the crossing guards’ pay, Finance Director Moe responded that a supplemental appropriation would be prepared within the General Fund and that there is money to do that.

In response to Mayor Pro Tem Ward’s inquiry regarding the percentage change in Workers’ Compensation costs over the past few years and how Manhattan Beach compares with other cities, City Manager Geoff Dolan explained that while the numbers of Workers’ Compensation claims are going down; the actual cost is going up because of the severity of the claims. He noted that, as a member of a risk-sharing agency with 29 other cities, the data shows that Manhattan Beach ranks in the upper half of the best cities in terms of our Workers’ Compensation costs.

Mayor Fahey opened the Public Hearing at 8:05 p.m.

**Viet Ngo, No Address Provided**, stated that he has learned from the *Beach Reporter* that, for the first time, the City will have a \$680,000 deficit this year, requiring the use of reserves which, he believes, is a misappropriation of public funds. He stressed that while the Council is only entitled to \$200 per month salary plus medical insurance, his question regarding them taking more than \$200 per month, in violation of the federal statute, has never been answered. He said that there are many case laws that support his contention and allegation of a conspiracy against the federal government by the Council to misappropriate and misapply funds, and that the Council cannot continue to disregard his questions. He accused the Council of violating the Election Code and Penal Code and stated that he holds them in high standard for their conduct, mismanagement and misappropriation of the funds. He said he does his best as a United States citizen to bring the Council and City Manager to justice, and that he will continue to appear at meetings until such time that this happens.

**Gary Osterhout, 500 Block of 31<sup>st</sup> Street**, expressed concern with several aspects of the budget, including but not limited to: the lack of planning for the time when the pension plan would not be funded by the State, causing the use of Capital Improvement resources to fund the pension plan; the lack of planning for Capital Improvement projects in the future, rather than funding them after the fact; the use of the unreserved current year surplus to fund continuing salaries; the spending of interest generated from emergency reserves to fund current spending rather than keeping the funds in the reserve fund; the hiring of additional staff to meet the demand for additional Parks and Recreation program registration, which were to be alleviated by on-line registration; the potential selling of Prop A Funds for pennies on the dollar rather than using them for much needed transportation-related expenditures; and the City Manager’s budget message continually speaking of increased demands for services without providing significance or context. He explained that, without specific information of what the services are, there is no way to evaluate whether unneeded programs are being supported or important programs are being cut back. He said that such obliqueness militates against community participation, transparency of government actions and accountability.

In response to Mayor Fahey's inquiry regarding the use of Prop A Funds, Finance Director Moe stated that Council would hold hearings at that time such funds were proposed to be sold.

Councilmember Aldinger expressed concern with approving the Capital Improvement Program at this time and suggested holding off until hearings can be held with meaningful discussion. He pointed out that although the fund set up for the pension is called a "reserve fund", it was set up to do exactly what it is doing. He said he appreciates the response from staff on the technology-related projects; noted that the rest of the budget looks good; and expressed his support for approval of the budget.

In response to Mayor Fahey's inquiry regarding the implication of approving the budget without the Capital Improvement Projects, Finance Director Moe stated that approving the budget includes the first year of the CIP and if the remainder of the CIPs are not approved tonight, then a budget adjustment can be made in the future as additional projects are identified.

City Manager Dolan suggested the possibility of approving the budget with the exception of the CIP component which could be sorted out in the next few months, or adopt as is and then amend it in the next few months.

Councilmember Tell pointed out the importance of establishing priorities and noted that he is comfortable with approving the budget now and revising it later if necessary.

Mayor Fahey closed the Public Hearing at 8:19 p.m.

Councilmember Tell thanked Finance Director Moe, Assistant Finance Director Russell Morreale, and Controller Henry Mitzner for their patience and for providing him with information to help determine how and why we got to the point where we are now. He noted that there are future challenges due to many unknown quantities (such as property tax, sales tax, pension costs); pointed out that the Council is monitoring the challenges and that it is not the time to discuss cutting back expenditures; noted that the reserve was set aside for specific reasons and he is comfortable with using it; and expressed confidence that the professional staff will continue to monitor challenges ahead.

Mayor Pro Tem Ward also thanked staff for helping him understand the details, noting that the budget can be dry and difficult to understand. He said he is pleased that the \$695,000 allocated for Police Officers' retirement will help fulfill the unfunded obligation; expressed concern regarding Workers' Compensation costs and the importance of knowing the long-term implication; and acknowledged that the reserves are contingencies put into place for use in times of need, but they will be replenished.

Councilmember Montgomery echoed the positive comments regarding staff and thanked the prior Council and staff for getting the City into its current good, healthy position, even though there is a need to use the reserves for a one-time expenditure.

Mayor Fahey thanked and acknowledged **City Treasurer Tim Lilligren** for participating in the budget process; stated that she appreciates the time **Mr. Osterhout** spends working on the budget process and providing thought-provoking comments that are valuable and prompt discussion.



**MOTION:** Councilmember Aldinger moved to adopt Resolution No. 5984 establishing the Appropriation Limit; adopt Resolution No. 5985 approving the Fiscal Year 2005-2006 Operating Budget; adopt Resolution No. 5986 approving the 2005-2010 Capital Improvement Plan; appropriate \$695,000 from the General Fund Unreserved Fund Balance to fund the Police Retiree Medical Plan in Fiscal Year 2004-2005; and appropriate \$395,000 from the General Fund Unreserved Fund Balance to fund the Insurance Reserves at Policy Levels in Fiscal Year 2004-2005. 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.

**RESOLUTION NO. 5984**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ESTABLISHING THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2005-2006**

**RESOLUTION NO. 5985**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 2005-2006**

**RESOLUTION NO. 5986**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ADOPTING THE CAPITAL IMPROVEMENT PLAN FOR YEARS 2005-2010**

05/0517.8-19 Renewal of the Downtown Business Improvement District (BID) for Fiscal Year 2005-2006

Finance Director Bruce Moe addressed Council regarding the renewal of the Downtown Business Improvement District explaining the process for approval and recommended actions as outlined in the staff report. He explained that approval is based on less than a majority protest and that no calls were received in protest of the District. He noted that the assessment is an 80% surcharge on the business license tax, to a maximum of \$600; and that all legal requirements for renewal have been met. He pointed out that the Metlox property is included within the Downtown Business Improvement District and that funds will begin coming in when the businesses open.

Finance Director Moe introduced **Carol Rowe, Executive Director of the Downtown Manhattan Beach Business and Professional Association (DMBBPA)**, who thanked the City Council, City Manager and especially Public Works Director Neil Miller and the Public Works Department staff for the recent street resurfacing and street light pole improvements. She explained the history of the Downtown Business Improvement District (BID), noting that every business with a business license in the downtown area pays into the BID and is automatically a member. She reported that the DMBBPA promotes business in the downtown area through various activities, including: planning and holding sidewalk sales; the Holiday Open House; trick-or-treating; sponsoring the Arts Festival; development and maintenance of a downtown

website; an online newsletter; downtown dollars (which donated over \$35,000 to local schools); participation is the Chamber of Commerce; concierge service in 27 different hotels; parking promotions; and a liaison between downtown businesses and the City. She concluded by declaring that the DMBBPA proposes to continue these activities as well as promoting tourism for the downtown by sponsoring the "Ocean Express," which brings people into downtown without increasing traffic.

Mayor Fahey opened the Public Hearing at 8:32 p.m.

Hearing no requests to speak, Mayor Fahey closed the Public Hearing at 8:33 p.m.

Mayor Pro Tem Ward commented, and Council agreed, that the downtown resurfacing looks great.

Mayor Fahey complimented the downtown businesses for their ability to work well together and noted that the results are terrific.

**MOTION:** Councilmember Aldinger moved to adopt Resolution No. 5987 authorizing the collection of assessments for the Downtown Business Improvement District (BID); ratify the Fiscal Year 2005-2006 BID Advisory Board Members; authorize the BID Advisory Chair to enter into an agreement with the Downtown Business & Professional Association to provide services to the District; and authorize the disbursement of all assessments collected for Fiscal Year 2004-2005 (approximately \$83,450). 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. 5987**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, OVERRULING PROTESTS AND PROVIDING FOR THE ANNUAL LEVY AND COLLECTING OF ASSESSMENTS FOR THE EXISTING DOWNTOWN MANHATTAN BEACH BUSINESS IMPROVEMENT DISTRICT, PURSUANT TO THE STREETS AND HIGHWAYS CODE SECTION 36500 ET. SEQ. (SB 1424 - PARKING & BUSINESS IMPROVEMENT LAW OF 1989, CHAPTER 2) OF THE STATE OF CALIFORNIA**

**GENERAL BUSINESS**

*05/0503.18-20 Select Member for Cultural Arts Commission Seat No. 5*

**Cultural Arts Commission (Seat No. 5)**

	<u>Nomination</u>	<u>1<sup>st</sup> Round Vote</u>	<u>2<sup>nd</sup> Round Vote</u>	<u>3<sup>rd</sup> Round Vote</u>
Tell	Rosenthal	Rosenthal Gembica	Rosenthal	Rosenthal
Aldinger	Gembica	Gembica Rosenthal	Gembica	Rosenthal
Montgomery	Murray	Murray Rosenthal	Murray	No Vote
Ward	None Further	Murray Gembica	Murray	Murray
Fahey	None Further	Rosenthal Murray	Rosenthal	Rosenthal

Mayor Fahey moved to make it unanimous and appoint Susannah Rosenthal to the Cultural Arts Commission Seat No. 5. Hearing no objection it was so ordered.

*05/0607.21 Status Report on Solid Waste Collection, Recycling, Processing and other Diversion Services, and Overall Performance of Waste Management, Inc*

Senior Management Analyst Steve Didier addressed Council with a PowerPoint Presentation on the status of the City’s recycling program as outlined in the staff report. He reported that staff has been working closely with Waste Management, Inc. to remedy many customer service issues, as well as negotiating an agreement to mitigate the outstanding liquidated damages. He explained that Waste Management is responsible to divert at least 50% of the waste generated in Manhattan Beach and that they work together with City staff and commercial establishments in requiring their drivers to change the culture from “just pick it up” to “pick it up right.”

**Isabel Rios, Waste Management Liaison to the City of Manhattan Beach**, gave a PowerPoint presentation summarizing the working partnership with the City; the focus on meeting the requirements of AB 939; the success of the residential program (which stands at 48% recycling participation); the use of a semi-annual brochure to educate residential users; and education of commercial accounts on the importance of recycling via the “operation snapshot program” (showing customers how they can increase recycling in lieu of increased generation of garbage). She noted that in 2004 the City’s average diversion was 12% and the increase in 2005 to 39% can be attributed to the use of source-separated programs and a third-party recycling program, as well as provided training for commercial and multi-unit accounts to minimize contamination. She reviewed the Construction and Demolition (C&D) Recycling program; measurable improvements; community outreach efforts; and public education outreach improvements. She reported that the City reached a 50.1% diversion level in April, 2005, and is hopeful for an increase in May as a result of making personal visits to over 80% of the commercial accounts; generating third-party recycling reports and focusing on maximizing diversion in the C&D area. She also reviewed recent investments made by Waste Management, including the acquisition of a new recycling facility (Recycle America Alliance); a new Recycling Robot named Curby; the formation of an alliance with C & D Recyclers, and a free-cycle recycling website.

In response to Councilmember Tell's inquiry regarding the third-party recycling program, **Susan Mountol of Waste Management**, explained that this is the first opportunity Waste Management has had to capture statistics from those companies that use means of recycling their cardboard other than Waste Management, and it allows the inclusion of these figures in the overall recycling effort.

Councilmember Tell pointed out that the actual increase was approximately 5% following the audit and inquired if Waste Management will be able to meet the goal of increasing the total number of commercial recycling accounts to 400 by September 2005.

Senior Management Analyst Didier explained the benefit to understanding which businesses conduct third-party recycling; which businesses can improve their recycling efforts; and which businesses claim they are doing third-party recycling, but really are not. He explained that while not many cities track third-party recycling numbers, Manhattan Beach and Waste Management are taking advantage of it in an effort to track commercial diversion, which is truly the goal. As far as meeting the goal of 400 commercial recycling accounts by September 2005, he commented that the strong partnership that has been established makes him confident that the program can continue for a long time and be very successful.

In response to Councilmember Montgomery's inquiry regarding the length of the contract, Senior Management Analyst Didier reported that the contract ends in October 2009.

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

- **Bill Victor, No Address Provided**

In response to questions from **Mr. Victor**, Senior Management Analyst Didier stated that the diversion is calculated on a base-year study; that the study showed that 95,000 tons per year were disposed in landfills; that the current amount being disposed in landfills is deducted from that number; and that the difference is considered the diversion. He also noted that Council approved becoming part of a regional agency for AB 939 compliance in 2003, which provides the benefit of combining waste tonnage and helping to prevent being subject to an audit in the future.

Public Works Director Neil Miller stated that the state goal has been in place since 1990 and for many years the reports have addressed "how to get there." He emphasized that the City is in compliance with state requirements, noting that the numbers have been audited and are accurate; thanked the City Council for authorizing the hiring of a consultant to develop the contract with Waste Management; and complimented several staff members for working hard to implement the contract with Waste Management. He thanked Waste Management for hiring staff members who now take the contract seriously and praised both residents and businesses for listening and participating in the recycling programs. He assured Council that staff will keep the pressure on and continue to do their best to help businesses participate in the program.

Mayor Fahey complimented staff and Waste Management for their hard work in bringing the City into compliance, noting that the progress has been remarkable and was achieved in a relatively short period of time.

Councilmember Aldinger also applauded the City in leading the way in recycling efforts and expressed appreciation to everyone involved, including residents, businesses, contractors and developers, as well as staff and Waste Management for accomplishing compliance.

05/0607.22 Consideration of a Resolution Approving a Cooperative Agreement with the County for Construction of a Storm Drain Low-Flow Bypass Facility at the Vicinity of 27<sup>th</sup> Street and The Strand (\$75,000)

City Engineer Dana Greenwood addressed Council with a PowerPoint presentation on the proposed new storm drain low-flow diversion facility at 27<sup>th</sup> Street and the Strand. He reviewed the National Pollutant Discharge Elimination System (NPDES) permitting process, whose goal is to improve water quality and reduce the amount of trash and bacteria levels entering the Santa Monica Bay. He also reviewed various locations where low-flow diversion devices have been placed to improve bacteria levels entering the Santa Monica Bay and noted that trash reduction projects include screening devices at various locations (including the Police/Fire facility site and Metlox site) and catch basin inserts to collect trash as it enters storm drain catch basins. He concluded by explaining that the proposed agreement provides that the County Sanitation District will be responsible for designing, constructing and maintaining the facility at no additional cost to the City beyond the initial \$75,000.

City Manager Geoff Dolan acknowledged City Engineer Greenwood's success as a former member of the Los Angeles County staff in seeking out and acquiring grants for Public Works projects.

There was no public comment on this item.

Councilmember Aldinger commented that Manhattan Beach once again leads the way in cleaning up the environment and thanked City staff for their hard work.

**MOTION:** Councilmember Tell moved to adopt Resolution No. 5980 entering into a cooperative agreement with the County to construct a storm drain low-flow diversion in the vicinity of 27<sup>th</sup> Street and The Strand at a cost not-to-exceed \$75,000. The motion was seconded by Councilmember Aldinger 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. 5980**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING A CITY-LOS ANGELES COUNTY COOPERATIVE AGREEMENT FOR CONSTRUCTION OF A STORM DRAIN LOW-FLOW DIVERSION IN THE VICINITY OF 27<sup>TH</sup> STREET AND THE STRAND**

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

05/0607.12 Consideration of Participation by the City of Manhattan Beach in the Los Angeles Urban County Community Development Block Grant (CDBG) Program for the Three Year Funding Cycle Beginning July 1, 2006 and Ending June 30, 2009

Pointing out that the individual who pulled this item off the Consent Calendar was no longer present at the meeting; and there were no public comments, the following motion was made:

**MOTION:** Councilmember Montgomery moved to approve Resolution No. 5989 authorizing

the continued participating in the Los Angeles Urban County Community Development Block Grant Program for the three year funding cycle beginning July 1, 2006 and ending June 30, 2009. The motion was seconded by Councilmember Aldinger 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. 5989**

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH AUTHORIZING AND APPROVING THE EXECUTION FOR FISCAL YEARS 2006-2009 COOPERATION AGREEMENT BETWEEN THE LOS ANGELES URBAN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM AND THE CITY OF MANHATTAN BEACH**

05/0607.16 *Consideration of Action Minutes, Planning Commission Meeting of May 25, 2005*

Pointing out that the individual who pulled this item off the Consent Calendar was no longer present at the meeting; and there were no public comments, the following motion was made:

**MOTION:** Councilmember Aldinger moved to receive and file the action minutes of the Planning Commission meeting of May 25, 2005. 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.

#### **AUDIENCE PARTICIPATION**

05/06071.27 *Bill Victor Re Public Participation and Charges for Copies*

**Bill Victor, No Address Provided**, stated that, at a recent Planning Commission meeting, one of the Commissioners stated that everything must be going great because of the small number of audience participants and, while this is a possible conclusion, he believes that it could be that people are discouraged and thus do not participate. He said he would like to see the Council take back management of the Council and not be managed by the City Manager. For example, he compared the cost of Xerox copies at 40 cents per page to the neighboring cities of El Segundo (15 cents), Hermosa Beach (10 cents) and Redondo Beach (10 cents), as well as the charge for copying videotapes at \$25.

05/06071.28 Viet Ngo Re Consent Calendar Items and Alleged Violation of State Law

**Viet Ngo, No Address Provided**, stated for the record, that he was denied the ability to comment on Consent Calendar Items Nos. 12 (Community Development Block Grant funds) and Item No. 16 (Planning Commission approval of an alcohol permit). He said he would like to share with Council to make them aware and quoted portions of Code Title 18, Section 666, regarding theft and bribery of federal funds. He informed the Council that the Court of Appeals in Illinois has convicted the Mayor and other City Councilmembers of activities prohibited under the Rico Act similar to the acts of the Manhattan Beach Council and said he hopes the U.S. Attorney General will use this case to prosecute the Council's wrongdoing. He also alleged that Mayor Fahey was a former prosecutor in Illinois and prosecuted the mob.

**CITY MANAGER REPORT(S)**

05/06071.29 Geoff Dolan Re Bicycle Accident on Strand

City Manager Dolan expressed sympathy to the family of the victim of the recent bicycle accident on the Strand and noted that City staff is talking with other cities and the county, as well as researching other "best practices" regarding signage or anything else that may help prevent future accidents and said the City will do whatever is possible to improve the situation in order to prevent future similar accidents.

**OTHER COUNCIL BUSINESS & COMMITTEE REPORTS**

05/0607.23 Request by Councilmember Tell to Refer a Discussion of Creating Staggered Restricted Parking Hours in the Area Around Mira Costa High School to the Parking and Public Improvements Commission for Review and Recommendation

Councilmember Tell reported that he and Councilmember Montgomery recently met with neighbors of Mira Costa High School regarding a proposal to create staggered parking restrictions in the neighborhoods. He asked Council to refer the request to the Parking and Public Improvements Commission (PPIC) for review to determine if this is a viable solution, acceptable to all parties, and noted that the neighbors have met twice to ensure that they want to pursue this option.

In response to Mayor Fahey's inquiry, Councilmember Tell confirmed that the area in question is the "Poet's Section" only.

Community Development Director Richard Thompson noted that the parking study started in 2003 resulted in a proposal to create 125 on-site parking spaces, with more to be created once the portable buildings were relocated; however, the School District does not have a firm date for removal of the portables.

Mayor Pro Tem Ward and Councilmember Aldinger expressed concern with conducting parking studies "piecemeal".

Mayor Pro Tem Ward pointed out that the students are not currently using parking spaces available on campus and that there may be a perceived problem but not necessarily a real parking problem.

Councilmember Tell explained that residents are looking for ways to urge students to park on campus and by creating a street-by-street approach whereby each street can determine if they want to participate in the staggered parking, it will expedite the process, as opposed to something that will take a lot more time.

In response to Councilmember Aldinger's inquiry regarding how success will be measured and what is Council trying to accomplish, Councilmember Tell explained that it is an attempt to conduct a street-by-street vote with respect to imposing staggered parking from 9:00 a.m. to 11:00 a.m. on one side of the street and 12:00 p.m. to 2:00 p.m. on the other side, which accomplishes the overall objective of getting students to park in the parking lot rather than on residential streets. He said the hope is to have the PPIC conduct a public hearing and then bring it back to Council for consideration to implement by September.

City Manager Geoff Dolan clarified that he was the one who suggested that the item should be reviewed by the PPIC because the concept has not been considered in the past. He emphasized that it is a way to avoid permit parking while encouraging students to park in the school lot; it gives individual neighborhoods the option of participation; and it could work hand-in-hand with the additional parking on campus. He explained the proposal of holding one hearing with the PPIC to "flush out" any items that staff may not have thought of and assured Council that this is a narrow proposal of staggered parking with an "opt-in" or "opt-out" basis similar to the street sweeping program, which will require 60% participation and will ensure neighborhood support.

Mayor Fahey directed staff to send the proposal to the PPIC. Hearing no objections from Council, it was so ordered.

05/06071.30 Mayor Fahey Re Photocopying Fee

In response to Mayor Fahey's inquiry regarding the origination of the 40 cents per-page charge for copies and her suggestion that it be discussed during the Council's Work Plan Meeting, City Manager Dolan stated that the fee came out of the User Fee Study and pointed out that the City provides many documents for free, as well as providing the ability to download them from the City's website.

05/06071.31 Mayor Pro Tem Ward Re Public Safety Sub-Committee

Mayor Pro Tem Ward reported that the Public Safety Subcommittee met recently and he is pleased to report that the project is looking good, with a planned occupancy in November or December of this year. He noted no major change orders are anticipated and that some upgrades will be made to the Council Chambers and existing City Hall with leftover contingency monies.

05/06071.32 Jim Aldinger Re Work Plan Meetings

In response to Councilmember Aldinger's request that the Work Plan meeting include a Council meeting without staff presence, Mayor Fahey noted that she recalled that Council has agreed to meet quarterly without staff, but not during the Work Plan process.

Discussion took place with regard to the process for this year's Work Plan, with City Manager Dolan explaining that written input will be provided from each Commission; last year's Work Plan will be presented along with the status of each item; and the unfunded Capital Improvement Project (CIP) list will also be provided to allow for public comment. He stated that his recollection of the result of the team exercise was that staff would meet quarterly with Council and that one hour would be set aside for discussion of CIPs, including the updated unfunded list. Council reviewed the process for the Work Plan meeting and discussed desirable methods of



publicizing the meetings. City Manager Dolan stated that staff would attempt to make the advertising interesting in order to attract participation.

05/06071.33 Councilmember Aldinger Re National Oceans Protection Act

Councilmember Aldinger explained that Senator Boxer is asking for support of a proposed National Oceans Protection Act and asked Council to consider supporting the Act on the next agenda.

Mayor Fahey expressed concern with considering the matter for this evening, noting that she would like more information regarding the funding source, financial impact and the possible appointment of an independent commission. She suggested this be placed on the next City Council Agenda.

Councilmember Aldinger read the letter from Senator Boxer into the record and asked that the item be added to the next City Council Agenda.

There being no objection, it was so ordered.

**ADJOURNMENT**

At 9:55 p.m. the meeting was duly adjourned to the 5:30 p.m. Adjourned Regular Meeting, to be followed by the 6:30 p.m. Regular City Council Meeting, on Tuesday, June 21, 2005, in said City.

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MERNA MARSHALL  
Recording Secretary

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JOYCE FAHEY  
Mayor

ATTEST:

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LIZA TAMURA  
City Clerk

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
ADJOURNED REGULAR MEETING  
JUNE 7, 2005**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 7<sup>th</sup> day of June, 2005, at the hour of 5:48 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 5:48 p.m. and moved to open session at 6:16 p.m.

**ADJOURNMENT**

The meeting was duly adjourned at 6:16 p.m.

ROBERT V. WADDEN, JR.  
Recording Secretary

JOYCE FAHEY  
Mayor

ATTEST:

LIZA TAMURA  
City Clerk