

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

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 15th day of February, 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

Police Chief Ernest M. Klevesahl, Jr. led the pledge of allegiance.

ROLL CALL

Present: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.
Absent: None.
Clerk: Tamura.

CEREMONIAL ITEMS

None.

CONSENT CALENDAR

The Consent Calendar (Item Nos. 1 through 14), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Mayor Pro Tem Fahey, seconded by Councilmember Ward, and passed by unanimous roll call vote with the exception of Item Nos. 4, 10 and 12 which were considered later in the meeting under *Items Removed from the Consent Calendar*.

Ayes: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.
Noes: None.
Absent: None.
Abstain: None.

GENERAL CONSENT

05/0215.1 Approve Minutes of the City Council Adjourned Regular and Regular Meeting of February 1, 2005

The Council approved the subject minutes.

05/0215.2 Consideration of Financial Reports:
a) Ratification of Demands: February 10, 2005
b) Investment Portfolio for the Month Ending January 31, 2005
c) Financial Reports for the Month Ending January 31, 2005

The Council approved with no exception Warrant Register No. 17B in the amount of \$2,602,142.72 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register; received and filed the Investment Portfolio for the month ending January 31, 2005; and received and filed the Financial Reports for the month ending January 31, 2005.

05/0215.3 Authorize and Appropriate Funds for Grant Funded Purchases of State Homeland Security Program Grant Equipment in an Amount Not-to-Exceed \$91,352.94

The Council adopted Resolution No. 5962 approving and accepting the State Homeland Security Program Grant; appropriated \$91,352.94 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) where applicable; and authorized the City Manager to negotiate and execute the purchase of the items listed within the staff report in the total amount of \$91,352.94.

RESOLUTION NO. 5962

CONSIDERATION OF A RESOLUTION APPROVING EXPENDITURE OF FUNDS UNDER A REIMBURSEABLE FISCAL YEAR 2004 STATE HOMELAND SECURITY PROGRAM GRANT AND AUTHORIZING THE EXPENDITURE OF THESE GRANT FUNDS FOR HOMELAND SECURITY EQUIPMENT

05/0118.10-4 Consideration of Field Use Fee Changes in Category II for the Parks and Recreation Department

Item No. 4 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

05/0215.5 Authorize the City Manager to Submit a Bid for Groundwater Pumping Rights and Approve an Appropriation in an Amount Not-to-Exceed \$3,000 Per Acre Foot (Maximum of \$727,800)

The Council authorized the City Manager to submit a bid for the purchase of ground water pumping rights in an amount not-to-exceed \$3,000 per acre feet or a total amount of \$72,800; and approved an appropriation in an amount not-to-exceed \$727,800 should the City be the successful bidder.

BOARDS AND COMMISSIONS

Cultural Arts Commission

05/0215.6 Consideration of Draft Minutes, Cultural Arts Commission Meeting of January 27, 2005

The Council received and filed the subject draft minutes.

Parks and Recreation Commission

05/0215.7 Consideration of Draft Minutes, Parks and Recreation Commission Meeting of January 24, 2005

The Council received and filed the subject draft minutes.

Parking & Public Improvements Commission

05/0215.8 Consideration of Action Minutes, Parking and Public Improvements Commission Meeting of January 27, 2005

The Council received and filed the subject action minutes.

05/0215.9 Uphold the Parking and Public Improvements Commission Recommendation to Approve a Request for Removal of a Stop Sign on 21st Place at Blanche Road

The Council approved the Parking and Public Improvements Commissions' recommendation to approve removal of a stop sign on eastbound 21st Place at Blanche Road; paint a "Yield" pavement marking on 21st Place; maintain the white limit line on 21st Place; and adopted Resolution No. 5964.

RESOLUTION NO. 5964

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING SECTION 21 (THROUGH STREETS AND STOP INTERSECTIONS) OF RESOLUTION NO. 2715 (THE TRAFFIC RESOLUTION)

05/0215.10 Uphold the Parking and Public Improvements Commission Recommendation to Approve an Encroachment Permit Appeal for 500 2nd Street, Subject to Conditions

Item No. 10 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

05/0215.11 Uphold the Parking and Public Improvements Commission Recommendation to Deny a Request for Installation of a Painted Crosswalk on Highland Avenue at 28th Street and Approve Installation of a Painted Crosswalk on Highland Avenue at 27th Street

The Council approved the Parking and Public Improvements Commissions' recommendation to deny the request for installation of a painted crosswalk across Highland Avenue at 28th Street and approve installation of a painted crosswalk across Highland Avenue at 27th Street.

04/1221.6-12 Uphold the Parking and Public Improvements Commission Recommendation to Approve Implementation of Lane Designations on Pacific Avenue between Ardmore Avenue and Valley Drive

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

Planning Commission

05/0215.13 Consideration of Action Minutes, Planning Commission Meeting of February 9, 2005

The Council received and filed the subject action minutes.

05/0215.14 Consideration of a Planning Commission Decision to Approve a Use Permit Amendment to Allow Expansion of Business Hours and to Permit On-Site Sale of Beer and Wine with Food Service, at an Existing Restaurant, El Tarasco, on the Property Located at 350 North Sepulveda Boulevard

The Council received and filed the subject report.

COMMUNITY ANNOUNCEMENTS

05/0215.24 Yury Gurvich Re Illegally Placed Campaign Signs and Parking Citation

Yury Gurvich, 1400 Block of 11th Street, voiced his concern over campaign signs illegally placed on public property, as well as a parking citation he received near Mira Costa High School.

05/0215.25 Gerry O'Connor Re Candidate Forums

Gerry O'Connor, 500 Block of Harkness Street, announced the televising of upcoming candidate forums and the re-broadcasting of previous candidate forums.

05/0215.26 Esther Besbris Re Candidate Forums

Esther Besbris, No Address Provided, provided input on upcoming candidate forums sponsored by the Manhattan Beach Residents' Association and Adelpia. She clarified that the deadline has passed for questions to be submitted by the public.

05/0215.27 Steve Didier Re Leadership Manhattan Beach 2004 Class Project

Senior Management Analyst Steven Didier called attention to Leadership Manhattan Beach's 2004 Class Project displayed in Council Chambers' lobby. He announced that the formal public unveiling of the Project will be on Thursday, March 3, 2004, 5:00 p.m., Manhattan Beach Pier.

05/0215.28 Police Chief Klevesahl Re Community Police Academy

Police Chief Ernest Klevesahl announced that the next Community Police Academy Class will begin in March and that anyone interested should contact Sergeant Nan Rados at 802-5111 or e-mail himself at eklevesahl@citymb.info.

05/0215.29 Bill Victor Re Upcoming Election

Bill Victor, No Address Provided, encouraged those voting in the upcoming election to be well informed. He also restated his concern regarding campaign signs posted in the public right-of-way.

PUBLIC HEARINGS

05/0215.15 Consideration of an Appeal of the Planning Commission Decision Approving a Use Permit and Coastal Development Permit to Allow On-Site Wine Tasting and Food Sampling at an Existing Retail Wine Store, for Bacchus, Located at 1000 Manhattan Avenue

Associate Planner Eric Haaland presented the staff report explaining the following: that a previous request at the subject location similar to this application was denied; that the Planning Commission's approval of this request included a determination that this use would not be

disruptive to the surrounding neighborhood, as well as a determination of public convenience and necessity, which is required in order to obtain an alcohol beverage license from the State; and that, since the majority of the space would be retail with only a small portion for wine consumption, the Planning Commission felt a bar-like atmosphere would not result. He related concerns expressed by the appellant, including parking; trash; storage; the previously issued Coastal Development Permit; and State alcohol licensing. He presented a PowerPoint presentation reviewing the Conditions of Approval imposed by the Planning Commission and advised the following: that parking requirements imposed by the Coastal Commission would remain in effect until any revisions are made thereto by the Coastal Commission; that modifications to the tenant space must be in compliance with Health Department and Alcohol Beverage Control (ABC) requirements; that food service must be incidental in nature and appropriate with wine tasting; that only wine, and not beer or other alcohol, is to be consumed at the location; that the tenant space is to be a full retail operation at all times when wine consumption occurs; that individual wine samples would be limited to five, one-ounce portions; that the wine-tasting area would be limited to 100 square feet physically separated from the existing retail space, with no seating allowed; that the hours of operation would be 11:00 a.m. to 8:00 p.m. Sunday through Wednesday and 11:00 a.m. to 9:00 p.m. Thursday through Saturday; that outdoor wine-tasting at the location would be prohibited; that a trash storage area is required and related effects must be minimized; and that one parking space would be required at the subject location. Associate Planner Haaland related staff's recommendation that the public hearing be conducted and the Planning Commission's approval of the project, as conditioned, be upheld.

In answer to questions from the Council, Associate Planner Haaland verified that any changes in ownership would be reviewed in detail by the Community Development Department and, should there be any significant changes, an amendment reviewed by the Planning Commission and the City Council would be required.

City Attorney Wadden explained that it is not within the City's purview to interpret, enforce or amend conditions imposed by the Coastal Commission; that the Conditions of Approval imposed by the Planning Commission include that the use shall be in compliance with any previous Coastal Commission requirements; that the City would not allow the applicant to operate unless they could show they are in compliance with parking requirements imposed by the Coastal Commission.

Community Development Director Richard Thompson explained staff's understanding that the Coastal Commission might consider amending their previous parking requirements to coincide with the City's requirement of one parking space and that discussions along these lines between the applicant and the Coastal Commission are currently underway. He indicated that staff recently became aware of the parking requirements imposed by the Coastal Commission and that, whether or not this application is approved, this issue must be addressed.

Appellant Martha Andreani, No Address Provided, contended the following: that the use would result in wine parties rather than wine tasting; that it would be difficult to monitor the amount of wine consumed; that, as imposed by the Coastal Commission, six parking places are required at the subject location; that, according to the LCP, approximately 1,400 square feet on the second floor must be maintained for storage; that the City rigorously enforces parking requirements at other businesses, but not at the subject location; that the applicant operates in violation of their ABC permit; that the applicant previously stated his lack of intent to comply with the ABC's 50/50 requirement; and that, contrary to the applicant's opinion, the ABC does care about the 50/50 requirement, as indicated in a letter from the ABC provided to the Council during the meeting. **Ms. Andreani** voiced her deep concern over the intensification of alcohol-type uses in the Downtown area, in that any changes in the license remain with a property, thereby posing a threat of future intensification.

Appellant Don McPherson, 1000 Block of 1st Street, addressed parking requirements and the LCP. He felt that the Planning Commission did not have an accurate analysis of the requirements imposed by the City or the Coastal Commission; that, contrary to staff's opinion, the 1980 remodel of the subject location does not pre-date the establishment of parking requirements in the Downtown area; that both the Coastal Commission permit and the City's Building Permit require that 1,400 square feet on the second floor of the subject building shall remain as storage; that the City's Building Permit incorporates the Coastal Commission permit, which includes the storage requirement and six parking places; and that, unlike requirements imposed on other changes in use, new parking requirements have not been calculated for this application. **Mr. McPherson** explained his standpoint that the proposed use would result in a requirement of 15 parking places; that the Coastal Commission requirements were established until such time as cities were able to establish their own requirements, with the intent being that City requirements would coincide with the Coastal Commission requirements; and his belief that the Coastal Commission will not overturn the requirement of six parking places.

Applicant Ron Miranda of Bacchus, 1000 Manhattan Avenue, shared information about a conversation he had with a Coastal Commission employee about parking. He pointed out that, after the time the Coastal Commission requirements were imposed, a parking garage in the vicinity of the subject location was constructed, thereby reducing concerns over parking. **Mr. Miranda** related his impression that it will be possible to amend the Coastal Commission permit to reduce the parking requirements. In answer to questions from the Council, **Mr. Miranda** clarified that Bacchus owns one parking space at this time, and that they would be willing to purchase additional parking spaces in order to fulfill a parking requirement of six spaces.

Mayor Wilson opened the Public Hearing at 7:35 p.m.

Helen Duncan, Executive Director of the Manhattan Beach Chamber of Commerce, voiced her impression that the subject use will be a high-class, small change use that will bring more people to the Downtown area.

Carol Rowe, Downtown Business and Professional Association Director, related the Association's wholehearted support of this request. She pointed out that the proposed use would be for wine tasting, and not a bar, and commented on the applicant's good reputation within the community.

Bill Victor, No Address Provided, stated his concern that the proposed use would result in the intensification of alcohol use in the Downtown area. He questioned the applicant's comment that it will be possible to amend the six parking place requirement previously imposed by the Coastal Commission. **Mr. Victor** expressed his opinion that the City does not have the authority to ignore Coastal Commission requirements and that the ABC does care about the 50/50 rule.

Chris Doherty, 200 Block of 9th Place, voiced his opposition to the request, specifically since there are many other establishments in close proximity to the subject location that offer alcoholic beverages and the City has trouble maintaining the requirements imposed on existing Conditional Use Permits. **Mr. Doherty** pointed out that, to no avail, approximately 17 neighbors have complained about noise emanating from an existing bar in the Downtown area.

Jacque May, 10th Street, said that every resident on 10th Street is against the establishment of another bar on 10th Street. She asked that problems such as trash be considered prior to making a determination.

Loretta Warhol, No Address Provided, (residing approximately one block from the subject location), related her opposition to this request. She noted that parking and trash are a problem and that additional intensification of alcohol use in the area is not needed.

Ryan Stearns, No Address Provided, Attorney for the Applicants and landlord for one of the businesses the applicants operate, highly commended the character of the applicants. He commented on the applicants' love of Manhattan Beach and their good standing as Manhattan Beach residents. **Mr. Stearns** discussed the impossibility that the use would become a bar, particularly with the Conditions of Approval. He pointed out that this use would meet the qualifications and standards imposed by the City and that this is a great opportunity for the City to support a business that would like to grow and diversify.

Viet Ngo, No Address Provided, related his concern that Mayor Wilson's conduct encourages alcoholism, as evidenced by a statement she made on November 9, 2004.

Mayor Pro Tem Fahey requested that Mr. Ngo abstain from making personal comments about Mayor Wilson.

Simon Wharton, No Address Provided, explained that the applicants' desire is to educate people in wine tasting and the wine they are selling; that massive numbers of people will not be participating at one time; and that the use would not encourage alcoholism.

Appellant Martha Andreani came forward to reiterate her hope that the issues, and not the personalities of the applicants, will be considered. Ms. Andreani pointed out that the Sepulveda Wine Co. is in compliance with the ABC requirements; that it is not located in close proximity to residences; that parking there is not an issue; that their focus was more geared to wine education than the subject proposal; and that the Downtown area would not be enhanced by the intensification of alcohol use. She reiterated her opposition to the request.

Appellant Don McPherson approached the Council again to voice his concern that the proposed resolution authorizes retail use on the 1,400 square-foot second floor, which would be a change in use without additional parking requirements. He maintained that the applicants have extensive plans for the consumption of food, which indicates the use would not be wine "tasting". Mr. McPherson asked that food be restricted to bread sticks, as served at Sepulveda Wine Co. and further insisted that this Use Permit would be for the entire building and that the calculation includes the 1,400 square feet as retail space; that there is nothing in the resolution requiring that the 1,400 shall remain as storage space; that the 1,400 square feet was calculated as retail space by staff; and that the only thing that drove the parking requirement was the change in use of the 100 square feet.

Mayor Wilson closed the Public Hearing at 7:56 p.m.

Community Development Director Thompson explained the following: that the only issue before the Council at this time is wine tasting at the subject location; that, because the City had some concern over the Coastal Development Permit issued by the Coastal Commission, reference was made to it in the Conditions of Approval; that whether or not this application is approved, the Permit must be addressed; and that the second floor is also addressed in the Coastal Development Permit and is, therefore, a requirement of Condition of Approval No. 1.

Community Development Director Thompson called attention to the importance of focusing on the merits of this application, wine tasting.

City Attorney Wadden affirmed for Mayor Pro Tem Fahey that the resolution addresses wine tasting on the first floor at the subject location and that everything else must be resolved with the Coastal Commission. He further advised that this application has nothing to do with the conversion of the 1,400 square feet on the second floor.

Mayor Pro Tem Fahey commented that, unfortunately, problems at other locations in the Downtown area have led to resident opposition to any notion of additional liquor consumption. She said that it would be a mistake to penalize legitimate businesses such as Bacchus, which has such a limited request of five, one ounce servings per person, with very limited hours of operation and food consumption.

Councilmember Ward related his agreement with Mayor Pro Tem Fahey's viewpoint. He suggested that the resolution include additional wording to assure that the use shall be limited and that any deviation thereto should be reviewed by the City Council (and not the Planning Commission) to ensure that it will not become a bar, and that the use by any new tenants at the subject location should also be reviewed by the City Council (and not the Community Development Department). Councilmember Ward stated his satisfaction that the parking situation will work itself out.

Councilmember Napolitano discussed that an unlimited amount of alcohol during wine tasting was not approved; that the subject establishment is primarily a retail function selling wine and the ABC is more than capable of enforcing restrictions; that there were more problems with bars in the past than there are now; that the serving of food other than breadsticks should be allowed; and that the hours of operation should be revised to include that wine tasting shall not take place after 8:00 p.m. Sunday through Wednesday. He recited a list of establishments in Manhattan Beach that have an alcohol license, noting that problems occurring at some of them must be addressed, but others not having problems should not be punished.

Councilmember Aldinger commented on difficulties associated with rolling over former developments in the City into the LCP and he recommended that wording be included to the effect that the City will abide by requirements imposed by the Coastal Commission. Councilmember Aldinger indicated that a requirement of 15 parking spaces, as suggested by **Mr. McPherson**, would be excessive; that problems occurring at Downtown establishments must be addressed; that he could support this request, with a revision requiring that wine tasting conclude at 8:00 p.m. Sunday through Wednesday.

Mayor Wilson also supported the request, noting her opinion that Bacchus is a good addition to the Downtown area and that a closing time of 8:00 p.m. would be appropriate.

Addressing comments made by Councilmember Ward earlier in this discussion, Mayor Pro Tem Fahey pointed out that any deviation from the subject use would be reviewed by the City Council after a review by the Planning Commission and that the Community Development Department, and not the City Council, should continue to review uses by any new tenants at the subject location to make certain that the replacement use has the same characteristics. She noted that the Downtown area is patronized later than the Sepulveda Boulevard area and, therefore, a 9:00 p.m. closing time should be allowed.

Councilmember Napolitano contended that an 8:00 p.m. closing time would be more than reasonable and that consistency with the requirements at the Sepulveda Wine Co. is important.

For consistency purposes, Councilmember Aldinger agreed that a closing time of 8:00 p.m. would be appropriate.

MOTION: Mayor Pro Tem Fahey moved to uphold the Planning Commission's decision to approve the Use Permit and Coastal Development Permit, including the finding of public convenience and necessity, with a modification that wine tasting shall conclude at 8:00 p.m. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote:

Ayes: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.

Noes: None.

Abstain: None.

Absent: None.

05/0215.16 Consideration of Proposed Exchange of Community Development Block Grant (CDBG) Funds Received by the City of Manhattan Beach to the City of West Hollywood and the Allocation of Funds for the 2005-2006 Fiscal Year

Assistant Planner Donald Boudreau presented the staff report explaining the following: the City receives Community Development Block Grant (CDBG) funding annually through the Los Angeles County Community Development Commission; that the estimated allocation for the 2005-2006 Fiscal Year is \$168,605; that the City has traditionally sold its allocation to another participating city for General Fund dollars; and that staff proposes to sell its entire 2005-2006 allocation to the City of West Hollywood, with an exchange rate of 75 cents on the dollar (a 10% increase over last year).

In answer to questions from the Council, Assistant Planner Boudreau related his understanding that the proposed exchange of CDBG funds would not violate the RICO Act.

Mayor Wilson opened the Public Hearing at 8:20 p.m.

Karen Carr, related the **South Bay Youth Project's** appreciation of the CDBG funds they have received.

Jackie LaBouff, Executive Director of Project Touch, indicated that approximately 34 students at Mira Costa High School are served by the CDBG funds received by Project Touch.

Brooke McIntyre-Tuley, South Bay Family Health Care Center, expressed appreciation of the CDBG funding received by the Center over the years. She announced the upcoming 27th annual Senior Health Fair.

Kathleen Phillips, Director of the South Bay Adult Care Center, also thanked the Council for the CDBG funds provided to that organization.

Manuela Cerruti, 1736 Family Crisis Center, stated appreciation of the City's support in providing CDBG funds to the Crisis Center. She advised that the Center is now providing counseling services to residents at the Beach Cities Health District building on Prospect.

Lyla Knudson, Development Director for the Wellness Community South Bay Cities, noted that all of the Wellness Community's programs are funded through grants such as these. She thanked the Council for their support.

Jan Buike, Care Manager for the Beach Cities Health District, thanked the Council for the opportunity to work at the Health District, and for the CDBG funds received by that organization.

Referring to numerous government code sections, **Viet Ngo, No Address Provided**, contended that this type of activity is prohibited.

Mayor Wilson closed the Public Hearing at 8:28 p.m.

Councilmember Napolitano expressed his support of exchanging the CDBG funds as proposed.

Councilmember Aldinger also supported exchanging the CDBG funds as proposed. He related his understanding that the Federal Government plans to eliminate CDBG funds and encouraged those opposing such action to write a letter to that effect.

MOTION: Mayor Pro Tem Fahey moved to adopt Resolution No. 5963; to authorize the City Manager to execute the agreement (Exhibit B to the staff report) with the City of West Hollywood; and to approve an allocation of general funds received to the identified public service agencies identified in Exhibit C to the staff report. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote:

Ayes: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.
Noes: None.
Abstain: None.
Absent: None.

RESOLUTION NO. 5963

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AN ASSIGNMENT AGREEMENT BETWEEN THE CITY OF MANHATTAN BEACH AND THE CITY OF WEST HOLLYWOOD REGARDING THE EXCHANGE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR THE FISCAL YEAR 2005-2006

05/0215.17 Consideration of a Resolution Adjusting the Fiscal Year 2005-2006 Business License Tax by the Consumer Price Index

Revenue Services Specialist Steve Charelian presented the staff report explaining the following: that the Consumer Price Index (CPI) from September 2004, in the amount of 2.5%, was used to increase the 2005-2006 Business License Tax as proposed; that the City's Business License Tax is based on a fiscal year running from March to February, with fees being prorated on a quarterly basis; and that, based on a 2.5% CPI increase, staff estimates that revenues will increase by approximately \$53,000.

Mayor Wilson related her continued concern over placing an increased percentage of the business tax liability on businesses that are based on gross receipts. She voiced her hope that, in

the future, the City Council will address this concern.

Councilmember Napolitano recalled that the Council previously discussed changing the Business License Tax structure to address concerns such as that discussed by Mayor Wilson, but the Council decided not to do so in that the change would be small and it would have to go to a vote of the people.

Councilmember Aldinger voiced his impression that, if it were up to the Council, the Business License Tax would be increased for larger businesses, such as Northrop.

Mayor Wilson opened the Public Hearing at 8:37 p.m.

Helen Duncan, Executive Director of the Manhattan Beach Chamber of Commerce, stressed the difficulties associated with small businesses bearing the burden of the Business License Tax.

Carol Rowe, Downtown Business and Professional Association Director, also stressed the difficulties associated with small businesses bearing the burden of the Business License Tax, as well as other fees such as trash and street sweeping.

Mayor Wilson closed the Public Hearing at 8:40 p.m.

MOTION: Councilmember Aldinger moved to approve increasing the Business License Tax by the Consumer Price Index rate of 2.5% and adopt Resolution No. 5961.

Discussion continued with Councilmember Ward entertaining the idea of discussing this topic at the forthcoming work plan meeting.

City Attorney Wadden advised that a 50% vote of the people would be required to change the Business License Tax.

Mayor Wilson commented on the importance of equitably taxing businesses and she felt that a vote of the people for this purpose at mid-year would be appropriate.

Councilmember Napolitano related his opinion that, prior to placing this matter on a ballot, the public should be surveyed to see if there is support to change the Business License Tax. He said that he could not support a special election for this purpose at mid-year.

Mayor Wilson called for the vote.

MOTION: Councilmember Aldinger moved to approve increasing the Business License Tax by the Consumer Price Index rate of 2.5% and adopt Resolution No. 5961. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote:

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|----------|---|
| Ayes: | Ward, Napolitano, Aldinger, Fahey and Mayor Wilson. |
| Noes: | None. |
| Abstain: | None. |
| Absent: | None. |

RESOLUTION NO. 5961

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, INCREASING THE BUSINESS LICENSE TAX BY CPI AND RESCINDING RESOLUTION NO. 5886 AND ALL RESOLUTIONS OR ORDERS IN CONCEPT THEREWITH

RECESS AND RECONVENE

At 8:45 p.m. the Council recessed and reconvened at 8:55 p.m. with all Councilmembers present.

GENERAL BUSINESS

05/0118.3-18 Appoint Member to Library Commission Seat No. 4

Deputy City Manager Sherilyn Lombos advised the Council of the alternatives to either appoint an individual to Library Commission Seat No. 4 this evening, or keep the seat open until other Commission vacancies expire on May 31, 2005.

Mayor Pro Tem Fahey and Councilmember Aldinger expressed their preference to keep the seat open with the thought of receiving additional applications for the position.

Councilmember Napolitano stated his support for appointing an individual to Library Commission Seat No. 4 this evening.

City Clerk Tamura verified that the vacancy was properly advertised.

Library Commission (Seat No. 4)

| | <u>Nomination</u> | <u>1st Round Vote</u> | <u>2nd Round Vote</u> |
|------------|-------------------|------------------------------------|----------------------------------|
| Ward | Lisa Popovich | Lisa Popovich | Lisa Popovich |
| Napolitano | Kathleen Paralusz | Kathleen Paralusz | Kathleen Paralusz |
| Aldinger | None further | Kathleen Paralusz | Kathleen Paralusz |
| Fahey | None further | Lisa Popovich | Lisa Popovich |
| Wilson | Rosalie Olson | Lisa Popovich Kathleen Paralusz | Lisa Popovich |

Councilmembers Napolitano and Aldinger amended their votes and Council unanimously appointed Lisa Popovich to the Library Commission Seat No. 4.

05/0215.19 Consideration of an Ordinance Allowing the Sampling of Products on the Beach with Prior City Council Approval

Deputy City Manager Sherilyn Lombos explained that the Council previously directed staff to modify the Municipal Code to allow the sampling of products on the beach. She explained that, if approved, sampling of products on the beach would require prior City Council approval.

The following individual spoke on this item:

- **Gerry O'Connor, 500 Block of Harkness Street**

MOTION: Mayor Pro Tem Fahey moved to waive further reading and introduce Ordinance No. 2073 allowing the sampling of products on the beach with prior City Council approval. The motion was seconded by Councilmember Napolitano and passed by the following unanimous roll call vote:

Ayes: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.
Noes: None.
Abstain: None.
Absent: None.

City Attorney Wadden read aloud the title of Ordinance No. 2073.

05/0215.20 Presentation by CDM Consultants Regarding the Implementation Plan to Reduce Bacteria in Storm Water Run-off

Senior Management Analyst Steven Didier highlighted the importance of storm and beach water quality in Manhattan Beach, as indicated in community surveys.

Hample Dakermeujian, Camp Dresser & McKee (CDM), shared input about the City of Manhattan Beach's participation, along with other agencies in Jurisdictional Groups 5 and 6 (Redondo Beach, Hermosa Beach, Torrance, El Segundo, Los Angeles County and Cal Trans) in the development of an Implementation Plan for the total maximum daily load (TMDL) requirements to reduce bacteria in storm water run-off in the Santa Monica Bay. He applauded the related efforts of Public Works Director Neil Miller and Senior Management Analyst Steven Didier in developing the Implementation Plan.

Kathleen Bullard, CDM, explained that the State of California, through the Los Angeles Regional Water Quality Control Board, regulates the water quality standards throughout the State and that TMDLs are the amount of pollutants a water body can absorb while maintaining its intended use.

Hample Dakermeujian, CDM, further elaborated on the development of the Implementation Plan. He offered in-depth information about the ways to address the problem of bacteria in beach water. **Mr. Dakermeujian** related CDM's recommendations to: enhance existing programs; evaluate best management practices (BMPs) and programmatic solutions; and modify/add BMPs. He clarified that the Draft Implementation Plan is due to the Los Angeles Regional Water Quality Control Board on July 15, 2005; that the Plan must be implemented over a period of eighteen years; and that CDM contracted with the City of Redondo Beach to develop the Implementation Plan, with other agencies in Jurisdictional Groups 5 and 6, including Manhattan Beach, reimbursing Redondo Beach. At Council's request, **Mr. Dakermeujian** shared information about the total estimated cost to develop this program and continue it in the future. He indicated that potential funding sources to improve water quality are being examined and that a report thereto will be submitted in the near future.

In answer to questions from the Council, Public Works Director Miller advised that the Draft Implementation Plan must be submitted to the Los Angeles Regional Water Quality Control Board by March 15, 2005, with the Final Plan being submitted by July 15, 2005.

Councilmember Aldinger related his appreciation of the Draft Implementation Plan and the combined efforts of Jurisdictional Groups 5 and 6 in accomplishing this task. He stated his desire to review the Draft Plan prior to it being submitted to the Los Angeles Regional Water Quality Control Board, and he asked that information on how much this program will cost the City of Manhattan Beach be provided to the Council in the future.

The majority of the Councilmembers agreed with a suggestion made by Mayor Wilson that the Draft Implementation Plan be distributed to the individual Councilmembers for review prior to it being submitted to the Los Angeles Regional Water Quality Control Board.

Mayor Wilson noted that the Leadership Manhattan Beach 2004 Class Project is a good example of why bacteria in beach water must be addressed.

Acknowledging the importance of the Implementation Plan, Councilmember Napolitano voiced his concern that, unfortunately, this program will be very costly and he stated his desire that the State and Federal Governments that require such mandates would contribute more to it.

The Council accepted the presentation regarding the Implementation Plan to reduce bacteria in storm water run-off.

05/0215.21 Consideration of the Police & Fire Facility / Metlox / Public Improvements Project Status Report and Disbursement of Progress Payment #11 in the Net Amount of \$750,268 to Swinerton Builders

Providing updated information on the status of the new Police and Fire Facility/Metlox/Public Improvements projects, Deputy City Manager Sherilyn Lombos advised the following: that a “Topping Out Ceremony” will be held in the near future; that, including the progress payment before the Council at this time, 37.8% of the project budget has been expended; and that the project is approximately 64 days behind schedule, with the contract including a liquidated damages clause of \$5,000 per day. Responding to inquiries from the Council, Deputy City Manager Lombos clarified that the City does not bear the responsibility for any of the 64 days the project is behind.

The following individuals spoke on this item:

- **Martha Andreani, Downtown Beach Business Association**
- **Gerry O’Connor, 500 Block of Harkness Street**

Mayor Wilson recommended that Ms. Andreani contact Deputy City Manager Lombos to review reports related to the project.

MOTION: Mayor Pro Tem Fahey moved to accept the presentation on the status of the new Police and Fire Facility/Metlox/Public Improvements projects and approve the issuance of Progress Payment No. 11 in the amount of \$750,268 to Swinerton Builders. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote:

Ayes: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.
Noes: None.
Abstain: None.
Absent: None.

05/0215.22 Status Report of the City Council’s 2004-2005 Work Plan Item Regarding the Sepulveda Corridor Phase II Improvements

Deputy City Manager Sherilyn Lombos advised that, at this time, there is no funding for the Sepulveda Corridor Phase II Improvements’ Project.

Councilmember Napolitano related his viewpoint the Sepulveda Corridor Phase II Improvements' Project is not a priority and that additional improvements to the Sepulveda Boulevard corridor would be a waste of money.

Mayor Wilson agreed that this project should not be implemented.

The following individual spoke on this item:

- **Gerry O'Connor, 500 Block of Harkness Street**

Councilmember Napolitano pointed out that the undergrounding of utilities in residential areas is a priority over the undergrounding of utilities along Sepulveda Boulevard.

Public Works Director Neil Miller verified that, as directed by Public Utilities' Commission Rule 28, Southern California Edison has set aside funds for the purpose of undergrounding utilities along major thoroughfares, such as Sepulveda Boulevard, and that updated information on the accounting of these funds will be provided to the Council in the future.

The Council accepted the presentation on the Sepulveda Corridor Improvement Phase II project.

ITEMS REMOVED FROM THE CONSENT CALENDAR

05/0118.10-4 Consideration of Field Use Fee Changes in Category II for the Parks and Recreation Department

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

The following individual spoke on this item:

- **John Sloway, No Address Provided**
- **Mike Pitts, 800 Block of 3rd Street**
- **Lisa Chamberlin, No Address Provided**
- **Eric Greenlief, 1400 Block of 12th Street, South Bay Soccer Club**
- **Tom Howlett, No Address Provided**

A staff report was provided by Director of Parks and Recreation Richard Gill. He explained that the City Council recently approved proposed fee increases, with the exception of the Category II field rental fees for resident youth and adults private and club teams. He advised that the proposed increase from \$6.00 per hour per field to \$12.00 for the first year, \$12.00 to \$18.00 per hour for the second year and \$18.00 to \$25.00 per hour for the third year, would bring the City's field rental fees more in line with similar fees charged in surrounding areas. Mr. Gill noted that the field rental fee categories were set up by Council in 1996, including that private or exclusive use of the fields should pay higher fees than City programs and programs run by agencies such as the American Youth Soccer Organization (AYSO) and Little League. Director Gill offered input about the South Bay Soccer Club's recommendation of a per child fee; related the Club's concerns over the proposed fee increases; and indicated the City's annual cost of \$650,000 to manage/maintain the sports fields.

Mayor Pro Tem Fahey commented on the importance of knowing the number of children participating in the South Bay Soccer Club amongst whom the field rental fees would be divided in order to make a more accurate determination about increasing the Category II field rental fees.

She felt that the staff reports are flawed in that they show the costs would be divided amongst all 500 South Bay Soccer Club players; pointed out that the City is not trying to recoup all costs, but to charge fair market rental fees; and, with regard to the 70% residency requirement, she related her understanding that the City's intent is to provide field use priority to Manhattan Beach residents.

Director of Parks and Recreation Gill affirmed that staff has made a continued effort to obtain current rosters from the South Bay Soccer Club in order to make a better determination about the per person cost associated with increasing the fees. He explained that the City Council previously adopted the 70% residency rule, and that Category III (\$50.00 per hour) pertains to non-residents.

Councilmember Ward related his impression that it would be beneficial for the South Bay Soccer Club to provide the City with current rosters showing that a majority of their players reside in Manhattan Beach.

Councilmember Napolitano observed that the question appears to be if the categories and the distinctions between them are appropriate. He felt that it would be fair to charge consistent fees on an hourly or individual basis for everyone and to give Manhattan Beach residents priority for field usage.

Councilmember Aldinger stated his viewpoints that club and adult teams should be charged more than others and that, when examining the proposed increases from a financial standpoint, they would not be that great.

Mayor Wilson said that, when divided by the number of players, the proposed increases would not be that significant. She voiced her concern that the South Bay Soccer Club might not meet the residency requirements established by the City.

Mayor Pro Tem Fahey voiced her feeling that the proposed fee increases would be appropriate. She pointed out that club soccer teams are exclusive; reiterated her concern over residency requirements; and stated her support for the \$12.00 Category II fee.

Councilmember Ward offered his support for the proposed fee increases, in that the City is attempting to obtain fair market value to use the sports fields by phasing increases in over a number of years.

Councilmember Napolitano contended that the categories are correct in considering different groups differently because of how they are structured, how they affect the children living in Manhattan Beach, and how they use the fields. He supported raising Category II fees to \$12.00 with the understanding that the fees will be examined on an annual basis.

Councilmember Aldinger suggested that information on how much the City subsidizes the American Youth Soccer Organization (AYSO) be provided when the Council reviews the rental fees next year.

MOTION: Mayor Pro Tem Fahey moved to approve the proposed Category II field use fee changes to \$12.00 for the first year, beginning July 1, 2005, with the understanding that the field use fees will be reviewed on an annual basis. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote:

Ayes: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.
Noes: None.
Abstain: None.
Absent: None.

05/0215.10 Uphold the Parking and Public Improvements Commission Recommendation to Approve an Encroachment Permit Appeal for 500 2nd Street, Subject to Conditions

Having removed this item from the Consent Calendar, Mayor Pro Tem Fahey related her concern over the City allowing two gates in the public right-of-way that lead to a pool and she questioned why gates are proposed instead of leaving a wall, which seems so much more secure.

Applicant Steve Johnson, 500 Block of 2nd Street, explained the following: that the configuration of his home and difficult access to the pool area necessitate his request for gates in the public right-of-way; that there is currently access to the pool from the driveway through a double gate; and that the Parking and Public Improvements Commission recommended deletion of the entry gate along the northerly side of the existing block wall. **Mr. Johnson** contended that the chances of an accident involving the pool would be no greater should the gates be relocated two feet to the west, as proposed.

MOTION: Councilmember Aldinger moved to approve the Parking and Public Improvements Commission's recommendation to approve the Encroachment Permit for 500 2nd Street, subject to conditions. The motion was seconded by Councilmember Ward and passed by the following unanimous roll call vote:

Ayes: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson.
Noes: None.
Abstain: None.
Absent: None.

04/1221.6-12 Uphold the Parking and Public Improvements Commission Recommendation to Approve Implementation of Lane Designation on Pacific Avenue between Ardmore Avenue and Valley Drive

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

The following individual spoke on this item:

- **Lori Cordero, No Address Provided**
- **Vince Cash, Residing on the South Side of the Intersection in Question**
- **Tom Howat, 2400 Block of Pacific Avenue**

Councilmember Aldinger voiced his understanding that two parking spaces would be eliminated with the proposed red curbs and that traffic problems on southbound Pacific Avenue would be resolved as a result of the proposed lane designations. He supported an approval with a review of the traffic situation in the area in approximately six months.

Councilmembers Napolitano and Ward expressed their disagreement with the proposed lane designations in that traffic would back up on Ardmore Avenue and Valley Drive and traffic speeds would increase.

Mayor Pro Tem Fahey stated her understanding of traffic problems in the area. She said that she could support the lane designations with the understanding that they will be reviewed in approximately six months.

Traffic Engineer Erik Zandvleit clarified that the proposed lane designations would not result in drastic changes to the subject intersection; that traffic speeds would not be increased; that the amount of delay each vehicle must wait at the intersection would be decreased, as the right-of-way would be clearer; and that drivers would probably be less aggressive as a result of the proposed lane designations.

Mayor Wilson commented on the complicated configuration of the subject intersection, as well as the traffic difficulties in the area. However, she noted that drivers seem to be more attentive because it is complicated and that the proposed restrictions do not appear to be necessary.

Councilmember Napolitano related his agreement with Mayor Wilson's viewpoint.

Mayor Pro Tem Fahey said that, should there be no down side to the proposed lane designations, they should be implemented for six months to see if traffic is improved.

MOTION: Councilmember Aldinger moved to approve the recommendations of the Parking and Public Improvements Commission to implementation lane designations on Pacific Avenue between Ardmore Avenue and Valley Drive. The motion was seconded by Councilmember Fahey with the following roll call vote:

Ayes: Aldinger and Fahey.
Noes: Ward, Napolitano and Mayor Wilson.
Abstain: None.
Absent: None.

MOTION FAILED.

MOTION: Councilmember Ward moved to deny the recommendations of the Parking and Public Improvements Commission to approve the implementation of lane designations on Pacific Avenue between Ardmore Avenue and Valley Drive. The motion was seconded by Councilmember Napolitano and passed by the following roll call vote:

Ayes: Ward, Napolitano and Mayor Wilson.
Noes: Aldinger and Fahey.
Abstain: None.
Absent: None.

AUDIENCE PARTICIPATION

05/0215.30 Stephen Spiegel Re Storm Water Drain System

Stephen Spiegel, Walnut Avenue, voiced his concern over the inefficiency of the City's storm water drain system and he presented a petition signed by residents on Walnut Avenue one block north of Marine Avenue asking the following: that flooding on Walnut and Marine Avenues be mitigated/eliminated; that storm drain improvements be included on the 2005-2006 Work Plan agenda; and that a meeting of residents in the vicinity of Walnut and Marine Avenue be scheduled.

Councilmember Aldinger related his support for placing this matter on the 2005-2006 Work Plan agenda.

05/0215.31 Jacque May Re Problems in the Downtown Area

Jacque May, 10th Street, commended the Police and Fire Departments' quick response times in the Downtown area. She requested that a program with the Police Department be implemented to address problems with intoxicated individuals frequenting the Downtown area. **Ms. May** verified for Council that she has made many efforts to establish a Neighborhood Watch group in her neighborhood.

Councilmember Napolitano suggested that **Ms. May** organize a group of neighborhood residents to meet with a representative from the Manhattan Beach Police Department to discuss this problem.

CITY MANAGER REPORT(S)

05/0215.32 Community Development Director Thompson Re Plaza El Segundo

Community Development Director Richard Thompson advised that the El Segundo City Council approved the Plaza El Segundo Project with the reduced traffic alternative as supported by the Manhattan Beach City Council.

Councilmember Napolitano related his appreciation of El Segundo City Council's efforts to address concerns expressed by the City of Manhattan Beach and area residents.

Like Councilmember Napolitano, Councilmember Ward thanked the El Segundo City Council and the developers for their efforts to reduce the project as requested by Manhattan Beach City Council.

OTHER COUNCIL BUSINESS & COMMITTEE REPORTS

None.

ADJOURNMENT

At 11:28 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, March 1, 2005, in said City.

WENDY WEEKS
Recording Secretary

LINDA WILSON
Mayor

ATTEST:

LIZA TAMURA
City Clerk

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

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 15th day of February, 2005, at the hour of 6:03 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

ROLL CALL

Present: Ward, Napolitano, Aldinger, Fahey and Mayor Wilson
Absent: None.
Clerk: Tamura.

CLOSED SESSION

The Council recessed into Closed Session at 6:03 p.m. and moved to open session at 6:28 p.m.

During the conference to discuss the City Manager and the City Attorney's Public Employee Performance Evaluation, City Attorney Robert Wadden, Jr. and Acting City Manager Sherilyn Lombos were not present for some portions of the discussion.

ADJOURNMENT

The meeting was duly adjourned at 6:28 p.m.

JOYCE FAHEY
Recording Secretary

LINDA WILSON
Mayor

ATTEST:

LIZA TAMURA
City Clerk