

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING OF
MAY 3, 2005**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 3rd day of May, 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

Veronica Wickline, a 5th grade student from Grand View Elementary School, led the pledge of allegiance.

ROLL CALL

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

CEREMONIAL ITEMS

05/0503.1 Presentation of Certificates to Joe Houston, Matt Richards, Justin Valashinas and Brandon Zamora in Recognition of Their Achievements in Soccer

Mayor Fahey, on behalf of the Council, presented certificates of commendation to Joe Houston, Matt Richards, Justin Valashinas and Brandon Zamora in recognition of their achievements in soccer. Mayor Fahey also introduced Mira Costa High School Soccer Coach Gary Smith, who summarized some of the players' accomplishments.

05/0503.2 Presentation of Proclamation - National Peace Officer's Memorial Week May 15 - 21, 2005

Mayor Fahey, on behalf of the Council, presented the National Peace Officer's Memorial Week Proclamation to Police Chief Ernest Klevesahl.

Police Chief Klevesahl thanked Mayor Fahey and presented her with the State of California's 2005 Police Memorial Pin.

CONSENT CALENDAR

The Consent Calendar (Item Nos. 3 through 16), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Montgomery, seconded by Mayor Pro Tem Ward and passed by unanimous roll call vote with Councilmember Tell abstaining on Item No. 14 (*Consideration of a Planning Commission Decision to Approve a Tree Permit Appeal to Allowing Removal and Replacement of a Tree at 809 Duncan Place*) and with the exception of Item Nos. 5 and 15, 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: Tell (No. 14).

GENERAL CONSENT

05/0503.3 Approve Minutes of the City Council Regular Meeting of April 19, 2005

The Council approved the subject minutes.

05/0503.4 Approve Minutes of the City Council Adjourned Regular Boards and Commissions Interviews Meeting of April 26, 2005

The Council approved the subject minutes.

05/0503.5 Consideration of the State Budget and Legislative Update from Shaw / Yoder, Inc., the City's Legislative Advocate

Item No. 5 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

05/0503.6 Consideration of Financial Report: Ratification of Demands - April 21, 2005

The Council approved with no exception Warrant Register No. 22B in the amount of \$1,609,553.72 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.

05/0503.7 Authorize the Purchase of Concrete Waste Containers for the Public Works Department from Quick Crete (\$24,409)

The Council approved the award of a Request for Bid (RFB) #649-05 to Quick Crete in the amount of \$24,409 for the budgeted replacement of aggregate concrete waste containers.

05/0503.8 Consideration of Resolutions Approving the Assessment Engineer's Report for the Annual Levy of Street Lighting Assessments for Fiscal Year 2005-2006, and Declaration of City Council's Intention to Provide for the Annual Levy and Collection of Assessments for Street Maintenance, and Setting of the Public Hearing for June 7, 2005

The Council adopted Resolution No. 5977 approving the Assessment Engineer's report for the annual levy of Street Lighting Assessments for the Fiscal Year 2005-2006 and adopted Resolution No. 5978 declaring the City Council's intention to provide for the annual levy, collection of assessments and establishment of reserves for the Street Lighting and Landscaping Maintenance Fund and set the public hearing for June 7, 2005.

RESOLUTION NO. 5977

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S "REPORT" FOR ANNUAL LEVY OF ASSESSMENTS FOR FISCAL YEAR 2005-2006 IN THE MAINTENANCE DISTRICT WITHIN SAID CITY

RESOLUTION NO 5978

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR ANNUAL LEVY AND COLLECTION OF ASSESSMENTS FOR CERTAIN STREET LIGHTING MAINTENANCE IN AN EXISTING MAINTENANCE DISTRICT, PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, AND SETTING A TIME AND PLACE FOR PUBLIC HEARING THEREON

05/0503.9 Disbursement of Progress Payments:

- a) Progress Payment No. 1 in the Net Amount of \$39,019.50 to S.P. Pazargad Engineering Construction, Inc. for the Strand Improvement Project
- b) Progress Payment No. 2 in the Net Amount of \$167,122.56 to S.P. Pazargad Engineering Construction, Inc. for the El Porto Retaining Wall Project

The Council approved the issuance of the subject progress payments.

05/0503.10 Consideration of a Resolution Approving the Application for Grant Funds from the Los Angeles County Regional Park and Open Space District for the El Porto Retaining Wall Project

The Council adopted Resolution No. 5976 authorizing the City Manager to enter into an agreement with the Los Angeles County Regional Park and Open Space District for 1996 Proposition A (Safe Neighborhood Parks Act) per parcel grant funds in the amount of \$400,000.

RESOLUTION NO. 5976

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE LOS ANGELES COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT GRANT PROGRAM FOR THE EL PORTO RETAINING WALL PROJECT

BOARDS AND COMMISSIONS

Cultural Arts Commission

05/0503.11 Consideration of Draft Minutes, Cultural Arts Commission Meeting of April 12, 2005

The Council received and filed the subject draft minutes.

Planning Commission

05/0503.12 Consideration of Action Minutes, Planning Commission Meeting of April 27, 2005

The Council received and filed the subject action minutes.

05/0503.13 Consideration of a Planning Commission Decision to Approve a Request for a One-Year Time Extension for a Master Use Permit and Coastal Development Permit for the Property Located at 1100 Manhattan Avenue

The Council received and filed the subject report.

05/0503.14 Consideration of a Planning Commission Decision to Approve a Tree Permit Appeal to Allowing Removal and Replacement of a Tree at 809 Duncan Place

The Council received and filed the subject report.

05/0503.15 Consideration of a Planning Commission Decision to Deny a Tree Permit to Remove a Tree at 1600 Chestnut Avenue

Item No. 15 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

05/0503.16 Consideration of a Planning Commission Decision to Approve an Amendment to a Master Use Permit to Allow the Remodel of an Existing Bakery/Café to Include the Addition of a New Outdoor Seating Area for the Property Located at 1808 North Sepulveda Boulevard

The Council received and filed the subject report.

COMMUNITY ANNOUNCEMENTS

05/0503.22 Kay Skinner Re Parks and Recreation Class

Kay Skinner, No Address Provided, announced a new class being offered through the Parks and Recreation Department called "Fun with Food" to excite young people about the new food pyramid and expose them to a variety of foods. The class will start June 28, 2005 from 4:30 to 5:30 p.m. for youths age 10 and older.

05/0503.23 Lynn Harris Re Pet Appreciation Day

Lynn Harris, No Address Provided, announced that Pet Appreciation Day will take place on Saturday May 7, 2005 from 11:00 a.m. to 4:00 p.m. at Polliwog Park near the gazebo. She noted some of the activities including on-site vaccinations, AVID ID Chips, licensing dogs with Animal Control, holistic dog care, dog trainers, dog and cat adoptions, pet psychic, fun things to buy for your pet, giveaways, food, raffles, and fun interactive booths for kids. She further added that in case of rain it will be moved to May 15, 2005 and asked for volunteers to contact the website at www.fidonow.com. She concluded by thanking the sponsors, The City of Manhattan Beach, Grateful Dogs, Bay Animal Hospital, Dr Yelinek and FIDO.

05/0503.24 Mayor Pro Tem Ward Re Utility Undergrounding Ground Breaking

Mayor Pro Tem Ward announced that the neighbors from 26th Street and Ocean held a Ground-breaking Ceremony for the Utility Undergrounding. He commented that it was a “ground swell from the bottom up” and congratulated all participants for convincing the neighbors that undergrounding is a good thing for the City and the environment.

05/0503.25 Councilmember Montgomery Re Manhattan Beach Leadership Class Graduation

Councilmember Montgomery announced that Friday, May 6, 2005, is the graduation for the 2005 Leadership Manhattan Beach Class.

05/0503.26 Mayor Fahey Re Neighborhood Watch/Homeland Security Training

Mayor Fahey announced that on Thursday, May 5, 2005, Neighborhood Watch/Homeland Security Training for block captains will take place at the Joslyn Center at 7:00 p.m.

GENERAL BUSINESS

05/0503.17 Presentation on Radio Interoperability for Emergency Response Agencies and Recognition of Fire Captain John Grimaldi for His Contributions to this Process

City Manager Geoff Dolan introduced this item explaining that it is an informational presentation that the whole City, and particularly the Fire Department, are very proud of and that this program will benefit the City, the whole South Bay, and the State of California.

Fire Chief Dennis Groat announced that he is pleased to share some information on the challenges and successes in Emergency Radio Interoperability, which is the ability of emergency agencies to speak with each other. He elaborated that one of the lessons learned from 9/11 was that Police and Fire Departments had a problem sharing vital information with each other, and that it was difficult, if not impossible, to communicate with other vital agencies. He explained that emergency agencies began looking at this communication challenge, thinking at first that it would be difficult to design and impossible to finance. He continued stating that some local Fire, Police, and Sheriff’s representatives were not satisfied to wait for a solution, so agencies began collaborating and from this emerged the Los Angeles Regional Tactical Communications System (LARTCS).

Fire Captain John Grimaldi presented a PowerPoint presentation on the Los Angeles Regional Tactical Communications System (LARTCS) giving background information about the formation of the system; explaining how it affects everyone in public safety; clarifying that the LARTCS logo includes Law Enforcement, Fire, EMS (Emergency Medical Services), City, County, State, Federal and Military; and that he was chosen because of his background in communications and public safety. He emphasized a lack of communication existed due to the

limits of technology allowing any single radio to broadcast across all frequencies and bands. He explained that in October of 2000, the Los Angeles Sheriff's Department, the California Highway Patrol (CHP), and the Los Angeles County Fire Department made a successful connection between these three agencies; and that LARTCS is an expansion of this concept. Explaining that the central point of control is the Sheriff's Communication Center because they have the largest set of resources; he reported that all frequencies feed through the Sheriff's Communication Center; and that several other adjacent counties are now linked by their dispatch centers. Captain Grimaldi cited instances of events that demonstrated how the system could work, including an Interoperability event in June of 2003 at the Port of Long Beach, a hospital shooting and President Reagan's funeral. He stated that the agencies represented on the committee meet on a regular basis; that they continue to improve the system; that they test the system twice a week; and encourage other agencies to communicate with each other to test and become comfortable with the system. He emphasized that another big plus of this system is that there is no cost to the agencies because of the concept of using existing radios; and that funding has been made available through many grants. He expressed his enthusiasm by stating that LARTCS's Motto is "We Work Together, Let's Talk Together". He reported that Homeland Security in Washington D.C., as well as the Department of Justice, has made this system the national model because it has been so successful; and that this system is the only one being tested on a weekly basis. Fire Captain Grimaldi spoke of a SAFECOM Summit that he attended in Washington D.C. in October of 2004, at which time he was selected for a national committee to develop a Statement of Requirements (SoR), for the interoperability for the entire nation (a document that anyone in the country, as they develop systems, will be able to use for reference); and concluded by thanking the City and the Fire Department for their support.

Mayor Fahey commented that this is "fabulous" and a brilliant success in such a short period of time.

In response to Councilmember Ward's questions, Fire Captain Grimaldi responded that voice communication was the most urgent matter, but data communication interoperability is going to be a bigger issue in the next five to ten years; that LAPD is the leader in data communication; and that for now, there will be no cost to Manhattan Beach because it is absorbed in the maintenance of the already existing systems, but at some time in the future, there may need to be some maintenance sharing.

Fire Chief Groat concluded that when the Regional Tactical Communication System was proposed, they selected the top "radio brains" in the County and Fire Captain Grimaldi was recruited to be a part of that system; that Fire Captain Grimaldi is on a committee of only 6-8 people nation-wide that will write the National Standards; that this is a compliment to the City; and that congratulations and recognition should be given to Fire Captain Grimaldi for his efforts and expertise.

Councilmember Aldinger commented that developing a system like this, without the anticipated costs, is a tremendous accomplishment and that it is putting Manhattan Beach on the map.

There was no public comment on this item.

Mayor Fahey moved to receive and file the subject report.

Hearing no objection it was so ordered.

05/0503.18 *Select Members for the Following City Board and Commission Seats:*

- a) Planning Commission: Seat Nos. 3, 4 and 5
- b) Parks and Recreation: Seat Nos. 2 and 7
- c) Parks and Recreation: Seat Nos. 3 and 6
- d) Parking and Public Improvements: Seat No. 1
- e) Cultural Arts: Seat Nos. 1 and 3
- f) Board of Building Appeals: Seat Nos. 1, 2, 3 and 5

Mayor Fahey explained the process of voting and commented on the quality of applicants seeking appointments.

Council held a brief discussion echoing Mayor Fahey’s comments about the quality of applicants and encouraging those who are not successful to stay active and involved in the City.

Planning Commission (Seat No. 3)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Tell	Lear	Lear Schlager	Schlager
Aldinger	Bohner	Powell Bohner	No Vote
Montgomery	Schlager	Schlager Bohner	Schlager
Ward	Powell	Bohner Powell	Powell
Fahey	Fasola	Fasola Bohner	Schlager

MOTION: Councilmember Aldinger moved to unanimously appoint Jim Schlager to Planning Commission Seat No. 3. The motion was seconded by Councilmember Montgomery.

Hearing no objection it was so ordered.

Planning Commission (Seat No. 4)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Ward	Bohner	Bohner Lesser	Bohner
Fahey	Fasola	Fasola Bohner	Bohner
Tell	Lesser	Lesser Bohner	Lesser
Aldinger	None Further	Bohner Lesser	Bohner
Montgomery	Spackman	Spackman Lesser	Lesser

Mayor Fahey moved to unanimously appoint Bob Bohner to Planning Commission Seat No. 4.

Hearing no objection it was so ordered.

Planning Commission (Seat No. 5)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>	<u>3rd Round Vote</u>
Aldinger	Powell	Lesser Powell	Powell	Lesser
Montgomery	Lesser	Lesser Powell	Lesser	Lesser
Ward	O'Connor	O'Connor Powell	O'Connor	O'Connor
Fahey	None Further	O'Connor	O'Connor	O'Connor
Tell	None Further	Lesser Powell	Lesser	Lesser

Councilmember Aldinger moved to unanimously appoint David Lesser to Planning Commission Seat No. 5. The motion was seconded by Councilmember Montgomery.

Hearing no objection it was so ordered.

Parks And Recreation (Seat Nos. 2 and 7)

Councilmember Aldinger moved to continue the appointment of Parks and Recreation Seat Nos. 2 and 7 to the May 17, 2005 City Council Meeting. The motion was seconded by Councilmember Montgomery.

Hearing no objection it was so ordered.

Parks And Recreation (Seat No. 3)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>	<u>3rd Round Vote</u>
Fahey	Lear	Lear	Lear	Lear
Tell	Bookin	Bookin Lear	Bookin	Lear
Aldinger	Paralusz	Paralusz	Paralusz	Paralusz
Montgomery	None Further	Paralusz Bookin	Paralusz	Paralusz
Ward	None Further	Lear	Lear	Lear

Councilmember Aldinger moved to unanimously appoint Ed Lear to Parks and Recreation Commission Seat No. 3. The motion was seconded by Mayor Pro Tem Ward.

Hearing no objection it was so ordered.

Parks And Recreation (Seat No. 6)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>	<u>3rd Round Vote</u>
Montgomery	Bookin	Paralusz Bookin	Bookin	Bookin
Ward	Harris	Harris Paralusz	Harris	Harris
Fahey	None Further	Harris	Harris	Harris
Tell	None Further	Harris Bookin	Bookin	Bookin
Aldinger	Paralusz	Paralusz Harris	Paralusz	Harris

Councilmember Aldinger moved to unanimously appoint Lynn Harris to Parks and Recreation Commission Seat No. 6. The motion was seconded by Councilmember Montgomery.

Hearing no objection it was so ordered.

Parking and Public Improvements Commission (Seat No. 1)

Councilmember Aldinger moved to re-appoint Karen Ackland. Hearing no second, the motion failed.

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>	<u>3rd Round Vote</u>
Tell	Seville-Jones	Ackland Pedersen	Seville-Jones	Seville-Jones
Aldinger	Ackland	Seville-Jones Ackland	Seville-Jones	Seville-Jones
Montgomery	Pedersen	Pedersen Seville-Jones	Pedersen	Seville-Jones
Ward	Ackland	Seville-Jones Ackland	Ackland	Ackland
Fahey	None Further	Ackland Seville-Jones	Ackland	Ackland

Councilmember Montgomery moved to unanimously appoint Sandra Seville-Jones to Parking and Public Improvements Commission Seat No. 1. The motion was seconded by Councilmember Aldinger.

Hearing no objection it was so ordered.

Cultural Arts Commission (Seat No. 1)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Ward	Phillips	Phillips	
Fahey	None Further	Phillips	
Tell	None Further	Phillips	
Aldinger	Miller	Phillips	
Montgomery	None Further	Phillips	

Mayor Fahey moved to unanimously appoint Shelby Phillips to Cultural Arts Commission Seat No. 1.

Hearing no objection it was so ordered.

Cultural Arts Commission (Seat No. 3)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Aldinger	Seckinger	Seckinger	Seckinger
Montgomery	Morgan	Morgan Seckinger	No Vote
Ward	Murray	Murray Seckinger	Murray
Fahey	Bean	Murray Seckinger	Seckinger
Tell	None Further	Seckinger	Seckinger

Councilmember Aldinger moved to unanimously appoint Francey Seckinger to Cultural Arts Commission Seat No. 3. The motion was seconded by Councilmember Tell.

Hearing no objection it was so ordered.

Board of Building Appeals (Seat No. 1)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Fahey	Stabile	Stabile	Stabile
Tell	Watson	Stabile Watson	Stabile
Aldinger	None Further	Stabile	Stabile
Montgomery	Gross	Gross Watson	Watson
Ward	Tilley	Stabile Tilley	Stabile

Mayor Fahey moved to unanimously appoint Gary Stabile to Board of Building Appeals Seat No. 1.

Hearing no objection it was so ordered.

Board of Building Appeals (Seat No. 2)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Montgomery	Murray	Murray	No Vote
Ward	Lynch	Lynch Murray	No Vote
Fahey	None Further	Lynch Murray	Lynch
Tell	None Further	Lynch	Lynch
Aldinger	None Further	Lynch Murray	Lynch

Councilmember Aldinger moved to unanimously appoint Allen Lynch to Board of Building Appeals Seat No. 2. the motion was seconded by Mayor Pro Tem Ward.

Hearing no objection it was so ordered.

Board of Building Appeals (Seat No. 3)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Tell	Tomaro	Tomaro Murray	Tomaro
Aldinger	None Further	Tomaro	Tomaro
Montgomery	Murray	Murray	Murray
Ward	None Further	Tomaro	Tomaro
Fahey	None Further	Tomaro Murray	Tomaro

Mayor Fahey moved to unanimously appoint Allen Lynch to Board of Building Appeals Seat No. 2.

Hearing no objection it was so ordered.

Board of Building Appeals (Seat No. 5)

	<u>Nomination</u>	<u>1st Round Vote</u>	<u>2nd Round Vote</u>
Ward	Adami	No Vote	Adami
Fahey	None Further	Adami Murray	Adami
Tell	None Further	Adami Murray	Adami
Aldinger	Murray	Adami Murray	Adami
Montgomery	None Further	Murray	Murray

Mayor Fahey moved to unanimously appoint Cyrus Adami to Board of Building Appeals Seat No. 5.

Hearing no objection it was so ordered.

Mayor Fahey move to declare vacant Parks and Recreation Commission Seat No. 4 and Parking and Public Improvement Commission Seat No. 5.

Hearing no objection it was so ordered.

05/0405.13-19 Consideration of Options for Changing the Title of Mayor Pro Tem

Deputy City Manager Sherilyn Lombos gave a presentation regarding a survey of 191 California Cities. She informed Council that 64% of the cities use Mayor Pro Tem; that 32% use Vice Mayor; that 5% use Deputy Mayor; and that only 1% use the title of President Pro Tem.

There was no public comment on this item.

Council held a brief discussion on this matter and concluded that there was no reason to change the title of “Mayor Pro Tem” at this time.

ITEMS REMOVED FROM THE CONSENT CALENDAR

05/0503.5 Consideration of the State Budget and Legislative Update from Shaw / Yoder, Inc., the City's Legislative Advocate

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

The following individual spoke on this item:

- **Gerry O’Connor, No Address Provided**

City Manager Geoff Dolan clarified some of the issues addressed by **Mr. O’Connor’s** comments, emphasizing that this monthly update is not the “primary deliverable of the contract”, but a summary by the lobbyist. He also informed Council that the lobbyist came to the City and met with all department heads to gain a better understanding of the City’s needs; that grants are a significant issue and Shaw/Yoder will help look for them; that other groups track legislation and

that is only a secondary benefit; and that the report will be fine tuned as a better understanding of the City is acquired.

MOTION: Councilmember Aldinger moved to receive and file the subject report. The motion was seconded by Councilmember Tell and passed by the following unanimous roll call vote:

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

05/0503.15 Consideration of a Planning Commission Decision to Deny a Tree Permit to Remove a Tree at 1600 Chestnut Avenue

Councilmember Tell stated that he pulled this item because he wanted Staff to discuss this difficult issue and read the details into the record.

City Manager Geoff Dolan commented that Staff wanted everyone to understand how this particular case is going to be monitored and that this is one of the reasons that Councilmember Tell pulled this item.

Senior Planner Laurie Jester presented a PowerPoint presentation on the subject tree, detailing the location and several of the issues involved in the Planning Commission's decision to deny the appeal and preserve the tree subject to certain conditions, including: that the City Arborist will make a determination if it is feasible to preserve the tree; that the City Arborist will monitor the tree during construction; that the tree will be pruned and selectively thinned to raise the crown for construction; that during demolition the roots would need to be protected; and that the City Arborist will re-evaluate the tree after the demolition. Senior Planner Jester continued stating that if it is not feasible to save the tree, it will be replaced by two 48" box trees; and that all costs, including the City Arborist, will be paid by the project proponent.

Mayor Fahey commented that she had a problem with ordering people to plant a tree when there was not one originally there.

Councilmember Aldinger commented that he didn't have a problem with this issue because the purpose of the tree ordinance is preservation and maintaining the nature of the neighborhood.

Councilmember Tell stated that his understanding was that this was a consensual arrangement. He emphasized that the unique aspect of this case is that the tree is healthy, but nevertheless it is interfering or creating problems with the current driveway and potentially causing more cracks in the new structure that is going to be built. He concluded by saying that he thought it was fair "to have as much greenery there as possible."

Mayor Pro Tem Ward agreed with Mayor Fahey regarding the placement of a tree in a yard when there was not one originally. He expressed his desire that the owner be allowed to keep her tree, but if it has to be removed, to replace the tree with a "large" tree, even if a crane has to be used.

Councilmember Aldinger applauded the efforts of Staff to save the tree.

Council held a discussion regarding saving or replacement of the tree, size of the replacement, and whether or not it was consensual by the project proponent to plant a tree on his property.

Council concurred that they wanted to preserve the tree if at all possible, but did not want to set a precedent of requiring a tree on a lot that did not originally have a tree.

Marilyn Beaumont, 1600 Block Chestnut Avenue, clarified that she does want to keep the tree; that there was not an actual agreement between the neighbors regarding the replacement of the tree; that it was the Planning Commission's decision; and that she would prefer to have a larger tree, if it comes to replacement.

In response to Councilmember Tell's question regarding the replacement of the tree, **Ms. Beaumont** stated that she would prefer a larger tree on her property, but she would agree to whatever is best for everyone.

Senior Planner Jester confirmed that Staff has required various tree sizes for replacement; and that the code states 24 inch minimum.

In response to Mayor Fahey, City Attorney Robert Wadden confirmed that Council could make the determination of replacing the tree with one or two trees and determine the size of the tree.

In response to Councilmember Tell's question, Senior Planner Jester explained that Staff would approve of the tree; that a root barrier would be required; and that a tree would be selected that had roots that tend to grow down.

The following individuals spoke on this item:

- **Ann Fay, 1500 Block of Chestnut Avenue**
- **Carol Wolbert, 200 Block of 15th**
- **Michael Lesser, 200 Block of 29th Place**
- **Gerry O'Connor, No Address Provided**
- **Susan Jones, No Address Provided**

MOTION: Councilmember Aldinger moved to approve the Planning Commission's decision to deny a tree permit to remove a tree at 1600 Chestnut Avenue, and if the tree does have to be removed, then the tree will be replaced with a 72" box tree. The motion was seconded by Councilmember Tell and approved by the following unanimous roll call vote:

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

Mayor Fahey requested that Senior Planner Jester make a presentation about the enforcement of the Tree Preservation Ordinance at a future Council Meeting.

City Manager Dolan confirmed that Staff will make a presentation at a future Council Meeting.

AUDIENCE PARTICIPATION

05/0503.27 Esther Besbris Re Fire Department

Esther Besbris, 2nd Street, expressed her thanks to Fire Chief Dennis Groat and the entire Fire Department for their assistance last week with her furnace, in what could have been a disaster.

05/0503.28 Heather Donaleshen Re Leadership Manhattan Beach

Heather Donaleshen, No Address Provided, announced that the Leadership Manhattan Beach Class of 2005 graduation is being held Friday, at 6:00 p.m., at the Manhattan Beach Country Club and that the premier party for the class project is scheduled for June 12, 2005.

She also requested that Council, Staff and the School Board interact and communicate better for positive decisions with the schools, education and community spirit.

Ms. Donaleshen concluded by reading a poem emphasizing the importance of children.

05/0405.29 Viet Ngo Re Unlawful Conduct

Viet Ngo, No Address Provided, read a release statement from the Indiana Attorney General regarding RICO charges in Chicago. He then stated that Mayor Fahey, as a former Federal Prosecutor, is familiar with the law; and that Mayor Fahey, City Attorney Robert Wadden, City Manager Geoff Dolan, former Councilmembers, and **Jonathan Tolkin** engage in a racketeering enterprise.

05/0503.30 John Clark Re Bench/Alcove on The Strand

John Clark, 3600 Block of The Strand, stated that he is asking to agendize an item regarding the relocation of a bench on The Strand. He passed out copies of the notice sent out regarding the Strand reconstruction, commenting that he doesn't feel that the notice allows for the possibility of replacing a bench that was removed in 1999 and that Rosecrans has more vehicular and pedestrian traffic than any other street that intersects with The Strand.

05/0503.31 Terri McCaul Re Bench/Alcove on The Strand

Terri McCaul, 3600 Block of The Strand, echoed previous comments and added that before the bench was removed in 1999, there were problems with noise as people left the bars and congregated at this location. She clarified that this bench was removed and that one was placed on the steps by the lower landing. **Mrs. McCaul** stated that she feels that the City is going backwards to create a problem where there is not one now; that by putting a bench in front of two units, residents will suffer from the noise and commotion; and that she respectfully asks Council to consider the noise issue as it will affect the buildings.

05/0503.32 Rob Perry Re Bench/Alcove on The Strand

Rob Perry, 3600 Block of The Strand, expressed his disapproval of the process that would allow a bench to be replaced, after it was removed in 1999. He stated that he feels that one person was able to get the bench back; that the owners were not properly noticed, that there was no way to determine from the Strand reconstruction notice that bench placement in front of their property would be an issue; that the property owners feel they deserve to have this item agendized; and that "time is of the essence" because the alcove is being constructed.

City Manager Geoff Dolan gave an explanation of the events leading up to the relocation of this bench and others. He clarified that the diagram used for noticing The Strand reconstruction meeting was a recommendation of Staff and the Consultant for the project; that the recommendation was to eliminate some benches and that the original negotiated desire regarding this bench was reflected. He added that upon bringing this issue to Council, several people in the community stated a concern about removing benches, therefore, another public meeting was

noticed which stated that issues related to benches and alcoves were going to be discussed. City Manager Dolan acknowledged that The Strand reconstruction project was appealed to the Coastal Commission by **Mr. Kaminski** who originally asked for the bench to be replaced; that many other concerned residents spoke to Council; that Council ultimately decided to modify and relocate several benches; that **Mr. Kaminski** then withdraw his appeal; and that subsequent to that, the City went out to bid, awarded a contract, attained a Coastal Development permit, and construction is under way.

In response to Councilmember Tells question regarding benches, City Manager Dolan reiterated that other benches were also added.

Councilmember Aldinger emphasized that he remembers that Council deliberately chose to put benches in front of homes, regardless of the noise, because of the public desire for more benches.

Mayor Fahey echoed Councilmember Aldinger's remarks.

City Manager Dolan also noted that this was a big "newspaper" issue and several articles were written in regard to this matter; that the City's notice was adequate; and that there were a variety of opportunities through the media to have learned of the issue.

Councilmember Ward remarked that his recollection was that they did not want individual property owners to be able to come to Council and demand that the City remove a bench; that no one wants a bench in front of their home; that it is a delicate issue; that the benches have to be placed on the Strand for the public to enjoy; that there have been a number of meetings held; and that he is not in favor of going back to review the issue.

05/0503.33 Paul McCaul Re Bench/Alcove on The Strand

Paul McCaul, 3600 Block of The Strand, commented that the significant thing to him is that the notice clearly shows existing benches and proposed benches; that there is nothing that indicates a bench would be placed in front of his property; that the proposal indicates that benches would be at the end of existing streets; and that in particular it shows the removal of the bench at Rosecrans.

Mayor Fahey explained that a "proposal" means up for discussion; that The Strand is for the public; that the public has a need for benches; and that the decision has been made to place them in front of homes.

Councilmember Tell expressed a sympathetic view to the property owners due to the fact that the bench had previously been removed and questioned whether this was a unique situation.

City Manager Dolan clarified that this is a unique situation; that other benches are placed within the City right-of-way and because of the Rosecrans railing; and that the bench had to be placed in front of the property.

Councilmember Aldinger expressed his opinion that this was a unique situation because of the volume of traffic on Rosecrans, but that he does not have a solution.

In response to Councilmember Montgomery's question about the Coastal Permit, City Attorney Robert Wadden clarified that if the plan was a part of the Coastal Permit then the Commission would have to review and amend it, if the alcove was not built.

City Manager Dolan explained that the plan was a part of the Coastal Permit and to alter the plan would require reopening the permit process.

Council held a brief discussion regarding Councilmember Montgomery's comment about building the alcove and not placing a bench there.

City Manager Dolan expanded on earlier comments about the notice issue, reminding Council that the public was upset that only Strand residents had been noticed, as the public felt that this is an issue for all of the public and that the City understands the frustrations, but it is a two-sided issue.

After much discussion, Council concurred that there is not a reason to re-open this issue at the present time.

05/0503.34 Paul Gross Re Bench/Alcove on The Strand

Paul Gross, 1700 Block of The Strand, commented that he attended most of the Public Hearings on the Strand reconstruction; that both sides of the issues were discussed; and that a policy decision was made. **Mr. Gross** suggested that to create a better atmosphere, Staff develop a new diagram informing everyone now, instead of at the time the concrete is being poured, of the placement of all Strand benches. He concluded by stating that Council did an excellent job of covering all of the issues; that the policy decision was made; and that there was adequate notification.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS & COMMITTEE REPORTS

05/0503.20 Request from Councilmember Aldinger to Consider Supporting Three Air Quality Management District (AQMD) Sponsored Bills that Mitigate Emissions from Railroads

Councilmember Aldinger commented briefly outlining the reason for the letter of support for the three bills: AB888, AB 1222, and SB 459; that these bills attempt to regulate railroad emission problems; and that the representative from the Air Quality Management District (AQMD) wants to get all South Bay Cities to support these bills.

Councilmember Aldinger responded to Mayor Fahey's question about the cost stating that the railroads would be responsible.

In response to Councilmember Tell's question, Councilmember Aldinger clarified that the people are the ones requesting the bills and the South Bay Cities are trying to present a unified position.

There was no public comment on this item.

MOTION: Councilmember Montgomery moved to approve sending a letter to the South Coast Air Quality Management District in support of the bills that mitigate emissions from railroads. The motion was seconded by Councilmember Tell and passed by the following unanimous roll call vote:

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

05/0503.21 Request from Councilmember Aldinger to Consider Sending a Letter to the National and State League of Cities Regarding Telecommunications

Councilmember Aldinger requested that the City of Manhattan Beach ask the South Bay Cities Council of Governments (SBCCOG) to include in their letter to the State League of Cities that they make it a priority to aid in telecommunications ordinances; that they inform the City how to handle issues in the public right-of-way; and that they ask the State to provide some resources in dealing with these issues.

Council concurred that there would be no cost to the City; and that Councilmember Aldinger would work with City Attorney Robert Wadden in terms of phrasing specific language for the letter.

City Manager Geoff Dolan reiterated that Councilmember Aldinger would work with City Attorney Wadden to add information to the letter that the Technology Committee for the SBCCOG will be sending to the National and State League of Cities.

There was no public comment on this item.

MOTION: Councilmember Montgomery moved to approve having Councilmember Aldinger and City Attorney Robert Wadden phrase specific language to be included in the letter that the SBCCOG Technology Committee will be sending to the National and State League of Cities regarding telecommunications. 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.

ADJOURNMENT

At 9:20 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, May 17, 2005, in said City.

SANDY SHAW
Recording Secretary

ATTEST:

JOYCE FAHEY
Mayor

LIZA TAMURA
City Clerk