

**CITY OF MANHATTAN BEACH
PARKING AND PUBLIC IMPROVEMENTS COMMISSION
DRAFT MINUTES OF A REGULAR MEETING
MARCH 28, 2013**

A. CALL TO ORDER

The regular meeting of the Manhattan Beach Parking and Public Improvements Commission was held on the 28th day of March, 2013, at the hour of 6:30 p.m., in the City Council Chambers at City Hall, 1400 Highland Avenue, in said City.

B. ROLL CALL

Present: Stabile, Silverman, Chair Adami, Fournier and Nicholson.
Absent: None.
Staff Present: Management Analyst Madrid, Associate Planner Danna, Sergeant Vargas and Lieutenant Harrod.
Clerk: Soo.

C. APPROVAL OF MINUTES

03/28/13-1 February 28, 2013

Approved with no corrections.

MOTION: Commissioner Fournier moved to approve the Parking and Public Improvements Commission minutes of February 28, 2013. The motion was seconded by Commissioner Nicholson and passed by unanimous voice vote.

D. AUDIENCE PARTICIPATION

None, however, Audience Participation was reopened at 8:37 p.m. in order to hear comments from a member of the public who arrived late.

E. GENERAL BUSINESS

03/28/13-2 Proposed Code Amendment Regarding the Private Use of the Public Right of Way (Encroachments)

Parking and Public Improvements Commission
March 28, 2013

Associate Planner Esteban Danna summarized the staff report and provided a brief Power Point presentation.

Commissioner Stabile said on Page 2, Section 7.36.080 under Appeals, the first sentence should read "Encroachment permit aApplications which are in consistent..." in order to be more specific. He also requested in the same sentence further clarification on the section that reads, "...must be appealed to and approved by the City Council...", specifically, whether an adjacent homeowner may appeal if an encroachment permit is denied, what must be appealed, by whom and under what circumstances.

In response to Commissioner Stabile's question, Associate Planner Danna said typically, encroachment permit applications are not denied, submitted applications usually follow the Code and that the current language has existed for many years. Further review with the City Attorney would be necessary if proposing additional changes.

Commissioner Stabile also requested on Page 5, under the Exception section following the crossed out language, be revised to read, "Should the property owner fail to ~~act~~ maintain landscaping in conformance with the approved plan, the Director..."

In response to a question from Commissioner Silverman, Associate Planner Danna said the ordinance does not reference the appeal fee. He explained the cost of any appeal, including an appeal to the Parking and Public Improvements Commission, City Council or Planning Commission, is \$500 and is addressed in the City Council approved fee schedule. He added the cost for a new encroachment permit is \$1,495, which includes plan check fees and executing the agreement.

In response to a question from Commissioner Fournier, Associate Planner Danna confirmed the cost of an appeal does not represent the actual cumulative cost incurred by the City to process an appeal. He added it was City Council's desire to keep appeal fees accessible.

In response to a question from Chairperson Adami, regarding drainage on Page 5 under Item No. 5, Associate Planner Danna explained in certain cases

Parking and Public Improvements Commission
March 28, 2013

some physical attributes may affect the draining system and require the Public Works Director to make alternative decisions. The Director's decision will typically follow City codes, but may also be appealed to the Commission and City Council.

Commissioner Nicholson requested staff to include language for City Council consideration regarding a neighbor's right to appeal a Director's decision. He said the current code language only allows the property owner to appeal and not an aggrieved neighbor who is affected by a nonconforming encroachment.

Associate Planner Danna said Staff did not find it necessary to change the appeal section of the code and that typically the Director will seek compliance from the property owner, however, Staff will include Commissioner Nicholson's comments for City Council consideration.

Chair Adami continued the public hearing.

Audience Participation

John Clark, 3600 block of Strand, said he expected to speak during the general Audience Participation portion of the meeting, but arrived late.

Chairperson Adami explained the Commission is currently conducting the Public Hearing and advised Mr. Clark to speak on his unrelated item when the public hearing is closed.

Kathy Smith, 100 block of 10th Street, said the same rules cannot be applied to all encroachment areas because not all neighborhoods are affected equally; the proposed standards would make little difference to homes located further away from Crest Drive since the ocean views are almost nonexistent in that area; landscaping in that area is noncompliant but has been developed in a very attractive manner; the City is seemingly contradictory in its handling of protecting views; and the ordinance should make sense to the manner in which people live and be reasonable. She is concerned the proposed ordinance will encourage neighbors to complain and cause tension in the community.

Paul Newell, 1000 block of Tennyson Street, said he is uncomfortable if new residents are able to tell longtime homeowners to remove their trees, which often times are valuable landmarks to the City, benefit the environment, provide clean air and enjoyed by many people.

Parking and Public Improvements Commission
March 28, 2013

Will Arvizo, 400 block of 23rd Street, said longtime residents and new homeowners have a right to preserve their view. Many people who desire vegetation on their property want landscaping in a location where it does not affect their own views, but do not always consider how surrounding residents may be affected. Preserving a tree because of its advanced age is not a valid reason, as he pointed out there were older homes that have been removed. He understands the value of foliage as long as people adhere to the 42” height limit stated in the Code, which has been in effect for more than 25 years. He does not support a view ordinance nor a change in the Code. He would just like to see the rules enforced evenly and appreciates what the Commission is trying to accomplish.

Sabine Birkenfeld, 600 block of Highland Avenue, suggested the definition of ‘scenic views’ be changed to include greenery and trees as she considers those elements an enhancement to the scenic landscape. The trees also provide a buffer on Manhattan and Highland avenues from traffic, noise, dirt, construction sites and unsightly cars. She stated her own views have been obstructed by the construction of large homes in her neighborhood. Longtime residents like herself have played a significant role in making Manhattan Beach a desirable place and should not be forced by new residents to change their lifestyle. She expected the proposed ordinance to provide more flexibility, but was disappointed that it was more restrictive and did not consider grandfathering.

Joseph Newell, 1000 block of Tennyson Street, said trees and shrubbery should not have a height limit because they promote good health and beautify the whole community. A new resident should not be able to remove ancient trees that have become a piece of history. Extremely oversized growth should just be trimmed down and not chopped completely.

Sandra Seville-Jones, resident of 6th Street, shared her concerns regarding exclusive use of property where the public may be entitled to use the encroachment area and that encroachment properties resemble private front yards and the Code language should be specific in stating these are exclusive.

She commented on the importance of including more visual components to tonight’s Power Point presentation because the discussion primarily focuses on aesthetics and requested clarification of under what circumstances would the Director allow someone to go above 42”. The current staff report should have

included visuals from the last meeting if there were any. Further review and clarification are necessary before going forward.

She referred to Page 3, Section 7.36.150 under subsection A1, regarding where the City may remove an encroachment if no valid permit exists. The City should first determine the number of valid encroachment permits and then decide how to proceed, that it may be necessary to reexamine the current system for effectiveness. She recommended the ordinance include a notice provision for those who do not have a valid permit.

In reference to subsection A2, she said additional discussion is necessary regarding the grandfathering issue.

In reference to subsection A3, she said the encroachment permit needs to confer some kind of proprietorship to the permit holder in order to avoid confusion.

In reference to subsection A9, she said currently anyone can complain about a view obstruction and asked if a member of the public wanted everything above 42" to be cut down, that from what vantage point the Director would base his decision if an appeal was brought forth; she recommended the term foliage be added to the definition of scenic views. Providing guidance as to what percentage of the view must be blocked before requiring removal and identifying how many plants are actually offending the walkstreets would also be beneficial. She stated this is a community that values plants and is uncertain if the City has fully considered the consequence of adopting the proposed standards.

Robert Schuman, 900 block of Manhattan Beach Boulevard, does not agree that anyone has the right to complain; that the public noticing for the meeting was inadequate even though it met the legal requirements; and increased noticing is necessary because these issues could potentially have a significant financial impact on people.

Mary Boyd, 300 Block of 7th Street, referred to the occasion when the City removed the overgrowth from Ms. Birkenfeld's encroachment. She noted the City of San Clemente has an ordinance preventing homes from blocking views, but the City of Manhattan Beach does not. She asked if there are no limitations on new homes obstructing views, then why trees should be subject to such restrictions.

Frank Wattles, a resident, indicated that the meeting is taking place during Good Friday week when many people might be vacationing and unable to attend. He expressed concern that property owners have no right to the encroachment area. Under the proposed ordinance, he said he would not have any right to the steps extending from his decking; the steps are necessary for him to walk down in order to access the walkstreet. The sewer and water connections are also located in the walkstreet encroachment area, which he asked further clarification on whether those items are considered objects within the right-of-way. He said prior to 2003, when the last encroachment amendment was adopted, the City encouraged people to beautify their property by planting trees and taking care of their landscaping. He said the 2003 ordinance and the Coastal Act both included language about grandfathering, but now the proposed ordinance does not. One of the purposes for walkstreets is to meet the City's open space requirements and that the City should promote tree preservation. He said the ordinance needs to be more definitive, especially since complaints are ultimately handled at the sole discretion of the Director.

Chairperson Adami pointed out more people attended tonight's meeting than the last public hearing and appreciated if Mr. Wattles would submit future comments in writing earlier in order to give Staff an opportunity to address his concerns.

Marti Padilla, 600 block of Highland Avenue, said she was upset at having to attend multiple meetings over the same issue and voiced her concern that anyone can remove plantings that exceed 42" in the encroachment area even if a valid permit exists. Her own view diminished when a neighboring property installed a patio extension. She did not understand why a view obstruction of that nature is acceptable and then not acceptable for a tree. She said walkstreet development should not be determined by City workers who often live elsewhere. She strongly urged Commissioners to notify all affected residents on the proposed ordinance. Grandfathering existing growth is also imperative and she concluded by saying how invaluable the walkstreets are for promoting aesthetics and a community gathering place.

Chairperson Adami said he understood her frustration and explained the importance of gathering public input at the meeting in order to improve the existing ordinance.

Earl Waggener, 400 block of 25th Street, said he supports preserving beach views along the walkstreet and sand section properties. He said over the last 57 years, he watched trees grandfather themselves into his space where the plantings started off small but matured significantly. He said affected residents should have the right to have those obstructions removed since they are not permissible anyway. He noted there are many areas where the growth exceeds 42" and is not a problem. He does not understand the widespread hysteria that everything above 42" in the encroachment area will be cut down; the ordinance is and always has been complaint driven and has enough built into the language to prevent random people from making wide-sweeping complaints. He said the ordinance should provide a standard that can be modified: if there is overgrowth in the public right-of-way and is adversely affecting someone's view, then it should be removed; if there is overgrowth obstruction, but neighbors are willing to live with it, then let it remain. He concluded that people who value trees can appreciate the Tree Section, whereas walkstreets and sand section homes are meant to preserve beach views.

John Clark, 3600 block of Strand, said he purposefully planted landscaping in the Strand garden area that exceeds 42" in order to conceal the view of a County bathroom facility. If he was forced to trim the landscape, then it would actually ruin his view.

Associate Planner Danna reminded the audience and Commissioners that the 42" rule was not the subject of discussion at tonight's meeting and has been in effect for many years.

Chair Adami closed the public hearing.

RECESS AND RECONVENE

At 7:51 p.m., there was a recess until 8:00 p.m., when the meeting reconvened in regular agenda order with all Commissioners present.

Commission Discussion

Commissioner Stabile reaffirmed that the 42" height limit has been in effect for some time and the Commission has no authority to alter that standard. He acknowledged the difficulty in reconciling opposing viewpoints where some regard trees as part of the view and others regard trees as an obstruction. The

Parking and Public Improvements Commission
March 28, 2013

primary objective is conveying to City Council the compelling arguments presented from both sides.

In response to questions from Commissioners Stabile and Nicholson, Associate Planner Danna confirmed that the ordinance does allow the Community Development Director to have discretion over what is considered a valid obstruction of scenic views; this language helps eliminate ambiguity in the code. He added that the Director's decision may be appealed.

Commissioner Stabile said the additional language inserted by Staff clarifies that the proposed ordinance has a retroactive effect, which will ultimately be determined by the City Council. He is also concerned about anyone being able to make a complaint. He said complaints should be limited to people who are directly affected. He urged residents to attend the City Council meeting and express their views. He agreed that property owners who obtain an encroachment permit and undergo the process should have exclusive rights to the encroachment area.

Commissioner Stabile also requested the following changes be made to the proposed ordinance:

On Page 3, subsection A2, "This includes improvements, landscaping, or trees ~~installed~~ existing prior to the City's adoption of encroachment standards."

On Page 3, subsection A3, "The issuance of a permit does not confer any ~~proprietary~~ ownership interest in the City's public property."

On page 4, subsection A11, "Existing ~~improvements~~ encroachments which do not conform to current standards..."

On Page 5, subsection B2, at the top section where it begins with "Landscaping is permitted subject to approval of a landscape plan pursuant to...", that the whole section be numbered as No. 3, so that Fences and railings is No. 1; Retaining walls is No. 2; Landscaping is No. 3; and then re-number the remaining sections accordingly.

In response to a comment made earlier by a member of the audience, Commissioner Silverman said the Commission does not have a political agenda

Parking and Public Improvements Commission
March 28, 2013

and represents the best interest of the people residing in the City. He admitted the democratic process in place is not flawless. He is not convinced that if more people attended the meeting that it would significantly change the representation in the audience. He pointed out that although a substantial amount of money was spent on the election that voter turnout was still less than 20 percent. He is unsure how to garner more interest from residents.

Commissioner Silverman reiterated the purpose of the meeting is to discuss how to establish standards on City-owned public property, which should not be misrepresented as being private property. He said the City needs to work with residents who maintain encroachment areas and emphasized the importance of considering different perspectives. He appreciated comments from people who attested to the benefits of preserving trees, but cautioned that their supporting arguments could potentially allow trees to grow at arbitrary height levels with no limit. He said vegetation should not be allowed to grow wild especially if neighbors are being adversely affected. Property owners like Mr. Waggener, who once had an unobstructed ocean view that is now almost nonexistent, also has a perspective that should be acknowledged. He agrees that a standard 42" height limit is too broad because in some areas 42" has no significance; or, in Mr. Clark's case, proves to be too restrictive when attempting to conceal an unattractive sight. A compromise between the residents who support preserving trees and those who want to preserve their views needs to be reached. He does not have any proposed changes to the code.

Commissioner Nicholson appreciated the audience participation and said both sides have legitimate arguments for the Commission and City Council to consider. He requested the following be added to the proposed ordinance: specific wording regarding the exclusive right of use to the encroachment area; the right to complain should be limited to only people who are actually affected in order to prevent arbitrary complaints; and anyone who is affected should have right to appeal, not just the property owner. He also recommended including language that requires permeable surfaces when making future improvements, such as encouraging grass concrete mixtures when replacing concrete in order to retain rainwater. He recently observed that most residents already preserve the open space concept. He was glad the code allows the Director to protect those views from obstruction, but does not agree that those walkstreets should adhere to a strict 42" height limit. He said flat area walkstreets are a different issue that should be addressed by City Council. He also recommended the City

Parking and Public Improvements Commission
March 28, 2013

create a historic tree identification program in order to protect certain existing trees from being removed but at the same time ensuring that future trees do not grow uncontrolled.

In response to a question from Commissioner Fournier, Associate Planner Danna said it was Staff's recommendation to make a motion to forward all the comments received by the Commission and the public for City Council review. He added that the City Council may send the item back to the Commission if they felt it is necessary.

Chairperson Adami thanked the public for sharing their comments. He agreed with Commissioner Stabile's clarifications to the Code language on Pages 3, 4 and 5. He recalled the City of El Segundo used to have numerous large eucalyptus trees planted on Main Street, but were removed about 10 years ago. His initial reaction was negative; however, he now appreciates their absence as it creates more openness. He also noted the cities of Palos Verdes Estates and Rancho Palos Verdes have codes where any tree from the center line of the street is above 62" must be cut down if there is a view obstruction complaint. He added that the regulation was extremely complicated and applied to private property trees.

The Commission cannot look at current conditions as if it were 50 years ago when Manhattan Beach was a blue collar town and the City was desperately urging people to landscape their properties, he said. The community no longer resembles a desolate sandy terrain as significant development has taken place. Additional clarification on the 42" height limit may be necessary from the City Attorney. He agreed with Commissioner Nicholson on establishing a historic tree identification program and said the City of Big Bear Lake also has a rule that protects trees of a certain limb protrusion from being cut down unless issued a permit.

Commissioners Stabile, Silverman and Fournier agreed that Staff should elaborate on the City Attorney's definition of a stakeholder.

Chairperson Adami asked Staff to examine other cities like Venice, Palos Verdes, Santa Monica and Malibu. He said the walkstreets in Venice do not allow any trees to grow on City property. The City of Malibu also has a view preservation law south of Pepperdine University.

Parking and Public Improvements Commission
March 28, 2013

Commissioner Silverman said he supports the 42” height limit on a case-by-case basis and suggested including language that sets a maximum height restriction.

Commissioner Fournier added he is comfortable with the 42” height standard.

MOTION: Commissioner Stabile moved to forward to the City Council the comments received by the public from this hearing and the prior hearing, along with comments from the Commissioners. The motion was seconded by Commissioner Nicholson. The motion passed by the following unanimous roll call vote:

Ayes:	Stabile, Silverman, Chairperson Adami, Fournier and Nicholson.
Noes:	None.
Abstain:	None.
Absent:	None.

In response to a question from Commissioner Fournier, Associate Planner Danna said Staff will prepare a City Council report based on all the comments received. Staff will need to first discuss any proposed changes with the City Attorney to ensure the actions are legal. He said the City Council is expected to conduct one hearing and then a subsequent hearing on the proposed amendments. The hearings will be duly noticed and he welcomes any comments to be submitted to him.

Commissioner Fournier strongly urged the public to participate in the City Council meetings because they have the authority to adopt changes.

Commissioner Stabile directed Staff to determine what City Council prefers on grandfathering existing encroachments. He would like feedback in order to draft more specific language into the proposed amendments.

Audience Participation was reopened at 8:37 p.m.

John Clark, 3600 block of Strand, asked for increased police enforcement at the intersection of Rosecrans Avenue and Ocean Drive with

regards to traffic flow and parking. He said motorists consistently violate the sign prohibiting Rosecrans Avenue traffic from entering southbound Ocean Drive and also added that parked cars block his car port access. He said Code Enforcement Officer Jackie Harris has tried to address the situation.

Management Analyst Madrid said the Commission may not engage in a public discussion on this item and provided Mr. Clark with Sergeant Vargas' contact information.

F. COMMISSION ITEMS

03/28/13-3 Commissioner Items

F1. Commissioner Silverman asked if the red curb located on Parkview Avenue on the north side of the street across from the Country Club could be removed. He suggested installing signs that read 'No Parking from 10 a.m. to 6 p.m.' The red curb was originally installed because the parking meters could not be located there due to the slope of the sidewalk and ADA concerns. He understood if the red curb was in place to encourage people to use metered parking, but indicated the meters are not enforced after 6 p.m. so the parking across the street should become available too.

Commissioner Stabile said the City Council should revisit the Parkview meter installation and consider removing them altogether.

F2. Commissioner Nicholson commented that 'No Smoking' signs have been ordered for the Strand. He also recommended installing additional signage informing the public on what is permissible use on the Strand and bike path. He does not want vacationers caught off guard by the increased enforcement as there is a \$402 fine on the bike path and Chairperson Adami confirmed \$280 for the Strand. The Pier has sufficient signage, but does not include skating in the prohibition. At the Hermosa Beach city limits, he suggested installing larger signs that say 'Bike' with an arrow pointing in the appropriate direction and similarly for 'Walk'.

Chairperson Adami said a flashing sign would be helpful for alerting people coming in from Hermosa Beach.

Management Analyst Madrid confirmed the City may put signs on the Strand, but explained the County has jurisdiction over the bike path and installing signage would require their involvement. She is currently working with the County on pavement markings at the Pier and will discuss increasing City signage with the City Traffic Engineer.

In response to a question from Commissioner Stabile, Management Analyst Madrid said she will provide a status update on the 'No Smoking' signs for the Strand.

F3. Chairperson Adami asked about installing a crosswalk on Manhattan Beach Boulevard at Meadows Avenue. He recalls that there recently was an accident involving a teenager. Many students cross there because they do not want to walk all the way to Sepulveda Boulevard.

Management Analyst Madrid confirmed a request was already submitted several years ago to install a crosswalk, however it was denied through the CIP process. The installation involves going through the CIP process because it requires updating the curb ramps to be ADA compliant and modifications to the traffic signal. She will resubmit another request.

F4. Commissioners Silverman and Fournier both commented on the confusing traffic light situation at the intersection of Valley Drive and 15th Street. The drivers going eastbound on 15th Street are not aware there is a red light for oncoming traffic.

Management Analyst Madrid said the Traffic Engineer reviewed the request but was unclear about the description and would follow-up with further review.

F5. Commissioner Nicholson referred to an email the Commission received regarding the 'No Right Turn on Red' sign located on Ardmore Avenue.

Management Analyst Madrid responded that the Traffic Engineer reviewed the request and suggested installing an additional sign and that she typically responds to emails after a work order is submitted to ensure the work will get done.

G. STAFF ITEMS

03/28/13-4 Monthly Revenue and Expenditure Reports: Receive and File

Received and Filed.

03/28/13-5 Staff Follow-Up Items

Management Analyst Madrid updated the Commissioners on the City Council's unanimous vote to uphold the appeal at 217 4th Place thereby allowing the removal of the parking space. She confirmed a comment from Commissioner Nicholson that the City Council directed Staff to review the City's process of removing or requesting a parking space and return with a presentation.

Management Analyst Madrid also reminded Commissioners their Form 700s are due to the Clerk's Office tomorrow.

H. ADJOURNMENT

The meeting was adjourned at **9:00 p.m.** to the regular Parking and Public Improvements Commission Meeting on Thursday, March 28, 2013, in the City Council Chambers of City Hall, 1400 Highland Avenue, in said City.