

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
REGULAR MEETING OF
SEPTEMBER 20, 2005**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 20th day of September, 2005, at the hour of 6:32 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

PLEDGE TO FLAG

Community Development Director Richard Thompson led the pledge of allegiance.

ROLL CALL

Present: Tell, Aldinger, Montgomery and Mayor Fahey.
Absent: Ward.
Clerk: Tamura.

CEREMONIAL ITEMS

05/0920.1 Presentation of Commendation to Attorney Sanford Jossen for His "Extraordinary Citizenship" in Providing Help to Foster Children

Mayor Fahey, on behalf of the Council, presented Attorney Sanford Jossen with a commendation for Extraordinary Citizenship for helping to protect abused and neglected foster children.

05/0920.2 Presentation of Commendation to the Residents of the Manhattan Beach Senior Villas for Their "Extraordinary Citizenship" in Donating Money to the American Red Cross for Hurricane Katrina Relief Efforts

The Council presented a certificate of recognition to Susan Jones, Evelyn English and Velma Beckett, on behalf of the Manhattan Beach Senior Villas, for their generous donation of \$1,550 to the American Red Cross for Hurricane Katrina Relief Efforts.

THE FOLLOWING ITEM WAS TAKEN OUT OF ORDER

05/0920.21 Los Angeles County Field Deputy Steven Napolitano Re Presentation to Council

Steven Napolitano, Field Deputy to Los Angeles County Supervisor Don Knabe, announced that the Los Angeles County Board of Supervisors unanimously passed a motion by Supervisor Knabe to partner with the City of Manhattan Beach on the El Porto Retaining Wall Project and will be forwarding a check for \$100,000.

On behalf of the Council, Mayor Fahey thanked Los Angeles County Supervisor Don Knabe and the Board of Supervisors.

CONSENT CALENDAR

The Consent Calendar (Item Nos. 3 through 12), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Councilmember Aldinger, seconded by Councilmember Montgomery and passed by the following unanimous roll call vote.

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

In regard to Item No. 8 on the Consent Calendar, Councilmember Aldinger commented that the 6-month extension was warranted because the meeting that Skechers held with the area residents was very beneficial.

GENERAL CONSENT

05/0920.3 *Approve Minutes of the City Council Adjourned Regular and Regular Meeting of September 6, 2005*

The Council approved the subject minutes.

05/0920.4 *Consideration of Appointment of Jean Cordero to the South Bay Workforce Investment Board*

The Council approved the appointment of Jean Cordero to serve as the Manhattan Beach representative to the South Bay Workforce Investment Board (SBWIB) for the term of July 1, 2005 through June 30, 2009.

05/0920.5 *Consideration of Financial Reports:*
a) Ratification of Demands: September 8, 2005
b) Investment Portfolio for the Month Ending August 30, 2005
c) Financial Reports for the Month Ending August 30, 2005

The Council approved with no exception Warrant Register Nos. 6B in the amount of \$1,703,998.75 in payment of ratification of demands and claims as prepared by the Director of Finance, together with the original demands and claims as prepared by said Warrant Register; received and filed the Investment Portfolio for the month ending August 30, 2005; and received and filed the Financial Reports for the month ending August 30, 2005.

05/0920.6 *Authorize the Purchase of a Replacement Boiler for City Hall from the Stanley Louis Company (\$23,939.85)*

The Council approved an award of RFB #658-06 to the Stanley Louis Company in the amount of \$23,939.85 for the replacement of a hydronic boiler at City Hall.

05/0920.7 *Award of Contract to Sun Trust Leasing Corporation for Five Year Lease-Purchase Financing of a Previously Budgeted Fire Truck (\$122,436 Per Year)*

The Council adopted Resolution No. 5997 approving five year lease-purchase documents with Sun Trust Leasing Corporation in order to finance the purchase of a fire truck previously budgeted and approved by the City Council on July 20, 2004.

RESOLUTION NO. 5997

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT, EQUIPMENT SCHEDULE NO. 01, AN ESCROW AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

05/0920.8 Consideration of a Request for a 6-Month Time Extension for the Property Located at 330 South Sepulveda Boulevard (Skechers)

The Council approved a 6-month time extension of the Use Permit for the Property Located at 330 South Sepulveda Boulevard.

05/0920.9 Disbursement of Progress Payments:

- a) Progress Payment No. 5 in the Net Amount of \$245,529.09 to S.P. Pazargad Engineering Construction, Inc. for the Strand Improvement Project
- b) Progress Payment No. 1 in the Net Amount of \$106,962.75 to Steiny and Company, Inc. for the 15th Street/Valley Drive Traffic Signal Modification Project
- c) Progress Payment No. 1 in the Net Amount of \$73,361.25 to Cody Engineering, Inc. for the 2001-2002 Water Main Replacement; 2002-2003 Sewer Main Replacement Project
- d) Progress Payment No. 6 in the Net Amount of \$235,147.36 to S.P. Pazargad Engineering Construction, Inc. for the El Porto Retaining Wall Project

The Council approved the issuance of the subject progress payments.

BOARDS AND COMMISSIONS

Cultural Arts Commission

05/0920.10 Consideration of Draft Minutes, Cultural Arts Commission Special Meeting of August 29, 2005

The Council received and filed the subject draft minutes.

Parking & Public Improvements Commission

05/0920.11 Consideration of Action Minutes, Parking and Public Improvements Commission Meeting of August 25, 2005

The Council received and filed the subject action minutes.

Planning Commission

05/0920.12 Consideration of Action Minutes, Planning Commission Meeting of September 14, 2005

The Council received and filed the subject action minutes.

COMMUNITY ANNOUNCEMENTS

05/0920.22 Tami Brothers Re Gulf Coast Support

Tami Brothers, No Address Provided, announced that families from Pennekamp School have organized a donation drive for those in the Gulf Coast area whose lives have been devastated by Hurricane Katrina. She explained that from Tuesday, September 20, through Monday, September 26, donations of non-perishable goods will be accepted before and after school and on the weekend from 8:00 a.m. to 4:00 p.m. in the Pennekamp School east parking lot on Peck Avenue.

Ms. Brothers further added that parents from Grand View Elementary School have formed a group called the “Los Angeles to Louisiana Initiative – Kids to Kids” and will be partnering with Office Depot to provide backpacks to the children in the City of Baton Rouge, Louisiana, East Parish District.

05/0920.23 Parks and Recreation Director Richard Gill Re Pool Lifeguard's

Parks and Recreation Director Richard Gill announced that lifeguards for the City's aquatic programs donated their time during the regular end of the season pool party turning it into a “swim-a-thon” and collected \$13,000 for Hurricane Katrina victims.

05/0920.24 Los Angeles County Librarian Leticia Tan Re Festival

Los Angeles County Librarian Leticia Tan reported that the Manhattan Beach Library will present a “Fall Festival of Art, Music, Dance and Theatre” consisting of several different programs beginning Friday, September 23, 2005 and that anyone interested should visit the library for a schedule of performances.

05/0920.25 Police Chief Ernest Klevesahl Re Update on Homicide

Manhattan Beach Police Chief Ernest Klevesahl explained that the television show “America's Most Wanted” will be profiling the Libia Cabrera homicide, which took place in Manhattan Beach earlier this year, on its show in late October or early November and that filming will be taking place in the 100 block of 28th Street. He pointed out that Ms. Cabrera's profile was put on their website (www.amw.com) today and encouraged anyone with information regarding the case to contact Manhattan Beach Police Sergeant Steve Tobias at (310) 802-5123.

In response to Mayor Fahey's question about an award, Police Chief Klevesahl acknowledged that there is a reward of \$25,000.

05/0920.26 Susan Jones Re Thanks

Susan Jones, Resident of Manhattan Beach Senior Villas, thanked the Council, on behalf of the residents of the Villas, for approving the red curb in front of their building because it has made it much easier to see oncoming traffic.

05/0920.27 Mayor Fahey Re Old Hometown Fair

Mayor Fahey announced that the Manhattan Beach Old Hometown Fair will be coming to town soon.

Councilmember Montgomery added that the dates for the Fair are October 1 – 2, 2005; that volunteers are needed for the 10-k race course; and that those interested can e-mail him at rmontgomery@citymb.info for contact information.

Councilmember Montgomery also commented that the Neighborhood Watch organization will be selling emergency backpacks at the Fair.

PUBLIC HEARINGS

05/0920.13 Consideration of Planning Commission Recommendation to Approve Zoning and Local Coastal Program Code Amendments (MBMC Section 10.64.170/Coastal A.64.170) to Revise Parking Lot Lighting Regulations

Senior Planner Rosie Lackow addressed Council with a PowerPoint presentation reviewing the background of parking lot lighting regulations. She explained that requests by inland commercial developments that are replacing their current lighting and requesting taller lights brought up the need to address this issue, which is somewhat confusing. She reviewed the current parking lot lighting Code and pointed out that Manhattan Beach has the most restrictive criteria for inland development parking lot lighting from among all the cities surveyed. She discussed the technical aspects of designing parking lot lighting and the proposed revisions including: illumination levels; glare prevention; lamp types; the photometric plan; enhanced lighting; and presented several pictures of different types of lighting around the City.

In response to questions from Council, Senior Planner Lackow explained that this Ordinance will indirectly address the number of poles that will be necessary; that neighbors within 500 feet of properties requiring a Use Permit would be notified and have an opportunity to speak at a public meeting; and that she believes that owners will keep on top of maintenance for efficiency reasons.

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

Hearing no requests to speak, Mayor Fahey closed the Public Hearing at 7:11 p.m.

MOTION: Councilmember Aldinger moved to waiver further reading and introduce Ordinance No. 2078 approving Zoning and Local Coastal Program Code Amendments. The motion was seconded by Councilmember Tell and approved by the following unanimous roll call vote:

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

ORDINANCE NO. 2078

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, APPROVING AMENDMENTS TO THE CITY ZONING CODE (SECTION 10.64.170) AND LOCAL COASTAL PROGRAM ZONING CODE (SECTION A.64.170) REGARDING PARKING LOT LIGHTING REGULATIONS

05/0920.14 Consideration of City Council 2005-2007 Work Plan Item and Planning
City Council Meeting Minutes of September 20, 2005

Commission Recommendation to Approve Zoning Code Amendments (MBMC Section 10.52.120) to Revise the Tree Preservation Regulations

Senior Planner Laurie Jester addressed Council with a PowerPoint presentation reviewing that the City adopted the original Tree Preservation Ordinance in 1993, covering the Tree Section only, and then expanded the Ordinance, to be more of a “removal and replacement” regulation, in 2003 to cover all of residential areas of District I. She reported that the City had its first two appeals of the Tree Ordinance this year; that as part of the Council’s 2005 Work Plan, Council gave direction to revise the regulations to make them easier to enforce; and that the Planning Commission held a Public Hearing on the Ordinance. She explained that trees with a 12-inch or greater trunk diameter, in front yards, are protected and gave several examples of which trees are exempt. She reviewed the proposed Code revisions including emergency removal; trees on adjacent properties; protected and replacement tree sizes; street side yard trees; and violations and penalties.

Council held a brief discussion with Senior Planner Jester regarding the Tree Canopy Restoration Fund portion of the Ordinance, establishing that if trees had to be removed, for various reasons, and only a portion of the number removed was able to be replaced, a resident would pay an in-lieu fee equal to the cost of replacing that number of trees.

Mayor Fahey opened the Public Hearing at 7:27 p.m.

Karol Wahlberg, Manhattan Beach Resident, declared that she never saw the public notice in the newspaper advertising the Planning Commission Public Hearing and that she believes that there may be others who would like to give input on this matter. Remarking that she believes it is too late for preservation, she urged Council to take more aggressive steps such as offering incentives to those who add greenery and do not build out their lots. She expressed concern that an opportunity will be missed if this Ordinance is pushed through; suggested the City take a step back; and that staff get together with a group of residents to interact and discuss the issue.

Sharing that he helped to write the original Tree Ordinance in 1993, **Jack Feinberg, No Address Provided**, commented that he would welcome any suggestions that would help to slow down the decline of trees. He stated that he believes that the proposed revisions are well thought out; that it will be difficult to enforce different fines for different people; and emphasized that in most areas of the law, ignorance is no excuse.

Bernard Johnson, No Address Provided, suggested that the Ordinance should contain language specifying that replacement trees should be placed in an area that will not encroach on neighboring properties, once they are mature; that it should identify which species of trees are not permitted; and that it should list the caliber size of trees rather than the box size. He also voiced his concern that the proposed Ordinance has language requiring a permit and an arborist to determine whether cutting of limbs and/or roots will be allowed when a neighbor’s tree encroaches on someone else’s property.

Commenting that she lived in the Tree Section for 10 years and witnessed numerous trees being cut down, mostly by developers, to make room for garages, **Martha Andreani, Downtown Manhattan Beach**, urged Council to consider **Ms. Wahlberg’s** suggestion for a more proactive stance on tree preservation.

Mayor Fahey closed the Public Hearing at 7:37 p.m.

Council held a lengthy discussion with Senior Planner Jester regarding emergency removals; the proposed Ordinance as it applies to trees encroaching on neighboring properties; replacement

trees; trees not permitted in the City; caliber size of trees; street side yard trees; in-lieu of fees; and tree canopy restoration.

City Attorney Robert Wadden clarified that the intention of administrative fines was so that criminal charges would not have to be filed on those individuals willing to make good on their violation of the Ordinance. He added that staff envisioned a fine with a minimum and maximum range depending upon the egregiousness of the action, number of trees removed, etc., and emphasized that every case will be different.

Remarking that he is in general agreement with what has been proposed, Councilmember Aldinger stated that he is pleased that the aspect of people taking out trees and then applying for a permit has been taken out of the Ordinance. He acknowledged that he is troubled by how to determine the egregiousness of someone removing trees and with the tree box size detail, he is pleased with City Attorney Wadden's explanation of the fines and that staff will watch over the replacement tree size process. He added that if a problem arises, the issue can always be brought back before the Council for modifications.

Councilmember Tell stated that he was in support of the emergency removal and fine sections of the Ordinance, however, voiced his disappointment that some aspects go too far and others don't go far enough. He stressed that while he understands that the objective is to protect the future, he was under the impression that the Ordinance would preserve mature trees and that he would like to have been given a better definition of what a mature tree is. He emphasized that focusing on tree trunk size only adds more regulations and makes the Ordinance more difficult to enforce. He spoke of sending the item back to the Planning Commission for additional public input in order to try and accomplish the resident's main concern of the loss of mature trees and how to preserve them.

Councilmember Montgomery stressed that he is not happy that mature street side trees are not protected in the proposed Ordinance; that the tree canopy should be the key detail, not the caliber of the trunk; that a tree incentive program is a great idea and it should be city-wide; and that maybe the item should go back to the Planning Commission for more public input.

Mayor Fahey reviewed that, in her recollection, it was agreed that side yard trees were able to be removed because they were required to be replaced with a minimum 24 inch box tree. She relayed her apprehension with in lieu of fees stating that she does not agree with allowing someone to "pay out" to have a tree(s) planted somewhere outside of their neighborhood because the neighborhood will change. She stated that she agrees with the changes made to the emergency removal section, the discretionary fines and removal of street side yard trees, however, would like to see more guidance in regard to replacement trees to retain the character of the neighborhood. She also concurred with Councilmember Tell that rather than indicating that trees should be replaced with a certain box size tree, they should be replaced with a tree that is a certain ratio of the size of the original tree.

Councilmember Tell emphasized that the first challenge is to find out which trees the community wants to preserve and then figure out how to replace them rather than trying to address a fairly comprehensive program that will be more time consuming for staff.

In response to Council questions, Senior Planner Jester explained that it would be extremely difficult to enforce a trunk caliber, tree height and/or canopy ratio driven tree replacement because there are so many different factors to consider; that the community is reacting to the change from small houses with big trees to big houses with small trees; and that this is why staff is trying to preserve mature trees wherever it can.

Council continued discussion concurring that, with the exception of Mayor Pro Tem Ward, who was absent, they all agreed on the following sections of the proposed Tree Ordinance:

Emergency Removal; Trees on Adjacent Properties with the revision that a Tree Permit would not be required to trim the branches of a neighbor's tree; Trees Exempt From Protection; Street Side Yard Trees with the modification to add for new construction; Violations and Penalties; Right-of-Way Improvements; Purpose; and Miscellaneous Revisions and Abuse of Trees.

After lengthy discussion with Senior Planner Jester on *Protected Tree Size and Replacement Size*, City Manager Geoff Dolan suggested that staff would prefer that Council direct the issue back to the Planning Commission with the information provided in tonight's discussion. He suggested that staff place advertisements in the newspaper and invite residents to one or two subsequent Planning Commission meetings rather than put together a committee.

In response to Councilmember Aldinger's concern about sending this item back to the Planning Commission, Mayor Fahey suggested, and the majority of Council concurred, that they would support staff notifying those individuals who spoke on the issue this evening and advertising the Planning Commission agenda that the issue will appear on. Mayor Fahey concluded by stating that if no one from the community shows up at the Planning Commission, then it may be back before the Council and maybe "this is as good as it gets".

Councilmember Montgomery suggested that when the tree issue comes before the Planning Commission, it should be the first item on the agenda.

City Manager Dolan stated that staff will follow Council's direction and discuss several alternatives.

RECESS AND RECONVENE

At 8:29 p.m. the Council recessed and reconvened at 8:41 p.m. with all Councilmembers present, with the exception of Mayor Pro Tem Ward.

GENERAL BUSINESS

05/0920.15 Consideration of Recommendations from the City's Sub-Committee Regarding Recognition Opportunities in the Blu Moon Marketing Partnership Proposal

Parks and Recreation Director Richard Gill reviewed how Blu Moon Marketing was selected through a Request for Proposal process to help to increase corporate sponsorships of City sponsored events. He explained that after Blu Moon's initial presentation last June, a subcommittee consisting of Councilmembers Tell and Aldinger and Commissioners Sharon Greco (Cultural Arts) and Portia Cohen (Parks and Recreation) was formed to review Blu Moon's proposal and that those items in need of discussion and direction will be presented tonight.

Leslie Berliant and **Judy Diethelm** of **Blu Moon Marketing** addressed Council with examples of over-the-street banners, signs and plaques (Attachment D of their Marketing Plan) listing sponsor names and City's logos only, and explained the Partner Guideline Recommendations (Attachment C).

In response to Councilmember Tell, Parks and Recreation Director Gill confirmed that the subcommittee will oversee the quality control of giveaways.

The following individuals spoke on Attachments C & D of this item:

- **Gary Osterhout, 500 Block of 31st Street**

City Council Meeting Minutes of September 20, 2005

- **Patrick McBride, 5th Street & Peck**

Council concurred to approve Attachments C & D of Blu Moon's proposal.

Parks and Recreation Director Gill reviewed the Sponsor Benefits (Attachment B) conveying that the subcommittee wanted to bring the first eight items to the Councils attention; however, they are seeking direction on the remaining nine items.

Council held discussion with Parks and Recreation Director Gill and **Ms. Berliant** and **Ms. Diethelm** regarding allowing sponsors to: receive written invitations from the City to City sponsored events; have their company listed on a City map for distribution on the Ocean Express shuttle; receive acknowledgement at renovated tennis courts; receive acknowledgement and recognition as a sponsor of a Manhattan Beach Parks Nature Coloring Book; receive recognition of plaque or sign at select City parks as an "Annual Sports Fan"; have an opportunity to sell *Concerts in the Park* posters; allow them to give their company information to Dial-a-Ride users; receive recognition on donated items; and receive recognition on co-logoed items as an annual sponsor at City events.

The following individuals spoke on Attachment B of this item:

- **Gary Osterhout, 500 Block of 31st Street**
- **Patrick McBride, 5th Street & Peck**

Councilmember Tell expressed concern that some sponsors may perceive invitations to city events as a way to gain greater access to elected City officials.

Mayor Fahey stressed that the Chamber of Commerce and Downtown Business and Professionals Association already promote the City's businesses and voiced her apprehension over advertising City parks and schools on maps to visitors.

Following additional discussion, Council concurred to approve Attachment B with the exception of the following revisions: allowing sponsors to receive invitations to select City sponsored events, subject to the discretion of the subcommittee and to move forward with a discussion with Ocean Express on a Manhattan Beach Map with the exception excluding City parks and schools.

Parks and Recreation Director Gill clarified that Attachment A was presented and approved by the Council on June 21st of this year with the exception of those items that the subcommittee thought were more sensitive (Attachments B, C and D) and also stressed that Attachment A mirrors what the Parks and Recreation Department currently does in terms of marketing.

The following individuals spoke on Attachment B of this item:

- **Gary Osterhout, 500 Block of 31st Street**
- **Viet Ngo, No Address Provided**
- **Patrick McBride, 5th Street & Peck**

Mayor Fahey commented that she is very pleased with the program and believes it reflects the communities' views.

Councilmember Tell emphasized that the objective of this program is to improve on what the City is already doing in terms of marketing and to do it in a tasteful manner that satisfies the residents.

MOTION: Councilmember Aldinger moved to approve the recommendations from the City’s subcommittee regarding recognition opportunities in the Blu Moon Partnership Proposal, as amended. The motion was seconded by Councilmember Montgomery and approved by the following unanimous roll call vote:

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

WITH COUNCIL CONSENSUS, THE FOLLOWING ITEM WAS TAKEN OUT OF ORDER.

05/0920.19 Update on Relief Efforts for the City of Pascagoula, Mississippi and Discussion of Next Steps

As Councilmember Aldinger reviewed how the City of Pascagoula, Mississippi was chosen by residents of Manhattan Beach to help in the recovery efforts in the aftermath of Hurricane Katrina, Councilmember Montgomery along with **Francey Seckinger** (one of the “We Care: From the California Coast to the Gulf Coast” organizers) gave a PowerPoint presentation of their trip to Pascagoula.

Mayor Fahey, on behalf of the residents of Manhattan Beach, presented Councilmembers Aldinger and Montgomery and **Francey Seckinger** with certificates for “Extraordinary Citizenship” for creating and organizing the “We Care: From the California Coast to the Gulf Coast” Hurricane Relief Effort.

Stating that she believes there maybe some reluctance on behalf of Mayor Pro Tem Ward, Mayor Fahey suggested waiting until he is in attendance to vote on whether to temporarily adopt the City of Pascagoula, Mississippi.

Council concurred to wait until Mayor Pro Tem Ward was present.

05/0920.16 Status Report Regarding the Underground Utility Assessment Districts 2, 4 and 6 and Direction to Continue Discussions Regarding Pricing

Remarking that it was a good decision to dedicate a single person to the Underground Utility issue, City Manager Geoff Dolan introduced Senior Civil Engineer Stephanie Katsouleas commenting that she has been keeping the pressure on and getting to know all of the “players” involved.

Senior Civil Engineer Katsouleas addressed Council with a PowerPoint presentation on the status of Underground Utility Assessment Districts (UUAD) 2, 4 and 6. She reviewed how the Districts were formed and explained that after residents of these Districts reviewed the plans, the City requested that the utility companies (Edison, Verizon and Adelphia) provide quotes for the construction costs. She reviewed the original schedule and explained that because the quotes were so much higher than expected, the initiating of proceedings, originally scheduled for this evening’s meeting, was delayed. She explained that, at this point, the City decided to delay release of the Engineers Report, and enter into discussions with the utilities to determine why the costs were so high and encourage them to provide a lower quote. Pointing out that the utilities grossly underbid the previous three Districts, she detailed the reasons why their quotes were so high and explained that, legally, the utilities could not make up for that loss on these new Districts. She discussed that, under Option 1, the City, on behalf of the District residents, could secure fixed quotes from all

three utilities; however, this option was exercised already and has led to Verizon providing a quote based on a worst case scenario. She added that Option 1 one uses the current figures with the potential for a refund from Verizon at the end of construction, however, additional costs associated with going to bond would not be refunded. She explained that Option 2 frees Verizon and Adelphia of liability for their bids should they be lower than actual costs; provides residents with lower assessments; open-market bids would be obtained prior to selling bonds so that the real costs would be known; and, additionally, the City's construction contingency would be offered to cover cost overruns if needed. She also pointed out that the project could be cancelled if the open market bids are higher than the assessments collected and that staff is looking into the legality of how this fits into the Proposition 218 guidelines. She recapped Option 2, which is staff's recommendation, reporting that there is no financial risk to the City; that the utilities will provide new, lower quotes which will result in lower assessments presented to residents and thus increase chances for the Districts to form; that actual construction prices will be known before the Districts are formed; and that the City will determine whether the assessments collected were enough to cover actual construction costs prior to selling bonds and forming the Districts. She explained that the disadvantages are that Verizon and Adelphia would not be locked into their initial quotes, and thus assume no financial risk; that results of open market bids dictate whether construction will commence; and that residents are not guaranteed a project even if the District passes if the costs are higher than the total assessments approved.

City Manager Geoff Dolan clarified that with Option 2, the cost per home is materially less, therefore the likelihood of the assessment passing is greater and there is no risk to the City, versus Option 1 which has less likelihood of passing due to the higher assessments calculated.

Senior Civil Engineer Katsouleas continued her presentation by discussing how the disadvantages could be mitigated and revealed that the new proposed schedule would delay the District formation proceedings by two to four weeks from the original schedule.

The following individuals spoke on this item:

- **Paul Gross, No Address Provided**
- **Martha Andreani, No Address Provided**
- **Karol Wahlberg, No Address Provided**
- **Viet Ngo, No Address Provided**

In response to an audience member's comment, Mayor Fahey clarified that the people who vote on this issue are the people within each District.

City Attorney Robert Wadden clarified that these are revenue bonds issued by the District, not by the City, and are based on the revenue stream created by the assessment.

Councilmember Aldinger expressed his concern over how to get these Districts formed and stressed that the City should try to "come in" with the lowest price possible.

Senior Civil Engineer Katsouleas pointed out that, even knowing the high costs, the District leaders are actively campaigning.

Stating that he lives in District 4, Councilmember Tell confirmed that the District leaders have been "calling around" and that, after the initial "sticker shock", they are emphasizing that the financing can be spread over a twenty-year period as part of residents' annual property tax bills.

With the exception of Mayor Pro Tem Ward, who was absent, Council concurred that they were in favor of Option 2.

City Manager Dolan acknowledged that the staff will bring Option 2 back to the next City Council

meeting on October 4, 2005 for approval.

RECESS AND RECONVENE

At 11:08 p.m. the Council recessed and reconvened at 11:15 p.m. with all Councilmembers present, with the exception of Mayor Pro Tem Ward.

05/0920.17 Consideration of the Police & Fire Facility / Metlox / Public Improvements Project Status Report and Disbursement of Progress Payment #18 in the Net Amount of \$1,632,988 to Swinerton Builders

Deputy City Manager Sherilyn Lombos briefly reviewed that approval of this progress payment would put the contract at 71% completion; that Council approved extending the contract amendment with Swinerton Builders to October 31, 2005 for substantial completion; that some schedule slippage of the contract was brought forth during the last update; and, therefore, Council asked that Swinerton attend tonight's City Council meeting to speak about the construction progress. She then introduced Dave Caveche and Bob Hodges from Swinerton Builders and pointed out that Frank Hundley and Moshir Kallada from Vanir Construction Management and Charles Smith from Hellmuth, Obata & Kassabaum (HOK) were also in the audience.

Mr. Caveche, Operations Manager for Swinerton, commented that the Police & Fire Facility is a very challenging and complex project and that although Swinerton has a good working relationship with the City, HOK and Vanir, unfortunately, the schedule has slipped and the latest projection for move-in is the end of December, 2005. He explained that Swinerton has an incentive to complete the job because it is the only way they will get paid and they want to do it well because they would like to ask for and receive a letter of recommendation from the City of Manhattan Beach. He spoke of factors beyond Swinerton's control stressing that when they don't get completed on time, they push the project schedule out and because of that, Swinerton is now, essentially, donating its services, free of charge. He revealed that they need to get their Senior Superintendent and Senior Project Manager on to other projects, however, assured Council that Swinerton is doing everything feasible to get the project completed as soon as possible. In conclusion, **Mr. Caveche** recapped that current projections indicate that move in will take place by the end of December, however, from his personal perspective, it will more than likely be the middle of January.

In response to questions by Councilmember Aldinger, **Mr. Caveche** stressed that daily meetings are held with the construction management team; that they want to make sure that nothing gets missed; and that the features that could impact the project are the upgraded case work (cabinets and countertops) and the water feature.

Bob Hodges, Senior Superintendent for Swinerton, added that while the performance of the cabinetry subcontractor has not been great, he was the low bidder and the fact that they are still waiting on the "shop drawings" is one of the reasons for the 10-week slippage.

City Manager Geoff Dolan stressed that the nature of public projects is that you have to accept the low bidder and that it isn't easy to replace a subcontractor even if their performance is poor.

Council held discussion with **Mr. Caveche** and **Mr. Hodges** regarding the scope changes that added additional work to the project, the increased manpower on site and the possibility of picking up some of the lost time during other processes. The discussion revealed that some scope changes required ordering of additional materials which added time; that contractors and subcontractors are working overtime; that following the case work, the next significant tasks will be plumbing, tile and dry weather flow; that Councilmember Montgomery will attend Swinerton's scheduling meetings; and that Swinerton will give Vanir a weekly status update on

the project in addition to their current daily meetings.

The following individuals spoke on this item:

- **Martha Andreani, No Address Provided**
- **Patrick McBride, 5th Street & Peck**
- **Viet Ngo, No Address Provided**

MOTION: Councilmember Aldinger moved to receive and file the status report on the Police & Fire Facility / Metlox / Public Improvements Project and approve issuance of the subject progress payment. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote.

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

Councilmember Aldinger encouraged Swinerton to contact staff for help if there is anything they can do and emphasized that everyone wants to get the project finished as soon as possible.

05/0920.18 Consideration of City Council Work Plan Item Regarding Residential Construction Issues

With Council Consensus, this item was continued to the October 4, 2005 City Council Meeting.

ITEMS REMOVED FROM THE CONSENT CALENDAR

None.

AUDIENCE PARTICIPATION

05/0920.28 Viet Ngo Re Alleged Council Violations

Viet Ngo, No Address Provided, reminded the Council that they removed a City Commissioner for being untruthful on her application form and stated that Councilmember Aldinger should consider resigning for the same reason. He also alleged that Mayor Fahey committed an election law violation and suggested that she should also resign.

05/0920.29 Patrick McBride Re Senior Facilities

Explaining that he was given incorrect information regarding seniors paying rent for the use of City facilities, **Patrick McBride, No Address Provided** apologized for bringing the issue up during a discussion at the last Council meeting.

Mayor Fahey stressed that no apology was necessary as the issue opened the door for a very important discussion.

He spoke about the subject of utilization of senior facilities and his hope that obtaining any available senior facility opportunities will be addressed before the six month time frame that it is currently scheduled for.

05/0920.30 Martha Andreani Re Process

Martha Andreani, No Address Provided, thanked the Council for initiating the process of bringing the Police & Fire Facility contractors to speak directly to the public regarding the status of the project.

CITY MANAGER REPORT(S)

None.

OTHER COUNCIL BUSINESS & COMMITTEE REPORTS

05/0920.19 *Update on Relief Efforts for the City of Pascagoula, Mississippi and Discussion of Next Steps*

THIS ITEM WAS TAKEN OUT OF ORDER. SEE GENERAL BUSINESS.

05/0920.20 *Request by Councilmember Aldinger to Authorize the Mayor to Sign a Letter of Support to the Southern California Association of Governments Regarding the California Regional Blueprint Planning Grant Program*

Councilmember Aldinger briefly explained that a new \$5 million dollar Regional Blueprint Planning Grant has become available in order to help regions implement voluntary growth plans; that the Southern California Association of Governments (SCAG) Regional Council directed its staff to apply for this grant; and that he is requesting that Manhattan Beach send a letter of support to SCAG signed by the Mayor.

Council, with the exception of Mayor Pro Tem Ward, who was absent, concurred to send a letter of support.

ADJOURNMENT

At 12:12 a.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, October 4, 2005, in said City.

TERRI ALIABADI
Recording Secretary

JOYCE FAHEY
Mayor

ATTEST:

LIZA TAMURA
City Clerk

**CITY OF MANHATTAN BEACH
MINUTES OF THE CITY COUNCIL
ADJOURNED REGULAR MEETING
SEPTEMBER 20, 2005**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 20th day of September, 2005, at the hour of 5:33 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City.

ROLL CALL

Present: Tell, Aldinger, Montgomery and Mayor Fahey.
Absent: Ward.
Clerk: Wadden (Acting).

CLOSED SESSION

The Council recessed into Closed Session at 5:33 p.m. and moved to open session at 6:28 p.m.

ADJOURNMENT

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

ROBERT V. WADDEN, JR.
Recording Secretary

JOYCE FAHEY
Mayor

ATTEST:

LIZA TAMURA
City Clerk