

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
REGULAR MEETING OF  
AUGUST 2, 2005**

The Regular Meeting of the City Council of the City of Manhattan Beach, California, was held on the 2<sup>nd</sup> day of August, 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**

Public Works Director Neil Miller led the pledge of allegiance.

**ROLL CALL**

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

**CEREMONIAL ITEMS**

05/0802.1 Introduction of Steven A. Napolitano as the Newly Appointed Deputy to Los Angeles County Supervisor Don Knabe

Mayor Fahey welcomed former Councilmember Steven A. Napolitano as the newly appointed Deputy to Los Angeles County Supervisor Don Knabe, acting as liaison to the beach cities.

Deputy Napolitano explained that Supervisor Knabe presented him with a unique opportunity to take over for Deputy Tom Martin, who is battling cancer. Wishing Mr. Martin a speedy recovery, he commented that he would be the acting liaison for the beach cities. He expressed bittersweet enthusiasm about taking over with Tom in his condition, and said that he is very excited at the opportunity to have another chance to help out the South Bay and certainly Manhattan Beach, his hometown. He encouraged the public to contact him at the Torrance Courthouse at (310) 222-3015 if they have any concerns or issues.

**CONSENT CALENDAR**

The Consent Calendar (Item Nos. 2 through 10), consisting of items under *General Consent* and *Boards and Commissions*, was approved by motion of Mayor Pro Tem Ward, seconded by Councilmember Aldinger and passed by unanimous roll call vote with the exception of Item No. 3, which was considered later in the meeting under *Items Removed from the Consent Calendar*.

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

**GENERAL CONSENT**

05/0802.2 Approve Minutes of the City Council Adjourned Regular and Regular Meeting of July 19, 2005

The Council approved the subject minutes.

05/0802.3 Approve Minutes of the Adjourned Regular Joint City Council / Planning Commission Meeting of July 26, 2005

Item No. 3 was pulled from the "CONSENT CALENDAR". Please refer to "ITEMS REMOVED FROM THE CONSENT CALENDAR."

05/0802.4 Consideration of the State Budget and Legislative Update from Shaw / Yoder, Inc., the City's Legislative Advocate

The Council received and filed the August Budget and Legislative Update from Shaw / Yoder, Inc.

05/0802.5 Consideration of Financial Reports:

a) Ratification of Demands: July 28, 2005

b) Preliminary Financial Reports for the Month Ending June 30, 2005

The Council approved with no exception Warrant Register No. 29B and 3B in the amount of \$3,446,849.60 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 and received and filed the Preliminary Financial Reports for the month ending June 30, 2005.

05/0802.6 Disbursement of Progress Payment No. 4 in the Net Amount of \$161,873.01 to S.P. Pazargad Engineering Construction, Inc. for the Strand Improvement Project

The Council approved the issuance of the subject progress payment.

05/0802.7 Award an Engineering Design Services Contract to Daniel Boyle Engineering, Inc. for the Peck Reservoir Water Blending Line Project in an Amount Not-to-Exceed \$83,568

The Council approved awarding an engineering design services contract to Daniel Boyle Engineering, Inc. for the Peck Reservoir Water Blending Line Project in an amount not-to-exceed \$83,568.

05/0802.8 Award an Engineering Design Services Contract to Daniel Boyle Engineering for the 2004-2005 Water Main Replacement Project in an Amount Not-to-Exceed \$42,390

The Council approved awarding a professional engineering design services contract to Daniel Boyle Engineering for the 2004-2005 Water Main Replacement Project in an amount not-to-exceed \$42,390.

05/0802.9 Rescind Award of Engineering Services Contract to Boyle Engineering Corporation and Award an Engineering Services Contract to Brockmeier Consulting Engineers, Inc. for the Water/Sewer/Storm Drain Control Conversion Project in an Amount Not-to-Exceed \$512,690

The Council approved rescinding the award of an engineering services contract to Boyle Engineering Corporation for the Water/Sewer/Storm Drain Control Conversion Project in an amount not-to-exceed \$535,179; approved the award of an engineering services contract to Brockmeier Consulting Engineers, Inc. for the Water/Sewer/Storm Drain Control Conversion Project in an amount not-to-exceed \$512,690; and approved authorizing the Director of Public Works to approve additional work in an amount not-to-exceed \$50,000, if required.

## **BOARDS AND COMMISSIONS**

### **Cultural Arts Commission**

#### **05/0802.10 Consideration of Draft Minutes, Cultural Arts Commission Meeting of July 12, 2005**

The Council received and filed the subject draft minutes.

## **COMMUNITY ANNOUNCEMENTS**

#### **05/0802.17 Police Chief Klevesahl Re Community Police Academy**

Police Chief Ernie Klevesahl announced that the 5<sup>th</sup> Community Police Academy class will begin on September 8, 2005, and invited members of the community to turn in applications.

#### **05/0802.18 Police Chief Klevesahl Re "Third Row Seat Bandits"**

Police Chief Ernie Klevesahl warned the community about thieves that are stealing "third row seats" from SUVs; reminded everyone to lock their cars; and recommended that the owner's etch their driver's license numbers into the bottom of the seat in case their "third row seat" is recovered by the Police.

#### **05/0802.19 Parks and Recreation Director Gill Re Upcoming Events**

Parks and Recreation Director Richard Gill announced that the International Surf Festival will take place in Redondo Beach, Hermosa Beach and Manhattan Beach on August 5-7, 2005; and that the Manhattan Beach Grand Prix Bike Race will take place on August 14, 2005.

#### **05/0802.20 City Engineer Greenwood Re Construction Projects**

City Engineer Dana Greenwood announced the commencement of several construction projects throughout the City, including but not limited to the replacement of water mains on Oak Avenue, Pine Avenue and Walnut Avenue between 27<sup>th</sup> Street and Marine Avenue; a sewer main replacement on 28<sup>th</sup> Street between Highland Avenue and Grandview Avenue; and the installation of new signals at 15<sup>th</sup> Street and Valley Drive as part of the new Police & Fire Facility / Metlox / Public Improvements Project.

He also noted that an update on the first phase of the Strand Reconstruction Project will be presented at the next City Council meeting.

#### **05/0802.21 City Engineer Greenwood Re \$1.6 Million in Highway Funds**

City Engineer Dana Greenwood reported that \$1.6 million in funding for Manhattan Beach was recently approved in the Federal Highway Bill.

#### **05/0802.22 City Manager Dolan Re Vehicle License Fees**

City Manager Geoff Dolan announced the reimbursement of \$615,000 from the State for Vehicle License Fees, a year in advance of the promised date.

## **PUBLIC HEARINGS**

None.

## **GENERAL BUSINESS**

### *05/0719.15-11 Presentation of a Staggered Parking Restriction Program with Resident Override in the Areas Adjacent to Mira Costa High School*

City Manager Geoff Dolan thanked and commended City staff for their hard work on preparing the Staggered Parking Restriction Program which Council directed only two weeks ago and introduced City Traffic Engineer Erik Zandvliet, who noted that the proposed plan is ready to be implemented upon approval, with the fee resolution to be approved at the next City Council meeting.

Traffic Engineer Zandvliet addressed Council with a PowerPoint presentation on the proposed Staggered Parking Restriction Program for residential areas adjacent to Mira Costa High School. He explained that the proposed program is meant to discourage student parking in the areas around Mira Costa High School while still allowing some less-restrictive parking for residents. He reviewed the program highlights outlined in the staff report and the design of the no-parking signs adding that they will conflict one day per week with street sweeping signs making it inconvenient for students to park there.

In response to Mayor Fahey's inquiry regarding whether the opt-in/opt-out provisions for staggered parking are the same as those for street sweeping and her suggestion that this information be included when explaining the new parking program to residents, Traffic Engineer Zandvliet explained that streets can opt-out of street sweeping as well and agreed to present the information at the same time the opt-in/opt-out information for staggered parking is distributed.

Traffic Engineer Zandvliet reviewed the application process to opt-in to the program, pointing out that the program is set up to coincide with street sweeping wherever possible and emphasized that the parking tags do not override street sweeping restrictions. He reported that there is no fee for filing a petition but there is a \$25 charge per tag annually to cover administrative costs; pointed out that six tags will be issued for the nursery school on Nelson Avenue to be reviewed in six months; and commented that the two-hour parking restrictions may be removed from Peck Avenue near this location. He explained that the proposed Resolution is flexible to allow for special conditions; that the program can be effective immediately upon adoption; that the Fee Resolution Public Hearing is scheduled for the next City Council meeting on August 16, 2005; and that staff will provide an update in a few months to keep Council informed.

In response to Councilmember Montgomery's concerns, Traffic Engineer Zandvliet stated that application forms will be available on the City's website; that the 8:00 a.m. to 10:00 a.m. hours could be adjusted, if desired; and that the apartment building next to McDonald's is ineligible for the permit.

Council discussed the purpose of tying the permit to specific vehicles, issuing up to three permits per household, or requiring the residents to provide vehicle information of the vehicles they wish to have tags for.

Explaining that staff considered various options, City Manager Dolan recommended that permits be connected to a specific vehicle in order to protect residents and not create a "black market" for the parking permits. He added that restrictions can always be made less restrictive, but pointed out that it is more difficult to make them more restrictive down the line.

In response to Mayor Fahey's inquiry regarding how the residents would be notified of the proposed plan, City Manager Dolan stated that staff will send out an orange notice to the eligible area telling them what the permit process entails, as well as posting it on the City's website, to ensure that all eligible residents are aware of the program. He also added that the conditions will be listed on the petition so the signers will know what they're signing.

Traffic Engineer Zandvliet explained that, once approved by a neighborhood, a notice will go to all residents informing them that the street has opted-in and the process they need to follow to obtain permits.

In response to Councilmember Aldinger's inquiry regarding the number of parking spaces that will still be available for students on campus, Traffic Engineer Zandvliet reported that he recently met with the new principal of Mira Costa High School regarding a loading zone and parking issues on campus and was informed that the school has reassigned approximately 40 staff parking spaces to student parking in addition to the 500+ parking spaces already available.

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

- **Ken Manire, 1500 Block of Voorhees Avenue**
- **Brian Schnuckel, 1600 Block of Nelson Avenue**
- **Terry Gretskey, No Address Provided (Representing the nursery school on Nelson Avenue)**
- **Janet Blaschke, 1600 Block of Nelson Avenue**
- **Laura Dotson, 500 Block of 35<sup>th</sup> Street**

In response to questions from the public, City Traffic Engineer Zandvliet explained that the two-hour parking restrictions will be removed from Peck Avenue.

In response to questions regarding the location of the signs, City Manager Dolan explained that all signs will be installed on existing posts and the six permits issued to the pre-school for staff will not be tied to specific cars. He also stated that since this is a new program, there will be the ability to make changes, based on feedback, and the plan will be reviewed by Council in the fall.

Council held further discussion regarding the need for permits for caretakers, nannies, and others who work at the home but whose car is not registered to the home or possibly having two permits tied to vehicles and one guest permit that is not tied to a vehicle.

In response to Mayor Fahey's review of e-mailed suggestions made by **Sandra Seville-Jones**, City Attorney Robert Wadden responded that the eligible streets are clearly identified in the Resolution, therefore, it is not necessary to change the wording; that the percentage of 66.6% is the same for opting in as for opting out; and that the words "for cause" should be eliminated in the clause that allows the City to terminate the program at any time.

In regard to **Ms. Seville-Jones'** suggestion that staff review the reason why motor homes are ineligible for permits, and following some discussion, Council agreed that motor homes should not be eliminated from eligibility.

Mayor Pro Tem Ward commented that the proposed plan is a good start; agreed with Mayor Fahey that the program should be reviewed sooner than three months if there are several complaints; noted that he would like to allow guest parking in addition to two permits per residence; and expressed appreciation that the nursery school issues have been addressed.

In response to Councilmember Montgomery's inquiry whether more Community Service Officers (CSOs) would be needed in order to administer this program, City Manager Dolan explained that any new parking enforcement program causes the CSOs to be in one area instead of where they were before; noted that the costs for CSOs are generally paid for by citations; and stated that if it is determined that there is a need to add more CSOs, staff will return to Council with a request for funding of additional CSOs.

Councilmember Tell thanked staff for a well-thought out, detailed plan in a short time.

**MOTION:** Councilmember Aldinger moved to approve implementation of a staggered parking restriction system with resident override in the neighborhoods surrounding Mira Costa High School and adopt Resolution No. 5992, as amended to delete the words "for cause" [on Page 2 – Section 2 (e)] and delete the reference to "motor homes" [on Page 1 – Section 2 (d)]. The motion was seconded by Mayor Pro Tem Ward and passed by the following unanimous roll call vote:

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

#### **RESOLUTION NO. 5992**

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, ESTABLISHING A STAGGERED PARKING PROGRAM WITH RESIDENT OVERRIDE DURING THE SCHOOL YEAR FOR SPECIFIED AREAS IN THE VICINITY OF MIRA COSTA HIGH SCHOOL**

Emphasizing that this is an important issue, Mayor Fahey allowed an additional late speaker to comment.

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

- **Dilip Adarkar, No Address provided**

In response to comments from **Mr. Adarkar** regarding linking the parking tag to the address rather than the license plate so guests will be able to use the permits, Mayor Fahey explained that this option would be considered when the item comes back for Council consideration.

05/0802.12 Consideration of a Status Report on the Police and Fire Facility, an Agreement Between the City and Swinerton Builders Regarding Construction Completion Including a Contract Amendment and a Change Order in the Amount of \$160,025, and Allocation of \$755,000 from the Project Budget for City Hall Exterior and Interior Improvements

Deputy City Manager Sherilyn Lombos explained that, as previously reported, the Police & Fire Facility project is several months behind schedule for a number of reasons, however, an agreement has been reached with Swinerton Builders which requires Council approval because it exceeds the \$100,000 threshold for committee approval. She noted that the action requested tonight is for conceptual approval of the agreement, and that the final document will be brought back for Council approval once it is finalized. She reviewed the history of the relationship between the City and Vanir Construction Management (the City's Construction Management

Consultant) and introduced **Moshir Kellada, Project Director for Vanir Construction Management**, who was called to fill in for Project Manager Brian Nelson, who was affected by a personal family tragedy. She explained that staff believes there will be just over \$1 million available at the end of the project and that tonight's request includes approval of an expenditure of \$755,000 from the project budget to be used for exterior and interior improvements at City Hall to tie in with the new Police & Fire Facilities. She noted that the Police & Fire Subcommittee, consisting of Mayor Pro Tem Ward and Councilmember Montgomery, met on July 21, 2005, and unanimously agreed to recommend approval to the City Council.

**Mr. Kellada** reviewed his involvement with the project and thanked the City for the opportunity to be a part of the project. He addressed Council with a PowerPoint presentation summarizing the project schedule, including the original completion date and problems encountered which prevented the completion of the project on time. He noted that Swinerton initially requested an 81-day extension, but following lengthy negotiations, the recommendation is to extend the contract by 66 days to October 31, 2005, for substantial completion. He explained that the agreement provides for 37 compensable days at \$4,325 per day, for a total of \$160,025 and resolves outstanding issues up until the date of the agreement; but excludes issues out of Swinerton's control going forward, such as procurement of materials. He defined "substantial completion" as the building being ready for occupancy with all systems operable with a "punch list" of corrections of any items that need correcting. He explained that final completion is estimated for some time near the end of the year and an addendum to the contract clarifying these two issues will be brought to Council for approval. **Mr. Kellada** explained that the recommendation is based on several issues, including but not limited to: 37 inches of rain which created severe inconvenience and destruction, unsafe conditions, flooding, and delays in the backfilling, compaction and waterproofing operation. He noted that one day of rain can cause more than a week of delay; that ordering and acquiring concrete during a heavy rainy season is severely affected; and that approximately 13,000 cubic yards of concrete have been poured thus far. He explained that the weather impacted the critical activity of grading and excavation prior to pouring the foundation and pushed the project back by several days. He noted that, considering the size and complexity of this project and compared to industry standards, the impact of change orders has been relatively small (less than 3% of change orders thus far and approximately 5% estimated upon completion). With regard to errors and omissions in contract documents, he explained that the argument centers on accountability and that while it is assumed that the services will be provided free of mistakes, if mistakes are made, they will be paid for. He continued stating that the nature of the relationship between an owner and designer is such that there is no guarantee of a perfect plan; and that architects and engineers are expected to use care in their design but that this information is not always made clear to owners. He noted that; for more than a century, services provided by architects are legally considered the same as physicians and lawyers - architects are expected to apply their knowledge and experience in a manner that best serves their clients but they cannot guarantee the results of their services. He stated that the August 26, 2005, completion date is unrealistic and pointed out that while there will not be any more weather delays; he still cannot guarantee that the project will be completed on time. He explained why a settlement agreement at the end of the project is not in the best interest of the owner; that without a deadline, there is no incentive for the contractor to push the project to completion; that it is very difficult to resolve claims at the end of a project; that the probability of a claim becoming a lawsuit is greater; and that Vanir believes the settlement is in the best interest of the City. **Mr. Kellada** concluded by reviewing the project management tools used, including: continuing to update and monitor the schedule; maintaining cooperation and teamwork; continuing open communication; ensuring prompt turnaround by architects and engineers; sustaining a proactive approach by all team members; and continuing to provide the maximum information to the community and keeping the client involved.

In response to Councilmember Tell's comment that, in the past it was discussed that Swinerton would pay a penalty if the project was delayed and what circumstances would necessitate Swinerton having to pay the City rather than the other way around, **Mr. Kellada** explained that Swinerton would have to pay the City if the delays encountered were due to circumstances under their control. He explained that the final agreement was the result of negotiations following an analysis and study of the history of the project and that there were several counter-offers resulting in the final agreement.

In response to Councilmember Tell's inquiry regarding future liability now that the new deadlines have been set, **Mr. Kellada** reiterated that it is possible that the City could end up paying again if the delays are not Swinerton's fault. He added that liquidated damages of \$5,000 per day will apply if the project is not substantially completed by October 31, 2005, only if it is due to Swinerton's own delays.

City Manager Dolan restated that the proposed settlement takes care of all outstanding claims to date; that Vanir's best negotiated settlement provides for a clean slate, but there is risk going forward; and that the risk is there whether the City settles now or not, since Swinerton will keep adding to the claims. He emphasized that staff is doing everything possible to keep the Subcommittee informed of potential issues.

In response to City Manager Dolan's inquiry, **Mr. Kellada** stated that this project is below normal with regard to change orders and claims and defined the term "substantial completion" as work that does not prevent the owner from occupying the building; exterior non-critical work that will not affect the use of the building and "final completion" is true completion of "punch list" items.

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

- **Bill Eisen, 3500 Block of Crest Drive**
- **Dan Stern, No Address Provided**
- **Martha Andreani, 100 Block of 10<sup>th</sup> Street**

In response to comments made by **Mr. Eisen**, City Attorney Robert Wadden explained that a gift of public funds is not applicable in the settlement of a good-faith dispute and that the City bears the overhead responsibility if the delays are caused by design problems or change orders requested by the owner.

In response to questions from **Mr. Stern** regarding why it is best to settle now and not wait until the end of the project, **Mr. Kellada** explained that he believes that October 31, 2005, is a realistic date and that a shorter deadline is not feasible or practical, based on experience and the manner in which materials are procured.

In response to a request for his viewpoint on the settlement, City Attorney Wadden stated that while **Mr. Kellada** has good reasons for recommending a settlement, from a lawyer's point of view, he believes it is advantageous to wait until the end, but from a practical point of view, **Mr. Kellada** is probably correct.

In response to Mayor Pro Tem Ward's inquiry regarding the incentive for the contractor to settle now as opposed to waiting until the end of the contract, **Mr. Kellada** explained that if the City waits until the end of the project to settle the disputes, the contractor will keep adding to the claim and the end may very well be close to half a million dollars. He also emphasized that the proposed settlement includes all past claims and they cannot be brought up again.

Councilmember Tell voiced his concern regarding the narrow definition of “who is at fault”; whether the City is at risk based on the definition of “substantial completion” rather than “final completion,”; and that a delay of “substantial completion” to November 30, 2005, with “final completion” accomplished by December 31, 2005, could place the City at risk to pay the additional 30 days. He emphasized his preference to set the final completion date of December 31, 2005, without a shorter “substantial completion” date, noting that there could still be substantial completion but not in specific terms that allow for damages if this deadline is not met.

In response to Mayor Fahey’s suggestion that October 31, 2005, be a goal rather than a legal definition of “substantial completion” in order to avoid the risk of liquidated damages after October 31, 2005, City Manager Dolan explained that this could create several additional problems including ordering furniture and paying the School District, HOK and Vanir for two additional months.

**Mr. Kellada** stated that the October 31, 2005, date was set because it is practical; it has incentive, it has a deadline, and will leave no unresolved issues to compound.

In response to Mayor Fahey’s request for legal input regarding whether the City would be open to more risk by including a term such as “substantial completion” that was not in the original contract, City Attorney Wadden stated that the contractor wants to be paid for their on-site costs and that lacking a definite deadline for substantial completion, they may decide to reduce their mobilization, thinking that they don’t need to put in the same intense effort or ask for additional compensation if the City pushes the date out.

Councilmember Aldinger argued that once the August 26, 2005, date passes, he believes the contractor may relax because they didn’t make their deadline and agreed that while it is good to have intermediate deadlines, he’s not sure it needs to be cast in stone as recommended.

Councilmember Montgomery reminded Council that this settlement wipes out all claims to date and pointed out that if there is no settlement now, the contractor will keep adding future delays to the 81 days they claim now.

City Manager Dolan stated that the terms of substantial completion will be brought back at the next meeting for final approval.

In response to questions regarding Vanir’s liability, City Attorney Wadden stated that all issues are beyond control of the Construction Manager and, therefore, they are not liable for liquidated damages.

In response to Councilmember Aldinger’s questions regarding remaining critical path items, **Mr. Kellada** reviewed the critical path issues for both inside and outside the building and reminded Council that the agreement includes the Resolution of all claims that are dated prior to the date of the settlement, including those that have not yet made it to the table.

In response to Councilmember Tell’s concern with the 37-day settlement because it appears the City is basically agreeing that they are at fault, City Attorney Wadden stated that the City is agreeing that it was not the contractor’s fault but not necessarily the City’s fault and that, based on contracts and case law, the owner bears most of the risk.

Mayor Fahey stated that both sides came together and determined that this is a reasonable conclusion and agreed that the delays were determined not to be the contractor’s fault but not

necessarily the City's fault.

In response to Mayor Pro Tem Ward's inquiry regarding the estimated cost to litigate 20 days of disagreement, City Attorney Wadden stated that it would cost at least \$100,000.

City Manager Dolan stated that when you look at the magnitude of the project and number of change orders, the staff and consultants have done a very good job and a very "public" job, noting that all decisions are documented and reported publicly.

**MOTION:** Mayor Pro Tem Ward moved to receive and file the subject status report on the Police & Fire Facility from the City's construction management firm, Vanir Construction Management, and approve an agreement between the City and Swinerton Builders regarding construction completion, which includes a contract amendment and a change order in the amount of \$160,025. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

### **RECESS AND RECONVENE**

At 8:55 p.m. the Council recessed and reconvened at 9:05 p.m. with all Councilmembers present.

Deputy City Manager Sherilyn Lombos addressed Council with a PowerPoint presentation reviewing the proposed Civic Center/City Hall Tie-In Project, which is a recommendation to allocate a portion of the available balance of the Police & Fire Facility Project Budget for new landscaping, lighting and painting to match the new Civic Center Plaza. She reviewed the proposed renovation as outlined in the staff report and noted that the renovation would be done in three phases and be contingent upon availability of funding from the Police & Fire Facility Project. She explained that the Public Works Department would coordinate and manage the work using in-house staff and contracting out other portions; that staff believes that the work can be completed for \$755,000, which includes a 10% contingency; that the majority of it would be completed at the same time as the new facility; and that while the Police & Fire Facility Subcommittee discussed this proposal in January, they wanted to wait until they felt more comfortable with the status of the project before recommending it for approval.

City Manager Dolan stated that the project is recommended in three phases: \$422,000 for landscaping of City Hall and the Library which will be completed at the same time as the Police & Fire Facility; \$206,000 to refurbish the City Council Chambers and lobbies; and \$57,000 for carpet and paint throughout City Hall.

In response to Councilmember Tell's concern that Vanir believes that there are potential problems and it appears the City would be spending savings that aren't there, Deputy City Manager Lombos stated that staff believes that it makes sense to have everything tie in at the same time.

City Manager Dolan added that, on the financial side, staff believes that the budget was conservative, even with Vanir's concerns addressed, and that there are interest earnings of \$475,000 available now.

In response to Councilmember Aldinger's inquiry regarding whether this proposal has been considered in conjunction with other Capital Improvement Projects for which the \$750,000 could be spent, City Manager Dolan stated that other projects were not considered mainly because \$40 million was allocated to this project and staff recommends that the savings be spent to improve City Hall.

Maintenance Supervisor Juan Price explained that much of this work is deferred maintenance including replacement of the 25-year old irrigation system; trees that were planted too close to the building and are now creating problems; and exterior lighting at City Hall that is non-functioning. He noted that the proposal is not a major refurbishment; they are basic maintenance projects to give City Hall a facelift that, if delayed much longer, will cause problems. He reviewed a proposed timeline, explained that demolition can be done in-house; that plantings will wait until after the exterior painting is completed; that Requests For Proposals (RFPs) contracts will need Council approval; and that the cost is estimated at \$6 per square foot.

Councilmember Montgomery pointed out that this is an internal refurbishment only, with no structural work and that cost-savings will be realized.

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

- **Karol Wahlberg, No Address Provided**
- **Martha Andreani, 100 Block of 10<sup>th</sup> Street**

In response to questions from **Ms. Wahlberg** regarding CIP funding, City Manager Dolan stated that it amounts to \$13 million of the \$40 million project. He pointed out that only \$500,000 out of the \$3 million contingency has been spent, and that staff has tried to project what will be left over.

Deputy City Manager Lombos added that the projection is to spend \$700,000 of the contingency by the end of the project.

In response to Councilmember Montgomery's inquiry whether any members of the public have ever asked to see change orders or invoices on the project, Deputy City Manager Lombos stated that only one person has asked to see the schedule but no one has asked for change orders or invoices.

In response to Councilmember Aldinger's inquiry regarding plans for the Good Stuff parking lot, City Manager Dolan stated that there is potentially going to be a new building where Good Stuff is, with office above and retail below, with landscaping tying into the new facility.

Councilmember Tell expressed concern with authorizing an expenditure of savings that have not yet been realized. He suggested that, because the project will be phased, the \$475,000 in interest could be allocated "now and then", as the budget is more defined, and that Council can decide whether to approve the remainder of the funding.

Mayor Pro Tem Ward expressed concern with completing the project piecemeal, noting that it could end up costing a lot more in the long run.

Maintenance Supervisor Price stated that, because of other projects that the staff is committed to such as the Begg Pool and Joslyn Center; he is concerned that, unless the work is done now, it might be next summer before staff could get back to it.

Councilmember Aldinger commented that it would be nice to have this project “tied-in” and looking nice, but spending this kind of money without reviewing other CIPs doesn’t make sense.

Mayor Fahey suggested approving the exterior of the City Hall and Library in order to blend well with the rest of the project, while delaying the other portions that are not necessary at this time.

Mayor Pro Tem Ward agreed that starting the exterior of City Hall is important because of the aging infrastructure. He stressed that this is an excellent opportunity to make the building usable for a number of years and hoped that Council would move forward with the refurbishment of the City Council Chambers in the near future.

Councilmember Montgomery said he prefers to do all of the work at one time, noting that based on what the funding is allowed to be used for, this is the best use of these funds.

City Manager Dolan pointed out that scaffolding will already be up for repair of the City Hall roof, which was already approved, so it makes sense to do the other work that needs scaffolding at the same time. He suggested that Council allocate \$475,000 from the Police & Fire Project Construction Fund and authorize Phase 1 now, with Phases 2 and 3 to be approved in the future once funding is better understood.

**MOTION:** Councilmember Tell moved to approve Phase 1, an allocation \$475,000 from the Police & Fire Fund for City Hall exterior renovations, and appropriate \$475,000 from the Police & Fire Fund for those improvements. The motion was seconded by Mayor Pro Tem Ward and passed by the following unanimous roll call vote:

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

05/0802.13 Disbursement of Progress Payment No. 5 in the Net Amount of \$285,407.58, Approval of Change Order No. 1 in the Net Amount of \$193,000 to S.P. Pazargad Engineering Construction, Inc. for the El Porto Retaining Wall Project, and Approval of Supplemental Appropriation (\$178,000) from the Capital Improvement Program Fund Balance

City Engineer Dana Greenwood addressed Council with one PowerPoint slide reviewing the El Porto Retaining Wall Project as originally proposed and the details of Change Order No. 1 as outlined in the staff report. He reviewed the various options and problems encountered during construction of the new retaining wall and gave details of the first Change Order including removal of the failed portions of the wall and backfill, removal of the existing sidewalk and curb, and construction of a new curb and backfill material. He recommended that Council approve Progress Payment No. 5 in the net amount of \$285,407.58 and approval of Change Order No. 1 in the net amount of \$193,000 to S. P. Pazargad Engineering Construction, Inc.

In response to Mayor Fahey’s inquiry regarding the possibility of receiving assistance from Los Angeles County for this Change Order, City Engineer Greenwood reported that discussions have taken place and that there has been no response to the City’s request. He explained that the County Department of Public Works did the design on the project, noting on the plans that there is a nine-foot panel, leaving a lot of flexibility in the design; therefore, staff took the conservative approach and kept the cut-off depth constant.

In response to questions regarding the length of time it might take to hear back from the County and whether it would hurt the City's position to approve the funding and then ask the County to help pay for it, City Manager Dolan stated that funding for the wall would come from the Supervisor's Discretionary Fund as well as Proposition A Funds and that he believes that whether the City pays for it or not should not be a factor in deciding whether or not to ask the County to provide additional help.

There was no public comment on this item.

**MOTION:** Mayor Pro Tem Ward moved to approve disbursement of Progress Payment No. 5 in the net amount of \$285,407.58; approve Change Order No. 1 in the net amount of \$193,000 to S.P. Pazargad Engineering Construction, Inc for the El Porto Retaining Wall Project; and approve an appropriation of \$178,000 from the Capital Improvement Program Fund Balance. 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.

05/0802.14 Consideration of Converting All City Parking Meters to Accept Cash Key Operation

Public Works Director Neill Miller presented the staff recommendation for appropriation of \$20,000 for the purchase of hardware and other accessories necessary to convert parking meters to accept Cash Keys. He reviewed the purpose of Cash Keys, noting the advantages to both the user and the City as outlined in the staff report; explained that the pilot program included meters in the Pier Parking Lots, Parking Lot 3 and Lot M; and pointed out that most street parking meters are cash key ready but will need to be programmed. He explained that the Cash Key Program will be promoted by the Downtown Business and Professional Association; that the cost of implementation is minimal, that each meter that is not compatible will need to be manually reprogrammed, which will take time but will not add to the cost; and that the estimated completion date is December 31, 2005. He pointed out that all meters will be marked with a sticker explaining the availability of the Cash Keys; that an outreach program will be established in the future and that the meters can be audited in order to allocate the funds to the appropriate fund.

It was noted that the Manhattan Beach Downtown Businesses and Professional Association and the Manhattan Beach Chamber of Commerce are fully supportive of this program and that the meters will continue to accept coins as well as the Cash Keys.

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

- **Martha Andreani, 100 Block of 10<sup>th</sup> Street**

**MOTION:** Councilmember Aldinger moved to approve an appropriation of \$20,000 from the Parking Fund Reserves for the conversion of approximately 300 parking meters to accept Cash Key operation. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

Mayor Fahey suggested that the Cash Key Program be promoted at a booth at the Old Hometown Fair.

05/0802.15 Consideration of Potential Tax Liability for Future Underground Utility Assessments

Senior Civil Engineer Stephanie Katsouleas addressed Council with a PowerPoint presentation related to the Tax Liability Issue for future Underground Utility Assessment Districts (UUAD). She reviewed the Internal Revenue Service (IRS) Tax Reform Act of 1986, as specified in the ruling requested by Southern California Edison (SCE) and received from the (IRS) relative to UUAD 1, 3 and 5. She explained that based on the Tax Reform Act, the new system will not provide additional revenue; is not for new developments or new customers; falls within the public benefit exception; and that residents would not be taxed for underground utilities. She noted that the urgency now is for UUAD 2, 4 and 6 and that if there is going to be a tax liability component, it will need to be part of the assessment to be calculated prior to the vote. She explained that staff recommends that the City assume the financial risk, which means that the potential tax liability will not be included in the assessment; that the City must indemnify Southern California Edison of any liability; and that the likelihood of the district forming would be maximized because the overall assessment amount is as low as it can possibly be. She noted that if the tax were to be imposed at a future date, it is estimated at 18% cost of the total construction, or \$700,000 to \$800,000, but the likelihood of this happening is considered extremely remote based on the Tax Reform Act ruling, the current Private Letter Ruling and personal discussions with the IRS. Senior Civil Engineer Katsouleas reviewed the three options outlined in the memorandum; outlined what actions Hermosa Beach, Newport Beach and Laguna Beach took in their undergrounding districts; and recommended that the City should assume the financial risk.

In response to Council concern regarding the significant increase in cost for UUAD 2, 4 and 6 over UUAD 1, 3 and 5, Senior Civil Engineer Katsouleas explained that Southern California Edison had negotiated a 5-year contract that fixes their prices, but that the joint trench project with Verizon requires that they go to an open market bid, which will cause the cost to go up unless SCE contractors are already on the open market list.

There was no public comment on this item.

**MOTION:** Councilmember Aldinger moved to approve Option No. 1, to not include the potential IRS tax component in the final assessment presented to residents for all future Utility Underground Assessment Districts. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

05/0802.16 Consideration of Voting Delegate and Alternate Delegate for the League of California Cities' Annual Conference

Mayor Fahey stated that while it has been the City's practice that the Mayor be the voting delegate for the League of California Cities' Annual Conference, because there are other Councilmembers who are much more involved in the League, she said that she would not be opposed to appointing another Councilmember as delegate, even though she planned to attend the conference.

Councilmember Aldinger asserted, and Council agreed, that if the Mayor plans to attend the conference, then he feels strongly that she should be the voting delegate. It was also agreed that Mayor Pro Tem Ward be appointed as alternate delegate, since he plans to attend the conference as well.

**MOTION:** Councilmember Aldinger moved to approve designating the Mayor as the voting delegate and the Mayor Pro Tem as the alternate delegate to the League of California Cities Annual Conference. 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.

### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

05/0802.3 Approve Minutes of the Adjourned Regular Joint City Council / Planning Commission Meeting of July 26, 2005

Councilmember Tell explained that his recollection of Item No. 2 was different than what was stated in the subject minutes, noting that he recalled that the “trigger” would be review of the standards for merged lots, not simply oversized lots, as described in the minutes.

Mayor Pro Tem Ward agreed, stating that he recalled that Council did not want to address the oversize situation, but rather look at the size of the structure in reference to merged lots.

Councilmember Tell recommended replacing the word “large” with the word “merging” to read as follows:

2. “Standards for **Large Merging** Lots”  
Staff will propose standards for **large merging** residential lots, including looking at reduced Buildable Floor Area.”

Council discussed this matter with City Manager Dolan and Community Development Director Richard Thompson and the following motion was made:

**MOTION:** Councilmember Tell moved to approve the subject minutes as amended with the correction on Page 1 as noted above. The motion was seconded by Councilmember Montgomery and passed by the following unanimous roll call vote:

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

### **AUDIENCE PARTICIPATION**

05/0802.23 Bernard Johnson Re Trees

**Bernard Johnson, 600 Block of 18<sup>th</sup> Street**, asked Council to review the Tree Preservation Ordinance to include the publicly owned street trees. He expressed concern over the recent removal of two 15-year old trees in the public right-of-way due to damage to the curbs and

sidewalks, only to be replaced with a single tree. He asked Council to approve a comprehensive set of Ordinances in order to preserve public trees in addition to trees on private property; to review the protection of trees that are too large for their sites; to revisit landscaping requirements for parking lots; and to implement a monitoring mechanism to ensure that trees are maintained and standards are met. He stated that the City needs to take a tree inventory; decide what the City wants; how to get what it wants; and asked for a moratorium on the cutting of street trees until these decisions can be made.

Mayor Fahey asked staff to investigate the alleged illegal removal of these public trees on the 600 Block of 18<sup>th</sup> Street and to stay in contact with **Mr. Johnson**.

City Manager Dolan reminded Council that the recent Tree Preservation Ordinance was related to private property and that staff plans to return to Council with the issue of public property, noting that it all ties into a lighting and landscaping issue.

**CITY MANAGER REPORT(S)**

None.

**OTHER COUNCIL BUSINESS & COMMITTEE REPORTS**

*05/0802.24 Councilmember Montgomery Re Lifeguard Medal of Valor*

Councilmember Montgomery announced the upcoming Los Angeles County Lifeguard Medal of Valor Dinner on Thursday, August 4, 2005, at the Seaside Lagoon in Redondo Beach. He explained that the cost of dinner is \$10.00 per person and further information is available by calling 310-372-2166.

**ADJOURNMENT**

At 10:30 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, August 16, 2005, in said City.

\_\_\_\_\_  
MERNA MARSHALL  
Recording Secretary

\_\_\_\_\_  
JOYCE FAHEY  
Mayor

ATTEST:

\_\_\_\_\_  
LIZA TAMURA  
City Clerk

**CITY OF MANHATTAN BEACH  
MINUTES OF THE CITY COUNCIL  
ADJOURNED REGULAR MEETING  
AUGUST 2, 2005**

The Adjourned Regular Meeting of the City Council of the City of Manhattan Beach, California, scheduled for the 2<sup>nd</sup> day of August, 2005, at the hour of 6:00 p.m., in the City Council Chambers of City Hall, at 1400 Highland Avenue, in said City, was cancelled.