

**City of Hermosa Beach**

**City Hall  
1315 Valley Drive  
Hermosa Beach, CA 90254**



**Regular Meeting Minutes**

**Tuesday, July 23, 2019**

**6:00 PM**

**Closed Session - 6:00 P.M.**

**Regular Meeting - 7:00 P.M.**

**Council Chambers**

**City Council**

**Mayor**

**Stacey Armato**

**Mayor Pro Tem**

**Mary Campbell**

**Councilmembers**

**Hany S. Fangary**

**Justin Massey**

**Jeff Duclos**

**6:00 P.M. - CLOSED SESSION**

**CALL TO ORDER IN COUNCIL CHAMBERS:** The meeting was called to order at 6:01 pm

**ROLL CALL**

**Present:** Councilmembers Duclos, Fangary, Massey, Mayor Armato  
**Absent:** Mayor Pro Tem Campbell

**PUBLIC COMMENT**

Anthony Higgins addressed the City Council.

City Attorney Jenkins advised the City Council that information came to the City Attorney's attention after the posting of the Agenda regarding a matter of potential initiation of litigation and he would like to add that matter to the closed session agenda under 54956.9(d)(4).

Moved by Councilmember Massey, and second by Councilmember Fangary, to add a closed session item to the agenda under 54956.9(d)(4) – potential initiation of litigation.

**AYES:** Councilmembers Duclos, Fangary, Massey, Mayor Armato  
**ABSENT:** Mayor Pro tem Campbell

**RECESS TO CLOSED SESSION IN SECOND FLOOR CONFERENCE ROOM** at 6:07 pm.

1. **MINUTES:** Approval of Minutes of Closed Session held on July 9, 2019.

2. **CONFERENCE WITH LEGAL COUNSEL:** Existing Litigation

Government Code Section 54956.9(d)(1)

The City finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the City in the litigation.

Name of Case: City of Hermosa Beach v. Edward P. Zappia, The Zappia Law Firm  
Los Angeles County Superior Court, Case Number: BC709770

3. **CONFERENCE WITH LABOR NEGOTIATOR**

Government Code Section 54957.6

City Negotiator: City Manager

Employee

Organizations: Hermosa Beach Police Officers' Association  
Police Management Bargaining Group  
Teamsters Union, Local 911  
Professional and Administrative Employee Group  
Hermosa Beach Management Association  
Unrepresented Employees

## **ADJOURNMENT OF CLOSED SESSION**

The Closed Session meeting adjourned at 7:05 pm.

## **7:00 P.M. - REGULAR AGENDA**

### **CALL TO ORDER**

The Meeting was called to order at 7:12 pm.

### **PLEDGE OF ALLEGIANCE**

The pledge was led by Traci Horowitz.

### **ROLL CALL**

**Present:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**Absent:** Mayor Pro Tem: Campbell

### **CLOSED SESSION REPORT**

City Attorney Jenkins reported that the City Council held a closed session. There was one speaker under public comments and one item that came to the attention of the City Attorney's office after the posting of the agenda, pertaining to the matter of initiation of litigation under Section 54956.9(d)(4) which was added to the Closed Session Agenda by unanimous approval of the City Council. There was no reportable action taken.

### **ANNOUNCEMENTS**

Councilmember Fangary thanked the residents who attended the Community First meeting on Saturday in the Council Chambers at 2:00 pm.

Mayor Armato announced the following events:

- The AVP Hermosa Beach open, is July 24<sup>th</sup> through July 28<sup>th</sup>, north of the Pier; general admission is free.
- The International Surf Festival from August 2<sup>nd</sup> through August 4<sup>th</sup> from 7:30 am to 10:00 pm.
- The Summer Sidewalk Celebration, August 2<sup>nd</sup> through August 4<sup>th</sup> from 11:00 am to 6:00 pm.
- Beach Cities Free Fitness Series, Mindful Yoga dates August 5<sup>th</sup>, 12<sup>th</sup>, 19<sup>th</sup> and 26<sup>th</sup> at Valley Park
- National Night Out, August 6<sup>th</sup> from 7:00 pm to 10:00 pm
- Teen Choice Awards will be broadcast on Sunday, August 11<sup>th</sup>
- Hermosa Beach Summer Series August 17<sup>th</sup> and 18<sup>th</sup> and August 24<sup>th</sup> and 25<sup>th</sup>
- Taste at the Beach hosted by Hermosa Beach Kiwanis on Saturday, August 24<sup>th</sup> from 1:30 pm to 4:30 pm at the Hermosa Beach Community Center.

Councilmember Duclos announced that Wednesday, July 31<sup>st</sup> is the Medal of Valor Event at Seaside Lagoon.

## ***City of Hermosa Beach***

Councilmember Fangary announced that Southern California Association of Governments (SCAG) asked its members to remind Hermosa Beach Seniors who live alone to register with the Police Department in case of a disaster. He also mentioned (SCAG) prepared a demographic profile for Hermosa Beach, which is available on line.

### **APPROVAL OF AGENDA**

Councilmember Duclos moved, and second by Councilmember Massey, to approve the agenda.

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

### **PROCLAMATIONS / PRESENTATIONS**

There were none.

### **MISCELLANEOUS ITEMS AND REPORTS - CITY MANAGER**

City Manager Lowenthal provided a status update on the West Coast Basin Barrier project and the private sewer overflow issue at 29<sup>th</sup> Street.

### **PUBLIC PARTICIPATION:**

The following individuals addressed the City Council:

- Elka Worner
- Micah Worner
- Mindy Minkus
- Michael Epstein
- Anthony Higgins
- Maggie Bove-LaMonica
- Trent Larson
- Sarah Harper
- Joleen Sundt
- Gary Clark
- Bill Hallett
- Marsha Mikulen
- David Grethen – requested Item 2C on Consent be pulled.

### **1. ORAL AND WRITTEN COMMUNICATIONS:**

#### **a) WRITTEN COMMUNICATION**

- Email From Joy Alden
- Email from Gary Clark
- Supplemental Email from Gary Clark
- Supplemental EComment from Anthony Higgins
- Supplemental Email from R. Bender

**Recommendation:** Staff recommends that the City Council receive and file the written

communications received.

Moved by Councilmember Massey, and second by Councilmember Duclos to receive and file the written communications.

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

## **2. CONSENT CALENDAR:**

Moved by Councilmember Duclos, and second by Councilmember Fangary to pull Item 2(c) and approve the remainder of the Consent Calendar.

**AYES:** Councilmembers: Duclos, Fangary, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell and Councilmember Massey (stepped away from the dais)

### **a) CITY COUNCIL MEETING MINUTES**

Recommendation: Staff recommends that the City Council approve the minutes of the regular City Council meeting of July 9, 2019.

### **b) CHECK REGISTERS**

Recommendation: Staff recommends that the City Council ratify the check registers as presented.

Item 2(c) was pulled from the Consent Calendar and discussed under Items Pulled from Consent

### **d) ACCEPTANCE OF DONATIONS**

Recommendation: Staff recommends that the City Council accept the donations received by the City to be used for the purpose noted.

### **e) CITY TREASURER'S REPORT AND CASH BALANCE REPORT**

Recommendation: The City Treasurer recommends that the City Council receive and file the June 2019 City Treasurer's Report and Cash Balance Report.

### **f) CANCELLATION OF CERTAIN CHECKS**

Recommendation: The City Treasurer recommends that the City Council approve cancellation of certain checks.

### **g) ACTION SHEET OF THE PLANNING COMMISSION MEETING OF JULY 16, 2019**

Recommendation: Staff recommends that the City Council receive and file the action sheet of the Planning Commission meeting of July 16, 2019.

### **h) PLANNING COMMISSION TENTATIVE FUTURE AGENDA ITEMS**

Recommendation: Staff recommends that the City Council receive and file the August 20, 2019 Planning Commission tentative future agenda items.

- i) **SUBJECT: FINAL MAP NO. 74936 (C.U.P. CON NO. 17-5, PDP NO. 17-5)**  
**LOCATION: 1610 LOMA DRIVE**  
**APPLICANT(S): 537 H.S., LLC C/O ADAM BARSHAY**  
**REQUEST: TO ADOPT RESOLUTION NO. 19-7202 APPROVING FINAL**  
**PARCEL MAP FOR A TWO-UNIT RESIDENTIAL CONDOMINIUM PROJECT**

Recommendation: Staff recommends that the City Council:  
1. Approve Final Parcel Map No. 74936, which is consistent with the approved Vesting Tentative Parcel Map; and  
2. Request the City Clerk to endorse the certificate for said map.

- j) **PUBLIC WORKS PROJECT STATUS REPORT AS OF JUNE 30, 2019**

Recommendation: Staff recommends that the City Council receive and file the Public Works Project Status Report as of June 30, 2019.

- k) **ACTION MINUTES OF THE PUBLIC WORKS COMMISSION MEETING OF MAY 15, 2019**

Recommendation: Staff recommends that the City Council receive and file the action minutes of the Public Works Commission meeting of May 15, 2019.

- l) **ADOPT THE RESOLUTION OF INTENTION TO ESTABLISH UNDERGROUND UTILITIES ASSESSMENT DISTRICT ON HERMOSA AVE FROM 27TH STREET TO NORTH OF 34TH STREET (GREENWICH VILLAGE NORTH)**

Recommendation: Staff recommends that the City Council:  
1. Adopt Resolution No. 19-7203 of Intention to establish the City of Hermosa Beach Greenwich Village North Underground Utilities Assessment District; and  
2. Direct the Assessment Engineer to prepare the Preliminary Engineering Report.

- m) **ACTION MINUTES OF THE EMERGENCY PREPAREDNESS ADVISORY COMMISSION MEETINGS OF MAY 6, 2019 AND JULY 8, 2019**

Recommendation: Staff recommends that the City Council receive and file the action minutes of the Emergency Preparedness Advisory Commission meeting of May 6, 2019 and July 8, 2019.

- n) **RESOLUTION APPROVING THE 2019-2022 MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF HERMOSA BEACH AND THE GENERAL AND SUPERVISORY EMPLOYEES' BARGAINING UNIT, CALIFORNIA TEAMSTERS UNION LOCAL 911**

Recommendation: Staff recommends that the City Council adopt Resolution No. 19-7204 approving the Memorandum of Understanding (MOU) between the City of Hermosa Beach and the General and Supervisory Employees' Bargaining Unit, California Teamsters Union Local 911 for the 2019-2022 fiscal years.

- o) **RESOLUTION AMENDING THE DISTRIBUTION POLICY OF TICKETS AND PASSES TO**

**CONFORM WITH REGULATIONS OF THE FAIR POLITICAL PRACTICES COMMISSION**

Recommendation: Staff recommends that the City Council review and approve Resolution No. 19-7205 adopting an amended Ticket Distribution Policy to conform the City's policy with the amended regulations of the Fair Political Practices Commission (FPPC).

**3. CONSENT ORDINANCES** There were none.

**4. ITEMS REMOVED FROM THE CONSENT CALENDAR FOR SEPARATE DISCUSSION \***  
**Public comments on items removed from the Consent Calendar.**

**c) REVENUE REPORT, EXPENDITURE REPORT, AND CIP REPORT BY PROJECT FOR JUNE 2019**

Recommendation: Staff recommends that the City Council receive and file the June 2019 Financial Reports.

David Grethen addressed the City Council.

Moved by Councilmember Fangary, and second by Councilmember Duclos, to receive and file the June 2019 Financial reports as presented.

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

**5. PUBLIC HEARINGS - TO COMMENCE AT 7:30 P.M.**

**a) PUBLIC HEARING TO CONSIDER THE PARKS, RECREATION AND COMMUNITY RESOURCES ADVISORY COMMISSION'S RECOMMENDATION TO APPROVE THE ADDITION OF THE "CALIFORNIA GREAT SANTA RUN" TO THE 2019 SPECIAL EVENT CALENDAR ON SATURDAY, DECEMBER 14 ONst PIER PLAZA AND THE STRAND; AND CONSIDERATION OF FEE WAIVER REQUESTS**

Recommendation: Staff recommends that the City Council:

1. Hold a Public Hearing to consider the Parks, Recreation and Community Resources Advisory Commission's recommendation to approve the "California Great Santa Run" on Saturday, December 14, 2019 on Pier Plaza and the Strand north of the Pier; and
2. Consider Mychal's Learning Place's request for event fee waivers totaling \$5,374.

Mayor Armato opened the public hearing at 8:20 pm and received the following comments:

Ed Lynch and Mike Bell on behalf of Mychal's Learning Place  
Mike Collins

Mayor Armato closed the public hearing at 8:22 pm.

Moved by Councilmember Duclos, and second by Councilmember Fangary, to approve the addition of the "California Great Santa Run" to the 2019 Special Event Calendar on Saturday December 14<sup>th</sup> on Pier Plaza and the Strand and approve a fee waiver in the amount of \$1,627.

## 6. MUNICIPAL MATTERS

a) **ASSIGNMENT AGREEMENT BETWEEN THE CITY OF WEST HOLLYWOOD AND THE CITY OF HERMOSA BEACH FOR THE EXCHANGE OF PROPOSITION A LOCAL RETURN FUNDS (Continued from meeting of July 9, 2019)**

**Recommendation:** Staff recommends that the City Council:

1. Approve an Assignment Agreement for a Proposition A (Prop A) Local Return Fund Exchange with the City of West Hollywood for \$1,000,000 in City of Hermosa Beach Proposition A funds in exchange for \$700,000 of unrestricted funds from the City of West Hollywood; and
2. Authorize the City Manager to execute documents incident to the Agreement.

David Grethen addressed the City Council.

Moved by Councilmember Duclos, and second by Councilmember Massey, to approve staff's recommendations to approve the Assignment Agreement with the City of West Hollywood for \$1 million in City of Hermosa Beach Proposition A funds in exchange for \$700,000 of unrestricted funds from the City of West Hollywood.

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

b) **CITY COUNCIL CONSIDERATION TO INITIATE A ZONING CODE AMENDMENT TO THE M-1 ZONE, TO CONSIDER ALLOWING CYPRESS DISTRICT BUSINESSES TO HOST OPENINGS OR EVENTS TO SHOWCASE AND OFFER PRODUCTS FOR SALE ON A LIMITED BASIS**

**Recommendation:** Staff recommends that the City Council direct the Planning Commission to study amending the M-1 Zone and the appropriate permitting process to allow Cypress District businesses to host openings or events with limited retail sales.

City Attorney Jenkins addressed the supplemental Email received from Jed Sanford regarding this item stating for the record that with respect to the action taken by the City Council with respect to Mr. Sanford's business in the immediate neighborhood. He believed the letter was being written in part as part of Mr. Sanford's litigation against the City, and in part, as a way of transmitting a certain kind of message to the community about the City's actions regarding Mr. Sanford's business. Because, he believed that Mr. Sanford's message is fundamentally false Mr. Jenkins felt it required a public response.

Mr. Jenkins explained the circumstances of the nuisance abatement proceedings taken by the City with regard to Mr. Sanford's business and the noise and disturbance complaints received from the neighbors resulting in the actions taken by the City. During the course of the proceedings being taken against Mr. Sanford's business, the City received complaints that Shockboxx Gallery was violating the City's Code by engaging in an activity for which they did not have a permit and/or which was not allowed by the code.

The City issued warning letters and a citation to Shockboxx and the owners came in and applied for, and obtained the necessary permits to have the activities they wanted to have. Shockboxx was not creating a nuisance; so when Mr. Sanford states in his letter that the City is selectively enforcing the laws is just not true. In the second paragraph where Mr. Sanford says there is unequal application of the laws and political favoritism that is again not true. At the conclusion of



the City's nuisance abatement hearing, the City Council ordered Mr. Sanford to modify his business operation so that it wouldn't cause a nuisance. The conditions imposed were imminently reasonable and were very similar to the promises that were made by Mr. Sanford and his partners to the City Council when the City Council allowed that business to operate.

The City Attorney noted the irony associated with Mr. Sanford's letter in which he complains that the City is trying to retroactively legitimize an illegal business when, in order to open Mr. Sanford's business, he requested the City Council for a zone text amendment to allow a gym in a zone where a gym was not allowed. Now he is complaining that these owners are doing the exact same thing, namely asking for a zone text amendment to allow for something they believe is also appropriate in the M-1 Zone.

Mr. Sanford was asked to simply take some measures to ameliorate the problems being caused in the neighborhood and in the end, he chose to shut his business down. The City didn't order it to be shut down. The City didn't ask him to shut it down. He is now accusing the City of shutting his business down and the public record needs to be clear that that assertion and message he keeps communicating in public ways, through social media and otherwise, is simply false

City Attorney Jenkins concluded by addressing the contention that the City Council can't take a legislative action because one of its members is married to the person who operates the business. He stated there is nothing in the law that penalizes a person from serving on the City Council or saying that they can't, or their spouse can't, operate a business in the community. What the law says is that where that situation arises, the Councilmember must recuse him/herself from participation in order to avoid a perception of impropriety. This idea that is repeated in his letter keeps referring to a current councilmember's spouse as though this is improper and wrong. It is not. A councilmember's spouse is allowed to have a business and is allowed to ask for a zone text amendment. In this instance, Councilmember Campbell has recused herself and is not a part of it. Tonight she is not here; she is out of town. Were she here at this meeting, she wouldn't be sitting here. She would be outside of the room because she has chosen to recuse herself on this matter. City Attorney Jenkins wanted this in the record.

The following individuals addressed the City Council:

- Mike Collins
- Kevin Sousa
- Sheryl Main
- David Grethen

Moved by Councilmember Massey, and second by Councilmember Duclos to direct the Planning Commission to study amending the M-1 Zone and the appropriate permitting process to allow Cypress District businesses to host openings or events with limited retail sales.

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

**c) WEST COAST BASIN BARRIER PROJECT REPLACEMENT INJECTION WELLS**

Recommendation: Staff recommends that the City Council:

1. Receive and file the report on the proposed West Coast Basin Barrier Project Replacement Wells; and
2. Approve Los Angeles County Public Works' request to proceed with the project and coordinate with the City of Hermosa Beach Public Works Department regarding planning,

design, and construction.

David Grethen addressed the City Council.

Councilmember Duclos moved, and second by Councilmember Fangary to receive and file the report on the proposed West Coast Basin Barrier Project Replacement Wells and approve Los Angeles County Public Works' request to proceed with the project and coordinate with the City of Hermosa Beach Public Works Department regarding planning, design, and construction.

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

**d) AWARD OF CONSTRUCTION CONTRACT FOR CIP 17-416 SEWER IMPROVEMENTS AT VARIOUS LOCATIONS - PHASE 2**

Recommendation: Staff recommends that the City Council:

1. Award the construction contract for CIP 17-416 Sewer Improvements at Various Locations - Phase 2 in the amount of \$1,747,575;
2. Authorize the Acting Director of Public Works to establish a 15% project contingency for a total construction budget of \$2,009,711;
3. Adopt Resolution No. 19-7206 entitled "A Resolution of The City Council of the City of Hermosa Beach Approving the Construction of CIP No. 17-416 Sewer Improvements at Various Locations - Phase 2 Pursuant to Government Code Section 830.6 and Establishing A Project Payment Account";
4. Authorize the Mayor to execute the construction contract and the City Clerk to attest, subject to approval by the City Attorney; and
5. Authorize the Acting Director of Public Works to file a Notice of Completion following final completion of the project.

David Grethen addressed the City Council.

Moved by Councilmember Massey, and second by Councilmember Fangary to approve staff's recommendations and adopt Resolution No. 19-7206

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

**7. MISCELLANEOUS ITEMS AND MEETING ATTENDANCE REPORTS - CITY COUNCIL**

**a) APPOINTMENT OF COUNCILMEMBER TO SERVE AS ALTERNATE ON THE SOUTH BAY CITIES SANITATION DISTRICT BOARD OF DIRECTORS**

Recommendation: The City Clerk recommends that the City Council appoint a Councilmember to serve as alternate on the South Bay Cities Sanitation District Board of Directors.

Moved by Councilmember Fangary, and second by Councilmember Massey, to appoint Councilmember Duclos to serve as alternate on the South Bay Cities Sanitation District Board of Directors.

**AYES:** Councilmembers: Duclos, Fangary, Massey, Mayor Armato

**ABSENT:** Mayor Pro Tem Campbell

**b) MAYOR ARMATO AND COUNCILMEMBER DUCLOS REPORT ON THEIR ATTENDANCE AT THE INDEPENDENT CITIES ASSOCIATION (ICA) SUMMER SEMINAR FROM JULY 12-14, 2019 IN CARLSBAD, CALIFORNIA**

Councilmember Duclos and Mayor Armato reported on their attendance at the Independent Cities Association (ICA) Summer Seminar in Carlsbad from July 12<sup>th</sup> through July 14<sup>th</sup>, 2019.

Mayor Armato suggested re-joining ICA be placed on a future agenda for discussion. City Council concurred.

**c) UPDATES FROM CITY COUNCIL AD HOC SUBCOMMITTEES AND STANDING COMMITTEE DELEGATES/ALTERNATES**

Mayor Armato reported that the Downtown Subcommittee met recently to discuss the timeline of the lighting and the cleanliness of downtown.

Councilmember Massey added to the Downtown Subcommittee report that they discussed ensuring services are at a level commensurate with the special events.

The Mayor reported that she and Councilmember Massey met with Mayor Brand to get a better understanding of his thoughts on the letter that was written regarding the infiltration system.

**8. OTHER MATTERS - CITY COUNCIL**

**a) TENTATIVE FUTURE AGENDA ITEMS**

Recommendation: Staff recommends that the City Council receive and file the tentative future agenda items.

There were no comments.

**ADJOURNMENT**

The meeting was adjourned at 10:30 pm to the Regular Meeting of August 27, 2019 at 6:00 pm for closed session followed by the regular meeting at 7:00 pm.

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Elaine Doerfling  
City Clerk