



Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Kelsey Pettijohn, City Clerk

Approved by: Steve McClary, City Manager

Date prepared: August 30, 2023 Meeting date: September 11, 2023

Subject: Approval of Minutes

RECOMMENDED ACTION: Approve the minutes for the October 10, 2022 Malibu City Council Regular meeting, October 24, 2022 Malibu City Council Regular meeting, October 28, 2022 Malibu City Council Special meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2022-2023. This is part of normal staff operations.

DISCUSSION: Staff has prepared draft minutes for the Council meetings of October 10, 2022, October 24, 2022, and October 28, 2022.

ATTACHMENTS:

1. October 10, 2022 Regular meeting
2. October 24, 2022 Regular meeting
3. October 28, 2022 Special meeting

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
OCTOBER 10, 2022
TELECONFERENCED - VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to AB 361 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

MEETING CALL TO ORDER

Mayor Grisanti called the meeting to order at 6:31 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Paul Grisanti; Mayor Pro Tem Bruce Silverstein; and Councilmembers Karen Farrer, Mikke Pierson, and Steve Uhring

ALSO PRESENT: Trevor Rusin, Interim City Attorney; Steve McClary, City Manager; Joseph Toney, Assistant City Manager; Kelsey Pettijohn, City Clerk; Yolanda Bundy, Environmental Sustainability Director; Richard Mollica, Planning Director; Susan Dueñas, Public Safety Director; Rob DuBoux, Public Works Director; Elizabeth Shavelson, Deputy City Manager; T'Ana Christiansen, Deputy City Clerk; Kristin Riesgo, Community Services Deputy Director; Paolo Quinto, Environmental Health Administrator; and Adrian Fernandez, Assistant Planning Director

PLEDGE OF ALLEGIANCE

Mayor Grisanti led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Councilmember Pierson moved, and Councilmember Farrer seconded a motion to approve the agenda.

FRIENDLY AMENDMENT

Mayor Pro Tem Silverstein moved to adjourn in honor of Indigenous Peoples Day.

The amendment was accepted by the maker and the seconder.

The question was called and the amended motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pettijohn reported that the agenda for the meeting was properly posted on September 30, 2022, with the amended agenda posted October 6, 2022.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

Bill Sampson stated that the half-marathon, scheduled to be held November 4, 5, and 6, 2022 would conflict with a car show at Zuma beach that was planned for November 6, 2022. He stated two events held on the same date would conflate traffic problems and that he hoped traffic would be handled better than during the recent Malibu Triathlon.

Nicole McGinley presented a report on wireless siting and requested the Council amend Resolution No. 21-17, to remove of the word “residential” from Section 5.C.6. and instead state: “The City expressly designates public open space and recreational vehicle park zoning districts, parks and schools as the least appropriate possible locations, and the absolute last choices for siting.” In addition, she requested the addition of a new Section, 5.C.7. “The City expressly designates residential zones as disallowed locations. An application other than an eligible facility request seeking to place a wireless facility in a residential zone must demonstrate through clear and convincing evidence that there is no technically feasible alternative.” She stated that it would not be problematic as there was not a change that would require approval from the California Coastal Commission (CCC).

Lonnie Gordon, Malibu for Safe Tech, requested the Council amend Resolution 21-17, which pertained to wireless siting, for the revision and addition of language that protected residential zones. She stated it would not be difficult or utilize much staff or Council time. She emphasized the need for some level of protection of residential areas from wireless facilities and felt that the requested changes were unintentional omissions during the adoption of the resolution due to the hearing having gone on very late and everyone was exhausted.

E. Barry Haldeman, Malibu Arts Commission, requested the City provide an expedited review of an agreement between the City and Caltrans regarding a grant for the Malibu Arts Commission because it had very strict deadlines and he did not want the artist community and the community as a whole to lose out.

MOTION Councilmember Uhring moved, and Councilmember Pierson seconded a motion to allow public speaker, Kayla Nia, seven minutes for public comment. The question was called, and the motion carried 4-1, with Mayor Pro Tem Silverstein opposed.

Kayla Nia, Pepperdine University student, presented a video that discussed school safety.

Marilyn Cosentino deferred her time to Annie Ellis.

Annie Ellis commented on challenges the Cornucopia Farmers' Market had experienced. She stated that at the Planning Commission meeting on February 29, 2016, Los Angeles County Supervisor Sheila Kuhl's representative Maria Chong Castillo reassured the Commission that the farmers' market would not be disturbed during Santa Monica College (SMC) construction and that there was no reason to add a provision to protect the farmers' market operation because it was already taken care of. She stated that the operators of the farmers' market met with the County and SMC, but a resolution had not been reached. She stated that construction workers installed a fence without any notice that blocked 80 feet and eliminated proper ingress and egress and pedestrian use of the sidewalk. She stated the solution was to permit the farmers' market to operate on the perimeter of Legacy Park during the remainder of SMC construction. She stated she had grown up in Malibu and found it difficult to see Juan Cabrillo elementary school close but was glad students would not have to be bussed over to Santa Monica High School. She stated she found it sad to see so many equestrian facilities closing.

Benjamin Leeds commented on the farmers' market and stated that proper ingress and egress were essential and anything that could be done to increase the size of the market would be appreciated. He stated that he would like utilities to be located underground rather than above ground wires.

ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

City Manager McClary stated that the Government Finance Officers Association awarded a certificate of achievement to the city for excellence in financial reporting for Fiscal Year 2020-21. He reported that COVID-19 cases were trending downward. He stated that the County averaged 1,285 cases per day and hospital admissions averaged 76 per day, a decline of 20 percent from the week prior. He stated that the County encouraged vaccination. He stated that there was a slight increase in worksite clusters and that 95 percent of the Omicron variant tested was the BA.5 subvariant. He stated that community transmission levels were low enough for the Council to consider holding in-person meetings and recommended the Council consider that item in January after the new Council was seated. He stated that although the City was not a party to the agreement between the farmers' market and the County, the value to the community was recognized and they were working toward a solution. He stated that use of the City's Ioki lot for the farmers' market was explored but it had not met County Health Department Standards as it was a dirt lot. He stated that the Public Works Department worked with the contractor to ensure sidewalk access to the farmers' market every weekend. He stated he met with Senator Henry Stern and his staff and discussed the State requirement for cell sites to have backup power in the event of an extended power outage by July of 2021. He stated that providers were surveyed, and there was some response that they were working on having the requirement satisfied and others failed to respond. He requested Senator Stern help the City with compliance through the California Public Utilities Commission (CPUC) and the governor's office. He stated that the City requested Senator Stern's office help with arrangements to have the California Highway Patrol (CHP) units staged on Pacific

Coast Highway (PCH), in advance of anticipated power outages and that their office was very receptive and indicated they would work with the CHP to see if that assistance could be provided. He reported that there would be a meeting of the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) on Wednesday, October 12, 2022, where changes to the City's temporary use permit (TUP) code would be discussed. He announced that a request for proposals (RFP) for development services was issued and would conclude by the end of October. He stated a firm was sought for assessment of the City's development services, which included the Planning Department, Building Safety Division, and the Public Works Department permit and application review process in addition to staffing levels and culture, organizational structure, policies and procedures, and customer service. He stated that a contract for the recommended firm would be brought before the Council and a detailed report would be provided by the firm by the early part of 2023.

Lieutenant Dustin Carr, Los Angeles County Sheriff's Department, reported that the encampment at Surfrider Beach was addressed and a person experiencing homelessness was provided resources for shelter. He reported that night enforcement operations were conducted along PCH, and in a single night yielded 23 citations which included one oversized vehicle for various vehicle code violations. He reported that the Sheriff's Department worked to have two individuals identified who possessed illegal substance paraphernalia in an attempt to refer them to services. He reported that an oversized vehicle survey was conducted, and 18 oversized vehicles were identified, and the survey would be continuous. He stated additional surveillance was implemented at Legacy Park so further incidences of vandalism or harassment could be prevented. He stated that a full crime report would be made available at the next Council meeting. He reported all crime trended downward, which included grand theft auto, arson, aggravated assault, and larceny or theft. He reported that a SMC student was arrested for assault against two SMC students. He requested anyone who may have been a victim of that person contact the Sheriff's Department. He stated that the Malibu Triathlon ended without significant incidents, that one bicyclist was injured unrelated to traffic, and that a new traffic pattern was implemented which had the U-turn situated in different area, and that change worked well.

In response to Mayor Pro Tem Silverstein, Lieutenant Carr discussed enforcement of the City's camping regulations and stated he was waiting for direction from his Department.

In response to Councilmember Uhring, Lieutenant Carr stated that when they received information that cars shows were planned the Department provided additional enforcement to keep PCH cleared and appropriately managed, but they were unaware of the recent unannounced gatherings referenced.

Lotte Cherin, Malibu Arts Commission, announced October was National Arts Month and many projects were planned. She stated that a community survey should be conducted to determine if there was interest in an Arts Center and the use of

City's vacant land should be explored. She discussed the submission of artwork for the Caltrans project and encouraged the Council to expedite the contact with Caltrans or an update be provided on the Council's position on whether there would be participation by the City in the project.

Community Services Deputy Director Riesgo reported that staff was in the process of working with Caltrans on the art agreement.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Pierson invited Mr. Sampson to attend the half-marathon in November to see a well-run event. He acknowledged public speakers' concerns and stated that things could take a long time as they worked through the challenges involved in the wireless matter and arts in Malibu and he would help how he could. He thanked Ms. Nia for her presentation and stated school safety was a timely issue. In response to public comment on the farmers' market, he stated that when the City worked with other agencies, things did not always go as planned, that the City did not have a lot of control, and it was frustrating, but they would not give up. He thanked City Manager McClary for sharing the good news about the financial award and emphasized the importance of clear and organized financial reports. He thanked those involved in addressing emergency backup wireless power. He encouraged the public to participate in the upcoming ZORACES meeting on temporary use permits.

Councilmember Uhring discussed the volume of trash left at Zuma beach after the Malibu Triathlon and requested cleanup measures be implemented after events. He stated that the farmers' market should be allowed to use the perimeter of Legacy Park until the parking lot safety issues were addressed by the County. He emphasized the importance of the farmers' market to the community. He stated that artist Dawn Erickson created a brochure and lessen plan on the Dark Sky movement and requested the Council sign a letter to accompany the brochures when they were issued to the local schools.

Councilmember Farrer stated that the farmers' market's needs should be accommodated. She applauded the City for their excellence in financial reporting. She thanked Lieutenant Carr for his informational reports and the attention to the illegally parked oversized vehicles and stated that she was glad when she heard there were no additional disturbing incidents in Legacy Park. She stated that the School District Reorganization Mediation meeting was cancelled. She announced a Library Speaker Series event would be held on October 11, 2022 that featured a shark attack survivor.

Mayor Pro Tem Silverstein recognized Indigenous Peoples Day 2022. He recommended exploring use of the paved City Hall parking lot for the farmers' market. He suggested sending a letter to the County to encourage them to honor their commitment and find a solution for the difficulties experienced by the farmers' market. He reported that he attended the Don Schmitz meeting held at

Pepperdine University the prior week. He stated he researched Assembly Bill 988 which apparently exempted Malibu from the requirement of an expedited application response time which was part of the legislation when the Local Coastal Program was imposed on Malibu by the CCC. He stated it was falsely reported that the City enforced some rules against impairing environmentally sensitive habitat area (ESHA) and wetland on the property that Southern California Edison (SCE) covered with cement which was the subject of a CCC appeal. He stated that was regarding the Smith property which was the grassland between the property SCE covered with cement and the condominiums. He discussed the Grants Pass decision and stated it strengthened the laws that pertained to unhoused people in communities. He stated that there could be action against the formation of encampments.

Mayor Grisanti thanked Mayor Pro Tem Silverstein for the camping enforcement information and stated that more beds should be available in the County for unhoused persons as the social distancing guidelines had loosened and more occupants could be accommodated in a smaller area. He stated he spoke to Ms. Castillo and she said that the County had a document, signed by Ms. Bianco, that acknowledged there would be difficulties for the farmers' market during the SMC construction and they would do their best to minimize disruptions. He stated that he participated in meetings over a three-day period with the Metropolitan Water District about maintenance of their systems and that Malibu's water was supplied by both the Colorado River and through the Central Valley and encouraged water conservation.

ITEM 3 CONSENT CALENDAR

MOTION Councilmember Pierson moved, and Councilmember Farrer seconded a motion to approve the Consent Calendar. The question was called, and the motion carried unanimously.

The Consent Calendar consisted of the following items:

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Recommended Action: Allow and approve warrant demand numbers 67124-67232 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 711 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$1,476,374.62. City of Malibu payroll check number 5257-5262 and ACH deposits were issued in the amount of \$249,880.24.

3. Approval of Minutes

Recommended Action: Approve the minutes for the December 13, 2021 Malibu City Council Regular meeting.

4. Findings to Hold Virtual City Council, Commission, Committee, Board and Other City Bodies, Meetings Under AB 361

Recommended Action: Consider a motion to reaffirm Resolution No. 22-25, reauthorizing remote teleconferencing/virtual meetings pursuant to AB 361.

5. Amendment to Professional Services Agreement with Newbury Park Tree Service, Inc.

Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Newbury Park Tree Services, Inc. in the amount of \$45,000 for a total not to exceed amount of \$180,000 to extend the tree maintenance services for one year.

6. Bailment Agreement with the County of Los Angeles

Recommended Action: Authorize the City Manager to execute a bailment agreement with the County of Los Angeles to allow the Sheriff's Department to use a new City vehicle for the Volunteers on Patrol program.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Appeal Nos. 22-002 and 22-003 - Appeal of Planning Commission Resolution No. 22-01 (22969 and 22959 Pacific Coast Highway; Appellants: Mani Brothers Real Estate Group and Patt Healy; Applicant: Steven Hakim; Property Owner: SKA Group, LLC and Surfrider Plaza, LLC).

Recommended Action: Continue the item to the October 24, 2022, Regular City Council meeting.

This item was continued to the October 24, 2022 Regular City Council meeting upon approval of the consent calendar.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

- A. Implementation of Land Use Policy 3.18 Addressing the Use of Rodenticides, Insecticides and Herbicides

Recommended Action: Evaluate and provide staff with direction regarding the proposed policy to implement Land Use Policy 3.18 or direct staff to prepare an amendment to the City's Local Implementation Plan to implement Land Use Policy 3.18.

Planning Director Mollica presented the staff report.

Mayor Grisanti opened the floor for public comment.

Speakers: Joel Schulman, Kian Schulman, Cathy Schoonmaker, Michelle Black, Bill Sampson, Jenn Guess, Patt Healy, John Mazza, Jo Drummond, and Howard Rudzki.

Benjamin Leeds was not present at the time of the hearing.

As there were no other speakers present, Mayor Grisanti returned the matter to the table for discussion.

The Council discussed the item and directed questions to staff and Ms. Black.

MOTION Mayor Pro Tem Silverstein moved, and Councilmember Pierson seconded, a motion to direct staff to: 1) prepare an amendment to the City's Local Implementation Plan (LIP) to implement Land Use Policy 3.18; and 2) bring back a policy adopting an interpretation of "development", as used in LIP Section 13.3, to include "the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, where the application of such substances would have the potential to significantly degrade Environmentally Sensitive Habitat Areas or coastal water quality or harm wildlife" and that such development is not classified as "maintenance" under LIP Section 13.4.2.

The Council discussed the motion and directed questions to Ms. Black.

The question was called, and the motion carried unanimously.

RECESS At 9:08 p.m., Mayor Grisanti recessed the meeting. The meeting resumed at 9:18 p.m. with all Councilmembers present.

B. Malibu Community Labor Exchange Permanent Trailer Project
Recommended Action: 1) Receive report on the status of the City's permanent trailer project for the Malibu Community Labor Exchange; 2) Evaluate project options and alternatives; and 3) Provide direction to staff on how to proceed with the project.

Deputy City Manager Shavelson presented the staff report.

Mayor Grisanti opened the floor for public comment.

Speakers: Marilyn Green, Oscar Mondragon, Stephanie Cupp, Kay Gabbard, Mary Trotter, and John Mazza.

Benjamin Leeds was not present at the time of the hearing.

As there were no other speakers present, Mayor Grisanti returned the matter to the table for discussion.

The Council discussed the item and directed questions to staff and Ms. Gabbard.

MOTION Mayor Pro Tem Silverstein moved, and Mayor Grisanti seconded, a motion to direct staff to bring back a definitive recommendation on how to proceed with the Malibu Community Labor Exchange Permanent Trailer Project on the County property within three months. The question was called, and the motion carried, unanimously.

ITEM 7 COUNCIL ITEMS

A. Santa Monica College Measure SMC – Opposed (Mayor Pro Tem Silverstein and Councilmember Uhring)

Recommended Action: At the request of Mayor Pro Tem Silverstein and Councilmember Uhring, consider adopting Resolution No. 22-44 strongly opposing Measure SMC, which would impose a debt upon the residents of Malibu if passed at the November 8, 2022 General Election.

Mayor Pro Tem Silverstein and Councilmember Uhring presented the report.

Mayor Grisanti opened the floor for public comment.

Bill Sampson and Benjamin Leeds were not present at the time of the hearing.

As there were no other speakers present, Mayor Grisanti returned the matter to the table for discussion.

The Council discussed the item.

MOTION Mayor Grisanti moved, and Councilmember Uhring seconded, a motion to adopt Resolution No. 22-44 strongly opposing Measure SMC, which would impose a debt upon the residents of Malibu if passed at the November 8, 2022 General Election.

The Council discussed the motion and directed questions to staff.

The question was called, and the motion carried unanimously.

ADJOURNMENT

MOTION At 10:35 p.m., Mayor Grisanti adjourned the meeting in honor of Indigenous Peoples Day.

Approved and adopted by the City Council of the
City of Malibu on _____.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
OCTOBER 24, 2022
TELECONFERENCED - VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to AB 361 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

MEETING CALL TO ORDER

Mayor Grisanti called the meeting to order at 5:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Paul Grisanti; Mayor Pro Tem Bruce Silverstein; and Councilmembers Karen Farrer, Mikke Pierson, and Steve Uhring

PUBLIC COMMENT ON CLOSED SESSION

Mayor Grisanti opened the floor to public comment.

Speakers: None.

RECESS TO CLOSED SESSION

At 5:34 p.m., on the advice of counsel and based on existing facts and circumstances, the Council recessed to Closed Session to discuss the following item listed on the Closed Session agenda:

Conference with Legal Counsel – Existing litigation pursuant to Government Code Section 54956.9(d)(1)

1. Case Name: City's Petition to Form Malibu Unified School District (USD) from Territory in the Santa Monica-Malibu USD

REGULAR SESSION CALL TO ORDER

Mayor Grisanti called the meeting to order at 6:44 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Paul Grisanti; Mayor Pro Tem Bruce Silverstein; and Councilmembers Karen Farrer, Mikke Pierson, and Steve Uhring

ALSO PRESENT: Trevor Rusin, Interim City Attorney; Steve McClary, City Manager; Joseph Toney, Assistant City Manager; Kelsey Pettijohn, City Clerk; Jesse Bobbett, Community Services Director; Yolanda Bundy, Environmental Sustainability Director; Richard Mollica, Planning Director; Susan Dueñas, Public Safety Director; Rob DuBoux, Public Works Director; Elizabeth Shavelson, Deputy City Manager; T’Ana Christiansen, Deputy City Clerk; Kristin Riesgo, Deputy Community Services Director; Paolo Quinto, Environmental Health Administrator; and Adrian Fernandez, Assistant Planning Director

PLEDGE OF ALLEGIANCE

Mayor Grisanti led the Pledge of Allegiance.

CLOSED SESSION REPORT

Interim City Attorney Rusin reported that the meeting convened at 5:30 p.m., after which time the City Council recessed to a Closed Session pursuant to Government Code Section 54956.9(d)(1), with all Councilmembers present. He stated the Council discussed the item on the Closed Session agenda with no reportable action.

APPROVAL OF AGENDA

MOTION Councilmember Farrer moved, and Mayor Pro Tem Silverstein seconded a motion to approve the agenda. The question was called, and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pettijohn reported that the agenda for the meeting was properly posted on October 14, 2022, with amended agenda posted on October 21, 2022.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Presentation of Commendation to Jeff Jennings

Mayor Grisanti presented the commendation for Jeff Jennings’ contributions to the Malibu community.

Jeff Jennings thanked the Council for its recognition and commented on staff retention and the role of the City Manager.

B. Presentation of Commendation to Craig Foster

Mayor Grisanti presented the commendation for Craig Foster’s contributions to the Malibu community and the schools.

Craig Foster thanked the Council and stated he was honored by the recognition.

C. Proclamation Recognizing November 9, 2022 as Malibu's Annual Day of Preparedness

Mayor Grisanti presented the proclamation to Public Safety Manager Dueñas and proclaimed November 9, 2022 as Malibu's Annual Day of Preparedness.

Public Safety Director, Dueñas thanked the Council for its recognition and encouraged the community to improve its emergency preparedness.

D. West Basin Municipal Water District Drought and Programs Update

Scott Houston presented an update on West Basin Municipal Water District Drought and Programs.

ITEM 2.A. PUBLIC COMMENTS

Don Schmitz presented slides that displayed excerpts from a form he found on the City's website, and from the Malibu Municipal Code that indicated swimming pools were not counted in impermeable coverage calculations. He stated that the change in interpretation by the Planning Department had dramatic implications for homeowners who wanted a pool built and for those with pools that wanted additions to their homes. He stated that any significant changes to interpretations should have involved public input, discussion at a Zoning Ordinance and Revisions and Code Enforcement Subcommittee (ZORACES) meeting, and considered by the Planning Commission.

Arfarkhashad Munaim, Schmitz and Associates, commented on impact to homeowners if swimming pools were counted toward impermeable lot coverage and stated that any such change of interpretation should have gone through a vetting process.

Chris Deleau, Schmitz and Associates, stated that as a professional land use planner and attorney for the past 20 years he agreed that Malibu was a unique place and needed to be protected. He stated that Schmitz and Associates had never advocated for less stringent development standards, but changes to interpretation of the code should not be applicable to projects that were midway through the process. He requested codes and policies be applied as they existed, and if changes were desired, then to take those changes through the process of ZORACES and a Local Coastal Program (LCP) Amendment.

Scott Halley stated that he was a small business owner for the past 45 years in the construction industry and he had four projects put on hold during the past month and he had never seen delays as severe. He stated the delay factors included the COVID-19 pandemic, 2018 Woolsey Fire, inflation, supply chain delays, and elevated interest rates. He stated that he sought relief for Malibu residents in the

process of building single-family homes. He discussed the challenges for those rebuilding from the Woolsey Fire. He stated that all of those factors considered, he thought it would be reasonable, fair, and decent if the City of Malibu allowed the residents one year stay for their permits to be kept open.

Debra Bianco stated that the County and Santa Monica College promised Malibu that the farmers' market would go untouched. She stated that little by little property for the market was taken away and that 15 vendors had to be let go. She stated that she and the vendors that remained had a meeting the prior Friday with the City Manager and the Deputy City Manager and requested the County notify her in advance if more space was going to be taken away. She requested the Council allow the farmers' market to use of Legacy Park.

Marilyn Cosentino spoke in favor of the farmers' market and stated that the farmers' market was not protected as promised. She discussed ongoing changes to the farmers' market space. She stated that the contract indicated there would be no disturbance of the market and the disruption was on its eighth week. She stated that she was frustrated, and farmers had lost money.

Evan Contino, Burdge Architects, stated that there should be a more formal legislative process and notice given for drastic reinterpretations of the code as was the case in swimming pools and spas considered impermeable lot coverage. He stated that applicants subjected to changes after the project had been carefully designed and submitted was catastrophic. He stated that changes should not be retroactive.

E. Barry Haldeman stated that the Mountains Recreation and Conservation Authority (MRCA) had scheduled a virtual scoping meeting on Thursday, October 27, 2022, for discussion of large-scale camping plans and he urged the public to submit written comments to the MRCA. He commented on the Malibu Film Society's search for a venue for film screenings and stated that the Malibu Pacific Church was the only suitable option. He stated that he was disappointed when Councilmember Uhring indicated at the ZORACES meeting that the Malibu Film Society should not be allowed to run their full schedule out of Malibu Pacific Church. He stated that as a creative community Malibu should have a venue to host screenings.

Noah Taublieb stated his concern about the farmers' market's potential removal. He stated that many families treasured the market and it was one of the few regularly occurring events geared toward the residents rather than tourists. He requested the Council's assistance in supporting the market.

Lester Tobias discussed permit policies for additions and referenced a presentation that was sent to the Council over the weekend. He discussed the current code requirements for additions and remodels. He stated that the premise for the proposed policy was false as it promised improved efficiency in the processing of projects, yet all it did was add another layer of review and another means of

challenging otherwise decent projects and led to further delays.

Jefferson Wagner discussed the formation of a creative library foundation. He and Candace Brown introduced a video which outlined progressive uses for libraries. He referenced recent newspaper articles that cited activities the Malibu Library hosted that served the specific needs of the community.

Hap Henry voiced his support for the farmers' market, the Malibu Film Society, and Malibu Little League and requested the Council's support of valuable community organizations. He announced a candidates' forum and a MRCA hearing were scheduled for Thursday, October 27, 2022. He voiced his opposition to camping at Bluffs Park and property just outside of the Malibu city limits at Ramirez Canyon and stated that it was reckless and irresponsible and not what the Malibu community needed.

Lindsey Horvath, West Hollywood City Councilmember, commented on fire safety and preparation. She stated coordination, upgrades, and improvements were underway and needed to be continued for the region to better withstand and respond to wildfires.

Annie Ellis stated fire safety, library, and films were important. She commented on how slowly rebuild permits were processed. She stated that as a Malibu resident for 65 years, some of her favorite things were taken away and encouraged the Council to help preserve the farmers' market. She requested the market be moved to Legacy Park soon to avoid the loss of vendors.

Norm Haynie stated the reason swimming pools were considered permeable was because rainwater fell into the pool which prevented an excessive amount of water from running off the property and into the drainage system. He stated that was the logic behind the original concept of swimming pools not being included in the impermeable calculation.

Bill Sampson stated that the candidates' public safety forum was scheduled for Thursday, October 27, 2022, at an establishment in the Trancas Country Market shopping center and the virtual MRCA scoping meeting was scheduled for Thursday, October 27, 2022.

Barbara Burke was not present at the time of the hearing.

ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

City Manager McClary reported a public safety power shut off watch was issued, but ultimately a shutoff was avoided. He stated that there was high risk for wildfires over the next few months and encouraged community emergency preparedness. He reported that COVID-19 community transmission and hospitalization rates remained steady. He stated that the County reported the prevalence of three potentially highly contagious subvariants that could lead to increased cases during

the upcoming winter season. He reminded the community that booster vaccines were available to those who had their vaccine more than two months prior. He stated that the County reported more than 80 percent of the population had received the initial vaccination series, and seven percent had received the bivalent booster. He stated that a notice of preparation of an environmental impact report was received for the camping project proposed by the MRCA, titled "The Malibu Lower Cost Accommodations Public Works Plan" which included two sites, Bluffs Park, within the City of Malibu, and Ramirez Canyon Park, located just north of the Malibu city limits. He stated that the City issued information to the community on the virtual scoping meeting which would be held Thursday, October 27, 2022. He stated that public comment would be accepted during the 60-day scoping period which would end on December 16, 2022, and that the City would submit written comments. He stated that California Governor Gavin Newsom announced that the COVID-19 state of emergency would end on February 28, 2023. He stated that the matters of in-person meetings and the allowance of outdoor dining needed to be addressed. He thanked the Big Rock Mesa Property Owners Association for his inclusion in their annual event and stated that he enjoyed meeting their members. He stated that tentative items for the November 14, 2022 City Council meeting would be the Malibu Triathlon agreement and a report on the day-use impound lot. He stated that the contract for the PCH signal synchronization project was tentatively scheduled for the November 28, 2022 Council meeting and a discussion on short-term rentals and the return of in-person meetings would be discussed at a January 2023 City Council meeting.

Planning Director Mollica provided an update on the snack shack located at Bluffs Park and stated the existing snack shack was considered an existing non-conforming use. He stated that the City's zoning ordinance identified refreshment stands required a conditional use permit (CUP), and they were only conditionally permitted in three of the City's commercial districts which did not include the Open Space District Bluffs Park was designated. He stated options were being explored such as a code change or another way to have food services at the park. He provided an update on the City's wireless LCP amendment which was at the California Coastal Commission (CCC), and he stated that the wireless amendment was bundled with the beachfront signage amendment because the City was limited to three LCP amendment submittals per year. He stated that the City's 2021 – 2029 Housing Element Update adopted by Council in January 2022 would be submitted to the United States Department of Housing and Urban Development (HUD) as required by law. He stated that requests for clarification from HUD were being addressed by the City's consultants. He stated that the swimming pool interpretation was not the new issue and he would research the matter. He stated that about a decade prior a discrepancy was found between the City's stormwater runoff requirements and how, in the engineering world, swimming pools were considered to be an impermeable surface because there were many infinity edge pools that discharged water during stormwater events. He stated that was the reason the Public Works Department reviewed pools and they were considered impermeable surfaces for the purposes of stormwater runoff requirements. He stated that he was not aware of any project denials, and the issue would be studied.

Lieutenant Dustin Carr, Los Angeles County Sheriff's Department, stated that an individual experiencing homelessness was assisted through a collaboration of the homeowner and members of the public when her vehicle ran out of gas. He provided an update about the concern that a car show was planned that would conflict with the November 5, 2022 kids fun run during the half-marathon event, and reassured the Council and the community that barricades that would prevent cars from being staged in the area would be set up the evening prior to the event. He stated that there would be increased law enforcement personnel available during the event and there would be zero tolerance for dangerous behavior and exhibition of speed. He provided an end-of-the-quarter report, as of September 30, 2022, aggravated assaults were down 14 percent, robberies were down 33 percent, armed robberies were down 57 percent, auto theft down 54 percent, and petty theft down 33 percent. He stated that residential burglaries were up 75 percent and were an area of concern. He encouraged the public to lock their homes, have a video security system installed, and a professionally installed high-quality safe for valuable items. He stated that arrests were made in connection with some of the burglaries and that there were no burglaries with a high-value significant loss of property. He stated that traffic collisions had increased year-to-date, but there was a 50 percent reduction in fatalities.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Farrer stated that a solution to help the farmers' market should be found and that the City should use its leverage if the County and SMC had not honored their commitments. She thanked Planning Director Mollica for his clarification of the City's interpretation of the permeability of swimming pools. She stated that she signed up for participation in the upcoming MRCA virtual scoping meeting and stated that she was in opposition to their camping proposal. She stated that the snack shack at Bluffs Park should be allowed and that any code changes necessary for it to be compliant should be pursued or another solution found such as a recurring food truck. She reported that at the Las Virgenes-Malibu Council of Governments (COG) meeting, the Los Angeles County Fire Department announced new fire evacuation routes would be forthcoming on October 25, 2022. She commented on the recent Library Speaker Series event that featured a shark attack survivor turned motivational speaker and conservationist and encouraged community attendance of the series. She stated that preparation efforts should be made for potential public safety power shutoffs.

Councilmember Uhring commented on fire safety and the dangers caused by camping in the hills. He stated that he attended the Santa Monica Bay Restoration Commission meeting and that efforts by the Water District for rainwater recapture were discussed. He presented a brochure on the Dark Sky ordinance and stated that the artist who created it developed a curriculum for distribution to the schools. He stated he left an endorsement letter for the brochure at the reception desk at City Hall and encouraged Councilmember signatures. He commented on the Malibu Film Society's search for an appropriate screening venue and stated that some of

the letters he saw did not eliminate City Hall for screenings, only that it was not the ideal facility and suggested modifications that improved the suitability of City Hall for film screenings. He stated that he had read in several publications that COVID-19 numbers increased in the eastern portion of the country, perhaps due to their climate. He commented on the difficulties experienced by the farmers' market and stated that efforts to have it held at Legacy Park should be pursued.

Councilmember Pierson thanked Mr. Jennings and Mr. Foster on their service to the community. He thanked public speaker Mr. Houston for his presentation on water supply challenges. He commented on the public safety power shutoffs that were likely during the upcoming fire season and encouraged community preparation. He stated that the farmers' market needed to be accommodated during SMC construction. He stated that the ZORACES meeting was rescheduled due to a power outage and that the temporary use permit code changes were being worked on. He stated he was opposed to the MRCA proposal that allowed camping and that it was a major safety concern. He thanked Ms. Brown for sharing the video presentation on library usage.

Mayor Pro Tem Silverstein encouraged the community's participation in the upcoming election. He congratulated Mr. Jennings and Mr. Foster on their commendations. He stated that proponents of slow growth in Malibu felt that some poor decisions were made over the years. He stated that at the prior Council meeting, with respect to the poison free implementation, the Council directed staff to bring back a proposed amendment to the Local Implementation Plan (LIP) to implement the Land Use Plan provision that was approved by the CCC, and they directed staff from that point forward to construe the LIP provision that deals with Coastal Development Permits (CDP) in a specific way. He stated that the action item came back a few days later that stated that the Council resolved to direct the staff to prepare the amendment and directed staff to bring back a policy for construing the LIP. He requested the public submitting correspondence early. He stated that it was great that the end of COVID-19 state of emergency was near, provided it was consistent with reality. He stated he did not think there should be an immediate end to the existing outdoor dining and that continuation of the practice might be considered. He commented on the snack shack, farmers' market, and Malibu Film Society, and stated that laws should be honored but local groups that provided community value deserved consideration. He stated that the zoning ordinances should be assessed. He stated that prior to the City Hall building's conversion to offices, it was a performing arts center and possibly could be upgraded for the Malibu Film Society screenings. He stated that Legacy Park was deed restricted and the use of the City Hall parking lot to accommodate the farmers' market should be explored. He commented on the swimming pool interpretation and stated that when there were changes there should be a proper process followed by ZORACES and the City Council and that reinterpretation should not be done by the Planning Department. He stated that he thought it inappropriate for public speakers to be interrupted when it sounded like their comments approached a subject listed on the meeting agenda. He stated that he agreed that a modern library was not simply a book depository, that it played a much larger role in the

community.

Mayor Grisanti stated that he attended a SMC scoping meeting and construction was anticipated to conclude by mid-November which could help the farmers' market. He stated that he had a conversation with the Los Angeles County Supervisors' office, and that the farmers' market contract was with the Board of Supervisors and not the City of Malibu. He discussed the information provided by Planning Director Mollica and stated it did not make sense for all pools to be treated as if they were zero-rim pools.

ITEM 3 CONSENT CALENDAR

MOTION Mayor Pro Tem Silverstein moved, and Councilmember Pierson seconded a motion to approve the Consent Calendar and amend the typographical error in the fee schedule of Exhibit A of Item No. 3.B.5. The question was called, and the motion carried unanimously.

The Consent Calendar consisted of the following items:

B. New Items

1. Waive Further Reading
Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
2. Approve Warrants
Recommended Action: Allow and approve warrant demand numbers 67233-67356 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 712 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$3,010,038.57. City of Malibu payroll check number 5263-5268 and ACH deposits were issued in the amount of \$256,055.87
3. Approval of Minutes
Recommended Action: Approve the minutes for the December 16, 2021 Malibu City Council Special meeting and December 28, 2021 Malibu City Council Special meeting.
4. Findings to Hold Virtual City Council, Commission, Committee, Board and Other City Bodies, Meetings Under AB 361
Recommended Action: Consider a motion to reaffirm Resolution No. 22-25, re-authorizing remote teleconferencing/virtual meetings pursuant to AB 361.
5. Comprehensive School Safety Assessment Consultant Agreement
Recommended Action: 1) Authorize the Mayor to execute the Professional Services Agreement with Guidepost Solutions LLC for Comprehensive School Safety Assessment; and 2) Appropriate \$66,000 from the General Fund Undesignated Reserve to Account Number 100-7003-5100-00 (City Manager - Professional Services).
6. Malibu Road Drainage Repair Project

Recommended Action: 1) Authorize the Mayor the execute a construction contract with Hank Co. Inc. dba MD Engineering in the amount of \$154,291 for the Malibu Road Drainage Repair Project Specification No. 2099; 2) Authorize the Public Works Director to approve potential change orders up to 20% of the contract; and 3) Appropriate \$56,000 in Account No. 102-9215-5100.00 (Malibu Road Drainage Repairs).

RECESS At 9:04 p.m., Mayor Grisanti recessed the meeting. The meeting resumed at 9:20 p.m. with all Councilmembers present.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Appeal Nos. 22-002 and 22-003 - Appeal of Planning Commission Resolution No. 22-01 (22969 and 22959 Pacific Coast Highway; Appellants: Mani Brothers Real Estate Group and Patt Healy; Applicant: Steven Hakim; Property Owner: SKA Group, LLC and Surfrider Plaza, LLC) (Continued from October 10, 2022)

Recommended Action: Adopt Resolution No. 22-43, determining the project is categorically exempt from the California Environmental Quality Act, denying Appeal Nos. 22-002 and 22-003 and approving Conditional Use Permit Amendment No. 13-006 and Joint Use Parking Agreement (JUPA) No. 14-001 amending Conditional Use Permit (CUP) No. 09-009 and JUPA No. 10-001 to reduce the restaurant service area, increase retail tenant space, and decrease the number of required off-site parking spaces (22959 Pacific Coast Highway) located in the Commercial Visitor Serving-One (CV-1) zoning district at 22969 and 22959 Pacific Coast Highway (SKA Group, LLC and Surfrider Plaza, LLC).

Assistant Planning Director Fernandez presented the staff report.

Disclosures: Mayor Grisanti, Mayor Pro Tem Silverstein, and Councilmembers Farrer, Pierson, and Uhring

Mayor Grisanti opened the floor for public comment.

Speakers: Brittani Jackson, Patt Healy, Steven Hakim, Seena Samimi, Shelby Meade, Suzannah Owens, Judy Ettinger, Kelly Furano, Brandon Jenner, Stella Allan, Nick Eliopoulos, Hap Henry, Ann Doneen, Lonnie Gordon, Colin Drummond, Jo Drummond, Richard Gibbs, Satchel Lieberman, Brian Conway, and Helene Muddiman

Bill Sampson, Jefferson Wagner, and Barbara Burke were not present at the time of the hearing.

Ms. Jackson, Ms. Healy, Alexander Hakim, and Steven Hakim provided rebuttal to public comment.

As there were no other speakers present, Mayor Grisanti returned the matter to the table for discussion.

The Council discussed the item and directed questions to staff.

MOTION Councilmember Pierson moved, and Councilmember Farrer seconded a motion to adopt Resolution No. 22-43, determining the project is categorically exempt from the California Environmental Quality Act, denying Appeal Nos. 22-002 and 22-003 and approving Conditional Use Permit Amendment No. 13-006 and Joint Use Parking Agreement (JUPA) No. 14-001 amending Conditional Use Permit (CUP) No. 09-009 and JUPA No. 10-001 to reduce the restaurant service area, increase retail tenant space, and decrease the number of required off-site parking spaces (22959 Pacific Coast Highway) located in the Commercial Visitor Serving-One (CV-1) zoning district at 22969 and 22959 Pacific Coast Highway (SKA Group, LLC and Surfrider Plaza, LLC).

The Council discussed the motion and directed questions to staff.

The question was called, and the motion carried, 3-2, with Councilmember Uhring and Mayor Pro Tem Silverstein opposed.

B Appeal No. 21-011 - Appeal of Planning Commission Resolution No. 21-53 (23325 Malibu Colony Drive; Owner, Axel 23324, LLC; Appellant, Judith Israel)
Recommended Action: Continue this item to the November 14, 2022 Regular City Council meeting.

The item was continued to the November 14, 2022, Regular City Council meeting upon approval of the agenda.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

A. Malibu Library Set Aside Funds for Fiscal Year 2023-2024
Recommended Action: Approve a prioritized list of issues to be discussed at the yearly meeting between the City and County Library to discuss the use of the Malibu Library Set Aside Funds for Fiscal Year 2023-2024.

The item was continued to the November 14, 2022, Regular City Council meeting.

ITEM 7 COUNCIL ITEMS

None.

ADJOURNMENT

At 12:09 a.m., on October 25, 2022, Mayor Grisanti adjourned the meeting.

Approved and adopted by the City Council of the
City of Malibu on _____.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

MINUTES
MALIBU CITY COUNCIL
SPECIAL MEETING
OCTOBER 28, 2022
TELECONFERENCED - VARIOUS LOCATIONS
10:00 A.M.

The following meeting was held pursuant to AB 361 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

MEETING CALL TO ORDER

Mayor Grisanti called the meeting to order at 10:01 a.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Paul Grisanti, Mayor Pro Tem Bruce Silverstein (arrived at 10:39 a.m.), and Councilmembers Karen Farrer and Mikke Pierson

ABSENT: Councilmember Steve Uhring

ALSO PRESENT: Trevor Rusin, Interim City Attorney; Steve McClary, City Manager; and Kelsey Pettijohn, City Clerk

PUBLIC COMMENT ON CLOSED SESSION

Mayor Grisanti opened the floor to public comment. As there were no speakers present, he returned the matter to the table for discussion.

RECESS TO CLOSED SESSION

At 10:03 a.m., the Council recessed to Closed Session to discuss the following items listed on the Closed Session agenda:

Conference with Legal Counsel – Existing litigation pursuant to Government Code Section 54956.9(d)(1):

1. Case Name: City's Petition to Form Malibu USD from Territory in the Santa Monica-Malibu USD

At 10:43 a.m. Mayor Grisanti reconvened the meeting with Councilmember Uhring absent.

CLOSED SESSION REPORT

Interim City Attorney Rusin reported that the meeting convened at 10:00 a.m., after which time the City Council recessed to a Closed Session pursuant to Government Code Section 54956.9(d)(1), with Mayor Grisanti and Councilmembers Farrer and Pierson present,

Mayor Pro Tem Silverstein was present at 10:39 a.m., and Councilmember Uhring absent. He stated that the Council voted 3-1, with Mayor Pro Tem Silverstein abstaining, to approve a proposed term sheet with the Santa Monica-Malibu Unified School District (USD). The term sheet contained a conceptual framework which sets forth the process and timeline for the creation of an independent Malibu USD. He stated the Council also authorized its legal and financial consultants to continue to negotiate three separate agreements contemplated by the term sheet that would accomplish a full separation: Revenue Sharing agreement, Operational agreement, and a Joint Powers agreement. He stated the City and District would continue the negotiations with the mediator to finalize the agreements. He stated should the contemplative processes be accomplished within the proposed timeframes, an independent Malibu USD could be formed by July 1, 2024. He stated a full copy of the term sheet would be made available to the public.

ADJOURNMENT

At 10:45 a.m., Mayor Grisanti adjourned the meeting.

Approved and adopted by the City Council of the
City of Malibu on _____.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)