



City Council Meeting
09-14-20

**Item
3.B.3.**

Council Agenda Report

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

Prepared by: Heather Glaser, City Clerk

Approved by: Reva Feldman, City Manager

Date prepared: August 31, 2020 Meeting date: September 14, 2020

Subject: Approval of Minutes

RECOMMENDED ACTION: Approve the minutes for the August 10, 2020 Malibu City Council Regular 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 2020-2021. This project is part of normal staff operations.

DISCUSSION: Staff has prepared draft minutes for the meeting of August 10, 2020.

ATTACHMENTS: August 10, 2020 Malibu City Council Regular meeting minutes

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
AUGUST 10, 2020
TELECONFERENCED - VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

REGULAR SESSION CALL TO ORDER

Mayor Pierson called the meeting to order at 6:32 p.m.

ROLL CALL

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

PRESENT: Mayor Mikke Pierson; Mayor Pro Tem Skylar Peak; and Councilmembers Karen Farrer; Rick Mullen; and Jefferson Wagner

ALSO PRESENT: Christi Hogin, City Attorney; Reva Feldman, City Manager; Lisa Soghor, Assistant City Manager; Heather Glaser, City Clerk; Jesse Bobbett, Community Services Director; Yolanda Bundy, Environmental Sustainability Director; Bonnie Blue, Planning Director; Rob DuBoux, Public Works Director; Trevor Rusin, Assistant City Attorney; Kelsey Pettijohn, Deputy City Clerk; Elizabeth Shavelson, Assistant to the City Manager, Kate Gallo, Recreation Supervisor; Justine Kendall, Associate Planner; Lilly Rudolph, Contract Planner; and Susan Dueñas, Public Safety Manager

APPROVAL OF AGENDA

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

REPORT ON POSTING OF AGENDA

Deputy City Clerk Pettijohn reported that the agenda for the meeting was properly posted on July 30, 2020.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

Bill Sampson thanked Councilmember Wagner for supporting the City's mission statement and the Malibu Municipal Code (MMC) throughout the years. He discussed traffic near Broad Beach and stated people needed to slow down.

Don Maclay stated there had not been enough community involvement for placement of speed humps on Dume Drive. He stated Dume Drive was not eligible for speed humps. He stated a petition, 60% of residents voting in favor, and a speed study needed to be done before installation of speed humps. He requested installation of speed humps on Dume Drive be postponed.

Jo Drummond discussed short-term rentals. She indicated support for rentals during holiday seasons. She indicated opposition to an increased Transient Occupancy Tax (TOT) rate.

Lance Simmens discussed U.S. Senate Majority Leader Mitch McConnell's criticism of Malibu's request for federal aid to local governments. He requested the Council adopt a resolution supporting the request for federal funds to help municipalities meet their obligations.

Kraig Hill requested time deferral be reinstated for speakers during virtual meetings. He stated there had been more traffic accidents and motorcycles heard in the Big Rock Mesa neighborhood. He stated the City should request more California Highway Patrol (CHP) units on Pacific Coast Highway (PCH).

Doug Stewart discussed a need for towing in Malibu and access to a local impound lot. He requested the Council direct staff to explore space for a short-term transit lot to be used during the summer months.

Colin Drummond indicated opposition to requiring an onsite host for short-term rentals and stated the requirement would trample on the rights of taxpaying homeowners. He stated the City should make accommodation for different types of short-term rental hosts.

Andy Lyon discussed the letter written by Mayor Pierson requesting federal aid to local governments and stated the Council had not voted to have the letter sent.

Jane Albrecht discussed the letter written by Mayor Pierson requesting federal aid to local governments. She stated U.S. Senate Majority Leader Mitch McConnell had distorted the letter. She stated the Public Safety Commission had violated policies by recommending the City Council allow speed humps to be placed on Dume Drive and Fernhill Drive. She stated residents had not been notified and stated the Fire Department would have concerns. She discussed increase traffic on Point Dume.

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

City Manager Feldman introduced Russ Bryden, Los Angeles County Waterworks Districts Acting Assistant Deputy Director.

Los Angeles County Waterworks Districts Acting Assistant Deputy Director Bryden, on behalf of Mark Pestrella, Los Angeles County Department of Public

Works Director, discussed the power resilience benchmarking study of 30 pump stations in Waterworks District No. 29 (District 29). He stated the findings would be finalized in the coming weeks. He stated Malibu topography was unique. He stated the information gathered could be grouped into three categories: 1) infrastructure operations and upgrades; 2) communications and remote control; and 3) backup power. He stated District 29 kept its tanks topped off, but it could work on increasing the volume of strategically located water tanks. He stated District 29 communications and remote operations outpaced industry standards. He stated District 29 drilled to utilize a fleet of mobile generators to utilize during power outages. He discussed a pilot project in the Big Rock area for placement of permanent onsite generators for pump stations. He stated generators would be deployed by early September 2020 to three pump stations in the Big Rock area. He stated a middle generator would be placed on the hillside as District 29 had not found an amenable property owner with whom to work on placement of a generator.

In response to Councilmember Mullen, Los Angeles County Waterworks Districts Acting Assistant Deputy Director Bryden stated all three pump stations would be equipped with permanent generators before the start of the upcoming fire season.

In response to Councilmember Farrer, Los Angeles County Waterworks Districts Acting Assistant Deputy Director Bryden stated District 29 had five mobile generators, with six more incoming, for a total of 11 to be staged in Malibu. He stated he did not have specific information about what District 29 accomplished during the Woolsey Fire.

Mayor Pierson thanked Los Angeles County Waterworks Districts Acting Assistant Deputy Director Bryden.

City Manager Feldman thanked Los Angeles County Waterworks Districts Acting Assistant Deputy Director Bryden. She stated the County of Los Angeles reported 208,528 positive cases of COVID-19, including 86 in Malibu. She stated a hot and dry week was ahead and she encouraged the community to complete brush clearance. She stated staff had been conducting remote drills with partner agencies to prepare for emergency operations during the COVID-19 pandemic, including partnering with the Red Cross on evacuation protocols. She stated the City would work with Red Cross on evacuation procedures during the COVID-19 pandemic. She discussed evacuation zones established in Malibu after the Woolsey Fire and stated education would be provided in the coming weeks. She encouraged the community to sign up for emergency alerts and download the Malibu Emergency Survival Guide on the City's website. She stated the City had issued 130 building permits for Woolsey Fire rebuilds, and seven homes had been completed. She stated City Hall was open by appointment only. She stated the California Coastal Commission (CCC) would consider the City's fire-resistant landscape ordinance on August 12, 2020. She announced the Los Angeles County Sheriff's Department would hold an e-waste collection and document shred day at the Malibu/Lost Hills Sheriff's Station on August 15, 2020. She stated the Planning Commission would

hear a permit application from Caltrans for the Trancas Creek Bridge Replacement Project on September 8, 2020.

In response to Mayor Pierson, City Manager Feldman stated the Public Safety Commission had recommended installation of speed humps on several streets in Point Dume, and the Council heard and approved the item. She stated speed humps would not move forward for another six months due to other priorities for the City's street maintenance crews and stated the community would be notified. She stated Malibu Towing would need to get permission from the owner of a properly zoned location and procure a permit from the City, which would include environmental review. She stated she was looking at whether any requirements could be waived due to the COVID-19 emergency. She stated CHP officers had been hired over the Memorial Day weekend on an overtime basis. She stated a dedicated CHP officer out of the West Valley Station would not be available to the City. She stated recommendations for on-call services from the CHP would be coming back to the Council for consideration.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Farrer stated she attended a Library Foundation Committee meeting, Special and Regular meetings of the Las Virgenes-Malibu Council of Governments, and Special and Regular meetings of the League of California Cities Governing Board. She stated she had been attending Los Angeles County Department of Public Health briefings. She discussed traffic on PCH and the need for increased enforcement. She urged the community to complete the 2020 Census. She discussed the Malibu Emergency Survival Guide. She discussed correspondence the Council received about short-term rentals. She thanked Mr. Maclay and Ms. Albrecht for their comments. She discussed an email sent by Public Safety Commission Chair Chris Frost, which stated the Commission had studied the matter of speed humps on Point Dume for two years before its recommendation to the Council.

Councilmember Wagner stated Mayor Pro Tem Peak and he had a Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) meeting and stated the Subcommittee had considered a stand-alone parking ordinance. He requested the Mayor discuss the letter he sent in support of federal aid to local governments.

Councilmember Mullen stated neighbors in the Big Rock area had taken seriously the need for neighborhood readiness during fire season. He encouraged Mr. Sampson to get his neighborhood involved in deciding how to approach speeding near Broad Beach. He stated the speed humps had been effective in his neighborhood. He stated the public should comment on items on the agenda when those items had been taken up by the Council and not during Item No. 2.A. He stated he looked forward to hearing the Mayor discuss the letter he sent in support of federal aid to local governments.

Mayor Pro Tem Peak stated Councilmember Wagner and he held a ZORACES meeting to discuss parking as a stand-alone use for commercial properties, which would be heard next by the Planning Commission. He stated Councilmember Mullen and he held an Administration and Finance Subcommittee meeting. He expressed appreciation for staff who were working remotely and commended staff for presenting fiscally responsible options even though they entailed some staff cuts. He indicated support for speed humps on Point Dume to slow traffic down and questioned if it was possible to have additional Sheriff's Department presence on Point Dume and Broad Beach to address speeding.

Mayor Pierson stated speeding had become a problem on Malibu Road. He thanked the Big Rock neighborhood for its efforts to increase its resiliency during a loss of power. He encouraged the community to complete the 2020 Census. He stated the City was doing its best to help neighborhoods that wished to underground utilities. He discussed parking issues at the Point Dume Headlands. He stated the National League of Cities and the League of California Cities urged cities to send letters of support to congress for federal aid to municipalities. He stated the letter he sent was based on a form letter that had been provided for use by cities. He stated there was some urgency associated with it and it could not wait until the next Council meeting. He stated U.S. Senate Majority Leader Mitch McConnell had taken his words out of context. He stated he had not asked for any money for Malibu. He stated he was elected to advocate for Malibu and the time sensitivity of the matter required immediate action. He stated it was unfair for the media to attack City Manager Feldman and stated she had not seen the letter before it was sent. He discussed U.S. Senate Majority Leader Mitch McConnell's personal agenda. He stated local decisions were non-partisan.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.A.1., 3.B.5., 3.B.6., 3.B.7., and 3.B.8. were pulled by the public. Item No. 3.B.9. was pulled by the Council.

MOTION Mayor Pro Tem Peak moved and Councilmember Wagner seconded a motion to approve the Consent Calendar, except Item Nos. 3.A.1., 3.B.5., 3.B.6., 3.B.7., 3.B.8., and 3.B.9. 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 60925-61134 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. 664 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$3,789,215.30. City of Malibu payroll check number 5109-5114 and ACH deposits were issued in the amount of \$437,037.53.

3. Approval of Minutes
Recommended Action: Approve the minutes for the June 22, 2020 Malibu City Council Regular meeting.
4. Amendment to Professional Services Agreement with Kirk-Carter and Associates
Recommended Action: Authorize the City Manager to execute Amendment No. 2 to the Professional Services Agreement with Kirk-Carter and Associates.

The following items were pulled from the Consent Calendar for individual consideration:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 467
Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 467 amending Section 2.52.040 (Disaster Council Powers and Duties) in Chapter 2.52 (Emergency Services Organization) of Title 2 (Administration and Personnel) of the Malibu Municipal Code to require the Disaster Council to comply with the California Emergency Services Act and to meet at least once annually and finding the same exempt from the California Environmental Quality Act.

Public Safety Manager Duenas presented the staff report.

Hamish Patterson stated the letter the Mayor sent in support of federal aid to local governments was tone-deaf. He stated individual citizens, not cities, were the backbone of the nation. He stated everyone was facing economic disaster. He discussed unfunded liability.

MOTION

Councilmember Wagner moved and Councilmember Mullen seconded a motion to adopt Ordinance No. 467 amending Section 2.52.040 (Disaster Council Powers and Duties) in Chapter 2.52 (Emergency Services Organization) of Title 2 (Administration and Personnel) of the Malibu Municipal Code to require the Disaster Council to comply with the California Emergency Services Act and to meet at least once annually and finding the same exempt from the California Environmental Quality Act. The question was called and the motion carried unanimously.

B. New Items

5. Update on City Facilities
Recommended Action: Receive and file report on the status of City facilities during COVID-19.

City Manager Feldman presented the staff report.

Bruce Silverstein thanked City Clerk Glaser for her work with Council candidates. He requested speakers be allowed to be seen during public comment. He requested time deferral be reinstated for speakers during virtual meetings.

MOTION Councilmember Wagner moved and Councilmember Farrer seconded a motion to receive and file report on the status of City facilities during COVID-19. The question was called and the motion carried unanimously.

6. Amendment to Professional Services Agreement with American Guard Services, Inc.

Recommended Action: Authorize the City Manager to execute Amendment No. 3 to the Professional Services Agreement with American Guard Services, Inc. to extend the term of the Agreement for an additional year.

Public Works Director DuBoux presented the staff report.

Graeme Clifford questioned whether guards could be reassigned to other needed locations, such as the temporary skate park, Malibu Library, and construction sites, during COVID-19.

Public Works Director DuBoux stated the crossing guards would be utilized where needed during the time school was out due to COVID-19.

City Manager Feldman clarified the agreement was only for crossing guards to be used in assisting people in crossing a street.

Mayor Pro Tem Peak stated the services were contracted for as-needed use.

MOTION Mayor Pro Tem Peak moved and Councilmember Mullen seconded a motion to authorize the City Manager to execute Amendment No. 3 to the Professional Services Agreement with American Guard Services, Inc. to extend the term of the Agreement for an additional year. The question was called and the motion carried unanimously.

7. Professional Services Agreement for On-Call Land Surveying Services

Recommended Action: Authorize the City Manager to execute a Professional Services Agreements with MNS Engineers, Inc. to provide On-Call Land Surveying Services.

Public Works Director DuBoux presented the staff report.

Graeme Clifford questioned whether services were being paid for when the services were not being used.

City Manager Feldman stated the services were contracted for as-needed use.

MOTION Councilmember Wagner moved and Councilmember Mullen seconded a motion to authorize the City Manager to execute a Professional Services Agreements with MNS Engineers, Inc. to provide On-Call Land Surveying Services. The question was called and the motion carried unanimously.

8. Professional Services Agreements for On-Call Civil Engineering Services
Recommended Action: Authorize the City Manager to execute Professional Services Agreements for On-Call Civil Engineering Services with: 1) Kimley Horn & Associates Inc.; 2) Kasraie Consulting; and 3) Michael Baker International.

Public Works Director DuBoux presented the staff report.

Graeme Clifford stated his question had been answered in the previous report.

MOTION Councilmember Wagner moved and Councilmember Mullen seconded a motion to authorize the City Manager to execute Professional Services Agreements for On-Call Civil Engineering Services with: 1) Kimley Horn & Associates Inc.; 2) Kasraie Consulting; and 3) Michael Baker International. The question was called and the motion carried unanimously.

At 8:25 p.m., Councilmember Wagner recused himself and left the meeting for Item No. 3.B.9.

9. Award Civic Center Way Improvements Project
Recommended Action: 1) Approve the award and authorize the City Manager to execute a construction contract with GMZ Engineering, Inc. in the amount of \$3,345,466 for the Civic Center Way Improvements Project, Specification No. 2060; and 2) Authorize the Public Works Director to approve potential change orders up to 25% of the Agreement amount.

Councilmember Farrer stated the bidding process was completed in March 2020.

In response to Councilmember Farrer, Public Works Director DuBoux stated the project had been appealed to the CCC after the bidding process. He stated the CCC heard and denied the appeal in July 2020. He stated the contractor had extended his bid during the delay. He stated a second round of bids would have likely resulted in higher bid amounts.

MOTION Councilmember Mullen moved and Councilmember Farrer seconded a motion to: 1) approve the award and authorize the City Manager to execute a construction contract with GMZ Engineering, Inc. in the amount of \$3,345,466 for the Civic Center Way Improvements Project, Specification No. 2060; and 2) authorize the Public Works Director to approve potential

change orders up to 25% of the Agreement amount. The question was called and the motion carried 4-0, Councilmember Wagner absent.

RECESS At 8:10 p.m., Mayor Pierson called a recess. The meeting reconvened at 8:18 p.m. with all Councilmembers present.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Consolidated Coastal Development Permit for the Replacement of a Failed Onsite Wastewater Treatment System and New Seawall Improvements

Recommended Action: Adopt Resolution No. 20-42 authorizing the processing of a consolidated coastal development permit (CDP) by the California Coastal Commission (CCC) for the replacement of a failed onsite wastewater treatment system and associated development for an existing single-family residence at 19830 Pacific Coast Highway; and authorizing staff to prepare a letter addressed to the CCC to grant them the authority to process the consolidated CDP (H&E Holdings, LLC).

Planning Director Blue presented the staff report.

Planning Director Blue stated staff agreed with the applicant that the project was urgent. She stated, if approved, she would prepare a letter of support for the applicant to send to the CCC.

Marissa Couglan thanked the Council and staff. She stated the project had been in process since 2005. She stated consolidation was favorable for the timely handling of the permitting process for health and safety reasons.

MOTION Councilmember Wagner moved and Councilmember Mullen seconded the motion to adopt Resolution No. 20-42 authorizing the processing of a consolidated coastal development permit (CDP) by the California Coastal Commission (CCC) for the replacement of a failed onsite wastewater treatment system and associated development for an existing single-family residence at 19830 Pacific Coast Highway; and authorizing staff to prepare a letter addressed to the CCC to grant them the authority to process the consolidated CDP (H&E Holdings, LLC). The question was called and the motion carried unanimously.

B. Approval of Use of Community Development Block Grant Funds and COVID-19 CDBG Funds for the Los Angeles County Development Authority Small Business Grant Program and the Boys and Girls Club Malibu

Recommended Action: 1) Conduct the Public Hearing; and 2) Adopt Resolution No. 20-41 authorizing and approving the use of \$80,000 in Community Development Block Grant (CDBG) and COVID-19 CDBG (COVID-CV) funds to the Los Angeles County Development Authority for administration of a COVID-19 Small Business Assistance Grant program on behalf of the City of Malibu and \$47,000 in CDBG and CDBG-CV funds to the Boys and Girls Club Malibu for child-care services for income-qualified households.

Assistant City Manager Soghor presented the staff report.

In response to Mayor Pierson, Assistant City Manager Soghor stated the initial application was a simple process.

MOTION

Councilmember Farrer moved and Councilmember Wagner seconded a motion to adopt Resolution No. 20-41 authorizing and approving the use of \$80,000 in Community Development Block Grant (CDBG) and COVID-19 CDBG (COVID-CV) funds to the Los Angeles County Development Authority for administration of a COVID-19 Small Business Assistance Grant program on behalf of the City of Malibu and \$47,000 in CDBG and CDBG-CV funds to the Boys and Girls Club Malibu for child-care services for income-qualified households.

C. Interim Short-Term Rental Ordinance

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 468 amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 468 for the August 24, 2020 Regular City Council Meeting.

Assistant to the City Manager Shavelson presented the staff report.

Ian Ballon indicated support for requiring the host to have the ability to provide 24/7 local assistance rather than onsite supervision. He indicated concern for racial bias on the part of neighbors if letters of approval were required. He stated he had a “no party policy” for his own property. He suggested grandfathering in current hosts.

Dennis Seider was not present at the time of the hearing.

Don Tollefson suggested implementing a “no party policy” and charging an event fee. He suggested a two-guest limit per legal bedroom in each accommodation. He stated TOT should be raised beyond the 15% being proposed to the voters in November 2020. He suggested limiting the number of available short-term rentals in Malibu. He recommended a freeze on short-term rentals until the ordinance was sorted out.

Edith Morgan stated short-term rentals detracted from her privacy and security.

Brian Merrick was not present at the time of the hearing.

Bill Sampson stated short-term rentals were not a permitted use in a residential zone. He stated short-term renters were not part of the community. He indicated opposition to allowing short-term rentals to continue.

Larry Stuppy indicated opposition to the letter Mayor Pierson sent in support of federal aid to local governments. He indicated opposition to the proposed onsite wastewater treatment system requirements. He stated family homes would have to be sold due to loss of revenue from short-term rentals. He stated the change in the law would not address party houses. He indicated opposition to the proposed occupancy limit per bedroom because of families with children. He indicated opposition to the proposed definition of dwelling unit. He stated the City needed to focus on dealing with the homelessness on PCH.

Doug Stewart discussed the importance of enforcement. He discussed Lake Arrowhead's short-term rental ordinance. He stated dedicated Code Enforcement Officers would be needed and should be paid for by permitting fees.

Graeme Clifford stated the question was whether the City should be a community or a collection of small hotels. He stated neighbors needed to find other ways to make money instead of inconveniencing their neighbors. He stated an interim ordinance should not be adopted. He stated the City should not rely on TOT revenue.

Dean Wenner indicated opposition to the proposed interim ordinance. He stated short-term rentals should not be banned as they had been legal in the City for decades. He stated documented incidents needed to be addressed. He stated only one home on Paseo Hidalgo was a problem in the City. He stated Santa Monica had never allowed short-term rentals.

Lynn Norton stated a short-term rental ordinance like Santa Monica's was preferable to the proposed interim ordinance. She indicated opposition to granting non-resident permits.

Joey Goodman stated egregious actions had taken place at the home on Paseo Hidalgo. He discussed the need for code enforcement provisions. He stated non-owner-occupied properties were the most problematic. He questioned why the City's collection of TOT had set a precedent that continued to allow short-term rentals.

Bruce Silverstein indicated opposition to the proposed interim ordinance. He stated the Santa Monica-style home sharing ordinance did not need to be submitted to the CCC as a Local Coastal Program Amendment (LCPA). He stated the City should enforce the home sharing ordinance and let the CCC sue the City if it had issues. He stated existing law did not allow short-term rentals.

Monica Briseno, on behalf of a Malibu Colony client, , requested incorporation of mechanisms to address nuisances before they became violations. She stated the proposed interim ordinance placed the burden of policing and enforcement on affected neighbors instead of providing dedicated staff or placing some burden on the host. She requested incorporation of a host requirement be added to the proposed interim ordinance. She stated enforcement was the key to success.

Ann Doneen was not present at the time of the hearing.

James Isaacs was not present at the time of the hearing.

Andrew Gombiner indicated support for the proposed interim ordinance. He indicated opposition to requiring an onsite host. He discussed State laws that would restrict the amount of rent he could collect from a short-term rental. He indicated support for allowing up to two short-term rentals per multi-family unit. He discussed State laws that restricted owners from making use of seasonal short-term rentals in multi-family units that previously had long-term renters.

Joanne Gary thanked Mayor Pierson and Councilmember Wagner for being accessible to her. She thanked Public Works Director DuBoux for his assistance with her street. She discussed an Airbnb property on her street that had taken away her right to peace, quiet, and privacy. She stated strangers were in her neighborhood and she felt unsafe. She discussed recent examples.

Kraig Hill indicated support for renting out a room to pay the rent, but he indicated opposition for commercial short-term rentals. He stated there was legal precedent for restricting short-term rentals without going to the CCC. He stated “visitor-serving” in the CCC mandate excluded residential land. He indicated support for the Santa Monica-style home sharing ordinance instead of the proposed interim ordinance and stated the City did not need the TOT. He discussed accessory dwelling units (ADUs) and stated ADUs could not be used for short-term rentals.

Beatrix Zilinskas indicated opposition to the proposed interim ordinance. She stated residential zoning did not allow short-term rentals. She stated the proposed interim ordinance and Santa Monica-style home sharing ordinance did not address Special Event Permits.

Michael Lustig stated the proposed interim ordinance was unenforceable. He indicated support for the Santa Monica home sharing ordinance.

Marc Maniscalco stated his multi-family unit was rented out in a way that aligned with the proposed interim ordinance. He indicated opposition to the Santa Monica-style home sharing ordinance considered by the Planning Commission. He stated short-term rentals were used by parents of Pepperdine University students because there were not enough hotels in Malibu.

Jo Drummond thanked the Council and City Manager for their support of Big Rock and thanked the County for its pilot generator project. She requested a separate permit with a lower fee be added for primary residents that rented for eight-weeks or less in a year. She requested the TOT rate remain at 12%.

Colin Drummond thanked the Council and City Manager for their support of Big Rock and thanked the County for its pilot generator project. He stated the requirement of an onsite host would be difficult for many short-term rental owners.

He stated the Santa Monica-style home sharing ordinance should make accommodations for them. He stated it felt like the Council was trying to ban short-term rentals.

John Choi, Airbnb Policy Manager, stated Airbnb was committed to serving as a good community partner, including education, suspension, and permanent removal from the platform for problem hosts. He discussed a web portal developed for neighbor complaints at www.airbnb.com/neighbors, as well as a hotline number of 855-635-7754. He discussed a law enforcement portal. He stated Airbnb could help the City address nuisances. He discussed a property at Paseo Hidalgo that had been suspended from using the Airbnb platform for 30 days. He stated the proposed interim ordinance went against the City's Local Coastal Program (LCP). He recommended having only two permits: a historical permit and a tourist core permit. He discussed the reduction of TOT due to banned usage months when the City historically saw very little drop-off in use.

Richard Olson read from an email sent to him by Airbnb as a host. He indicated support for the proposed interim ordinance, but stated he preferred the Santa Monica-style home sharing ordinance. He discussed his hosting experience. He stated there were more than a few nuisance properties in the City. He stated enforcement was needed.

Sharone Karsh stated she relied on the income from short-term rental of her home. She indicated support for Airbnb. She stated Mr. Lustig was not a resident of Malibu. She stated there were not a lot of hotels in Malibu.

Councilmember Farrer questioned whether 3833 Paseo Hidalgo Street had already been suspended for 30 days, what the policy was for reinstatement, what would happen if there were future violations, and what would constitute grounds for a ban.

City Attorney Hogin stated the questions were mostly outside the scope of the discussion at hand unless Councilmember Farrer thought the answers would be relevant to her decision on this item. She stated Assistant Attorney Rusin had been discussing enforcement with Airbnb.

Councilmember Farrer questioned what the Airbnb platform responsibility was compared to the City. She stated different iterations of the Council had been hearing short-term rental items for years.

City Attorney Hogin discussed the evolution of short-term rental conversations as the internet has grown and short-term rental platforms have developed. She stated it appeared that Airbnb had taken a stronger position regarding enforcement.

Assistant City Attorney Rusin stated Airbnb had developed a series of protocols for addressing issues important to the community and communicated with law enforcement.

Councilmember Farrer discussed the importance of enforcement and how Lake Arrowhead was enforcing its short-term rental ordinance. She questioned how much Code Enforcement time was spent on short-term rentals.

Councilmember Mullen questioned whether the proposed interim ordinance would provide more tools for Code Enforcement.

Planning Director Blue stated she did not know how much Code Enforcement time was spent on short-term rentals. She stated the proposed interim ordinance set forth a system and regulations that would give Code Enforcement more tools to deal with bad actors.

Councilmember Mullen stated the Council had previously considered a version of the proposed interim ordinance and ultimately decided to pursue the Santa Monica-style home sharing ordinance instead. He stated problem properties had concerned the Council and it decided to reconsider interim options for enforcement. He discussed the reality of the City having allowed short-term rentals in the first place, as well as the position of the CCC.

In response to Councilmember Mullen, City Attorney Hogin stated the Santa Monica-style home sharing ordinance would be enforceable once certified by the CCC. She stated the LCPA changed the use in Malibu. She stated the proposed interim ordinance had strayed from its original intent of providing additional enforcement tools beyond what the City already had. She clarified “Airbnb” was being used as a shorthand for any online platform that assisted the public in obtaining short-term rentals. She stated the proposed interim ordinance would give the City a tracking mechanism but would not constitute a change of use because it did not change how someone could rent out their home. She stated the Santa Monica-style home sharing ordinance was a change of use because there would be a number restrictions that would prevent many from renting out their homes.

In response to Councilmember Mullen, Planning Director Blue stated City staff had no indication that CCC would object to the proposed interim ordinance as long as the City processed an LCPA for its long-term goals for short-term rentals.

Councilmember Mullen stated it was responsible for the City to continue to pursue a good working relationship with the CCC. He questioned whether the City could find out before the September 14, 2020 City Council Regular meeting which enforcement options the CCC would be amenable to for both the proposed interim ordinance and the Santa Monica-style home sharing ordinance so the Council could make an educated decision.

Planning Director Blue stated City staff was targeting September 14, 2020 for the Council to consider the Santa Monica-style home sharing ordinance.

City Attorney Hogin stated City staff could try to get some assurance from the CCC that the City would be enacting legitimate enforcement tools while the LCPA was

pending rather than asking for a lawsuit.

Councilmember Mullen stated the Santa Monica-style home sharing ordinance was the goal, but the City needed enforcement tools in the meantime.

City Attorney Hogin clarified that lawsuits over the Santa Monica-style home sharing ordinance were likely to come from hosts the ordinance would cut off. She stated the City was following up with Airbnb about the nuisance property on Paseo Hidalgo.

Mayor Pro Tem Peak left the meeting at 10:41 p.m.

City Attorney Hogin stated City staff could cull out the less vulnerable enforcement-related and regulatory portions of the proposed interim ordinance, run that by the CCC, and bring it back to the Council for consideration with the Santa Monica-style home sharing ordinance.

Mayor Pro Tem Peak returned to the meeting at 10:43 p.m.

Councilmember Mullen stated the goal was to adopt a long-term solution that would stand up in court, but there were too many issues to ignore in the meantime.

Councilmember Wagner stated both the proposed interim ordinance and the Santa Monica-style home sharing ordinance would be challenged. He stated the Council and staff should devote its energy to the Santa Monica-style home sharing ordinance. He stated one platform's suspension or removal of a nuisance property would not preclude the property from being listed on other platforms.

In response to Councilmember Mullen, Councilmember Wagner stated the Council should stick with the Santa Monica-style home sharing ordinance.

Councilmember Mullen indicated agreement with Councilmember Wagner but stated there needed to be enforcement tools in the meantime.

City Attorney Hogin stated the Santa Monica-style home sharing ordinance could not be enforced until it was certified by the CCC. She stated staff could discuss with the CCC enforcement tools and request an expedited processing of the Santa Monica-style home sharing ordinance.

Mayor Pro Tem Peak indicated agreement with Councilmembers Mullen and Wagner.

Councilmember Mullen stated the reason the proposed interim ordinance was brought back was to provide enforcement tools while the Santa Monica-style home sharing ordinance was moving through the CCC and until the LCPA superseded the proposed interim ordinance.

In response to Councilmember Farrer, Planning Director Blue stated she expected the CCC would take a while to process the LCPA due to the COVID-19 pandemic.

City Attorney Higin stated regardless of what, if any, LCPA the City sent to the CCC, the Council could continue to add enforcement tools to the City's arsenal.

Councilmember Farrer stated some in the community needed immediate relief through enforcement tools. She stated the community was divided on what it ultimately wanted to see happen with short-term rentals. She stated something needed to be moved forward.

Councilmember Mullen stated some enforcement tools needed to be adopted.

Mayor Pierson thanked staff for its work on the proposed interim ordinance. He stated he asked for the proposed interim ordinance to be brought back and it had nothing to do with City Manager Feldman. He stated he was spending many hours on the phone with community members and law enforcement, and he wanted to assist the community.

In response to Mayor Pierson, City Attorney Higin stated the enforcement options could be pulled out from the proposed interim ordinance and presented to the Council with the Santa Monica-style home sharing ordinance on September 14, 2020. She stated it was up to the Council to decide whether anyone was grandfathered.

In response to Mayor Pierson, City Attorney Higin stated there was a way to craft enforcement options separate from the LCPA. She stated additional tools for enforcement could be considered along the way.

Mayor Pierson stated enforcement was the immediate goal.

City Attorney Higin stated the repeated public conversations educated hosts that the City is very interested in enforcement.

Mayor Pierson stated the long-term vision was protecting neighborhoods and to have Malibu not be just a short-term rental community. He indicated support for more immediate enforcement options.

In response to Mayor Pierson, Planning Director Blue stated staff had ideas on how to implement electronic tools for a short-term rental permitting system.

In response to Mayor Pierson, City Manager Feldman stated a fee structure had not yet been developed by staff. She stated she would come back to the Council if it became apparent the workload required additional staff.

Mayor Pro Tem Peak stated managing the permitting process did not seem to be the most staff-intensive part of the discussion. He recommended going line by line

and indicating what portions of the proposed interim ordinance the Council wanted to come back.

Councilmember Mullen recommended the proposed interim ordinance come back with a simplified enforcement ordinance on September 14, 2020, in addition to the Santa Monica-style home sharing ordinance.

Mayor Pro Tem Peak recommended going through the proposed interim ordinance.

Councilmember Wagner stated the Council should take the lead in moving the Santa Monica-style home sharing ordinance forward instead of considering other options.

In response to Mayor Pierson, Councilmember Wagner stated the handful of problem properties should be handled separately. He expressed concern that an enforcement ordinance would not lead to anything but more staff time.

Mayor Pro Tem Peak stated enforcement needed to be an interim step in moving toward the Santa Monica-style home sharing ordinance. He stated the subject had been discussed his entire time on Council.

Mayor Pierson provided a summary of the proposed interim ordinance.

Councilmember Mullen stated owners should still be required to mail a notice to all dwelling units within 500 feet once a short-term rental permit had been approved.

Councilmember Farrer and Mayor Pierson indicated agreement with Councilmember Mullen.

Mayor Pierson indicated support for penalties being in line with the Santa Monica-style home sharing ordinance.

Mayor Pro Tem Peak indicated agreement with Mayor Pierson. He stated street parking was dealt with when occupancy was based on two per bedroom plus two at a maximum of 14 regardless of the number of bedrooms.

In response to Mayor Pro Tem Peak, City Attorney Hogin recommended leaving permitting alone for the time being, introducing MMC Section 17.55.090, and having a permitting mechanism brought back. She stated revocation of a permit was a good enforcement tool and recommended simplifying the permit. She stated this would also address fear that the Council was institutionalizing or overregulating the use.

Mayor Pierson stated that would give owners time to figure out what they would do with their properties.

Councilmember Mullen recommended considering three ordinances on September 14, 2020: 1) the Santa Monica-style home sharing ordinance; 2) the proposed interim ordinance; and 3) a basic enforcement ordinance.

Mayor Pierson stated he did not see any reason to tinker with the proposed interim ordinance before it came back to Council again.

MOTION Councilmember Mullen moved and Mayor Pierson seconded a motion to continue to the September 14, 2020 City Council Regular meeting to hear concurrently: 1) Ordinance No. 468 amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; 2) Local Coastal Program Amendment (LCPA) No. 19-003 and Zoning Text Amendment (ZTA) No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, and other restrictions, and clarifying permitted uses related to short-term rental (Citywide); and 3) a revised version of Ordinance No. 468 that removes the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is processed.

Councilmember Wagner commended the Council though he did not agree with the direction the Council was heading.

The question was called and the motion carried 4-1, Councilmember Wagner abstaining.

ITEM 5 OLD BUSINESS

- A. Hotel Project Development Agreement Public Benefits
Recommended Action: 1) Receive presentation by the owner of 22729 and 22941 Pacific Coast Highway regarding public benefits; and 2) Provide direction to staff on the proposed public benefits associated with the hotel project development agreement.

Contract Planner Lilly Rudolph presented the staff report. She noted the addresses in question were actually 22729 and 22741 Pacific Coast Highway.

Norm Haynie discussed the project. He stated MMC Section 17.64.040(a) outlined special benefits could be provided to the City or the community. He stated General Plan Section II (1.5.0) outlined that the public benefit or amenities shall justify the negative impacts resulting in the increase of Floor Area Ratio (FAR) from 15%. He stated his project would not have any negative impacts. He stated 65% of the building was already in place and permitted. He stated the project would reduce traffic to the area by a minimum of 21%. He stated he was proposing a benefit for the community and the City.

Graeme Clifford indicated support for the proposed project.

Lynn Norton indicated support for the proposed project. She recommended the Council get a guarantee on the amount of TOT the City could expect to receive. She stated the proposed donation to Boys and Girls Club was not a public benefit.

Bill Curtis indicated support for the proposed project.

Hassan Izad was not present at the time of the hearing.

Hamish Patterson indicated support for the proposed project.

Andy Lyon was not present at the time of the hearing.

Mayor Pro Tem Peak questioned whether the water main infrastructure improvement was included in the project.

Planning Director Blue stated the staff report separated required upgrades, like the water main infrastructure improvement, from additional public benefits.

Mayor Pro Tem Peak expressed support for the Boys and Girls Club but stated the public benefit should come directly to the City. He proposed a \$1,000,000 total donation to the City.

Mayor Pro Tem Peak left the meeting at 11:43 p.m.

Councilmember Farrer expressed support for the Boys and Girls Club but stated the public benefit should come directly to the City and should not involve a third party.

Mayor Pro Tem Peak returned to the meeting at 11:45 p.m.

In response to Councilmember Farrer, Planning Director Blue stated the development agreement project she was most familiar with was the La Paz project, which involved the donation of Parcel C, a cash contribution to the City, and dedication of trails. She stated the Case/Crummer project was not in the context of a development agreement.

Councilmember Wagner stated the Case/Crummer project provided funds to the California Department of Parks and Recreation. He discussed the water main infrastructure improvement required for the proposed project. He discussed earmarking the funds donated to the City for the Boys and Girls Club.

Councilmember Mullen stated the proposed project was utilizing an existing building and getting rid of an eyesore. He stated increasing the water pressure into the City was beneficial. He stated additional public benefits should come straight to the City.

Mr. Haynie stated the project had no negative impacts so there was nothing to mitigate with additional funds. He stated the water main infrastructure improvement was required by District 29 and would cost him \$500,000. He stated he had already committed to donating \$400,000 to the Boys and Girls Club that he would not change.

Councilmember Wagner recommended requiring an additional \$150,000 in exchange for the project going to the Planning Commission on September 7, 2020.

Assistant City Attorney Rusin stated the details of the development agreement would go to the Planning Commission and then to the Council. He clarified it was on track to go to the Planning Commission as soon as possible, and staff just needed general direction on what the Council was looking for in terms of public benefits.

Mayor Pro Tem Peak recommended requiring a total contribution of \$1,000,000, with \$250,000 paid up front and the balance due within three months of operation.

Councilmember Mullen and Councilmember Farrer indicated agreement with Mayor Pro Tem Peak.

Councilmember Wagner stated the project should go before the Planning Commission on September 7, 2020.

Mayor Pierson indicated agreement with the Council.

Planning Director Blue clarified there had been development agreements with Malibu Bay Company, as well as Weintraub Financial Services, both of which had not moved forward.

Mayor Pro Tem Peak indicated support for the project moving forward as quickly as possible.

ITEM 6 NEW BUSINESS

A. Malibu Aquatics Foundation Fee Waiver

Recommended Action: Consider whether to approve the request from the Malibu Aquatics Foundation to waive contract instructor fees owed to the City for swimming programs.

Community Services Director Bobbett presented the staff report.

Sue Murphee was not present at the time of the hearing.

Bill Sampson was not present at the time of the hearing.

In response to Mayor Pro Tem Peak, Community Services Director Bobbett stated the City only recouped one-third of the total amount the program cost the City to

run.

Mayor Pro Tem Peak stated the program costs were a causality of the Woolsey Fire and the COVID-19 pandemic.

In response to Councilmember Mullen, Community Services Director Bobbett confirmed the Malibu Aquatic Foundation had kept coaches on during the COVID-19 pandemic.

Councilmember Farrer indicated support for water safety and stated it was hard to see programs cut due to funding shortfalls from the COVID-19 pandemic.

In response to Mayor Pro Tem Peak, City Manager Feldman stated there were a few thousand dollars left in the General Fund Grant Program. She clarified the request was to waive fees on top of the amount the City was already subsidizing the program.

In response to Councilmember Mullen, City Manager Feldman confirmed if the Malibu Seawolves had applied for a General Fund Grant, the organization was confirmed to be a 501(c)(3) nonprofit organization.

Mayor Pro Tem Peak suggested appropriating \$1,000 from the General Fund Grant Program.

Mayor Pierson stated the program was valuable.

Councilmember Mullen indicated agreement with Mayor Pro Tem Peak.

MOTION Mayor Pro Tem Peak moved and Councilmember Farrer seconded a motion to approve a \$1,000 transfer from the General Fund Grant Program to waive a portion of the fees due to the City from the Malibu Seawolves. The question was called and the motion carried unanimously.

ITEM 7 COUNCIL ITEMS

A. Designation of Voting Delegate and Alternate Voting Delegate(s) for the 2020 League of California Cities Annual Conference

Recommended Action: Designate the City's voting delegate and alternate voting delegate(s) for the League of California Cities 2020 Annual Conference scheduled for October 7-9, 2020.

City Manager Feldman presented the staff report.

Mayor Pierson stated he may not be able to attend the whole conference.

MOTION Councilmember Mullen moved to designate Mayor Pierson as the City's voting delegate and Mayor Pro Tem Peak as the alternate voting delegate for the League

of California Cities 2020 Annual Conference scheduled for October 7-9, 2020.

SUPPLEMENTAL MOTION

Mayor Pro Tem Peak moved to designate Mayor Peak as the City's voting delegate and Councilmember Farrer as the alternate voting delegate for the League of California Cities 2020 Annual Conference scheduled for October 7-9, 2020.

Councilmember Mullen seconded the supplemental motion. The question was called and the supplemental motion carried unanimously.

B. Face Covering Ordinance (Mayor Pierson)

Recommended Action: At the request of Mayor Pierson, consider directing staff to bring back an urgency ordinance requiring all individuals to wear a face covering while in public.

Mayor Pierson presented the item.

Bruce Silverstein indicated support for a mask ordinance. He questioned whether an urgency ordinance was the proper way to handle the matter. He expressed concern for a lack of process.

Hamish Patterson stated process was important. He stated there had been four months since the COVID-19 pandemic began and questioned why it was so important now. He questioned who would enforce a mask ordinance.

Councilmember Mullen stated the public was educated on the methods of transmission. He stated it was unnecessary to create a law about wearing masks.

Mayor Pro Tem Peak stated State law already required wearing masks. He stated he had seen very good compliance with the requirement to wear a mask.

Councilmember Mullen stated he had seen very good compliance with the requirement to wear a mask.

Councilmember Wagner questioned how the ordinance would be enforced.

Councilmember Farrer stated she had received emails from people outraged to see not everyone in Malibu was wearing a mask.

Mayor Pierson stated he had been asked to bring the matter forward by some community members. He agreed it was late in the process to be discussing it but stated the Sheriff's Department indicated an enforcement tool would be useful.

Mayor Pro Tem Peak suggested updating the changeable message signs.

In response to Councilmember Mullen, Mayor Pro Tem Peak stated it was State law to wear a mask.

Councilmember Mullen stated the changeable message signs could be updated without creating a law.

Councilmember Wagner stated the changeable message signs on PCH alerted the public of the mask requirement.

Councilmember Mullen stated he was a COVID-19 sceptic but wore a mask where he was required to wear one.

MOTION Councilmember Wagner moved to direct staff to bring back an urgency ordinance requiring all individuals to wear a face covering while in public, similar to the ordinance recently enacted by the City of Hermosa Beach.

In response to Councilmember Mullen, Councilmember Wagner indicated support for the ordinance.

Councilmember Farrer seconded the motion. The question was called and the motion carried 4-1, Councilmember Mullen dissenting.

C. Temporary Waiving of Sign Ordinance to Assist Businesses during COVID-19 (Councilmember Farrer)

Recommended Action: At the request of Councilmember Farrer, consider whether to direct staff to develop an urgency ordinance to temporarily waive certain sections of Malibu Municipal Code Section 17.52.040 regulating signage during the COVID-19 pandemic.

Councilmember Farrer presented the item.

Bruce Silverstein questioned why a proposed urgency ordinance was not included. He discussed MMC Section 17.52.040 and stated not all signs were business signs. He stated the ordinance should not be an urgency ordinance.

Assistant City Attorney Rusin clarified an urgency ordinance was not to be considered or approved with the item. He stated certain matter that pertained to an emergency that would normally go through the Planning Commission first, could be addressed with an urgency ordinance instead. He stated urgency ordinances could be paired with regular ordinances that went through the normal process to survive challenge.

Graeme Clifford expressed concern for the number of signs that could be placed in eastern Malibu on PCH. He recommended limiting the provisions of the ordinance to businesses that were hardest hit. He questioned how the termination of the provisions would be enforced.

Andy Lyon was not present at the time of the hearing.

Councilmember Farrer stated the purpose of the ordinance was to only make

allowances for the duration of the State orders.

Councilmember Wagner recommended the ordinance apply to restaurants only. He stated the sign allowances should be tied to the temporary restaurant recovery program that allowed outdoor seating. He stated a lot of City resources would be used in monitoring the allowances if retail were included. He stated the City had a sign inventory that should be consulted.

In response to Councilmember Farrer, City Manager Feldman stated businesses were hurting, but it was up to the Council to determine the types of restrictions it wanted to implement.

Assistant City Attorney Rusin stated staff could look into whether there was justification for the ordinance to be done as an urgency ordinance and what form of relief could be provided.

City Manager Feldman stated there were other cities that had already done something similar.

Mayor Pierson questioned what the logistics would look like.

Councilmember Mullen questioned how much staff time the ordinance would take.

Councilmember Wagner stated the City had a sign inventory.

City Manager Feldman stated the City of South Pasadena had enacted an ordinance that addressed temporary signs during the local emergency.

Mayor Pierson stated he did not know which businesses were actually open.

MOTION Mayor Pro Tem Peak moved and Mayor Pierson seconded a motion to direct staff to develop an urgency ordinance similar to the South Pasadena ordinance to temporarily waive certain sections of Malibu Municipal Code Section 17.52.040 regulating signage during the COVID-19 pandemic and include provisions ensuring their later removal.

FRIENDLY AMENDMENT

Councilmember Wagner moved to amend the motion to include using the City's existing sign inventory, as appropriate.

Mayor Pro Tem Peak indicated agreement with Councilmember Wagner.

The maker and the seconder accepted the amendment. The question was called and the amended motion carried unanimously.

ADJOURNMENT

At 12:57 a.m. on August 11, 2020, Mayor Pierson adjourned the meeting.

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

KAREN FARRER, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)