



# 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: October 26, 2020 Meeting date: November 9, 2020

Subject: Approval of Minutes

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**RECOMMENDED ACTION:** Approve the minutes for the September 29, 2020 Malibu City Council Adjourned 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 is part of normal staff operations.

**DISCUSSION:** Staff has prepared draft minutes for the meeting of September 29, 2020.

**ATTACHMENTS:** September 29, 2020 Malibu City Council Adjourned Regular meeting minutes

MINUTES  
MALIBU CITY COUNCIL  
ADJOURNED REGULAR MEETING  
SEPTEMBER 29, 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.**

**CALL TO ORDER**

Mayor Pierson called the meeting to order at 6:30 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 and Rick Mullen

ABSENT: Councilmember 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; Elizabeth Shavelson, Assistant to the City Manager; Susan Dueñas, Public Safety Manager; Kelsey Pettijohn, Deputy City Clerk; Kate Gallo, Recreation Supervisor; and Justine Kendall, Associate Planner

**PLEDGE OF ALLEGIANCE**

Mayor Pierson led the pledge of allegiance.

**APPROVAL OF AGENDA**

Mayor Pierson suggested continuing Item No. 6.B. to a date uncertain.

MOTION Mayor Pierson moved and Councilmember Farrer seconded a motion to approve the agenda, continuing Item No. 6.B. to a date uncertain. The question was called and the motion carried 4-0, Councilmember Wagner absent.

**REPORT ON POSTING OF AGENDA**

City Clerk Glaser reported that the agenda for the meeting was properly posted on September 17, 2020 with the amended agenda was posted September 24, 2020.

**ITEM 1 CEREMONIAL/PRESENTATIONS**

A. Introduction to Gabriel Graham, Las Virgenes-Malibu Council of Governments Homeless Outreach Coordinator

Gabriel Graham thanked the Council for the opportunity to work in the City. He stated there were currently several encampments with people experiencing homelessness in the City.

In response to Mayor Pierson, Mr. Graham stated one of the greatest challenges for his role was assisting people experiencing homelessness who had a lot of belongings with them.

Councilmember Mullen thanked Mr. Graham for this work. He stated assisting people experiencing homelessness was challenging.

Mr. Graham stated there was often an uptick in the number of people experiencing homelessness in the City during the summer months. He stated he could respond to specific requests from the City and indicated fire season was also a concern.

Councilmember Farrer thanked Mr. Graham for his work and his thorough reports.

B. Staff Update on National Preparedness Month and Fire Season Preparations

Public Safety Manager Dueñas discussed Mr. Graham's role. She stated he was the day to day contact for response to immediate issues and connecting people with the People Concern case workers. She discussed the nine virtual workshops organized by the City for National Preparedness Month. She stated staff had also worked on promoting the newly designated evacuation zones, distributing the Malibu Emergency Survival Guide, disaster notification system testing, an evacuation exercise with response partners, staff training on the new virtual Emergency Operation Center (EOC) platform, Community Emergency Response Team (CERT) radio drills using the new radio repeater on Castro Peak, and updating emergency supply bins. She stated staff, Volunteers on Patrol, Arson Watch and CERT canvassed eastern Malibu and made 144 contacts on September 26, 2020.

Councilmember Mullen thanked Public Safety Manager Dueñas for organizing a robust National Preparedness Month. He encouraged everyone to sign up for a home ignition zone assessment.

In response to Councilmember Mullen, Public Safety Manager Dueñas stated she would like to organize evacuation drills for residents but it could be challenging to do during 2020.

Councilmember Mullen stated the Castro Peak repeater was a great accomplishment to improve communication connectivity in the event of an

emergency.

In response to Mayor Pierson, Public Safety Manager Dueñas stated recordings of the virtual workshops were available on the City's website.

Mayor Pierson stated the virtual workshops provided great information.

## **ITEM 2.A. PUBLIC COMMENTS**

Mark Graham stated he lived in Elk Grove and he was invested in the cell antenna permitting issue. He recommended the City change the Malibu Municipal Code (MMC) to: 1) require twice annual random testing of the radio frequency emissions of the antennas; 2) require all equipment that can be placed under ground be undergrounded; 3) make the application process more complicated; 4) require telecom companies to conduct extensive community outreach; 5) create a list of the preferred locations for antenna; 6) prohibit cell antennas in a residential zone; and 7) prohibit cell antennas within 1,500 feet of a school.

Bruce Silverstein discussed the Bell property and his appeal to the California Coastal Commission (CCC). He stated his appeal was intended to require the remediation to include the recreation a wet land. He stated the City should require Southern California Edison (SCE) to complete the remediation required in the permit while his appeal was pending.

Lonnie Gordon stated she and her husband regularly picked up trash and cigarette butts in the parking lot along Westward Beach. She stated 3.5 trillion cigarette butts were littered every year and leach toxins into the beach. She recommended using a changeable message signs to say, "no smoking on the beaches."

Bill Sampson questioned if the City Attorney's law firm represented Airbnb. He also questioned if the City Attorney, Assistant City Attorney, or any Code Enforcement staff ran a short-term rental or had any family members who ran a short-term rental.

Joel Schulman discussed Governor Newsom's approval of AB 1788. He thanked the City for its role supporting the bill. He stated there were big compromises in the bill. He requested the City encourage the CCC to approve as strong a pesticide Local Coastal Plan Amendment (LCPA) as possible.

Sheila Morovati stated the Cut Out Cutlery campaign had convinced Uber Eats and Postmates to change the default setting in their apps to make cutlery available only on request. She expressed concern DoorDash and Grubhub had not done the same. She stated third party delivery services could easily change the default setting in their systems to require cutlery be requested.

Kraig Hill questioned when the hosted short-term rental ordinance was coming back to the Council. He questioned why the City was only divided into four

evacuation zones. He recommended the Council create a committee to work with legislators on bills related to fire insurance. He stated Hans Laetz was looking for funding for an antenna to improve the KBUU signal in eastern Malibu and improve emergency communications.

Norm Haynie discussed a positive experience he had visiting City Hall and looking for information on a project with story poles. He stated City staff was doing an incredible job under pressure.

Andy Lyon stated he watched a Planning Commission meeting where a permit for additional outdoor dining for the Nicholas Eatery was continued. He stated he had heard there was a homeless shelter going being built next to the Malibu Library. He expressed concern the City may not get a Los Angeles County Sheriff's Department Substation.

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

City Manager Feldman stated the County of Los Angeles reported 268,455 positive cases of COVID-19 with 6,208 deaths, including 101 positive cases and three deaths in Malibu. She stated the City had issued 142 building permits for Woolsey Fire rebuilds, and 10 homes had been completed. She congratulated everyone involved in getting AB 1788 approved. She stated the Civic Center Way Improvements Project had begun and there were notices for road closures. She stated the work hours for the project were Monday-Friday 7:00 a.m. to 4:00 p.m. and the road would be open for emergency vehicles, during severe fire weather and if there was any need for evacuation. She stated staff was still waiting to hear from the County on Vote Center placement for the November 3, 2020 election. She announced a hazardous waste and e-waste collection event on October 17, 2020. She thanked Mr. Graham for participating in the meeting. She stated Mr. Graham provided an additional resources and was contracted through Las Virgenes-Malibu Council of Governments (COG) funds and served the COG cities. She thanked Public Safety Manager Dueñas for her work on National Preparedness Month. She encouraged everyone to have an emergency plan and subscribe for multiple forms of emergency alerts. She recommended people look for emergency preparedness resources on the City's website. She stated she would direct staff to reach out to delivery services and inform them of the existing ban on plastic cutlery. She stated the short-term rental hosted ordinance was scheduled to return to the Council on October 26, 2020. She stated the project being built next to the Malibu Library was a Santa Monica College project being constructed on a County-owned property and included a Los Angeles County Sheriff's Department Substation. She stated it was the intention of the City to have that Substation staffed once it was complete. She stated staff was going to begin having community discussions regarding the Substation that were cancelled due to COVID-19. She stated it would take two years to complete the project. She stated a homeless shelter was not being built at that location. She stated the Los Angeles County Waterworks District No. 29 office was also completing some renovations to add showers for staff use.

**ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS**

Councilmember Mullen thanked Public Safety staff and volunteers for visiting eastern Malibu and raising awareness about fire danger. He stated he had been working the Lake Fire and Bobcat Fire in his role as a fire captain. He thanked Mr. Graham for his reports. He stated there was a lot of litter on the beaches. He congratulated Joel Schulman and Kian Schulman on the approval of AB 1788.

Councilmember Farrer stated she was excited about AB 1788 and thanked Kian Schulman, Joel Schulman, Senator Henry Stern and Assemblymember Richard Bloom. She requested the Council adjourn in memory of Dwight “Doc” Strayer. She questioned how many third party delivery services operated in Malibu. She thanked Mr. Haynie for his efforts to compliment City staff. She questioned if Heal the Bay still organized an annual beach cleanup day. She thanked Mr. Graham for his work. She stated she attended a COG meeting on September 15, 2020, a Los Angeles County Library Commission meeting on September 16, 2020, and a Los Angeles County Library Education Subcommittee meeting on September 17, 2020. She stated she was invited by Congressman Ted Lieu to serve on a panel for a virtual town hall on the 2020 Census on September 21, 2020. She encouraged everyone to complete the 2020 Census and stated the deadline was September 30, 2020.

Mayor Pro Tem Peak indicated support for adjourning in memory of Dwight “Doc” Strayer.

Mayor Pierson thanked everyone for participating in the meeting while the presidential candidate debate was going on. He stated the City continued to work on hosting more public meetings virtually. He stated the City monitored fire insurance bills with the City’s lobbyist and supported bills strategically. He stated he had not heard Mr. Laetz needed additional funding for an antenna. He thanked Ms. Morovati for bringing the cutlery issue forward. He stated the City was very cautious of conflicts of interests and the City Attorney attended City Council meetings and was available to advise on potential conflicts of interest.

In response to Mayor Pierson, City Manager Feldman stated her understanding from CCC staff was that no mitigation could be completed on the Bell property until the CCC heard the appeal.

Mayor Pierson thanked Joel Schulman and Kian Schulman for their work on AB 1788.

In response to Mayor Pierson, Planning Director Blue stated staff was checking with CCC staff regularly to get an update on the pesticide LCPA. She stated she was working on scheduling a meeting with CCC staff to discuss a number of issues.

Mayor Pierson congratulated Craig Sapp on his retirement from California State Parks. He stated Alex Gittinger was moving on from his role with The People

Concern and thanked him for his work. He stated he planned to bring back a face mask ordinance on October 12, 2020. He stated the Malibu West Beach Club had been closed by a County health inspector due to violations of COVID-19 face covering and gathering regulations. He stated he watched the documentary, *Kiss the Ground*. He recommended people watch the documentary to learn more about how soil quality impacted the climate. He stated he and Brent Woodworth with the Los Angeles Emergency Preparedness Foundation had been in discussions with Los Angeles County Fire Chief Drew Smith to form a citizen fire follower program. He encouraged everyone to prepare to evacuate or shelter in place in the event of an emergency.

### ITEM 3      CONSENT CALENDAR

Item Nos. 3.A.1., 3.B.6., 3.B.9., 3.B.10. and 3.B.11. were pulled by the public. Item No. 3.B.4. was pulled by the Council.

MOTION      Councilmember Farrer moved, and Mayor Pro Tem Peak seconded a motion to approve the Consent Calendar, except Item Nos. 3.A.1., 3.B.4. 3.B.6., 3.B.9., 3.B.10. and 3.B.11. The question was called, and the motion carried 4-0, Councilmember Wagner absent.

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 61339-61392 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. 667 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$666,781.89. City of Malibu payroll check number 5122-5126 and ACH deposits were issued in the amount of \$218,275.94.
3.      Approval of Minutes  
Recommended Action: Approve the minutes for the August 24, 2020 Malibu City Council Regular meeting.
5.      Amendment to Professional Services Agreement with The People Concern for Housing Navigation Services  
Recommended Action: Authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with The People Concern for Housing Navigation Services.
7.      Operation Agreement with Caltrans  
Recommended Action: Authorize the City Manager to execute an Operation Agreement with Caltrans for the operation of electrical transfer switches to

- supply temporary power to the traffic signals on Pacific Coast Highway.
8. Amendment to Agreement for Annual Street Sweeping Services  
Recommended Action: Authorize the City Manager to execute Amendment No. 1 to Agreement with Venco Power Sweeping, Inc. for street sweeping services under the City's Annual Street Sweeping Program.

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

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 468

Recommended Action: Conduct second reading, unless waived, and adopt 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, updating Chapter 15.44 pertaining to onsite wastewater treatment systems and short-term rentals and finding the action exempt from the California Environmental Quality Act.

Ian Ballon was not present at the time of the hearing.

Bruce Silverstein questioned if there was a written order or statute that prevented mediation on the Bell property. He stated this ordinance misrepresented the zoning code. He stated the zoning code did not allow for hotels in residential neighborhoods. He stated the Council did not need the CCC to approve an ordinance prohibiting short-term rentals. He questioned why the Council was adopting a temporary ordinance.

Bill Sampson expressed concern the ordinance would permit short-term rentals. He stated short-term rentals had not been allowed until now. He stated the Council should enforce the prohibition of short-term rentals. He stated many neighborhoods had Covenants, Conditions & Restrictions (CC&Rs) without HOAs. He stated the short-term rental operator should be required to notify all neighbors benefited by CC&Rs.

Kraig Hill indicated support for Mr. Sampson's and Mr. Silverstein's comments. He stated the ordinance would create enforcement problems. He questioned who would enforce the ordinance and whether Code Enforcement had enough staff.

Hugh Jainus was not present at the time of the hearing.

City Attorney Hogin stated the item was for the second reading of an ordinance that already had a public hearing. She stated Council could adopt the ordinance or direct staff to bring back an item to discuss changes.



Councilmember Mullen stated the Council had discussed the importance of educating the public on the long-term plans for a hosted short-term rental ordinance.

Mayor Pro Tem Peak thanked the speakers for their comments. He stated it was unfortunate not everyone agreed on every point of the ordinance but felt it was the right thing to move forward.

MOTION Mayor Pro Tem Peak moved and Councilmember Mullen seconded a motion to adopt 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, updating Chapter 15.44 pertaining to onsite wastewater treatment systems and short-term rentals and finding the action exempt from the California Environmental Quality Act.

Councilmember Mullen stated this was an unfortunately complex issue. He stated the hearing process had been very deliberate and long and the City had learned from lawsuits involving other cities along the way. He stated the City could monitor how impactful the ordinance was once it took effect.

The question was called and the motion carried 4-0, Councilmember Wagner absent.

B. New Items

4. Response to the Los Angeles County Grand Jury's Report Entitled "A Diet for Landfills: Cutting Down on Food Waste"

Recommended Action: Authorize the Mayor to sign the City of Malibu's response letter to the Los Angeles County Grand Jury's report entitled "A Diet for Landfills: Cutting Down on Food Waste."

In response to Councilmember Mullen, Environmental Sustainability Director Bundy stated a Los Angeles County Grand Jury issued a report on reducing food waste and identified potential public policies that could reduce food waste. She stated the decision was issued to all 88 cities in the County of Los Angeles and all cities were required to respond within 90 days. She stated the City had already implemented some of the suggested policies.

Councilmember Mullen thanked Environmental Sustainability Director Bundy for her report and stated staff clearly spent a lot of time on the response. He stated it was important issue and he was glad the City would be responding before the deadline.

MOTION Councilmember Mullen moved and Councilmember Farrer seconded a motion to authorize the Mayor to sign the City of Malibu's response letter to the Los Angeles County Grand Jury's report entitled "A Diet for

Landfills: Cutting Down on Food Waste.” The question was called and the motion carried 4-0, Councilmember Wagner absent.

6. Amendment to Professional Services Agreement for Wireless Permit Application Reviews

Recommended Action: Authorize the City Manager to execute Amendment No. 1 to Professional Services Agreement with Telecom Law Firm PC (Consultant) for expert technical and regulatory consultation, advice and other assistance with wireless permit application reviews.

Planning Director Blue presented the report. She stated some correspondence stated the agreement should not be approved because the Telecom Law Firm had not produced the updated wireless telecommunications ordinance. She stated the agreement for the ordinance update had been approved but the consultant had not been green lighted to start the project due to limited staff resources.

Jenny Rusinko stated she was speaking on behalf of herself and her husband Mitch Taylor. She stated Telecom Law Firm had been hired three years ago to update the City’s wireless telecom ordinance and had not delivered. She indicated opposition to extending the agreement. She questioned what Telecom Law Firm had done to protect the City, as well as how many applications had been approved, declined, or given alternative locations.

Mark Graham indicated opposition to extending the agreement. He read an excerpt from his written correspondence. He stated any agreement should include a clause that would allow the City to terminate the agreement if Dr. Johnathan Kramer became the subject of disciplinary action by the California Bar Association or the California board that issues licenses to engineers.

Liz Barris stated Dr. Kramer was giving presentations on how to get 5G pushed through despite residents’ objections. She stated telecom companies were misrepresenting the data in gap analysis.

Lonnie Gordon indicated opposition to extending the agreement. She indicated support for putting the agreement out to bid. She stated she could provide a list of qualified, objective consultants. She stated Telecom Law Firm had failed to produce an updated wireless telecommunications ordinance.

Romy Rapoport discussed small cell proliferation during COVID-19. She stated Telecom Law Firm had failed to produce an updated wireless telecommunications ordinance in the three years since that agreement had been approved.

Monique Guild thanked the Council for its service. She stated Telecom Law Firm had failed to produce an updated wireless telecommunications ordinance in the three years since that agreement was approved. She stated Telecom Law Firm had not held the public outreach meetings required in its contract.

Susan Foster stated she was appointed in 2001 to the County of San Diego's taskforce to create a cell tower ordinance. She stated she had written cell tower appeals for firefighters since 2001 and worked as a consultant with Stop 5G Encinitas. She stated there was an ethical conflict between Dr. Kramer and Tripp May and their other firm Permit Team LLC that worked on permitting new small cells. She questioned if Dr. Kramer could objectively advise the City. She stated the City had more protective options than Dr. Kramer presented to the City. She stated Telecom Law Firm had helped create a protective ordinance in Encinitas and those same measures should be implemented in Malibu. She recommended the City adopt an ordinance similar to the one submitted by Scott McCollough. She stated Encinitas approved a new ordinance in five weeks. She stated small cells presented a fire danger.

Stephanie Sunwoo indicated opposition to extending this agreement. She stated Telecom Law Firm favored infrastructure deployment. She questioned what Dr. Kramer had done to prevent small cell proliferation.

June (Shanti) Louks indicated opposition to extending the agreement. She stated there were more options for local regulation that Dr. Kramer presented. She stated small cells presented a fire danger. She stated Dr. Kramer was an engineer who should be aware of the fire danger. She stated his firm had information about fire danger since September 23, 2019, when Encinitas residents spoke about it at a public meeting. She questioned why fire protective measures had not been added to Malibu's ordinance.

Jeffrey Louks thanked the Council for its service. He indicated opposition to extending the agreement. He stated Telecom Law Firm was not performing full permitting review and was not advising the City of all options to regulate small cells.

Scott McCollough indicated support for the previous speakers' comments. He stated he was available to answer questions from the Council.

Kraig Hill stated other attorneys had more flexible and progressive outlooks on regulating small cells. He stated the Council should consider other consultants.

Dafna Tachover stated Dr. Kramer did not prioritize protecting residents and minimizing 5G deployment. She indicated opposition to extending the agreement.

Jerri Churchill thanked the Council and City Manager Feldman for their work. She indicated opposition to extending the agreement. She stated Dr. Kramer was leading a webinar on achieving swift approval for small cells. She stated Dr. Kramer was not impartial and had a conflict of interest.

Paula Murphy stated an attorney with Telecom Law Firm had written an article on the benefits of small cells on school properties. She expressed concern regarding encouraging placing new radio frequency technology on school campuses. She indicated opposition to extending the agreement.

Nichole McGinley indicated opposition to extending the agreement. She questioned why the consultant had not been given the green light to move forward with the wireless telecommunications ordinance update. She requested the Council receive a report at each meeting with an update on the wireless telecommunications ordinance and project applications.

Julie Levine indicated opposition to extending the agreement. She stated she had started 5G Free California. She stated she lived in a section of Topanga Canyon with other people negatively impacted by 5G who were trying to keep it out of their community.

Jessica Isles stated Telecom Law Firm advised property owners on how to enter lucrative contracts and have telecommunications infrastructure installed on private property. She stated this created a conflict of interest. She stated Dr. Kramer had advised a property owner regarding an installation and then oversaw the permitting of that project.

Linda Gibbs questioned how much Telecom Law Firm had already been paid under the contract to update the wireless telecommunications ordinance. She questioned if legal action could be taken against Dr. Kramer.

City Attorney Hogin stated the contract with Telecom Law Firm included a clause to allow the City to terminate the contract at any time without cause. She stated Telecom Law Firm was performing technical analysis for applications that was very important and City staff did not have the expertise to complete this analysis. She stated there were other consultants who could perform the same analysis. She stated the Council could choose to not approve the amendment, approve the amendment, or approve the amendment and ask staff to bring back a request for proposals (RFP) for these services.

In response to Mayor Pro Tem Peak, Planning Director Blue stated the Council could approve the amendment to fill the service gap while staff proceeded with the RFP process.

Mayor Pro Tem Peak stated it was important for the City to have experts on call for application review.

In response to Councilmember Mullen, Planning Director Blue stated an RFP was typically posted for four weeks and then applications had to be reviewed and interviews conducted.

City Manager Feldman stated it would be a few months before an agreement would come back to Council.

City Attorney Hogin stated this was a Professional Services Agreement and the Council could direct staff to pursue a quicker or more informal process to collect proposals.

Councilmember Mullen stated the speakers had raised some important concerns. He stated it made people uncomfortable that Dr. Kramer was presenting on how to get telecom projects approved by cities. He stated he read the correspondence sent to him and the summary of Mr. McCollough's ordinance. He stated the Los Angeles Regional Interoperable Communications System issue was real and the equipment that had been installed in fire stations had to be removed after complaints from the firefighter's union. He stated he insisted on a community meeting be held at his fire station before new equipment was installed. He stated it was important not to create a gap in services.

In response to Councilmember Mullen, Planning Director Blue stated there was not an RFP for this agreement. She stated the consultant was selected based on its expertise.

Councilmember Mullen stated he wanted to make sure the City could perform analysis in the timeframe necessary for the application shot clock. He stated he wanted to learn more on the subject. He stated he would like more information from Dr. Kramer about Permit Team LLC.

In response to Councilmember Mullen, City Attorney Hogin stated she had spoken to Mr. McCollough and the City could always learn from the lessons of other cities. She stated the item was about the agreement for analysis of individual applications.

In response to Councilmember Mullen, Planning Director Blue stated there was a separate agreement with Telecom Law Firm to update the City's wireless telecommunications ordinance. She stated that project was in the Work Plan and funded for Fiscal Year 2020-2021 but staff had initially planned to proceed when in person public meetings could be held. She stated the City was learning how to move forward with big and contentious issues in a virtual format.

City Manager Feldman stated the agreement to update the City's wireless telecommunications ordinance was separate from the amendment being considered.

Councilmember Mullen stated he understood why the residents had some misgivings about Telecom Law Firm.

Councilmember Farrer stated it was important to have a consultant in place to perform application analysis.

In response to Mayor Pierson, Planning Director Blue stated the agreement term had already lapsed.

Mayor Pierson indicated support for putting out an RFP for these services. He stated people who spoke on this item may have recommendations for consultants. He indicated support for approving the amendment and putting out an RFP for these services.

MOTION Mayor Pierson moved and Councilmember Farrer seconded a motion to: 1) authorize the City Manager to execute Amendment No. 1 to Professional Services Agreement with Telecom Law Firm PC (Consultant) for expert technical and regulatory consultation, advice and other assistance with wireless permit application reviews; and 2) direct staff to issue a Request for Proposals for a wireless permit application review consultant.

In response to Mayor Pro Tem Peak, City Manager Feldman stated the agreement could be terminated at any time.

In response to Mayor Pierson, Planning Director Blue stated some telecommunications applications were ministerial but the Planning Commission would hear two projects in October 2020.

The question was called and the motion carried 4-0, Councilmember Wagner absent.

RECESS At 9:11 p.m., Mayor Pierson recessed the meeting. The meeting reconvened at 9:20 p.m. with all Councilmembers present except Councilmember Wagner.

9. Master Use Agreement with Santa Monica-Malibu Unified School District  
Recommended Action: Authorize the City Manager to execute a two-year Master Facility Use Agreement with the Santa Monica-Malibu Unified School District through September 30, 2022.

Community Services Director Bobbett presented the staff report

Suzanne Guldimann was not present at the time of the hearing.

In response to Councilmember Mullen, City Manager Feldman stated Community Services Director Bobbett had taken the lead on negotiations for the agreement. She stated the City would have to agree to the terms as presented by Santa Monica-Malibu Unified School District (SMMUSD) or the City could no longer use SMMUSD facilities.

In response to Mayor Pro Tem Peak, Community Services Director Bobbett stated staff expected the cost of the contract in future years would be over \$300,000. He stated costs had been lower in recent years due to events cancelled from the Woolsey Fire and COVID-19. He stated the City submits a tally of all the hours used and typically pays most of the fees at the end of the year.

Mayor Pro Tem Peak stated it was important to have facilities open for people. He stated he wished SMMUSD could be more of a partner with the City.

City Manager Feldman stated staff had pushed back during negotiations as much as possible.

Mayor Pro Tem Peak stated the Parks and Recreation Commission was correct and it was important to move forward with developing parks on City-owned properties.

Councilmember Farrer stated it was a case of supply and demand and the City did not have a lot of options. She stated she would like the City to have its own recreation facilities. She stated the Council had to move forward with the agreement or forfeit programs.

Mayor Pierson stated the Council wanted to provide services and recreation programs.

MOTION Mayor Pro Tem Peak moved and Councilmember Mullen seconded a motion to authorize the City Manager to execute a two-year Master Facility Use Agreement with the Santa Monica-Malibu Unified School District through September 30, 2022. The question was called and the motion carried 4-0, Councilmember Wagner absent.

10. Initiate Zoning Text Amendment to Extend Deadlines for Nonconforming In-kind Disaster Rebuild Projects

Recommended Action: 1) Adopt Resolution No. 20-52 initiating a zoning text amendment to Chapter 17.60 (Nonconforming Uses and Structures) of the Malibu Municipal Code to add one year to the deadlines in subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification; and 2) Direct the Planning Commission to schedule a public hearing regarding the same.

Planning Director Blue presented the staff report.

Troy Oates stated he represented the property owner for 6219 Ramirez Canyon Drive. He stated the house was destroyed in the Woolsey Fire and there had been numerous delays that had prevented the property owner from moving forward with their rebuild. He indicated support for the staff recommendation.

Mary Anne Keshen was not present at the time of the hearing.

Councilmember Farrer stated Mr. Oates exemplified why the item was important. She stated many people had experienced unprecedented delays and this could help them.

MOTION Councilmember Farrer moved and Mayor Pro Tem Peak seconded a motion to: 1) adopt Resolution No. 20-52 initiating a zoning text amendment to Chapter 17.60 (Nonconforming Uses and Structures) of the Malibu Municipal Code to add one year to the deadlines in subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification; and 2) direct the Planning Commission to schedule a public hearing regarding the same.

In response to Councilmember Mullen, Planning Director Blue stated she did not see a negative side to the action. She stated it was not connected to the deadline for the fee waiver program. She stated it would apply to the property regardless of whether the property had changed hands since the Woolsey Fire.

In response to Councilmember Mullen, Mr. Oates stated his clients were the owners of the property at the time of the Woolsey Fire.

Mayor Pierson stated people had insurance issues, health issues, and trauma that had delayed them moving forward with rebuilding.

The question was called and the motion carried 4-0, Councilmember Wagner absent.

11. Electing to Become Subject to the Uniform Public Construction Cost Accounting Act

Recommended Action: Adopt Resolution No. 20-53 electing to become subject to the Uniform Public Construction Cost Accounting Act (Public Contract Code Section 22000 et seq.).

Public Works Director DuBoux presented the staff report.



Ryan Embree stated the action would have significant financial implications for the City. He stated this would limit transparency in government spending. He recommended the Council continue this item until the new Councilmembers were sworn into office in December 2020. He stated this resolution would allow staff to select the bidders for projects under \$200,000. He questioned why there was a need for the action.

In response to Councilmember Mullen, Public Works Director DuBoux stated the informal bidding procedures created a less cumbersome process to gather bids but the requirement to select the lowest qualified bidder still applied. He stated this item was brought to staff's attention by someone checking the State's records to see if the City was in compliance with the requirements for the informal bidding process. He stated the City needed to submit a resolution in order to be on the State's list. He stated the informal bidding process allowed the City to move forward with small projects quickly.

City Manager Feldman stated the City was still required to select the lowest bidder and the contracts would often still need to come forward to the Council.

In response to Mayor Pierson, Public Works Director DuBoux stated the Construction Industry Force Account Council had submitted two letters for the last Council meeting stating the City had not followed all the requirements to use the informal bidding process. He stated when the City first adopted the ordinance for the informal bidding process it did not follow through with approving a resolution as required by the State.

City Manager Feldman stated it was a State requirement to have a resolution on file. She stated the City had followed all other rules for the informal bidding process.

Mayor Pro Tem Peak stated there may be a concern that the informal bidding process may not collect as many bids.

City Manager Feldman stated the informal bidding process was used rarely and only for small projects. She stated getting the best price possible for the City was important and staff could always reject all bids and proceed with a formal bidding process if necessary.

Public Works Director DuBoux stated all bids were posted on the City's websites and contractors could sign up for bid alerts. He stated there were also businesses that chose to advertise potential projects to local contractors.

Mayor Pro Tem Peak stated most of the City's capital improvement projects would be more than \$200,000.

MOTION Mayor Pro Tem Peak moved and Councilmember Mullen seconded a motion to adopt Resolution No. 20-53 electing to become subject to the Uniform Public Construction Cost Accounting Act (Public Contract Code Section 22000 et seq.). The question was called and the motion carried 4-0, Councilmember Wagner absent.

**ITEM 4 ORDINANCES AND PUBLIC HEARINGS**

None.

**ITEM 5 OLD BUSINESS**

None.

**ITEM 6 NEW BUSINESS**

A. Advocacy Action Plan Options to Address Proliferation of Wireless Telecommunications Facilities

Recommended Action: Consider whether to proceed with any or all of the options set forth in this report with respect to the City's advocacy response to the proliferation of wireless telecommunications facilities throughout the City and its public rights-of-way.

City Attorney Hogin presented the staff report. She stated she had spoken to Mr. McCollough. She stated once staff prepared a draft ordinance with Telecom Law Firm she would compare it with Mr. McCollough's ordinance and then meet with Mr. McCollough to go over the differences and make recommendations. She stated she was listening to all the suggestions from the public for the updated ordinance. She stated having a master plan for lobbying was helpful for everyone.

In response to Mayor Pierson, City Attorney Hogin stated she did not have a draft of the ordinance yet but staff understood the priority of updating the ordinance.

Mark Graham stated his previous comments were for an item not on the agenda since he was discussing policy options. He stated he had emailed the Council during the meeting with more information. He indicated support for lobbying Congress and the State legislature, forming a study group, and supporting legislation such as Senator Dianne Feinstein's bill S2012 and Representative Anna Eshoo's bill HR530. He indicated support for forming an alliance with the CCC but stated there may be limits on regulations that could be implemented to protect against environmental effects.

Liz Barris indicated support for focusing lobbying efforts on Congress. She stated Congressman Ted Lieu took money from the wireless industry. She stated Malibu had endangered species and the Endangered Species Act could trump the Telecommunications Act. She stated telecommunications companies could increase the power on sites where there were set back limits. She stated the

Telecommunications Act protected voice service not data service. She indicated support for Ms. Gibbs' comments.

Nichole McGinley stated residents from other California cities were sharing resources and expertise with Malibu. She stated the Council was receptive to the concerns of the community. She stated small cells had proliferated in Malibu while the City was busy responding to emergencies. She recommended the Council approve an urgency ordinance before proceeding with advocacy efforts.

Jerri Churchill discussed the fire danger posed by small cells.

Jeff Louks discussed findings that the Woolsey Fire was caused by SCE equipment. He recommended the City draft new regulations with fire hazard concerns in mind.

Jenny Rusinko stated she counted 50 small cells on Kanan Dume Road. She stated it was important to make sure small cells being installed were receiving fire safety engineering approval. She stated the 2007 Malibu Canyon Fire was caused by overloading utility poles. She stated the ownership and load of power poles was difficult to monitor. She played comments from a City of Monterey Planning Commission Special meeting.

John C. McGinley stated the City could not wait six to 12 months for changes. He stated utility poles presented a significant fire danger. He stated electrical fires were especially dangerous. He stated products used to extinguish electrical fires were toxic. He stated antenna-heavy poles were a tremendous risk to firefighters and residents.

Lonnie Gordon indicated support for the advocacy plan. She stated the City should review applications for fire safety, make sure antenna is covering a gap in coverage, and require a significant set back from homes and schools. She stated the telecom companies should indemnify the City. She stated applications to improve data service should be scrutinized more closely than applications to provide better cell reception and fill a gap in coverage.

Shanti Louks thanked Council for moving forward on the issue. She stated the Council need to approve a robust ordinance now. She recommended moving forward with the ordinance presented by Mr. McCollough. She stated Encinitas passed an urgency ordinance.

Paula Murphy stated the advocacy plan would help with long-term change. She stated the Council needed a reoccurring agenda item on telecommunications. She stated the regular item should include updates on all applications. She requested the Council take action.

Scott McCollough indicated support for forming a task force. He stated the Council could direct staff to more closely examine applications approved ministerially.

Kraig Hill indicated support for forming a task force. He stated the City needed to engage a wider range of expert opinions. He indicated support for engaging with Senator Henry Stern's office and working with the CCC. He discussed a UCLA scientist who studied the health effects of electromagnetic fields on humans in the 1980s and 1990s.

Dafna Tachover stated the City needed to focus on an ordinance before advocacy. She stated the risk of lawsuits from telecom companies was real but there was also a risk of lawsuits from residents under the Americans with Disabilities Act (ADA) and Fair Housing Act (FHA). She stated ADA rights were not preempted by the Telecommunications Act. She stated telecom companies had difficulties getting insurance for the types of radiation emitted by their equipment.

Dana Christiaansen was not present at the time of the hearing.

Julie Levine stated people were getting sick from small cells. She stated the City needed to move quickly.

Linda Gibbs was not present at the time of the hearing.

Ryan Embree stated the City's former Telecommunications Commission had been disbanded. He stated the Telecommunications Commissioners were familiar with the telecom companies' signal coverage. He discussed an application at Harvester Road and Filaree Heights Road where the telecom company claimed there was a gap in coverage. He stated there were not gaps in cell signal coverage in the City. He indicated support for lobbying efforts. He stated utility poles presented a fire danger. He stated the City could begin by using the Calabasas ordinance as a draft.

City Attorney Hogin stated the wireless telecommunications ordinance was not on the agenda so it could not be discussed. She stated State law required providing notice to the public through the agenda of what would be considered by the Council.

In response to Councilmember Farrer, City Attorney Hogin stated staff would include comments on the Encinitas ordinance when an item on the wireless telecommunications ordinance came back to the Council.

Councilmember Farrer thanked City Attorney Hogin for presenting so many options. She indicated support for a study group or task force.

City Attorney Hogin stated staff could bring back an item with options for forming a study group or task force.

Councilmember Farrer stated all of the options presented seemed valuable.

City Attorney Hogin stated none of the advocacy options were contradictory so it was up to the Council to identify how to prioritize advocacy on this issue.

In response to Councilmember Farrer, City Manager Feldman asked which advocacy options the Council was interested in pursuing. She stated the City did not have any extra resources in staff time or funds in the budget. She stated adding new Work Plan or budget items would require removing something else.

In response to Councilmember Mullen, City Attorney Hogin stated a resolution had been drafted and was attached to the staff report. She stated if the Council was interested in joint coalitions it could direct staff to bring back those options as they arose. She stated some joint coalitions may have a budget impact. She stated the most cost-effective way to proceed with lobbying efforts was to add this item to the legislative agenda for the California Strategies & Advocacy, LLC.

Councilmember Mullen stated lobbying efforts would be in line with other efforts to support legislation.

City Manager Feldman stated the City's lobbyists were specifically State lobbyists and she was not sure what they would be able to do on the Federal level.

Councilmember Mullen stated good progress may be able to be made at the State level.

City Attorney Hogin stated there were State level efforts the City could support such as limits on the load of utility poles.

Councilmember Mullen indicated support for using the energy and expertise of community members by creating a task force or other body with minimal impact on staff resources.

Mayor Pierson stated a study group made more sense than a task force.

Councilmember Mullen stated there were models of other issues that had initially been driven by community groups, such as the Malibu Unification Negotiation Committee and the Malibu Taskforce on Homelessness.

In response to Mayor Pierson, City Attorney Hogin recommended letting a study group operate free of interference and bring recommendations to the Council.

In response to Councilmember Mullen, City Attorney Hogin stated the Mayor may be able to begin working with the CCC through the Coastal Cities Issue Group. She stated the Coastal Cities Issues Group was organized through the League of California Cities and hosted regular summits with coastal cities and the CCC.

Councilmember Mullen stated he would rely on the City Attorney to suggest worthwhile amicus briefs. He stated it was important not to add too much work to the overburdened staff. He stated it was important to move forward with a revised ordinance.

Mayor Pro Tem Peak stated he received phone calls on this topic. He stated representatives from Verizon indicated they were actively pursuing upgrading their facilities and building resiliency into the system with backup power for emergencies. He stated he drove around with Linda Zilinskas and monitored radio waves. He stated he was concerned by the elevated radiofrequency radiation. He stated engaging federal lobbyists may not be the next step for the City. He expressed interest in forming a study group.

In response to Mayor Pro Tem Peak, City Attorney Hogin stated the City would benefit from positive outcomes from lawsuits that were already far along. She stated the City should consider filing amicus briefs on a case by case basis.

Mayor Pro Tem Peak stated the Verizon representatives he met with said the permitting was not going as fast as they expected. He stated staff was closely reviewing applications. He stated the 2007 Malibu Canyon fire was caused by an overloaded pole.

In response to City Manager Feldman, Mayor Pro Tem Peak stated his understanding was that the applications he discussed with Verizon were for 4G. He stated the City should carefully consider what role it could have in this policy area. He stated cell phones were used in the City every day.

Mayor Pierson stated he met with representatives from Verizon. He stated Verizon was working on installing 4G equipment that could be upgraded to 5G with additional equipment. He stated Verizon communicated well with the City. He stated he had phone calls with some of the public speakers. He indicated support for advocacy items that did not create a significant staff burden so time and energy could be devoted to an ordinance.

**MOTIONS** Mayor Pierson moved and Councilmember Mullen seconded a motion to: 1) adopt a resolution inviting wireless telecommunications carriers to work collaboratively with the City and its residents toward establishing reasonable procedural and substantive regulations for wireless telecommunications facilities deployment in the City; 2) direct staff to bring to the Council opportunities to join coalition efforts (including litigation and amicus brief opportunities) aimed at advancing the City's interests relating to regulating wireless telecommunications facilities (WTF); 3) add to the City's legislative agenda for California Strategies pursuing increased control over placement of WTFs, lobbying efforts regarding regulations for pole loads as a fire safety measure, and initiating discussions with State elected officials on strategies to address community concerns over small cell installations and other WTFs; 4) direct staff to prepare an item for an upcoming agenda to consider options for creating a study group or task force (with minimal cost and staff burden); and 5) authorize the Mayor to engage the League of California Cities' Coastal Cities Group to build a coalition with the California Coastal Commission regarding WTFs in the coastal zone. The question was called and the motion carried 4-0, Councilmember Wagner absent.

B. Siren Feasibility Report

Recommended Action: 1) Receive a presentation on the Siren Feasibility Report; and 2) Provide direction to staff regarding the implementation of an outdoor warning siren system.

This item was continued to a date uncertain upon approval of the agenda.

**ITEM 7 COUNCIL ITEMS**

A. Malibu Film Society Drive-In Movie Event Fee Waiver (Mayor Pierson)

Recommended Action: At the request of Mayor Pierson, consider whether to approve the request from the Malibu Film Society to waive facility use fees, staffing costs, permit fees, and dust control mitigation requirements for a two-night drive-in movie event at the Ioki Property.

Mayor Pierson presented the report.

Bruce Silverstein declined the opportunity to speak.

Veronica Brady was not present at the time of the hearing.

Scott Tallal thanked Mayor Pierson for bringing the item forward. He stated the event would be a safe alternative to trick or treating during COVID-19. He stated the Malibu Film Society would not be able to break even on this event without the support of the City.

Councilmember Farrer stated she met with Mr. Tallal and a Malibu Film Society board member.

In response to Councilmember Farrer, City Manager Feldman stated any users of the City property were required to complete dust mitigation. She stated the City had received complaints in the past regarding dust caused by events and movement on empty lots.

Councilmember Farrer indicated support for dust mitigation as a precaution. She indicated support for waiving the fees. She stated there were very few options for recreation during COVID-19.

In response to Councilmember Farrer, City Attorney Hogin stated the only item on the agenda was to consider waiving the fees. She stated the Council could direct staff to bring back an item for co-sponsoring the event if it wanted to consider that as well.

Mayor Pro Tem Peak indicated support for waiving the fees. He questioned if the event needed more marketing.

Mayor Pierson stated the first drive-in movie event was well-attended but it was

not full.

Mayor Pro Tem Peak stated he was cautious about the City budget but indicated support of waiving the fees in this case.

In response to Mayor Pro Tem Peak, City Manager Feldman stated staff could work with the event organizer if there was a significant fire danger due to red flag conditions. She stated there were options for low or no cost activities staff could do to promote the event as a co-sponsor if the Council wanted an item to come back on the next agenda.

Councilmember Mullen indicated support for City Manager Feldman's comments.

**MOTION** Councilmember Farrer moved and Councilmember Mullen seconded a motion to 1) approve the request from the Malibu Film Society to waive facility use fees, staffing costs, permit fees, and dust control mitigation requirements for a two-night drive-in movie event at the Ioki Property; and 2) directed staff to bring an item back to consider officially co-sponsoring the event. The question was called and the motion carried 4-0, Councilmember Wagner absent.

#### **ADJOURNMENT**

At 11:34 p.m., Mayor Pierson adjourned the meeting in memory of Dwight "Doc" Strayer.

Approved and adopted by the City Council of the  
City of Malibu on \_\_\_\_\_.

\_\_\_\_\_  
MIKKE PIERSON, Mayor

ATTEST:

\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)