



# Supplemental 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: January 5, 2021 Meeting date: January 11, 2021

Subject: Approval of Minutes

---

**RECOMMENDED ACTION:** Approve the minutes for the November 9, 2020 Malibu City Council Regular meeting and the November 23, 2020 Malibu City Council Regular meeting.

**DISCUSSION:** Attached to this report are draft minutes for the Regular meetings of November 9, 2020 and November 23, 2020.

**ATTACHMENTS:**

1. November 9, 2020 Malibu City Council Regular meeting
2. November 23, 2020 Malibu City Council Regular meeting

MINUTES  
MALIBU CITY COUNCIL  
REGULAR MEETING  
NOVEMBER 9, 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 6:31 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; Richard Mollica, Acting Planning Director; Rob DuBoux, Public Works Director; Kelsey Pettijohn, Deputy City Clerk; Elizabeth Shavelson, Assistant to the City Manager; Melinda Talent, Environmental Health Administrator; Raneika Brooks, Associate Planner; Susan Dueñas, Public Safety Manager; and Arthur Aladjadjian, Public Works Superintendent

**PLEDGE OF ALLEGIANCE**

Mayor Pierson led the pledge of allegiance.

**APPROVAL OF AGENDA**

MOTION Mayor Pierson moved, and Councilmember Mullen seconded a motion to approve the Consent Calendar, continuing Item No. 4.D. to the November 23, 2020 City Council Regular meeting, and hearing Item Nos. 5.A. and 6.A. after the Consent Calendar. The question was called, and the motion carried unanimously.

**FRIENDLY AMENDMENT**

Councilmember Mullen moved to hear Item No. 6.B. after the Consent Calendar. The maker accepted the amendment.

The question was called, and the amended motion carried unanimously.

## **REPORT ON POSTING OF AGENDA**

Deputy City Clerk Pettijohn reported that the agenda for the meeting was properly posted on October 29, 2020.

### **ITEM 1 CEREMONIAL/PRESENTATIONS**

None.

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

Bruce Silverstein stated City Attorney Hogin stated the Council-elect were subject to the Brown Act. He stated if that was correct it would prevent him from submitting public comment. He stated the City Manager and City Attorney worked to stifle the public. He discussed emails he sent to City Attorney Hogin and City Manager Feldman. He stated he wanted to have all his meetings with the City Manager recorded. He stated the Council needed to take action.

Jenny Rusinko stated she requested information on Wireless Communication Facility No. 20-012. She requested the Council place all applications for new installation or upgrades on hold until the wireless communication facilities ordinance was overhauled and the public could be adequately notified and educated. She stated the postcard of Notice of Application for wireless communication facilities were not adequate and too closely resembled a Notice of Application for filming.

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

John McGinley acknowledged the Council for what it had done to help the community rebuild after the Woolsey Fire. He indicated disappointment that the City was still working with Telecom Law Firm and played a clip from the webinar Small Cell Deployments: The Critical Factors Involved in Achieving Swift Approval. He stated Dr. Kramer was part of the telecommunications industry.

Lonnie Gordon discussed an email she sent to the Council. She indicated support for an urgency ordinance to institute a moratorium on new applications for the installation of small cell facilities and wireless communication facilities in the public-right-of-way.

Paula Murphy stated Telecom Law Firm would not draft an ordinance that would adequately protect the health and wellness of the residents of the City. She stated installations should be closely scrutinized. She requested the Council cut ties with Telecom Law Firm.

Jessica Isles stated Telecom Law Firm worked for both sides. She questioned whether Dr. Kramer was writing an ordinance according to the Telecom Law Firm template. She indicated support for the ordinance template proposed by Scott

McCullough.

Nichole McGinley discussed the two agreements between the Telecom Law Firm and the City. She questioned why Telecom Law Firm was allowed to work on updating the City's wireless ordinance. She recommended the Council place the ordinance proposed by the community in the hands of the City Attorney.

Andy Lyon congratulated Bruce Silverstein, Steve Uhring, and Paul Grisanti on their apparent election. He stated the Council should listen to the speakers regarding 5G. He questioned whether there was financial gain to City for small cell installation. He expressed concern nothing would change in the next disaster.

Scott Dittrich stated Malibu residents were assisted in rebuilding much more than residents of the unincorporated portion of Los Angeles County. He stated the City should require any cable or wireless companies to participate in undergrounding efforts throughout the City.

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

City Manager Feldman stated the hearts of City staff were with the community on the anniversary of the Woolsey Fire and were committed to assisting the community in rebuilding as quickly as possible. She stated there were 322,207 COVID-19 cases and 7,172 deaths in the County of Los Angeles with 120 COVID-19 cases and three deaths in Malibu. She stated 270 single-family Woolsey Fire rebuilds had been approved through the Planning Department, 154 building permits had been issued, and 16 homes had been completed. She stated the Civic Center Way Improvements project continued and the new streetlight that would be installed would be dark sky compliant. She discussed homeless encampments. She stated staff was working with gas stations to come into compliance with the dark sky ordinance. She stated one gas station had approved plans and four had plans under review. She stated the City would hold two preliminary design meetings on November 10, 2020 for the permanent skate park. She announced a Document Shred Day at City Hall on November 21, 2020.

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

In response to Councilmember Farrer, City Manager Feldman stated the Pacific Coast Highway (PCH) Task Force was comprised of Senator Ben Allen, Senator Henry Stern, Assemblymember Richard Bloom, and representatives from the Malibu City Council, Los Angeles County Sheriff's Department, California Highway Patrol, residents in the Pacific Palisades area, and the Santa Monica Police Department. She stated the PCH Task Force had discussed the power outage that impacted signals along PCH on October 26, 2020. She stated she sent a letter to Caltrans District 7 Director John Bulinski to come up with redundancies for the signals it owned and operated on PCH. She stated she sent a similar letter to Southern California Edison (SCE) to send generator trucks out in the event of a planned or unplanned power outage. She stated State representatives on the PCH

Task Force had seen her letter and sent similar letters to Caltrans. She stated she had also asked the City's lobbyist to work with the Department of Transportation and SCE on the matter.

In response to Councilmember Farrer, City Manager Feldman stated she called all three apparent Councilmembers-elect. She stated Bruce Silverstein had indicated in writing he would only meet with her if the meeting were recorded. City Attorney Hogin stated the Brown Act applied to newly elected Councilmembers even before they took office. She stated she sent information about that to presumptive Councilmembers-elect Paul Grisanti, Bruce Silverstein, and Steve Uhring. She stated Bruce Silverstein had been the only one to seemingly push back on her advice.

Councilmember Farrer stated the City was ready to help the residents in the effort to get residents back in their homes after the Woolsey Fire. She discussed the comments made regarding 5G.

City Attorney Hogin stated the City could spruce up its postcard for Notice of Application for wireless communication facilities so it did not closely resemble a Notice of Application for filming. She stated Principal Planner Fernandez, Acting Planning Director Mollica, and Assistant City Attorney Rusin met with Ms. McGinley and Scott McCullough to talk about the process for the ordinance review. She stated she had also spoken with Mr. McCullough several times. She stated once the work product had been received from Telecom Law Firm, everyone would meet to go over the ordinance and make recommendations based on what was legally allowable.

Councilmember Wagner discussed the activities of the Mountains Recreation and Conservation Authority Executive Director Joe Edmiston on Via Escondido Drive and read from a letter he received regarding a trail. He discussed Trancas Riders and Ropers and questioned why they were being asked to increase their insurance coverage. He stated there was a rumor that the insurance increase was requested so the site could be used for RV parking or people experiencing homelessness. He stated diplomacy and dialog would be important to Mr. Silverstein. He stated he met with Ms. McGinley and had asked her to speak at this meeting regarding her concerns.

In response to Councilmember Mullen, City Attorney Hogin stated an urgency ordinance for wireless communication facilities could be approved but it would not stop the application shot clocks. She stated she and Mr. McCullough were committed to working on an updated ordinance together and turning the ordinance around as soon as possible. City Manager Feldman stated staff was working on a timeline to post on the City's website that would outline the various steps the ordinance would need to go through. She stated the consultant was working to provide a draft for use as soon as possible.

Councilmember Mullen thanked City Attorney Hogin and the community for its

engagement in the process.

Mayor Pro Tem Peak thanked City Manager Feldman and City Attorney Hogin for answering questions regarding the wireless communication facilities ordinance. He suggested Mr. Silverstein speak with City Manager Feldman. He stated he felt Mr. Silverstein's had not demonstrated good leadership and made invalid allegations against the City Attorney and City Manager.

In response to Mayor Pierson, Los Angeles County Sheriff's Department Lieutenant James Braden stated Captain Becerra, City Manager Feldman, representatives Los Angeles County Supervisor Sheila Kuehl's office, Lieutenant Jeff Dietrich, and he did an assessment on how to focus resources to assist people experiencing homelessness. He stated it was a difficult issue. He discussed a recent PCH Task Force meeting he attended and voiced concerns regarding motorhomes parked along the coast, sewage, trash and homeless encampments.

In response to Councilmember Wagner, Lieutenant Braden stated the Sheriff's Department was working with City Manager Feldman to ensure enforcement of upcoming signage regulating parking on portions of PCH. City Manager Feldman stated she was working on a proposal related to obtaining two additional Deputies on the night shift to address parking issues and additional resources for the Homeless Outreach Services Team. She stated the Coastal Development Permit appeal period for the parking restriction signs along Corral Beach and Zuma Beach ended on November 17, 2020.

Lieutenant Braden reported on a recent pursuit through Malibu Canyon Road. He stated Sheriff's Deputies were serving the community well. He stated the Sheriff's Department would provide the resources to have as much impact as legally possible regarding issues with people experiencing homelessness and the proliferation of motorhomes throughout Malibu.

In response to Mayor Pierson, Lieutenant Braden stated there were laws and focus teams that Sheriff's Deputies could use to focus on noise from cars with illegal mufflers.

Mayor Pierson thanked Lieutenant Braden.

In response to Mayor Pierson, Councilmember Wagner stated he was referring to the property leased by Trancas Riders and Ropers on the west end of the City.

In response to Mayor Pierson, City Attorney Hogin stated it was up to the Council on whether it wanted to adopt any interim wireless communication facilities ordinance. She suggested adding something to the next City Council agenda to discuss what kind of resources it would take.

Mayor Pierson stated it was a learning curve being on City Council. He stated good, fluid communication was key. He stated there were a lot of different priorities in

the City, especially after two disasters. He thanked City staff for its work on the two-year anniversary of the Woolsey Fire. He stated the City could never stop working on disaster preparedness.

Lieutenant Braden stated disaster preparedness was a continual process. He stated resources may be very limited in the event of an earthquake and residents needed to be prepared.

### **ITEM 3      CONSENT CALENDAR**

**MOTION**      Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to approve the Consent Calendar, except Item No. 3.B.4. The question was called, and the motion carried unanimously

The Consent Calendar consisted of the following items:

- A.    Previously Discussed Items  
None.
- 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.  
Staff Contact: City Attorney Hogin, 456-2489, ext. 228
  - 2.    Approve Warrants  
Recommended Action: Allow and approve warrant demand 61611-61711 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. 670 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$1,504,913.46. City of Malibu payroll check number 5133-5135 and ACH deposits were issued in the amount of \$215,582.81.
  - 3.    Approval of Minutes  
Recommended Action: Approve the minutes for the September 29, 2020 Malibu City Council Adjourned Regular meeting.
  - 5.    Community Christmas Tree Lot Fee Waiver  
Recommended Action: Approve the request from the Malibu High School Athletic Booster Club to waive the facility use and staffing fees for the Ioki Property for the Annual Community Christmas Tree Lot.
  - 6.    Cooperative Agreement with the State of California for the Pacific Coast Highway Median Raised Median Improvements Project  
Recommended Action: Authorize the Mayor to execute the third and final phase of the Cooperative Agreements with the State of California (Caltrans) for the construction of the PCH Raised Median and Channelization Improvements Project.
  - 7.    Amendment to Professional Services Agreement with American Guard Services, Inc.

- Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with American Guard Services, Inc. to provide professional security services at Charmlee Wilderness Park.
8. Resolution to Initiate Amendments to the Local Coastal Program  
Recommended Action: 1) Adopt Resolution No. 20-60 initiating a Local Coastal Program Amendment to consider revising provisions of the Local Implementation Plan that may infringe on residents' First Amendment speech rights; and 2) Direct the Planning Commission to schedule a public hearing regarding the same.
9. Fiscal Year 2019-2020 Fourth Quarter Financial Report  
Recommended Action: 1) Receive and file Fiscal Year 2019-2020 Fourth Quarter financial information; and 2) Establish a Designated Reserve for Fiscal Year 2021-2022 Operating Expenses.
10. Fiscal Year 2020-2021 First Quarter Financial Report  
Recommended Action: Receive and file Fiscal Year 2020-2021 First Quarter financial information.
11. Interfund Loan Agreement for Civic Center Water Treatment Facility Operations and Maintenance Fund  
Recommended Action: Adopt Resolution No. 20-61 approving an interfund loan agreement for the Civic Center Water Treatment Facility Operations and Maintenance Fund.

The following item was pulled from the Consent Calendar for individual consideration:

4. Award Dume Drive and Fernhill Drive Speed Humps Project  
Recommended Action: 1) Authorize the Mayor to execute a construction contract with J & H Engineering General Contractors, Inc. in the amount \$44,381 for the Dume Drive and Fernhill Drive Speed Hump Project, Specification No. 2089; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.

Ryan Embree questioned whether the project had been approved by the California Coastal Commission (CCC). He discussed previous history of issues with the CCC. He stated City Council Policy #45 had not been followed. He stated speed humps hampered emergency response.

Mayor Pro Tem Peak questioned whether a Coastal Development Permit had been obtained for other speed humps on Point Dume or whether it was even necessary.

Acting Planning Director Mollica discussed a provision in the Coastal Act for roadway maintenance. He stated the CCC would be concerned with something that altered public access such as new restriping or new development that impacted parking.

Mayor Pro Tem Peak stated he received many comments about why speed humps had not already been installed.



In response to Mayor Pro Tem Peak, Public Works Director DuBoux stated City Council Policy #45 addressed situations when a neighborhood was requesting speed humps to be installed. He stated this project was brought to the Council by the Public Safety Commission and the Council had previously directed staff to install speed humps. He stated several residents in the area and on Birdview Avenue had obtained a substantial number of signatures in support of speed humps.

**MOTION**

Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to: 1) Authorize the Mayor to execute a construction contract with J & H Engineering General Contractors, Inc. in the amount \$44,381 for the Dume Drive and Fernhill Drive Speed Hump Project, Specification No. 2089; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.

Councilmember Mullen noted there were speed humps on Ocean Avenue in Santa Monica, and they would not impede the ability of first responders.

The question was called, and the motion carried unanimously.

**ITEM 5 OLD BUSINESS**

- A. Big Rock Mesa Landslide Assessment District Update  
Recommended Action: 1) Receive an update on the Big Rock Mesa Landslide Assessment District; and 2) Provide direction to staff.

Public Works Director DuBoux introduced Loree Berry, Engineering Project Manager for Yeh and Associates.

Ms. Berry presented the update.

Public Works Director DuBoux stated a similar presentation was made to and discussed with the Big Rock community on October 6, 2020. He stated he met with the Big Rock Homeowners Association Dewatering Subcommittee to gather input on Assessment District improvements. He stated implementing any of the recommended changes would require direction from Council to form a new Assessment District.

Councilmember Mullen thanked Ms. Berry.

Councilmember Wagner thanked City staff and Ms. Berry.

Jo Drummond indicated support for a moratorium on development in the Big Rock area. She stated dewatering should be greater than it was. She discussed the condition of dewatering equipment. She stated a slope stability study needed to be done. She stated there was still slope movement during the drought.

Colin Drummond discussed cracks in the road on Pinnacle Way. He indicated support for a moratorium on development in the Big Rock area. He stated the City should require applicants to indemnify the City and any Big Rock property owners until the area achieved a 1.5 factor of safety.

Rosemarie Ihde stated waivers were being given by the City to allow building in the Big Rock area that was geologically unsafe. She discussed the history of the area and landslides.

ED Michael stated the Yeh and Associates report seemed complete. He stated Fugro's work had been qualified by noting it did not guarantee the safety of the landslide. He stated the landslide had a very low safety factor. He stated past conditions could not be used to predict current conditions.

Bruce Silverstein stated the City Manager and City Attorney were avoiding true transparency. He stated he knew how to get along and get things done. He stated the City Manager and City Attorney manipulated the City Council. He stated the protection of the health, safety, and welfare of the public was the number one priority of government. He stated the City needed to be cautious in its review of applications for development in the Big Rock area.

Deedee Graves indicated support for a moratorium on development in the Big Rock area. She discussed the history of the area and landslides. She stated the dewatering system needed to be maintained.

Jeff Grier was not present at the time of the hearing.

Gerhard Ihde played a video from the October 21, 2019 City of Malibu Planning Commission meeting.

Christopher Cunningham discussed the October 21, 2019 City of Malibu Planning Commission meeting. He questioned where it was stated the allowable safety factor for Big Rock area was 1.25 and what the basis was for lowering it from 1.5. He stated a previous slope stability study stated five of the six zones in the Big Rock area had a safety factor of 1.2 or less. He questioned why variances were being allowed. He stated the City was protecting itself but not the residents and was not considering the cumulative effect of development. He questioned what the minimum safety factor was that the City was willing to accept.

Georgia Goldfarb stated development in addition to water could contribute to movement in the Big Rock area. She stated the slide continued to move and liability would be impossible to determine. She discussed the risk of wildfires. She indicated opposition to any further development in the Big Rock area.

Norm Haynie expressed appreciation for the work Yeh and Associates did and the leadership of Public Works Director DuBoux. He requested a copy of the report be emailed to him. He stated a Septic Tank Effluent Pump System would ensure slope

stability but would be costly.

Scott Dittrich stated he was impressed with the work of Yeh and Associates. He stated it was important to put safety first. He stated waivers should not be issued for a factor of safety under 1.5. He stated a new Assessment District needed to be formed to accomplish necessary improvements.

Kraig Hill stated the Assessment District purpose was lost. He stated the stability evaluation was crucial. He stated the City was shirking its responsibility by issuing waivers without requiring stability numbers. He stated the neighbors had not been given the choice to waive anything. He stated stability evaluations were necessary to determine whether a new Assessment District should be formed.

Paul Grisanti stated he had read reports on the Big Rock area from different consultants over his 16 years on the Public Works Commission. He stated the average water level was more than 90 feet below what it was in 1988. He stated the Council should agree to a new Assessment District if that was what the Big Rock area wanted. He stated the Council should inquire as to what the cost would be for determining the factor of safety.

Public Works Director DuBoux stated staff was looking for direction on whether to modify the Assessment District to increase the capital budget, have a reserve fund, and increase the scope of work. He stated he would discuss options with the community depending on the direction of Council. He stated the development concerns were an issue separate from the Assessment District.

City Attorney Hogin stated staff was looking for direction on whether or not to continue to move forward with conversations with the community about what it wanted to do with the Assessment District and bring something back to the Council.

In response to Councilmember Mullen, Environmental Sustainability Director Bundy stated Contract Geologist/Coastal Consultant Phipps was available to answer questions about the codes followed, the review and waiver process, and factor of safety.

Contract Geologist/Coastal Consultant Phipps stated Los Angeles County Building Code Sections 110 and 111 were followed as was done before cityhood. He stated the Big Rock Mesa landslide had never and would never have a factor of safety of 1.5. He stated the Building Code allowed certain sized additions and remodels within certain parameters of the Code, but Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 9.4 required a new single-family residence to have a factor of safety of 1.5. He discussed environmental health and wastewater treatment systems and stated additions would create more impermeable area that prevented more water going into the ground.

In response to Councilmember Mullen, Contract Geologist/Coastal Consultant Phipps stated variances had been applied for rebuilding homes that had burned

down in the 1993 fire.

City Manager Feldman stated though interest had been expressed regarding development, the item before the Council was for direction about the Assessment District. She stated staff could bring an item back to the Council to specifically discuss development.

Councilmember Mullen indicated support for continuing to work with the community.

Mayor Pro Tem Peak stated the report seemed to indicate the dewatering system was working and mechanical fixes could be made in a prioritized fashion. He indicated support for continuing to work with the community. He stated he would like to see an item come back to the Council to address development in the Big Rock area and safety in the area.

**MOTION** Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to direct staff to: 1) pursue an additional Big Rock Landslide Assessment District and related capital improvement options with the Big Rock community; and 2) bring back a review of the safety factor and development impacts in the Big Rock area.

Councilmember Wagner stated the Big Rock community was concerned with slope stability. He stated variances should not be issued anymore. He expressed appreciation for the involvement of the community.

Councilmember Farrer indicated support for allowing staff to work with the Big Rock area to modify the Assessment District as the community desired.

Councilmember Peak stated the area needed a better-defined safety factor, so the residents had some certainty on what was allowable.

Mayor Pierson indicated agreement with the previous comments.

The question was called, and the motion carried unanimously.

**RECESS** At 9:42 p.m., Mayor Pierson recessed the meeting. The meeting reconvened at 9:53 p.m. with all Councilmembers present.

**ITEM 6 NEW BUSINESS**

- A. Siren Feasibility Report (Continued from September 29, 2020)  
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.

Public Safety Manager Dueñas presented the staff report. She introduced Patrick McFeely and Brian Malinich with Mission Critical Partners.

Mr. McFeely made a presentation and discussed the study methodology.

Mr. Malinich continued the presentation and discussed sound propagation.

Mr. McFeely stated an outdoor warning system was feasible for Malibu. He recommended sound warning over voice warning up in the hills due to likely windy conditions. He recommended voice warning in gathering areas. He stated 20 to 33 sirens would cover the area. He discussed other types of systems to handle indoor warning to wake people up during the night in the event of an emergency.

Councilmember Mullen indicated support for placing sirens up canyon and up wind to take advantage of the acoustics of the canyons.

Mr. McFeely stated siren sound could not be cut off at the City's border and suggested making sure neighboring areas were aware of siren installation.

In response to Mayor Pierson, Mr. McFeely stated a lot of the sound bleed would depend on final placement of the sirens. He stated 20 sirens on a day with little wind would create a lot of bleed over outside the City limits.

In response to Mayor Pro Tem Peak, City Manager Feldman stated she had not yet had conversations with the County of Los Angeles about implementation in the Santa Monica Mountains.

Mayor Pro Tem Peak stated Unincorporated Los Angeles County would benefit from siren warning systems and any collaboration would inform system design. He indicated support for voice sirens.

In response to Mayor Pro Tem Peak, Mr. McFeely stated newer systems allowed for self-diagnostics and high-frequency sound tests that humans could not hear. He stated voice sirens could do tone and voice warnings. He stated voice warnings during Santa Ana winds could cause reverberation.

Mayor Pro Tem Peak stated wildfire conditions would likely be accompanied by strong winds. He indicated support for alternating voice and tone warnings.

Mr. McFeely stated voice and tone warnings could be staggered by siren. He stated a microphone on siren control units could be provided for authorized personnel to access.

Mayor Pro Tem Peak indicated support for painted steel poles that were solar powered.

Mr. McFeely stated Mission Critical Partners recommended poles be connected to the grid and utilizing solar power to keep batteries going in the event of power shutoff.

Mayor Pierson indicated support for using steel poles.

Mr. McFeely stated damage to poles in the event of a wildfire would depend on how hot the fire was burning. He stated direct fire would likely cause loss of both the pole and the equipment on it. He stated placing poles in the public right-of-way would likely be the easiest placement within the City.

Mr. Malinich stated a heat shield on the equipment cabinets could extend the usefulness of a pole during a fire.

Councilmember Farrer stated the City lost power during the Woolsey Fire because of the fire and not a power shutoff. She stated she wanted to see the system implemented.

**MOTION** Councilmember Farrer moved, and Councilmember Mullen seconded a motion to direct staff to move forward with Option #2 of the Siren Feasibility Report.

**FRIENDLY AMENDMENT**

Mayor Pro Tem Peak moved to amend the motion to collaborate with the County of Los Angeles and the Las Virgenes-Malibu Council of Governments.

He stated it would be important to make sure the system could be easily expanded and discussed the cost of the system.

Public Safety Manager Dueñas stated she had a meeting scheduled with the Los Angeles County Office of Emergency Management to discuss emergency zones for the Santa Monica Mountains as a whole on November 18, 2020. She stated she would bring up sirens during that meeting.

City Manager Feldman state she would speak with Supervisor Kuehl's office and the Las Virgenes-Malibu Council of Governments.

In response to Mayor Pro Tem Peak, Mr. McFeely stated sirens could be strategically activated with pre-determined zones or geofencing, but the entire system did not have to be activated at the same time. He recommended radio signal transmitters be used to activate the system.

Mr. Malinich stated the system could be integrated with weather alerts to automatically select warning areas.

Councilmember Wagner indicated support for placing sirens up to the 90265 boundaries.

In response the Councilmember Wagner, City Manager Feldman stated the City had access to the Wireless Emergency Alert (WEA) system.

Councilmembers Farrer and Mullen accepted the amendment.

The question was called, and the amended motion carried unanimously.

B. Professional Services Agreement with Quinto Consulting, LP for City Treasurer Services

Recommended Action: At the recommendation of the Administration and Finance Subcommittee, authorize the Mayor to execute an agreement with Quinto Consulting, LP for City Treasurer services.

Councilmember Mullen presented the report.

Ruth Quinto stated it was heartwarming to have such an involved community. She stated it was important to her to serve the community in which she lived.

MOTION Councilmember Mullen moved, and Mayor Pro Tem Peak seconded a motion authorize the Mayor to execute an agreement with Quinto Consulting, LP for City Treasurer services. The question was called, and the motion carried unanimously.

**ITEM 4 ORDINANCES AND PUBLIC HEARINGS**

A. Appeal No. 20-006 - Appeal of Planning Commission Resolution No. 20-18 (23325 Malibu Colony Drive; Owner, Axel 23324, LLC; Appellant, Judith Israel) (Continued from October 12, 2020)

Recommended Action: Adopt Resolution No. 20-55, determining the project is categorically exempt from the California Environmental Quality Act denying Appeal No. 20-006 and approving Coastal Development Permit No. 18-035 for the demolition of a one-story single-family residence and associated development, totaling 2,963 square feet, and construction of a new 5,220 square foot, two-story single-family residence, swimming pool, decks, permeable driveway and other associated development, and replacement of the onsite wastewater treatment system; including Variance No. 19-062 to allow encroachment into the 100-foot buffer from an Environmentally Sensitive Habitat Area (Malibu Lagoon) and Demolition No. 18-010 for the demolition of the existing residence and associated development located in the Single-Family Medium Density (SF-M) zoning district within the Malibu Colony Overlay District at 23325 Malibu Colony Drive (Axel 23324, LLC).

Associate Planner Brooks presented the report.

Ken Ehrlich, on behalf of the appellant, introduced Monica Briseno.

Monica Briseno stated staff and the applicant were attempting to have the LCP and Malibu Municipal Code (MMC) conform to the project instead of having the project conform to the LCP and MMC. She stated staff was improperly excluding walls from the project development area and the project exceeded the allowable development area. She stated the septic tank and walls constituted structures and should be counted toward to 25% development area allowable under LIP Section 4.7.1. She stated 6-foot walls were not required to retain grading. She stated grading

was only required because of improper siting of the project. She stated the project violated height restrictions under the Scenic, Visual, and Hillside Resource Protection Ordinance and LIP Section 6.5(B)(1). She stated the applicant did not apply for a site plan review and the Malibu Colony Overlay District did not override standards of the Ordinance. She stated the CCC provided guidance to the City that sea level rise analysis for development in Malibu should be a medium-high risk aversion and high emissions sea level scenario of 8.5 feet by 2120. She stated staff had allowed the applicant to analyze sea level rise for the 75-year life of the project instead of the 100-year life. She stated the wall around the project would function as a sea wall and was contrary to the LCP. She discussed the impact to Environmentally Sensitive Habitat Areas (ESHA) of raised lighting for the project and around the proposed swimming pool. She stated the Malibu Colony Overlay District did not superseded ESHA development standards. She stated the wastewater system did not conform to the Civic Center Prohibition Area requirements and would exceed historic flows.

Marny Randall, on behalf of the applicant, stated none of the three sea level rise scenarios analyzed by the project coastal engineer resulted in wave uprush hitting the property at velocity. She stated the wall surrounding the property addressed fuel modification, which was exempted from the development area, as well as raised grading to prevent sea level rise from flowing into the site and contain sheet flow.

Steve Kaufmann, Nossman LLP on behalf of the applicant, stated the project coastal engineer assumed no bulkhead and no oceanfront homes when analyzing level rise scenarios. He stated the project coastal engineer analyzed the 100-year life of the project and took into account high berms on the lagoon side of the project and assumed waves from the east of the project would not backwash out to the ocean. He stated the project coastal engineer indicated there was a 0.005% chance there would be eight inches of water in front of the home after 75 years.

Ms. Randall stated the community consisted of two and three-story homes and questioned why the project would be restricted to 18 feet in height. She stated the project was designed to the standards of the Malibu Colony Overlay District. She stated the project was environmentally superior to the existing development. She stated the appeal was the result of a neighbor that did not want to lose a second story view.

Councilmember Farrer stated she made a site visit with Ms. Randall and Mr. Kaufmann but did not learn anything that was not contained in the staff report.

Councilmember Mullen stated he made a site visit with Ms. Randall and Mr. Kaufmann but did not learn anything that was not contained in the staff report.

Councilmember Wagner stated he walked by the site from the public right-of-way. He stated the Adamson House Foundation and California State Parks were pursuing sand mitigation studies that were not mentioned in the staff report.



Mayor Pierson stated he made a site visit with Ms. Randall and Mr. Kaufmann but did not learn anything that was not contained in the staff report.

Mayor Pro Tem Peak stated he made a site visit with Ms. Randall and Mr. Kaufmann and discussed the project with Mr. Ehrlich. He stated he did not learn anything that was not contained in the staff report but noted the project would be visible walking behind it.

Councilmember Mullen stated he had also discussed the project with Mr. Ehrlich.

Mr. Ehrlich stated he only discussed the continuance of the hearing with Mayor Pro Tem Peak and Councilmember Mullen. He stated walls required for fuel modification were not exempt from the development area. He stated the project exceeded the 25% development area allowable under the LIP. He stated flood gates proposed were either an improper shoreline protection device or proposed to deal with sea level rise and wave uprush. He stated analysis of sea level rise for the 100-year life of the project was required and had not been done. He stated site plan review had to be done for a project over 18 feet in height.

Ms. Randall stated solid perimeter fencing already existed on the property. She stated fuel modification plan reviewers suggested changing the fencing to concrete block. She stated the perimeter wall also protected from shallow sheet flow not direct wave uprush. She stated analysis of sea level rise for the 100-year life of the project was required for beachfront or blufftop development and did not apply to the project.

Mr. Kaufmann stated the CCC letter presented by the appellant team that required analysis of sea level rise for the 100-year life of a project was for a beachfront development on Broad Beach Road. He stated the flood gate was not an engineered sea wall or shoreline protection device and was common in the area. He stated the neighbor's second story view was not a protected view. He stated the project complied with the Dark Sky Ordinance. He discussed project benefits.

In response to Councilmember Mullen, Associate Planner Brooks stated the proposed project did not include a guest house.

In response to Mayor Pierson, Associate Planner Brooks stated the existing development was constructed in 1952. She stated the anticipated number of occupants was the same overall for the existing development and the proposed project.

Environmental Health Administrator Talent stated the standard criteria for wastewater flow calculation provided by the MMC was based on the number and type of bedrooms and not square footage. She stated implementation of the Civic Center Prohibition Area requirements prohibited additional wastewater flow but allowed the addition of fixture units if a water balance report demonstrated the additional units would not increase wastewater flow.

City Manager Feldman read from the Memorandum of Understanding (MOU) the City had entered into with the Regional Water Quality Control Board (RWQCB), which allowed for repairs, maintenance, and upgrades to existing wastewater systems provided that they did not expand capacity or increase flows.

Mayor Pro Tem Peak stated increase in the number of existing bedrooms or plumbing drainage fixture units was prohibited in the Civic Center Prohibition Area.

In response to Mayor Pro Tem Peak, Environmental Health Administrator Talent stated she believed there were double the number of fixture units in the proposed project. She stated the policy used by staff allowed water balance reports to add fixtures to demonstrate the flow would be the same or less. She stated the RWQCB concurred with the water balance report and rational that was used to justify the project fixtures.

In response to Mayor Pro Tem Peak, Ms. Randall stated they did not have a letter from the RWQCB approving the project fixtures.

In response to Mayor Pro Tem Peak, Environmental Health Administrator Talent stated the proposed wastewater treatment system was considered an upgrade to an advanced onsite wastewater treatment system. She stated the property would be connected to the Civic Center Water Treatment Facility in 2024.

In response to Mayor Pro Tem Peak, Associate Planner Brooks stated the initial wave uprush analysis submitted with the application used the 100-year life of the project with a low risk aversion scenario. She stated the supplemental coastal analysis submitted in response to the appeal used medium-high risk aversion. She stated the 100-year analysis was only required for beachfront development.

Mayor Pro Tem Peak discussed the elevation of the property. He stated water could enter the property from three different directions.

Ms. Randall stated the original wave uprush study had been done with the assumption that the water would come straight up into the property. She stated because the water would have to move through houses, a seawall, and a 40-foot road, the 100-year study was done with a low risk aversion scenario. She stated water from the east of the project and water hitting the berm on the lagoon side of the project had been studied.

Mr. Ehrlich stated the 100-year study for medium-high risk aversion was never done. He stated 64 water fixtures were included as part of the proposed project.

In response to Mayor Pro Tem Peak, Associate Planner Brooks confirmed the Malibu Colony Overlay District development standards for non-beachfront properties superseded the need for site plan review for heights in excess of 18 feet.

In response to Mayor Pro Tem Peak, Mayor Pierson stated walls, fencing, or a sea wall were not generally counted towards development area.

Mayor Pro Tem Peak stated the walls were a structure that should be counted towards the development area.

Associate Planner Brooks stated the LCP excluded from development area engineered, graded slopes that were not feasible to include.

Mayor Pro Tem Peak stated the engineered, graded slopes could be included if a smaller house were proposed.

Councilmember Wagner stated the wall was a structure like a sea wall in an ESHA buffer to create an island out of the elevated property. He stated the berm on the lagoon side of the project was not supposed to be there and would not be there in 10-15 years. He stated the walls were development area. He indicated opposition to the project.

Councilmember Farrer stated the appellants issues had been addressed in the staff report.

In response to Councilmember Farrer, Associate Planner Brooks discussed a previous version of the project that had been submitted.

In response to Councilmember Farrer, Environmental Health Administrator Talent stated the existing development's guest house had a kitchen.

Environmental Sustainability Director Bundy read from the City Policy for the MOU that stated prohibition was not intended to prevent maintenance and repairs to existing septic disposal systems provided the maintenance and repairs did not expand capacity or increase flow. She stated staff had been in contact with the RWQCB to ensure consistent interpretation of the MOU that the key was that flow did not increase. She discussed the California Green Building Code and improvements to low flow fixtures.

Mayor Pro Tem Peak stated the MOU allowed for repair and maintenance not a new system.

City Manager Feldman read from the MOU that stated the Basin Plan Amendment did not prohibit repairs, maintenance and upgrades to existing systems.

In response to Mayor Pro Tem Peak, Mayor Pierson stated the City promoted upgrading systems.

Mayor Pro Tem Peak stated the Civic Center Prohibition Area specifically disallowed new septic systems.

MOTION Mayor Pro Tem moved and Councilmember Wagner seconded a motion to remand Coastal Development Permit No. 18-035 back to the Planning Commission to: 1) address issues related to wastewater flow with the Regional Water Quality Control Board; 2) analyze including walls surrounding the property along Environmentally Sensitive Habitat Areas as part of the development area; and 3) analyze 100-year sea level.

Councilmember Wagner stated the output of the fixtures would increase. He stated the proposed project was outside the intention of the MOU.

Councilmember Mullen stated a letter from the RWQCB signing off the wastewater flow would address his concerns.

In response to Associate Planner Brooks, Mayor Pro Tem Peak stated a letter from the RWQCB would clear up the questions regarding wastewater flow. He stated the wall needed to be included in the development area and the 100-year sea level analysis needed to be done.

Councilmember Wagner objected to Variance No. 19-062.

The question was called, and the motion carried unanimously.

B. Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 – An amendment to the Local Coastal Program and Malibu Municipal Code Allowing Stand-Alone Surface Parking Lots in Commercial Zones as a Conditionally Permitted Commercial Use

Recommended Action: 1) Adopt Ordinance No. 475 determining the project is categorically exempt from the California Environmental Quality Act and approving Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 to amend the Local Coastal Program (LCP) and the Malibu Municipal Code to allow stand-alone surface parking lots in the Commercial General (CG), Community Commercial (CC), and Commercial Neighborhood (CN) zoning districts as a conditionally permitted commercial use citywide; 2) Direct staff to schedule second reading and adoption of Ordinance No. 475 for the November 23, 2020 Regular City Council meeting; and 3) Adopt Resolution No. 20-58 adopting guidelines and standards for parking lot tree selection and planting in stand-alone surface parking lots and determining the same exempt from the California Environmental Quality Act.

Mayor Pierson suggested continuing the item.

Councilmember Farrer indicated agreement with Mayor Pierson

In response to Councilmember Mullen, City Manager Feldman discussed the November 23, 2020 Council meeting.

MOTION Councilmember Wagner moved, and Councilmember Mullen second a motion to

continue to the November 23, 2020 City Council Regular meeting consideration of Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 – An amendment to the Local Coastal Program and Malibu Municipal Code Allowing Stand-Alone Surface Parking Lots in Commercial Zones as a Conditionally Permitted Commercial Use. The question was called, and the motion carried unanimously.

C. Massage Ordinance

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 474(Attachment 1) adding Chapter 5.65 to Title 5 (Business Licenses and Regulations) of the Malibu Municipal Code to adopt by reference the Los Angeles County Massage Ordinance and finding the same exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 474 for the December 14, 2020 Regular City Council meeting.

City Attorney Hogin presented the staff report.

MOTION Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to: 1) introduce on first reading Ordinance No. 474 adding Chapter 5.65 to Title 5 (Business Licenses and Regulations) of the Malibu Municipal Code to adopt by reference the Los Angeles County Massage Ordinance and finding the same exempt from the California Environmental Quality Act; and 2) direct staff to schedule second reading and adoption of Ordinance No. 474 for the December 14, 2020 Regular City Council meeting.

City Attorney Hogin read the title of the ordinance.

The question was called, and the motion carried unanimously.

D. Schedule of Parking Citation Penalties

Recommended Action: 1) Conduct the Public Hearing; 2) Adopt Resolution No. 20-59 amending the City's Schedule of Parking Citation Penalties, repealing Resolution No. 15-09 and finding the action to be exempt from the California Environmental Quality Act; and 3) Direct the Public Safety Commission to review the Schedule of Parking Citation Penalties annually, or at another frequency determined by the City Council.

This item was continued to the November 23, 2020 City Council Regular meeting upon approval of the agenda.

**ITEM 7 COUNCIL ITEMS**

A. Proposed 2021 Calendar of City Council Meetings

Recommended Action: Approve the proposed 2021 Calendar of City Council meetings.

MOTION Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to approve the proposed 2021 Calendar of City Council meetings. The question was called, and the motion carried unanimously.

**ADJOURNMENT**

MOTION At 12:25 a.m. on Tuesday, November 10, 2020, Councilmember Wagner moved, and Councilmember Farrer seconded a motion to adjourn. The question was called, and the motion carried unanimously.

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

---

MIKKE PIERSON, Mayor

ATTEST:

---

HEATHER GLASER, City Clerk  
(seal)

MINUTES  
MALIBU CITY COUNCIL  
REGULAR MEETING  
NOVEMBER 23, 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.**

**MEETING CALL TO ORDER**

Mayor Pierson called the meeting to order at 6:00 p.m.

**PUBLIC COMMENT ON CLOSED SESSION**

Bruce Silverstein was not present at the time of the hearing.

**RECESS TO CLOSED SESSION**

At 6:03 p.m., on the advice of counsel and based on existing facts and circumstances, the Council recessed to Closed Session to discuss the following item listed on the Closed Session agenda:

**Conference with Legal Counsel – Anticipated litigation**

1. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code section 54956.9  
Number of potential cases: 1

**REGULAR SESSION CALL TO ORDER**

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

**ROLL CALL**

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

PRESENT: Mayor 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; Trevor Rusin, Assistant City Attorney; Lisa Soghor, Assistant City Manager; Yolanda Bundy, Environmental Sustainability Director; Jesse Bobbett, Community Services Director; Heather Glaser, City Clerk; Richard Mollica, Acting Planning Director; Rob DuBoux, Public Works Director; Kelsey Pettijohn, Deputy City Clerk; Elizabeth Shavelson,

Assistant to the City Manager; Justine Kendall, Associate Planner; and Susan Dueñas, Public Safety Manager

## **PLEDGE OF ALLEGIANCE**

Mayor Pierson led the pledge of allegiance.

## **CLOSED SESSION REPORT**

City Attorney Hogin reported that the Regular meeting convened at 6:00 p.m. at which time the City Council recessed to a Closed Session pursuant to Government Code Section 54956.9(d)(4), with all Councilmembers present. She stated the City had hired Steve Taber of Leech, Tishman, Fuscaldo & Lampl, Inc. who specialized in Federal Aviation Administration (FAA) matters. She discussed the NextGen system for establishing different patterns take offs and landings, which resulted in increased airplane noise in the City due to low flying planes. She stated investigation had taken longer than expected and Mr. Taber's preliminary opinion was that some planes were flying lower than they should. She stated the next step in pursuing a remedy was to file a petition for rule making with the FAA. She stated the Council unanimously directed staff to draft an amendment to the agreement with Leech, Tishman, Fuscaldo & Lampl, Inc. to move forward with a petition for rule making with the FAA regarding increased airplane noise due to low flying planes in the City.

## **APPROVAL OF AGENDA**

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

## **FRIENDLY AMENDMENT**

Mayor Pro Tem Peak moved to adjourn in memory of Kim Tipper and Raymond Voge. The maker and seconder of the motion accepted the amendment.

Councilmember Wagner stated much of the increased airplane noise came from planes descending to land at Los Angeles International Airport (LAX).

The question was called, and the amended motion carried unanimously.

## **REPORT ON POSTING OF AGENDA**

City Clerk Glaser reported that the agenda for the meeting was properly posted on November 13, 2020, with the amended agenda posted November 19, 2020 and the seconded amended agenda posted November 20, 2020.

## **ITEM 1 CEREMONIAL/PRESENTATIONS**

None.



**ITEM 2.A. PUBLIC COMMENTS**

Bruce Silverstein stated he was unable to join the meeting at 6:00 p.m. He stated he had been informed by California Coastal Commission (CCC) staff that the CCC did not have the authority to prohibit the City from requiring remediation of the Bell lot. He stated the City Manager was refusing to have a recorded meeting with him and was unresponsive to his emails.

Michael Epstein thanked the outgoing Councilmembers for their service. He thanked the Council and City Manager Feldman for their work on issues related to recreational vehicles (RVs) parking along Pacific Coast Highway (PCH).

Linda Gibbs stated two small cell antennas had been installed on her street. She stated she counted 14 small cells on PCH between Carbon Canyon and Malibu Pier, 57 between Pepperdine and Heathercliff Road, and five on Dume Drive. She stated these sites had been installed without oversight from the Planning Commission or the Council's awareness. She stated Mr. Kramer, Telecom Law Firm, had two years to update the wireless communications facility (WCF) ordinance and had not done so. She stated the City could not wait five months for a new ordinance. She requested the Council approve an urgency ordinance.

Lonnie Gordon stated the Council should be able to determine which risks were acceptable for the community. She stated the City was behind other cities that had updated WCF ordinances in 2018. She stated small cells were uninsurable. She requested the Council approve a WCF ordinance at a Special meeting.

Liz Barris requested the Council approve a WCF urgency ordinance at a Special meeting. She stated she did not understand why Mr. Kramer still had a contract with the City. She stated she lived in Topanga and could not visit Malibu anymore due to the radiation from small cell towers.

Kelly Meyer thanked Nicole McGinley for educating her on 5G. She thanked Mayor Pierson and Councilmember Mullen for listening. She stated the community had been asking for action since June 2020. She stated the Council had approved an advocacy plan, but she had not seen evidence of any advocacy. She requested the Council approve an urgency ordinance at a Special meeting.

Lacey Lehman thanked the Council for its work and thanked Ms. McGinley for her work on small cell issues. She discussed the timeline for a new WCF ordinance that was posted to the City's website on Friday, November 20, 2020. She stated the Council should take action at a Special meeting.

Beth Dorn thanked Ms. McGinley for her leadership on small cell issues. She stated small cells presented a health risk. She stated some people were very sensitive to radio waves. She requested the Council have a Special meeting.

Akai Yang requested the Council have a Special meeting to discuss small cell issues. He stated a small cell antenna outside his house on Bison Court was very loud.

Jenny Rusinko indicated support for the comments of other speakers. She stated she was disappointed the WCF ordinance was not on this agenda. She stated the City could not let the existing ordinance remain in place for another five to six months. She stated the City had 40 WCF applications and over 60% would be approved administratively. She stated the notice of application was only sent to property owners within 500 feet of the proposed site and it was a small yellow postcard similar to notices for film applications. She stated small cells presented a fire and health risk. She requested the Council approve a WCF ordinance at a Special meeting.

Doug Stewart thanked the Volunteers on Patrol (VOPs) and Los Angeles County Sheriff's Department Deputies who had been enforcing the new overnight parking limitations along PCH. He thanked the City Planning staff, Public Works staff, Planning Commission, and City Manager Feldman for moving the parking restriction project along. He stated he was surprised the Council had approved a plan to install 20 sirens at its November 9, 2020 meeting. He stated the Public Safety Commission had rejected sirens as an option. He stated wind conditions limited how far the sirens could be heard. He stated sirens were expensive and there were many hurdles to installation. He stated there were other modern solutions better suited for emergency communications in the City.

Colleen Baum commended City Attorney Hogin for her professionalism and service to the City. She thanked the outgoing Councilmembers for their service. She expressed concern the presumptive Councilmember-elect Bruce Silverstein was a divisive voice in the City.

Nichole McGinley stated the WCF timeline provided by staff was insufficient. She stated the City needed an urgency ordinance before the end of the year. She thanked Mayor Pierson and Councilmember Mullen for their work on small cell issues. She questioned why an urgency ordinance was not brought forward at this meeting. She requested the Council approve an urgency ordinance at a Special meeting.

Susan Foster stated the Council needed to approve a WCF urgency ordinance. She stated the community ordinance drafted with Scott McCullough was a well-drafted. She questioned why an ordinance was not on this agenda. She stated small cells presented a fire danger.

Kraig Hill indicated support for Mr. Stewart's comments. He stated Mr. Kramer should be replaced and a WCF urgency ordinance seemed justified. He stated the remediation of the Bell lot did not need to be delayed due to the CCC appeal. He stated he had heard that remediation was being delayed because the property owner may want to build a parking lot. He discussed illegal construction that may receive

after-the-fact permits. He stated a parking lot permit should only be considered after remediation of the Bell lot. He requested the property be remediated before the rainy system leached chemicals into the ground.

Scott Dittrich indicated support for Mr. Stewart's comments. He thanked the Council for carefully considering STR regulations and coming to a good compromise. He recommended using the revenue from the increased transient occupancy tax (TOT) to hire a new Code Enforcement Officer who lived in the City. He discussed the dangers of PCH and stated it should be patrolled by California Highway Patrol (CHP). He stated public safety needed to be a priority for the City.

Jeff Louks stated the Council needed to approve a WCF ordinance before the end of the year. He stated five months would be too long. He stated everyone involved on this issue in the community was against small cell proliferation. He discussed the 5G network in Wuhan, China.

June Louks discussed the fire danger posed by small cells and the rural character of the City. She questioned why an urgency ordinance was not on this agenda. She requested the Council have a Special meeting to approve a WCF urgency ordinance.

Jessica Isles stated Mayor Pierson and Councilmember Mullen had tried to get a WCF urgency ordinance on this agenda and questioned why it was not listed. She questioned who was running the City. She stated the community had requested action on this item for months. She requested the Council have a Special meeting to approve an urgency ordinance similar to the one submitted by Scott McCullough. She stated there was an urgent need for an ordinance.

Keegan Gibbs stated the Public Safety Commission should have been notified before the Council considered the siren plan. He stated sirens would be most helpful in the canyons outside of City limits. He discussed 5G and the importance of responding to the needs of the community.

Kasey Earnest thanked the outgoing Councilmembers for their service. She expressed gratitude for Mayor Pierson, Councilmember Farrer, City Manager Feldman, and City staff. She thanked the City for its ongoing support of the Malibu Boys and Girls Club. She stated thanks to support from its partners this year the Boys and Girls Club had been able to provide grocery delivery to 350 households, 640 mental health counseling hours, assisted 53 students K-12 in the most vulnerable positions, provided 250 meals each week outside of grocery delivery, and provided social support services.

Vince Muselli commended the outgoing Councilmembers for their service and welcomed the incoming Councilmembers. He requested the Council extend the Woolsey Fire rebuild fee waiver program.

Ryan Embree expressed concern the process to approve a new WCF ordinance would take too long. He stated he sent the Council a recommendation to amend the ordinance in August 2020. He recommended clarifying that support equipment should be required to be undergrounded.

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

City Manager Feldman introduced Los Angeles County Public Works Assistant Deputy Director Russ Bryden and stated he oversaw Los Angeles County Waterworks District No. 29 (Water District No. 29).

Mr. Bryden stated the Environmental Impact Report (EIR) for Water District No. 29 capital improvement projects was available for public comments. He stated these projects would be completed over six years and cost \$60 million. He stated Water District No. 29 did not anticipate raising rates to complete this work. He recommended people submit EIR comments via email. He stated there would be a virtual public meeting on December 8, 2020 to present the draft EIR and take comments. He stated the pump station backup generator pilot project in Big Rock was underway. He stated Water District No. 29 had gathered data on challenges installing generators in residential neighborhoods and how to overcome them. He stated he would present an update to the Council after the rainy season.

In response to Councilmember Mullen, Mr. Bryden stated generators had been installed in Big Rock and were ready to be used in the event of a power outage. He stated Councilmembers had helped Water District No. 29 navigate some challenges implementing the pilot generator project.

City Manager Feldman stated there were 6,124 new cases and 370,000 total COVID-19 cases in the County of Los Angeles and 144 total COVID-19 cases in Malibu. She stated the County and the State had issued new orders with a 10:00 p.m. to 5:00 a.m. curfew and the County order was updated to prohibit indoor and outdoor dining effective November 25, 2020. She stated if the five-day average of new cases reached 4,500 or more and hospitalizations were at 2,000 or more a day, the County would consider implementing a targeted safer at home order. She stated 271 single-family home Woolsey Fire rebuilds had been approved through Planning, 158 building permits had been issued, and 17 homes had been completed. She encouraged everyone to sign up for emergency alerts. She stated City parks would be open 8:00 a.m. to sunset over the Thanksgiving weekend, the Skate Park would closed Thanksgiving Day, and the community pool will be closed Thursday, November 26, 2020 and Friday, November 27, 2020. She announced a Household Hazardous Waste collection event on December 12, 2020, and a Senior Center drive through event at Bluffs Park on December 22, 2020. She stated signs for new overnight parking restrictions had gone up on PCH near Coral Canyon and Zuma Beach.

Los Angeles County Sheriff's Department Lieutenant James Braden discussed enforcement of the new parking restrictions on PCH. He stated the Los Angeles County Sheriff's Department Deputies and VOPs were able to clear out long-term parkers on PCH. He stated Public Safety Commissioners Doug Stewart and Chris Frost also visited during patrols. He stated it was important to do regular patrols at night, which seemed to reduce the number of RVs parking along PCH during the day. He discussed the number of tickets issued and accidents in the City during 2020. He stated Los Angeles County Sheriff's Department Deputies were very active in the City.

Councilmember Mullen thanked Lieutenant Braden for his work and the update.

Councilmember Wagner thanked Lieutenant Braden for his update. He stated oversized vehicles parked long-term along PCH limited the parking available for day visitors.

Councilmember Farrer thanked Lieutenant Braden, Los Angeles County Sheriff's Department Deputies, VOPs, and Public Safety Commissioners who participated in night patrols. She indicated support for Councilmember Wagner's comments.

Mayor Pierson stated he spoke with Public Safety Commissioner Frost about how many of the people parked in larger RVs on PCH were not homeless or had resources to find other housing.

Lieutenant Braden stated Bruce Silverstein had suggested creating a permit program for people who were experiencing homelessness to park in the City. He stated it was important to keep up patrols and it would have a big impact on the City.

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

Councilmember Farrer thanked City Manager Feldman and City staff for implementing the new parking restrictions as soon as possible. She stated she was hearing concerns from people that there was unethical or illegal activity on the part of the City. She requested anyone with evidence bring it forward as soon as possible.

In response to Councilmember Farrer, City Manager Feldman stated the City always received a lot of public records requests but there had been an uptick in the last week or two. She stated staff was going through the process of responding as soon as possible and the Council had also been asked to provide records for some requests.

Councilmember Farrer stated the City drafted the Adopted Work Plan through a public process open to participation and comment. She stated a dramatic increase in public records requests took up staff time and limited the amount of time staff

could devote to Work Plan items. She discussed the rebuild statistics and stated the City needed to focus on the items that had been identified as the top three priorities of the City: public safety, Woolsey fire rebuilding, and school district separation.

In response to Councilmember Farrer, City Manager Feldman stated she had exchanged emails with presumptive Councilmember-elect Bruce Silverstein and he had refused to meet with her unless the meeting was recorded. She stated she worked for the Council as a whole and, unless directed by the Council to record all of her meetings, did not think it was an appropriate way to begin a professional relationship. She stated she was available to meet with presumptive Councilmember-elect Bruce Silverstein at any time and had already met with presumptive Councilmembers-elect Paul Grisanti and Steve Uhring. She stated in her 16 years with the City she had never been asked to record meetings with Councilmembers. She stated Council meetings were recorded and provided an opportunity to document information for the public record. She stated City staff met regularly with CCC staff and during those meetings the CCC staff had informed the City that it did not believe any remediation could be completed on the Bell lot until the appeal process was complete. She stated she had that information in writing and could forward it to the Council.

Councilmember Farrer stated a WCF outreach meeting was scheduled for December 16, 2020. She questioned if there was consensus from the Council to schedule a Special meeting.

In response to Councilmember Mullen, City Attorney Hogin reminded the Council a WCF item was not on the agenda for consideration but Assistant City Attorney Rusin would briefly address the matter.

Assistant City Attorney Rusin stated staff had been working with the community group interested in WCF regulations. He stated the typical schedule for an ordinance had been accelerated for the WCF ordinance. He stated the ordinance would be brought to the Council in February 2021. He stated the City had received the draft ordinance from Telecom Law Firm, which would be compared to the ordinance submitted by Mr. McCullough. He stated the City had a new webpage that listed all current WCF applications and comments could be submitted through this webpage.

Councilmember Farrer stated the siren item had been placed on a publicly noticed Council agenda. She thanked the Public Safety Commissioners for their comments. She thanked Ms. Earnest and the Boys and Girls Club staff for supporting the community. She thanked Mr. Bryden for his update and stated it was a relief to know the generators were in place and ready to be used in the Big Rock area. She thanked the organizers of the Veterans Day event. She stated she attended a Malibu-Las Virgenes-Malibu Council of Governments (COG) meeting and a League of California Cities round table on homelessness. She stated she was able to tour the new facilities at Malibu High School. She stated current and past members of the

Malibu Facilities District Advisory Committee were invited on the tour. She stated the new building was a big improvement. She thanked City Attorney Hogin for her many years of service.

Councilmember Wagner stated the Malibu community was always interested in helping people experiencing homelessness to connect to resources and housing. He stated he visited the encampment in Las Tunas Canyon with Public Safety Commissioner Frost, Public Safety Manager Susan Dueñas, representatives from the Los Angeles County Fire Sheriff's Departments, staff from The People Concern, and a hazmat cleanup crew. He stated sections of the canyons had major encampments that presented a fire danger. He recommended owners of large vacant properties file a Letter of Agency with the Sheriff's Department to allow law enforcement to enter the property and cite people for trespassing.

Councilmember Mullen thanked Mr. Epstein for his positive comments. He stated RV parking and homelessness were two of the biggest issues facing the new Council. He thanked Mr. Bryden for his update and Water District No. 29 for moving forward with the Big Rock generator project so quickly. He stated he received correspondence from John Mazza regarding dip tanks in Laguna Beach. He requested the Council direct the City Manager to have Fire Safety Liaison Vandermeulen work with Assistant Fire Chief Drew Smith on short- and long-term options for dip tanks in and around the City.

Councilmember Wagner stated the City needed to provide a map of pools that had been cleared for use in an emergency by the Fire Department.

**CONSENSUS** By consensus, the Council directed staff to: 1) work with the Los Angeles County Fire Department to identify potential funding sources and locations for the installation of dip tanks in and around the City; and 2) bring an item back to Council for consideration.

Councilmember Mullen stated he had spoken with Ms. McGinley on 5G issues and had learned a lot from her. He stated things took time and the City was getting involved in the issue a little late. He stated the Council did not disregard the Public Safety Commission's feedback on sirens, but sirens could have benefits for emergency response and should be explored further. He congratulated presumptive Councilmember-elect Bruce Silverstein on his success during the election. He stated the Councilmembers volunteered their time for the community and he viewed Malibu as one team. He stated it was important to build relationships and work with others to get things done. He recommended the next Council work with the City Manager and City staff before making any major changes. He stated many of his supporters had encouraged him to fire City Manager Feldman but he chose to work with people and learn more about them before making any decisions.

Mayor Pro Tem Peak thanked Ms. McGinley and others for coming forward with small cell issues. He stated he was open to having a Special meeting but there were

already public meetings scheduled. He thanked the Los Angeles County Sheriff's Department and VOPs for their work enforcing new PCH parking restrictions. He stated some RVs had just moved down the road. He stated the sirens presented some benefits to the City, but perhaps it should have been presented with some of the other options considered by the Public Safety Commission.

Mayor Pierson stated he wanted to move forward on a WCF ordinance as soon as possible. He thanked Ms. McGinely for her passion, knowledge, and patience. He stated it could take time for the Councilmembers to educate themselves on new issues brought to the Council. He stated he was interested in adding a small cell item to the December 14, 2020 Regular meeting agenda. He stated it was important to have a public meeting.

City Attorney Hogin stated the City heard the community concerns related to WCF and it was creating momentum. She stated her office would be able to discuss the community ordinance submitted by Mr. McCullough at the schedule December 16, 2020 workshop. She stated her staff would discuss the ordinance in depth with Mr. McCullough and City staff was already implementing administrative items like the dedicated webpage for WCF applications. She stated there was a process to amend the Malibu Municipal Code (MMC) and Local Coastal Program (LCP).

Mayor Pierson stated he did not want to waste time on legal pushback that would delay WCF regulations further. He thanked Ms. Earnest for her work with the Boys and Girls Club. He stated he had discussed sirens with his Public Safety Commissioner. He stated the City was at the beginning of the path for a potential siren project and may be able to get grant funding. He stated his neighborhood was very interested in sirens and it was worth pursuing it further along with other options. He stated he attended a League of California Cities homelessness round table. He stated he was interviewed at the encampment site in Las Tunas Canyon where dump trucks were hauling out debris. He stated some in the community were concerned about the deadline to rebuild a legal nonconforming structure but he had not heard concern about the fee waiver program coming to an end. He encouraged presumptive Councilmember-elect Bruce Silverstein to work with others in the City to make change. He stated presumptive Councilmember-elect Bruce Silverstein had exchanged over 80 emails with City Manager Feldman since the November 3, 2020 General Municipal Election and submitted numerous public records requests that took up a significant portion of staff time. He stated the weekly City Manager updates provided only a partial list of the business in the City and City staff worked very hard. He asked presumptive Councilmember-elect Bruce Silverstein for his help in bringing the community together. He stated he understood presumptive Councilmember-elect Bruce Silverstein wanted City Manager Feldman fired but did not think this was the correct way to go about it. He stated he had also received phone calls from residents who were upset about divisiveness in the City. He stated Councilmember Farrer and he had lived in the City for over 100 collective years, served the community for many years in different roles and were not involved in any conspiracy. He stated the City had been working on emergency response and



recovery ever since his election in 2018. He stated the City had also accomplished many other things over the last two years that had been long-term projects.

### **ITEM 3        CONSENT CALENDAR**

Item Nos. 3.A.1., 3.B.5 and 3.B.9. were pulled by the public.

MOTION        Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to approve the Consent Calendar, except for Item Nos. 3.A.1., 3.B.5 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 61712-61807 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. 671 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$2,291,699.06. City of Malibu payroll check number 5136 and ACH deposits were issued in the amount of \$248,870.15.
3.        Approval of Minutes  
Recommended Action: Approve the minutes for the October 12, 2020 Malibu City Council Special meeting, October 12, 2020 Malibu City Council Regular meeting, and October 28, 2020 Malibu City Council Special meeting.
4.        Amendment to Professional Services Agreement with Digital Maps Products  
Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Digital Map Products for geographic information system (GIS) software subscription services.
6.        Professional Services Agreement with 30 Three Sixty Public Finance, Inc.  
Recommended Action: Authorize the Mayor to execute a Professional Services Agreement with 30 Three Sixty Public Finance, Inc. to provide consulting services for the formation of the proposed Cliffside Drive Utilities Undergrounding District.
7.        25321 Malibu Road Utility Easement Acceptance  
Recommended Action: 1) Adopt Resolution No. 20-62 accepting a utility easement adjacent to 25321 Malibu Road; and 2) Direct staff to record a certified copy of the resolution and easement in the Office of the County Recorder.
8.        Malibu Little League Fee Waiver

Recommended Action: Approve the request from Malibu Little League to waive facility use fees for the fall baseball program at the Malibu Bluffs Park.

10. Amendment to Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services

Recommended Action: Authorize the Mayor to execute Amendment No. 5 to the Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services.

11. Amendment to Professional Services Agreement with SDI Presence LLC

Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with SDI Presence LLC for information technology administrative services.

The following items were pulled from the consent calendar for individual consideration:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 472

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 472 amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment 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 short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems and finding the action exempt from the California Environmental Quality Act.

Bruce Silverstein stated members of the Council had a right to add items to the agenda. He stated he run for election on a platform of government reform. He stated short-term rentals (STRs) in residential zones were unlawful. He expressed concern the ordinance would legitimize STRs. He questioned if anyone drafting or approving the ordinance financially benefited from STRs. He stated he was surprised City Attorney Hogin allowed the Councilmembers to spend so much time responding to his comments.

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

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

Councilmember Wagner stated the City needed a carefully tailored ordinance. He stated the ordinance may be used to show the City had legalized STRs.

MOTION

Councilmember Mullen moved, and Councilmember Farrer seconded a motion to adopt Ordinance No. 472 amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment 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 short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems and finding the action exempt from the California Environmental Quality Act. The question was called, and the motion carried 4-0, Councilmember Wagner abstaining.

B. New Items

5. Los Angeles County Measure R Transportation Funding Agreements Amendments and Measure M Funding Agreement

Recommended Action: 1) Authorize the Mayor to execute the Measure R Funding Agreement Amendments for the Civic Center Way Improvements and for the Pacific Coast Highway Median Improvements projects; and 2) Authorize the Mayor to execute the Measure M Funding Agreement for the Westward Beach Road Improvements project.

Public Works Director DuBoux presented the staff report.

John Mazza stated the Council should try to hear consent items earlier in the evening. He questioned why the City was using so much Measure M funding to make improvements that would not benefit residents. He expressed concern the parking improvements and sidewalk were too expensive.

City Manager Feldman stated this item was consideration of a funding agreement and City staff did not have the full design of the project yet. She stated there would be robust community discussion as the project moved forward and the full project would be presented to the Council. She stated the project would include items like bike lanes, bike parking, handicap parking, and road widening. She stated there were already signs prohibiting overnight parking along Westward Beach Road.

Councilmember Wagner stated he recalled the project had been brought up by Mayor Pro Tem Peak.

Mayor Pro Tem Peak stated he was interested in improving the area and adding additional parking. He stated the CCC would require the City to create new parking if it wanted to remove parking elsewhere. He stated the City had looked at reconfiguring City-owned roads to add parking. He stated restriping near Malibu Colony had been well received.

Councilmember Wagner stated the project was worth exploring.

MOTION

Councilmember Wagner moved, and Councilmember Mullen seconded a motion to: 1) authorize the Mayor to execute the Measure R Funding Agreement Amendments for the Civic Center Way Improvements and for the Pacific Coast Highway Median Improvements projects; and 2) authorize the Mayor to execute the Measure M Funding Agreement for the Westward Beach Road Improvements project. The question was called, and the motion carried unanimously.

9. Adoption of Amended Resolution Pertaining to the Deadlines to Initiate the Application Process for In-kind Disaster Rebuild Projects

Recommended Action: Adopt Resolution No. 20-52A initiating a zoning text amendment to Chapter 17.60.020 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.

Acting Planning Director Mollica stated he was available to answer questions.

Adam McFarland was not present at the time of the hearing.

Vince Muselli asked for clarification on what was being corrected. He stated he intended to comment on Item No. 4.B.

Richard Gibbs stated he was interested in extending the Woolsey Fire fee waiver program, but the application deadline needed to be extended first. He discussed difficulties he was experiencing with his insurance company and ongoing litigation.

In response to Mayor Pierson, Acting Planning Director Mollica stated when the issue of application extensions began the original proposal was to allow for administrative extensions. He stated when the draft resolution was revised to initiate the amendment to modify the MMC extending the application deadline instead, one section in the resolution had inadvertently not updated.

MOTION

Councilmember Wagner moved, and Councilmember Farrer seconded a motion to adopt Resolution No. 20-52A initiating a zoning text amendment to Chapter 17.60.020 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. The question was called, and the motion carried unanimously.

RECESS                      At 9:22 p.m. Mayor Pierson recessed the meeting. The meeting reconvened at 9:28 p.m. with all Councilmembers present.

**ITEM 4                      ORDINANCES AND PUBLIC HEARINGS**

- A.                      Appeal No. 19-010 - Appeal of Planning Commission Resolution No. 19-25 (20238 Piedra Chica Road; Appellants: Colin Drummond; Applicant: Sakahara Allen Architects; Property Owners: Reza Nebavi and Maryam Akbar)  
Recommended Action: Continue the item to a date uncertain.

This item as continued upon approval of the agenda.

- B.                      Code Amendment to Extend Deadlines for Legal Nonconforming In-kind Disaster Rebuild Projects  
Recommended Action: 1) Adopt Ordinance No. 476 determining the proposed code amendment is categorically exempt from the California Environmental Quality Act (CEQA) and approving Zoning Text Amendment No. 20-002 to amend Malibu Municipal Code Section 17.060.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allotted for an extension to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire; and 2) Direct staff to schedule a second reading and adoption of Ordinance No. 476 for the December 14, 2020 Regular City Council meeting.

Acting Planning Director Mollica presented the staff report.

In response to Mayor Pierson, Acting Planning Director Mollica stated applicants would have needed to file for an extension before November 8, 2020. He stated some applicants who had not filed an extension request in time were in limbo waiting to see if the deadline was extended.

Vince Muselli stated some potential applicants may not have known they needed to file an extension request. He indicated support for approving the ordinance. He recommended the Council extend the fee waiver program to have the same deadlines as for a legal nonconforming in-kind rebuild.

MOTION                      Councilmember Farrer moved, and Mayor Pro Tem Peak seconded a motion to: 1) adopt Ordinance No. 476 determining the proposed code amendment is categorically exempt from the California Environmental Quality Act (CEQA) and approving Zoning Text Amendment No. 20-002 to amend Malibu Municipal Code Section 17.060.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allotted for an extension to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire; and 2) direct staff to schedule a second reading and adoption of Ordinance No. 476 for the December 14, 2020 Regular City Council meeting.

City Attorney Hogin read the title of the ordinance.

The question was called, and the motion carried unanimously.

- C. Schedule of Parking Citation Penalties (Continued from November 9, 2020)  
Recommended Action: 1) Conduct the Public Hearing; 2) Adopt Resolution No. 20-59 amending the City's Schedule of Parking Citation Penalties, repealing Resolution No. 15-09, and finding the action to be exempt from the California Environmental Quality Act; and 3) Direct the Public Safety Commission to review the Schedule of Parking Citation Penalties annually, or at another frequency determined by the City Council.

Public Safety Manager Dueñas presented the staff report.

Chris Frost discussed the Public Safety Commission's recommendation. He stated some people freely violated parking ordinances and were not deterred by the citation fine. He stated he hoped the new fines could be implemented before the next heavy visitor season in 2021.

Mayor Pierson thanked Mr. Frost and the rest of the Public Safety Commission for their service.

Councilmember Mullen thanked Mr. Frost for his comments.

- MOTION Councilmember Mullen moved and Councilmember Farrer seconded a motion to: 1) adopt Resolution No. 20-59 amending the City's Schedule of Parking Citation Penalties, repealing Resolution No. 15-09, and finding the action to be exempt from the California Environmental Quality Act; and 2) direct the Public Safety Commission to review the Schedule of Parking Citation Penalties annually.

Mayor Pro Tem Peak recommended the Public Safety Commission review the parking citation penalties early enough in the year so changes could be implemented before summer.

The question was called, and the motion carried unanimously.

- D. Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 – An amendment to the Local Coastal Program and Malibu Municipal Code Allowing Stand-Alone Surface Parking Lots in Commercial Zones as a Conditionally Permitted Commercial Use (Continued from November 9, 2020)  
Recommended Action: 1) Adopt Ordinance No. 475 determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and approving Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 to amend the Local Coastal Program and the Malibu Municipal Code to allow stand-alone surface parking lots in the Commercial General (CG), Community Commercial (CC), and Commercial Neighborhood

(CN) zoning districts as a conditionally permitted commercial use citywide; 2) Direct staff to schedule second reading and adoption of Ordinance No. 475 for the December 14, 2020 Regular City Council meeting; and 3) Adopt Resolution No. 20-58 adopting guidelines and standards for parking lot tree selection and planting in stand-alone surface parking lots and determining the same exempt from the California Environmental Quality Act.

Acting Planning Director Mollica presented the staff report.

Bruce Silverstein encouraged the Council to consider his written comments on this item. He stated the item was not urgent and should not be considered at a virtual meeting. He stated the Council spent more time responding to his public comments than addressing small cell concerns. He recommended the Council reject this ordinance.

Doug Stewart stated the City received millions of visitors every year and needed to minimize impacts to residents. He stated this ordinance could allow parking lots in key areas that had regular parking problems. He stated complaints about Nobu and neighboring business had generated the idea to create a shuttle lot for employees that would reduce parking congestion and improve pedestrian safety.

Lynn Norton stated the tree coverage requirement should be met immediately and should not be based on projected future growth. She stated creating more parking would create the potential for more people to visit the City. She stated creating new parking should only be allowed if the City could remove some more dangerous and less desirable parking.

Kraig Hill stated this ordinance went against the vision and mission statements of the City. He stated residents did not need more parking and there were already provisions for commercial parking requirements. He questioned what the motivation for the ordinance was. He stated a flat lot was a waste of space and the Council should consider adding provisions for underground parking and limiting the percentage of a lot that could be dedicated to parking. He indicated support for requiring more of the lot to be permeable. He stated compact parking spaces created problems.

Scott Dittrich stated he assumed he was on camera whenever he left the house. He stated City Manager Feldman should allow presumptive Councilmember-elect Bruce Silverstein to record their meeting. He stated this ordinance was not in the character of the City. He stated residents did not need parking, but restaurant employees may. He stated this ordinance did not include any provisions for impacts to resident's views. He stated the trees should be required to be live oaks for the sake of aesthetics and fire safety. He stated the tree canopy requirements should be required to be met immediately, not in 10 years.

John Mazza stated this was a complicated issue. He stated there were approximately 40 acres of vacant land in the Civic Center area. He recommended the ordinance create a limit on the total amount of standalone parking allowed in the City. He stated car show dealerships should not be allowed in shopping centers and the ordinance should only allow transient day-use parking. He stated the terms parking lot and property lot were used confusingly in the ordinance. He stated his written correspondence included recommendations to change the ordinance.

Patt Healy indicated opposition to the ordinance. She stated the ordinance did not follow the mission or vision statements of the City. She indicated support for open space. She stated if the City was required to develop a park and ride lot it would also be used for restaurant employees and beach goers. She stated the City-owned properties should be used for the benefit the residents. She stated if parking lots were approved as a standalone use the property should be 65% landscaped open space.

Ryan Embree stated the item needed more public input. He stated he had not heard any Pepperdine representatives speak in favor of the item. He stated there was a zone text amendment process if Pepperdine needed revisions to the zoning code for one lot. He stated there should be separate provisions for public and private parking. He stated if multiple lots chose to develop standalone parking it would have significant impacts. He stated the view of the Civic Center would be negatively impacted by large parking lots. He stated pedestrians crossing PCH had traffic impacts and should not be encouraged. He recommended requiring parking lots to be attended.

Councilmember Wagner stated the Civic Center Task Force had decided a use for a parking lot should be determined before a parking lot was created. He stated Pepperdine representatives had attended a few meetings and discussed their intention to develop a parking lot to shuttle visitors for big games and events.

Mayor Pro Tem Peak stated it seemed like creating some additional parking could help reduce congestion. He stated he understood the concerns that had been raised, but a lot of time had been spent on the item and there had already been multiple public hearings. He stated the City should consider having standalone parking as an acceptable use for certain properties as described in the staff report. He stated the Council could bring the item back in a few months if it wanted to allow more time for public input.

Councilmember Mullen stated it was important to carefully consider ordinances that may have unintended consequences. He stated the item could use more deliberation. He stated it was good for the Council to remember that County Measure R funds were used to purchase some property in the City and there was an obligation to use those funds for transportation purposes. He stated the City would either need to pay the County back or find a specific way to develop some land for transportation.



Councilmember Farrer stated the item was heard by Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) in August 2020 and approved unanimously by the Planning Commission after a few revisions in September 2020. She stated she was not sure what had changed for Mr. Mazza since the Planning Commission hearing. She stated the Triangle parcel, Chili Cook-off parcel, and Heathercliff parcel were purchased as a package and some Measure M and County Measure R funding was used for that purchase. She stated the City could look at selling the Triangle parcel but there may not be an interested buyer and people may not want to see it developed. She stated the City had spent a lot of time dealing with parking issues at the SoHo House and Nobu. She discussed dangerous parking conditions in the City. She stated public safety and traffic issues could be addressed by this ordinance. She stated she was not sure underground parking was even viable in the Civic Center area.

Mayor Pro Tem Peak stated ZORACES decided not to address underground parking because it added a lot of variables that needed more study.

Councilmember Wagner stated undergrounding was not considered by ZORACES because it created load complications. He stated ZORACES should have considered how many acres in the City could be devoted to parking. He stated the ordinance should be remanded back to the Planning Commission to consider issues it may have overlooked. He discussed the importance of having a traffic study.

Councilmember Mullen stated it was significant that the ordinance was unanimously approved by the Planning Commission.

In response to Councilmember Mullen, Acting Planning Director Mollica stated the ordinance did include a requirement for a traffic study. He stated he agreed with Mr. Mazza's correction to the height limit for landscaping. He stated it would be good to set a cap on total parking and there would need to be a study for the area to determine the cap.

Councilmember Mullen stated an overall traffic study of the Civic Center area would be important before any individual development could be considered.

Mayor Pro Tem Peak stated studies for each new project considered all built and entitled development.

In response to Mayor Pro Tem Peak, Acting Planning Director Mollica stated some items in Mr. Mazza's letter would need further study, but small corrections like the landscaping height limit could be incorporated without rehearing the item.

In response to Councilmember Mullen, Acting Planning Director Mollica stated the limitations on the size of the parking lot would be the landscape requirements and the requirement for a permeable surface area. He stated a need had to be demonstrated to have a Conditional Use Permit (CUP) issued. He stated the

landscaping requirements were very specific and would help limit the size of parking lots.

In response to Mayor Pro Tem Peak, Acting Planning Director Mollica stated there were landscaping requirements for open space on the property, surrounding the parking lot, and inside the parking lot. He stated the ordinance had options for what the open space could be. He stated 65% of the property could not be parking.

Mayor Pro Tem Peak this item had started years ago to provide options for parking that may be useful in a variety of situations. He stated applicants who could prove there was a need for parking should have a mechanism to permit that project.

Mayor Pierson indicated support for a needs assessment. He stated the City would still need to address obligations on the Triangle parcel. He stated successful businesses in the City did not always have enough parking and it created traffic impacts. He stated the public speakers made good points.

In response to Mayor Pro Tem Peak, Acting Planning Director Mollica stated the Planning Commission had concerns about over concentration of parking lots and the goal of a cap was to prevent that. He stated overconcentration would have a traffic and visual impact. He stated the cap was focused on the Civic Center area where there were several vacant commercial lots.

Mayor Pro Tem Peak stated traffic impacts could be studied and mitigated by a traffic study.

In response to Mayor Pro Tem Peak, Acting Planning Director Mollica stated discussion on the cap focused on how it could be addressed as part of the CUP process.

Mayor Pro Tem Peak stated there would be multiple levels of review before a parking lot could be created.

Councilmember Wagner suggested deferring this item to be considered by the new Council. He recommended waiting to see how traffic was impacted by the Santa Monica College (SMC) satellite campus.

Mayor Pierson stated the Council needed to find some way to address the County Measure R fund obligations tied to the Triangle parcel.

Mayor Pro Tem Peak suggested paying the County back for the Measure R funds.

Councilmember Wagner stated the Council needed more information on the options for the Triangle parcel. He stated the SMC satellite campus would have a big impact on traffic in the Civic Center area.

In response to Mayor Pierson, City Manager Feldman discussed the City's land purchase in 2018. She stated the parcels were only available to be purchased as a package and in order to come up with the funding the City used Measure M and County Measure R grant funds. She stated the Triangle parcel was purchased with County Measure R funds, which required a nexus to transportation. She stated during initial discussions with the County it was suggested a shuttle service of some type may be an appropriate option. She stated discussions of the use of vacant parcels had been delayed by the Woolsey Fire and COVID-19.

In response to Councilmember Mullen, City Manager Feldman stated she was not aware of a deadline to develop the land for a transportation nexus, but she would confirm that with the County.

City Attorney Hogin stated there were multiple options to permit development of a parking lot on the Triangle parcel.

In response to Councilmember Mullen, City Attorney Hogin stated the City could create an overlay district to create additional conditionally permitted uses for the Triangle parcel.

Mayor Pro Tem Peak indicated support for bringing this item back in the first quarter of 2021 with clerical corrections from staff.

In response to Mayor Pierson, Mayor Pro Tem Peak stated he believed the item did not need to go back to the Planning Commission.

Councilmember Wagner stated the item could wait until there was more information. He stated an overlay district may be an effective tool.

Councilmember Farrer recommended bringing the item back to the Council instead of the Planning Commission. She indicated support with Mayor Pro Tem Peak's suggestion.

In response to Acting Planning Director Mollica, Mayor Pro Tem Peak stated it was worth exploring a cap, but it may be challenging because permitting a lot would be based on need. He stated the studies for an individual project must consider all existing and entitled developments.

Councilmember Mullen indicated support for incorporating Mr. Mazza's recommendations and the Planning Commission recommendations and bringing the revised ordinance back to the Council. He suggested considering an overlay district for the Triangle parcel.

Councilmembers Wagner and Farrer indicated support for Councilmember Mullen's comments.

Mayor Pro Tem Peak stated an overlay district for the Triangle parcel should only be considered if the Council could not find a version of this ordinance it could approve.

Councilmember Mullen indicated support for Mayor Pro Tem Peak's comments.

In response to Mayor Pierson, Councilmember Mullen stated a traffic study would identify parking needs.

Mayor Pierson stated parking should not be added to encourage future development.

Councilmember Farrer stated the City already had parking and traffic issues that needed to be addressed.

**MOTION** Councilmember Mullen moved and Councilmember Farrer seconded a motion to direct staff to: 1) incorporate the recommendations of the Planning Commission and John Mazza into Local Costal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 allowing stand-alone surface parking lots in commercial zones as a conditionally permitted commercial use; and 2) bring the updated ordinance back in the first quarter of 2021. The question was called, and the motion carried unanimously.

**ITEM 5 OLD BUSINESS**

None.

**ITEM 6 NEW BUSINESS**

None.

**ITEM 7 COUNCIL ITEMS**

- A. Malibu Film Society Drive-In Movie Event Fee Waiver and Sponsorship  
Recommended Action: Consider whether to approve the request from the Malibu Film Society to waive event fees and provide City sponsorship for a two-night drive-in movie event at the Ioki Property.

Community Services Director Bobbett presented the staff report.

Scott Tallal thanked the Council and staff for supporting previous events. He stated the event could also support local restaurants.

In response to Mayor Pierson, Mr. Tallal stated the film society was planning to show the Muppet's Christmas Carol and Home Alone and had recorded an interview with Danny Stern to be presented before Home Alone.

Councilmember Mullen commended Mr. Tallal for organizing these events.

Councilmember Farrer thanked Mr. Tallal for his work on drive-in events. She stated the Athletic Booster Club could also use the support from this event.

Mr. Tallal stated the event would be advertised to also promote buying a tree or decorations from the Athletic Booster Club tree lot.

Councilmember Wagner stated he spoke with a restaurant owner who had partnered in previous events who said it was successful because the restaurants knew in advance how much business to plan for.

MOTION Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to approve the request from the Malibu Film Society to waive event fees and provide City sponsorship for a two-night drive-in movie event at the Ioki Property. The question was called, and the motion carried unanimously.

B. Use of City Hall Parking Lot for Drive-Through COVID-19 Vaccination Site (Councilmember Farrer and Mayor Pierson)

Recommended Action: At the request of Councilmember Farrer and Mayor Pierson, 1) Consider whether to allow the City Hall parking lot to be used as a drive-through COVID- 19 vaccination site; and 2) Authorize the Mayor to execute any agreements necessary to facilitate the use of the City Hall parking lot as a COVID-19 vaccination site.

Councilmember Farrer recommended adding approval to use City Hall for drive-through COVID-19 testing, if needed.

Bruce Silverstein indicated support for this item. He questioned if the authorization for testing could be added to the motion since it was not noticed on the agenda. He stated this was an example of how a Councilmember could add any item to an agenda. He questioned why a small cell item had not been added to the agenda. He stated the Council would not be able to take action at the workshop on December 16, 2020. He recommended the Councilmembers use their authority to add items that were important to the community to agendas.

Donna Quinn was not present at the time of the hearing.

Councilmember Mullen indicated support for the item. He stated the drive-through COVID-19 testing at City Hall had been very successful. He stated City Manager Feldman had never told him that he could not place a WCF item on the agenda.

Mayor Pierson stated the City Manager had never told him that he could not place a WCF item on the agenda.

City Manager Feldman stated City Hall had been used as a testing site for over 3,000 people. She stated this was an opportunity to use the site again as a testing site or a vaccination site. She stated the City Hall parking lot was well configured to host a drive-through event. She stated Community Emergency Response Team (CERT) volunteers may be available to help organize the event.

Councilmember Farrer stated she did not know of anything arbitrary or capricious about this item. She stated the City was contacted by Malibu Medical, a partner on the previous drive-through testing events, about this item. She stated this was a very deliberate act.

**MOTION** Councilmember Farrer moved and Councilmember Mullen seconded a motion to: 1) allow the City Hall parking lot to be used as a drive-through COVID-19 vaccination and/or testing site; and 2) authorized the Mayor to execute any agreements necessary to facilitate the use of the City Hall parking lot as a COVID-19 vaccination and/or testing site. The question was called, and the motion carried unanimously.

#### **ADJOURNMENT**

At 11:32 p.m., Councilmember Wagner moved, and Councilmember Mullen seconded a motion to adjourn the meeting in memory of Raymond Voge and Kim Tipper. The question was called, and the motion carried unanimously.

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

---

MIKKE PIERSON, Mayor

**ATTEST:**

---

HEATHER GLASER, City Clerk  
(seal)