



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: July 27, 2020 Meeting date: August 10, 2020

Subject: Approval of Minutes

RECOMMENDED ACTION: Approve the minutes for the June 22, 2020 Malibu City Council Regular meeting.

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

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2020-2021. This project is part of normal staff operations.

DISCUSSION: Staff has prepared draft minutes for the meeting of June 22, 2020.

ATTACHMENTS: June 22, 2020 Malibu City Council Regular meeting minutes

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
JUNE 22, 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 Pro Tem Pierson called the meeting to order at 5:32 p.m.

PUBLIC COMMENT ON CLOSED SESSION

None.

RECESS TO CLOSED SESSION

At 5:35 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. Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2)
Number of Cases: 1
Letter dated October 25, 2019, from Milton Grimes regarding threat of litigation under California Voting Rights Act of 2001

REGULAR SESSION CALL TO ORDER

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

ALSO PRESENT: Christi Hogin, City Attorney; Reva Feldman, City Manager; Lisa Soghor, Assistant City Manager; Heather Glaser, City Clerk; Jesse Bobbett, Community Services Director; Yolanda Bundy, Environmental Sustainability Director; Bonnie Blue, Planning Director; Rob DuBoux, Public Works Director; Trevor Rusin, Assistant City

Attorney; Kelsey Pettijohn, Deputy City Clerk; Katie Gallo, Recreation Supervisor; Adrian Fernandez, Principal Planner; and Susan Dueñas, Public Safety Manager

CLOSED SESSION REPORT

Assistant City Attorney Rusin reported that the Regular meeting convened at 5:30 p.m. at which time the City Council recessed to a Closed Session pursuant to Government Code 54956.9(d)(2), with all Councilmembers present. He stated the Council discussed the items listed on the Closed Session agenda and took no reportable action.

APPROVAL OF AGENDA

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

REPORT ON POSTING OF AGENDA

Deputy City Clerk Pettijohn reported that the agenda for the meeting was properly posted on June 11, 2020.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Presentation by Direct Education and Creative Visions on COVID SMART

Robert Tercek, Direct Education Chief Executive Officer, presented on COVID SMART. He stated he worked with the Creative Visions Foundation, the Malibu Chamber of Commerce, and the Association for Professionals in Infection Control and Epidemiology (APIC) to create a workforce training program of best practices for returning to the workplace safely. He stated each individual that completed training received a completion certificate that could be accessed by the public. He stated COVID SMART would launch in Malibu first with introductory pricing. He requested the Council's support.

ITEM 2.A. PUBLIC COMMENTS

Jo Drummond requested the Council lower the View Preservation Permit – Planning Commission fee to \$500 to \$750.

Lori Kantor inquired about the status of installation of speed humps on Dume Drive and Fernhill Drive from Grayfox Street to Cliffside Drive. She stated there was a lot of speeding on Point Dume.

Arlo Cash was not present at the time of the hearing.

Michael Stevens was not present at the time of the hearing.

Papito Chungus was not present at the time of the hearing.

Sean Champa was not present at the time of the hearing.

Scott Halley indicated support for the Item No. 4.A. recommended action.

Kraig Hill indicated support for the Council placing an elected mayor measure on the November 3, 2020 General Municipal Election ballot.

Norm Haynie discussed his proposed hotel project. He stated he submitted a number of public benefit packages to the Planning Department but had not had a response. He stated he needed to move forward with his project. He discussed Transient Occupancy Tax and stated the virtual hearing process was not ideal but he needed his project heard soon.

Scott Dittrich indicated support for the Council placing an elected mayor measure on the November 3, 2020 General Municipal Election ballot. He discussed the need for backup generators for the water pumps in the Big Rock area. He stated the City should pay for it and get reimbursed by the County of Los Angeles. He stated the community needed to support the Los Angeles County Sheriff's Department.

Lynn Norton requested the Council direct staff to release the short-term rental ordinance draft to be considered at the July 29, 2020 Planning Commission Special meeting as soon as possible.

Hamish Patterson indicated support for the Council placing an elected mayor on the November 3, 2020 General Municipal Election ballot. He stated the City should investigate whether the numbers reported for COVID-19 by the County of Los Angeles were correct. He stated the County of Los Angeles was being held hostage by its Health Official.

Keegan Gibbs discussed the death of Mitrice Richardson and the need for equal justice. He requested the Council urge Sheriff Villanueva to reopen the case.

Annie Ellis indicated agreement with Mr. Gibbs' comments. She indicated support for people wearing masks on the beach.

Xotochil Flores was not present at the time of the hearing.

Brad Tuggle discussed the first amendment. He indicated support for an elected mayor. He stated it was the Council's duty to prevent misinformation from being spread about the COVID-19 pandemic and to facilitate first amendment rights to gather peacefully.

Vicki Williams indicated support for an elected mayor. She discussed City Hall operations. She discussed the death of Mitrice Richardson. She stated beaches in Malibu should be closed to non-residents. She discussed grocery stores in Malibu.

Jonathan was not present at the time of the hearing.

Kent Ko stated the City needed to provide masks to the community. He suggested the mask requirement imposed by Governor Newsom be indicated on changeable message signs placed at entrances to the City.

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

City Manager Feldman stated Commission meetings would resume virtually beginning in July 2020. She announced a virtual Administration and Finance Subcommittee meeting on June 29, 2020. She announced the Planning Commission would hold a Special meeting on July 29, 2020, to discuss the short-term rental ordinance. She stated City Hall was open by appointment only and discussed safety precautions being taken to maintain the safety of City staff and the community. She stated plan submittal, plan review, and meetings with applicants could all be done virtually. She stated three applications had been received by the City for the Temporary Restaurant Recovery Program. She stated Caltrans had recently made it possible for the City to connect 10 portable generators to signals along Pacific Coast Highway (PCH) in the event of a Public Safety Power Shutoff (PSPS). She stated the City had received approximately 240 applications for single-family Woolsey Fire rebuilds. She stated the City had issued 116 building permits for Woolsey Fire rebuilds and four homes had been completed. She stated Los Angeles County Department of Public Works Director Mark Pestrella had informed her the study of the pump station generator needs of the community was progressing. She stated some eucalyptus trees on Bonsall Drive had been removed by Southern California Edison (SCE). She stated SCE staff authorizing tree removal had not been aware of the protocols established with the City due to SCE staff turnover. She stated City staff was working with SCE. She stated the application to the California Coastal Commission (CCC) for the Local Coastal Program Amendment (LCPA) banning rodenticides has been deemed complete but modifications for the language had been requested that meant it could not be processed as a de minimis waiver. She stated the CCC was scheduled to hear the Civic Center Way Improvement project in July 2020. She stated the fire-resistant landscape LCPA was under review by CCC staff. She announced day camps would be opening July 6, 2020, in compliance with guidelines from Los Angeles County Department of Public Health. She stated the City had launched a virtual environmental center on the City website at www.malibucity.org/virtualenviro. She stated implementation of the dumpster locking lid ordinance was underway and letters had been sent to 170 businesses City and staff had received responses from 15. She stated all City dumpster bins would have locking lids by Friday, June 26, 2020. She stated the community pool was scheduled to reopen in July 2020. She stated the Public Safety Commission had recommended installing speed humps on Dume Drive and Fernhill Drive, but the item had been delayed due to COVID-19. She stated there was funding in the budget for the installation and City staff would bring an item to the Council soon. She stated the City followed guidance and health orders from the County of Los Angeles. She stated the temporary skate park was almost complete and reminded the public the park was not complete or safe for skating yet.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Wagner indicated support for Mr. Haynie's proposed hotel project to move forward. He indicated support for the Council placing an elected mayor measure on the November 3, 2020 ballot.

In response to Councilmember Wagner, City Manager Feldman stated an item would be on the July 13, 2020 City Council meeting agenda to discuss placing an elected mayor measure on the November 3, 2020 ballot. She stated staff did not have time to complete the required research to bring this item to the June 22, 2020 meeting. She stated the Council could still begin the process to add a measure to the November 3, 2020 election on July 13, 2020. She stated staff was working with Mr. Haynie on his project but there had been challenges due to COVID-19.

In response to Councilmember Peak, City Manager Feldman stated the Los Angeles County Sheriff's Department did not have resources to dedicate to seeking out people who were not wearing masks. She stated City staff was looking into deploying more changeable message signs.

Councilmember Peak reminded the community it was important to keep City staff safe and thanked City Manager Feldman for her leadership during the COVID-19 pandemic. He thanked City staff.

In response to Councilmember Mullen, City Manager Feldman stated the Council had not provided any direction to staff to bring back an item to reduce the View Preservation Permit – Planning Commission fee. She stated the fee was adopted as part of the fee schedule each fiscal year.

Councilmember Mullen discussed the Los Angeles County Department of Public Works Director Mark Pestrella. He stated public health restrictions needed to be maintained for those most at risk while everyone else returned to normal. He indicated support for Mr. Haynie's proposed hotel project to move forward. He stated big items could not be put off forever and may need to be heard in a teleconference format.

In response to Councilmember Peak, City Manager Feldman clarified the Council had directed staff to change the Planning Commission Appeal fee but the view preservation fee had not been changed.

Mayor Pro Tem Pierson stated he had brought up the view preservation fee but had not received consensus to bring it back. He indicated support for the COVID SMART program.

City Manager Feldman stated support of the COVID SMART program could be brought back by Mayor Pro Tem Pierson as his own item.

Mayor Pro Tem Pierson discussed the difficulties facing small businesses. He stated

he had been talking with small business owners in the Ralph's shopping center who may have to close. He stated 0% interest small business loans were available through the Malibu Chamber of Commerce and Change Reaction. He stated teleconference meetings had challenges but it was important to move forward with some big items. He stated Councilmembers met with the County frequently on COVID-19 risks and restrictions. He stated many types of new restrictions that could help save lives were often met with opposition at first, such as mandatory seatbelts. He discussed the importance of having a good mask to prevent vapor particles from escaping. He discussed the importance of personal responsibility. He stated the City did not have jurisdiction over the beaches and could not close them. He stated every beach lot in Santa Monica and Malibu would be open by July 4, 2020. He stated the City's voice in the overall infrastructure of the Los Angeles County Sheriff's Department was small. He stated a switching to a strong mayor needed more research. He indicated support for Mr. Haynie's proposed hotel project to move forward. He stated the Council should have adopted an interim ordinance for short-term rentals because there were few enforcement options available to the City for problem properties. He stated Mayor Farrer and he met with United States District Court Judge David Carter regarding homelessness. He stated he joined the California Mayors Coalition. He stated he attended a California Mayors Coalition meeting and discussed the financial impacts of COVID-19. He stated staff was overwhelmed and the City needed to continue to be fiscally conservative. He stated he wanted to bring back a short-term rental item. He expressed optimism Los Angeles County Department of Public Works Director Pestrella would continue working quickly with the residents of Big Rock. He indicated support for bringing back an item to lower the View Preservation Permit – Planning Commission fee to \$750. He stated he planned to organize a meeting with Judge Carter in Malibu.

Councilmember Mullen indicated support for bringing back an interim short-term rental ordinance.

Assistant City Attorney Rusin stated the interim ordinance had previously been heard by the Planning Commission and could be brought back to the Council.

CONSENSUS

By consensus, the Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 establishing provisions to regulate short-term rental property.

Councilmember Peak questioned whether there was consensus to send a letter to the Los Angeles County Sheriff's Department to reopen investigation of the death of Mitrice Richardson.

City Manager Feldman stated she would speak with the Los Angeles County Sheriff's Department to get an update on the status of the Mitrice Richardson investigation. She stated the interim short-term rental ordinance hearing would need a 21-day notice.

Councilmember Wagner indicated support for lowering the View Preservation Permit – Planning Commission fee. He stated during his last term as Mayor he attended a public meeting with the Sheriff regarding the Mitrice Richardson investigation.

Mayor Farrer congratulated the Malibu High School class of 2020. She stated she presented a certificate of occupancy to a Woolsey Fire rebuild. She stated Mayor Pro Tem Pierson and she attended a meeting with Judge Carter on homelessness. She stated once alternative accommodations were made for people experiencing homelessness there were more enforcement options available to the City. She stated Judge Carter also worked in the field with people experiencing homelessness. She stated Mayor Pro Tem Pierson and she attended the League of California Cities Mayors and Council Members Executive Forum. She discussed the restaurant recovery program. She stated City Hall was open by appointment and encouraged the public to schedule appointments online. She indicated support for the short-term rental interim ordinance. She stated a reduction in the view preservation fee would require the Council to decide how that would be paid for in the budget. She indicated support for speed humps on Dume Drive and Fernhill Drive. She indicated support for Mr. Haynie’s hotel project to move forward. She stated there were many options to comply with the cloth face covering requirement. She stated the skate park opening and community pool reopening were things to look forward to.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.B.5. and 3.B.6. were pulled by the public. Item No. 3.B.7. was pulled by the Council.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to approve the consent calendar, except for Item Nos. 3.B.5., 3.B.6., and 3.B.7. 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.
 - 2. Approve Warrants
Recommended Action: Allow and approve warrant demand numbers 60630-60757 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. 662 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount

of \$892,162.32. City of Malibu payroll check number 5103-5106 and ACH deposits were issued in the amount of \$231,834.33.

3. Approval of Minutes
Recommended Action: Approve the minutes for the May 26, 2020 Malibu City Council Regular meeting and May 29, 2020 Malibu City Council Special meeting.
4. Amendment to Master Facility Use Agreement with the Santa Monica-Malibu Unified School District
Recommended Action: Authorize the City Manager to execute Amendment No. 3 to the Master Use Agreement with the Santa Monica-Malibu Unified School District, extending the Agreement through September 30, 2020.
8. Authorization to Submit a Local Early Action Planning State Grant Application and Receipt of Funds
Recommended Action: Adopt Resolution No. 20-31 authorizing application, and receipt of, for Local Early Action Planning grant program funds.
9. Amendment to Agreement with Cotton, Shires & Associates to Provide Professional Consulting Geology Services
Recommended Action: Authorize the City Manager to execute Amendment No. 1 to Agreement with Cotton, Shires & Associates to allow for a one-year extension of the existing agreement through June 30, 2021.
10. Extending the Waiving of Fees Related to the Rebuilding of Structures Damaged or Destroyed by the Woolsey Fire
Recommended Action: Adopt Resolution No. 20-32 superseding and replacing Resolution No. 20-10; directing the City Manager to waive certain fees related to the rebuilding of structures that were damaged or destroyed by the Woolsey Fire on a property used as a primary residence; and finding the action to be exempt from the California Environmental Quality Act.

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

5. Professional Services Agreement with Rincon Consultants, Inc.
Recommended Action: Authorize the City Manager to execute a Professional Services Agreement with Rincon Consultants, Inc. for water quality monitoring services for the Civic Center Water Treatment Facility.

Environmental Sustainability Director Bundy presented the report.

Jack Mehoff was not present at the time of the hearing.

MOTION

Councilmember Peak moved and Councilmember Mullen seconded a motion to authorize the City Manager to execute a Professional Services Agreement with Rincon Consultants, Inc. for water quality monitoring services for the Civic Center Water Treatment Facility. The question was called and the motion carried unanimously.

6. Professional Services Agreement with Yeh and Associates, Inc.
Recommended Action: Authorize the City Manager to execute a Professional Services Agreement with Yeh and Associates, Inc. for maintenance and monitoring services for the Big Rock Mesa, Malibu Road, and Calle Del Barco Landslide Assessment Districts.

Public Works Director DuBoux presented the report. He the selection panel for the operation and maintenance of the Landslide Assessment Districts included Terry Davis and Jo Drummond. He stated Yeh and Associates, Inc. would go through all the Districts and conduct an extensive review of all equipment and categorize recommendations for the equipment. He stated Yeh and Associates, Inc. would also provide a detailed response to the of E.D. Michael report regarding Big Rock Mesa. He stated he hoped to have the information available by September 2020.

Jo Drummond requested an annual status update of the Big Rock Mesa hill stability be added to the scope of work.

Kraig Hill discussed the correspondence he submitted to the Council. He requested an annual status update of the Big Rock Mesa hill stability be added to the scope of work.

In response to Councilmember Mullen, Public Works Director DuBoux stated slope stability analysis was not in the scope of the project or the Big Rock Assessment District.

In response to Councilmember Peak, Public Works Director DuBoux stated after Yeh and Associates, Inc. completed its report on the Big Rock dewatering system, he planned to work with the residents to identify what they would like to add to the scope of a new assessment district.

MOTION

Councilmember Peak moved to authorize the City Manager to execute a Professional Services Agreement with Yeh and Associates, Inc. for maintenance and monitoring services for the Big Rock Mesa, Malibu Road, and Calle Del Barco Landslide Assessment Districts.

City Manager Feldman clarified changes to the Assessment District would require formation of a new assessment district.

Councilmember Wagner stated the items discussed by Ms. Drummond and Mr. Hill were important. He stated it was important to support the residents and have detailed discussions about the Assessment District.

In response to Mayor Pro Tem Pierson, Public Works Director DuBoux stated forming a new assessment district would essentially be starting from scratch.

City Manager Feldman stated a new assessment district in Big Rock would need to be funded using bonds just like any new assessment district.

In response to Mayor Pro Tem Pierson, City Manager Feldman recommended having the new consultant complete a thorough analysis of the dewatering system and having that analysis peer reviewed. She stated if the residents wanted to move forward with a new assessment district for additional work, they could gather the seed money to begin the process and then staff would begin work to create the assessment district by hiring bond counsel, conducting the mail in ballot process, and hold the public hearings. She stated the Rambla Undergrounding District was an example of a new assessment district in process.

In response to Mayor Farrer, City Manager Feldman stated it would be prudent for the community to wait until the new consultant completed an analysis of the dewatering system before deciding on next steps.

Councilmember Peak stated some assessment districts were very costly to start up.

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

7. Amendment to Agreement with California Strategies and Advocacy, LLC
Recommended Action: Authorize the City Manager to executed Amendment No. 2 to Agreement with California Strategies and Advocacy, LLC extending the term of agreement for one additional year to expire June 30, 2021.

Councilmember Wagner stated the agreement should be as needed and stated the agreement budget may need to be reduced for the upcoming fiscal year. He stated some months California Strategies and Advocacy, LLC (California Strategies) did not have much work.

Mayor Pro Tem Pierson stated he was in contact with California Strategies near constantly and was invaluable to the City.

Mayor Farrer stated she was in contact with California Strategies most weeks. She stated it had helped the City with many important issues.

City Manager Feldman stated California Strategies had been working with the City for over 15 years. She stated she spoke to California Strategies multiple times a week in addition to a weekly phone call with the Mayor and received regular reports on bills the City would be interested in. She stated California Strategies represented the City in Sacramento and coordinated meetings with State officials for the Councilmembers and her. She stated California Strategies had also helped the City receive expedited

reimbursement payments from the State Controller's Office for construction of the Civic Center Water Treatment Facility.

Councilmember Mullen stated Sacramento was complex and California Strategies provided experts to the City in order to get things done. He stated he was in favor of belt tightening but was hesitant to reduce the budget for California Strategies or switch to a different consultant.

City Manager Feldman stated California Strategies had also assisted the City with school district separation.

Councilmember Wagner requested a written report on the activities performed on behalf of the City.

City Manager Feldman stated the City received monthly reports that she could forward to the Council. She stated the scope of work required monthly written reports.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to authorize the City Manager to executed Amendment No. 2 to Agreement with California Strategies and Advocacy, LLC extending the term of agreement for one additional year to expire June 30, 2021. The question was called and the motion carried 4-1, Councilmember Wagner abstaining.

RECESS At 8:39 p.m., Mayor Farrer recessed the meeting. The meeting reconvened at 8:47 p.m. with all Councilmembers present.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Appeal No. 20-001 - Appeal of Planning Commission Resolution No. 20-03 (27530 Pacific Coast Highway; Owner/Appellant, 27530 PCH Property, LLC)
Recommended Action: Adopt Resolution No. 20-33, determining the project is categorically exempt from the California Environmental Quality Act, granting Appeal No. 20-001 and approving Coastal Development Permit No. 19-040 for the construction of a 8,303 square foot, two-story, bluff-top single-family residence that includes an attached garage and basement, swimming pool, cantilevered deck, driveway, landscaping, grading and onsite wastewater treatment system (OWTS), including Variance No. 19-043 for the residence to extend higher than the adjacent road grade, Site Plan Review (SPR) No. 19-089 for construction over 18 feet in height, SPR No. 19-090 for construction on slopes between 3 to 1 and 2.5 to 1, Demolition Permit No. 19-037 for the demolition of an existing 839 square foot, single-family residence and Offer-to-Dedicate No. 19-003 to grant a lateral beach access easement located in the Rural Residential - Two Acre Zoning District at 27530 Pacific Coast Highway (27530 PCH Property, LLC).

Principal Planner Fernandez presented the report.

Councilmember Peak disclosed he met with a project representative but did not learn anything not outlined in the staff report.

Councilmember Wagner disclosed he met with Scott Halley but did not learn anything not outlined in the staff report.

Councilmember Mullen disclosed he met with Mr. Halley and the project architect but did not learn anything not outlined in the staff report.

Mayor Pro Tem Pierson disclosed he visited the site as a Planning Commissioner but had not considered the Coastal Development Permit (CDP) while on the Planning Commission and had not learned anything not outlined in the staff report.

Mayor Farrer disclosed she met with Mr. Halley but did not learn anything not outlined in the staff report.

John Henning, attorney for the applicant/appellant, stated the home was largely invisible from PCH. He stated a CDP had been previously been approved by the Planning Commission in 2016 for an identical project. He stated the CDP had expired before the applicant requested an extension, so the applicant had applied for a new CDP. He discussed the history of the project, the naturally occurring berm from cutting PCH, and the height of the project. He stated the project would be nearly invisible from the beach. He stated properties in the neighborhood had large parcels and large houses. He stated this project was in line with the neighborhood character and would have minimal impact on public views.

Adin Dunning, architect for the applicant/appellant, stated the building was designed to minimize visual impacts from PCH. He stated the berm on the property reduced the visual impacts of the project further. He discussed the view corridors on each side of the building. He stated the project was designed to intentionally create blue water views from PCH. He stated the second story did not block blue water views since those views were also blocked by trees on neighboring properties.

Kraig Hill stated the PowerPoint slides were not visible to the public. He indicated opposition to the project. He stated the Planning Commission's decision should be given deference and met the requirements of the code. He stated it was feasible to develop the project without extending above the road grade. He stated the property could be redesigned to be a clean sheet project.

Assistant City Attorney stated the PowerPoint slides were visible to the public during the presentations and Mr. Hill may have had technical difficulties.

Mr. Henning stated the project was seeking a variance from Local Implementation Plan (LIP) Section 6.5(E). He stated if the Council agreed with the findings for the variance the project could be permitted. He stated the presentation to the Planning Commission did not include the information that the section of potential blue water views blocked by the second story were also blocked by trees on neighboring

properties.

Councilmember Wagner stated the eucalyptus trees currently on the neighboring property impacted the views from PCH. He stated he did not think the project would impact blue water views based on his visits to the site. He stated the project was similar in size to other houses in the neighborhood.

Councilmember Peak stated he did not have an issue with the size of the project. He questioned if any other project had received a similar variance.

In response to Councilmember Peak, Principal Planner Fernandez stated he was not aware of any other properties in the area with a similar landscape. He stated neighboring properties had more gentle slopes and did not descend immediately from PCH.

Councilmember Peak stated alternative project designs may be possible. He stated the project created a decent view corridor.

In response to Councilmember Peak, Planning Director Blue stated a fence of 42 inches could be placed on the berm. She stated the berm was a unique feature.

Councilmember Peak stated there was nothing to stop the property owner from placing a 42-inch high fence on the berm that would block additional views.

Councilmember Wagner stated the berm provided a sound break for the homeowner and indicated support for a deed restriction requiring the berm to be maintained. He stated the berm made the property look natural.

Councilmember Mullen read from LIP Section 6.5(E)(1)(a). He stated the project had been designed to condense development and provide better view corridors.

In response to Councilmember Mullen, Planning Director Blue stated the variance sought relief from the LIP Section 6.5(E) based on the unique circumstances on the site because of the berm. She stated the applicant could build a low, wide structure that conformed to the LIP standard but that design would be less protective of blue water views.

In response to Councilmember Mullen, Principal Planner Fernandez stated it was possible to design a house that complied with LIP Section 6.5(E) by removing the second floor and reallocating the square footage. He stated staff believed the code requirement was intended to protect blue water views and the design presented to the Council actually provided better protection of blue water views.

Councilmember Mullen stated the project complied with the spirit of the law instead of the letter of the law.

In response to Councilmember Mullen, Planning Director Blue stated a variance

was not a bending of law if the findings for the variance could be made.

Mr. Henning stated the house could not be seen from PCH because the berm was seven feet tall.

Mr. Dunning stated the triangular shape of the property made it challenging to build a shorter and wider structure without blocking blue water views.

Mayor Pro Tem Pierson stated a substantially similar project on the site had been approved by the Planning Commission in a 4-1 vote and this application had been denied by the Planning Commission in a 4-1 vote. He stated if the finding for the variance could not be made the project would need a different variance for more grading and would reduce blue water views. He stated the applicant had offered to keep vegetation down and remove telephone poles to improve views. He stated a variance could potentially be granted. He stated the project as designed offered more blue water views than an alternative design. He stated the applicant had offered some unusual benefits including 20% view corridors on either side when only 20% total was required. He stated the property was unique and would not set a major precedence.

In response to Councilmember Peak, Principal Planner Fernandez stated condition 19(e) did not allow any vegetation or non-view permeable fencing to block the blue water ocean views.

MOTION Councilmember Peak moved to adopt Resolution No. 20-33, determining the project is categorically exempt from the California Environmental Quality Act, granting Appeal No. 20-001 and approving Coastal Development Permit No. 19-040 for the construction of a 8,303 square foot, two-story, bluff-top single-family residence that includes an attached garage and basement, swimming pool, cantilevered deck, driveway, landscaping, grading and onsite wastewater treatment system (OWTS), including Variance No. 19-043 for the residence to extend higher than the adjacent road grade, Site Plan Review (SPR) No. 19-089 for construction over 18 feet in height, SPR No. 19-090 for construction on slopes between 3 to 1 and 2.5 to 1, Demolition Permit No. 19-037 for the demolition of an existing 839 square foot, single-family residence and Offer-to-Dedicate No. 19-003 to grant a lateral beach access easement located in the Rural Residential - Two Acre Zoning District at 27530 Pacific Coast Highway (27530 PCH Property, LLC)

Councilmember Peak stated allowing the variance created better blue water views.

In response to Councilmember Mullen, Principal Planner Fernandez stated the second story would block potential blue water views that could be visible from the gullies on either side of the property. He stated the area blocked by the second story was already obscured by trees on neighboring properties. He stated this design allowed for more blue water views than a design that complied with LIP Section 6.5(E).

Councilmember Peak stated the view from directly in front of the berm would be different than the view from the corridors on either side of the property. He stated the second story may be visible standing on the far side of PCH but that vantage point would not have a blue water view.

In response to Councilmember Wagner, Principal Planner Fernandez stated there was a condition that required the berm to be preserved and recreated if the section controlled by Caltrans was removed.

Assistant City Attorney Rusin stated the condition could be modified to prohibit structures on the berm.

Councilmember Wagner stated it was important the berm be undeveloped and able to be recreated if modified by Caltrans.

FRIENDLY AMENDMENT

Councilmember Wagner moved to amend Condition 19 (a) to also restrict structures from being constructed on the berm.

Councilmember Peak stated the property owner should be able to put a view permeable fence on the berm.

Councilmember Wagner stated a view permeable fence allowed for blue water views.

Councilmember Peak stated any fencing along the property line should be view permeable.

Councilmember Wagner indicated support for requiring any fencing to be view permeable.

Principal Planner stated condition 19(f) stated new development including non-view permeable fencing and landscaping could not block blue water views above road grade.

In response to Councilmember Peak, Principal Planner Fernandez stated views above road grade were protected. He stated the condition could be clarified to prohibit structures obscuring views above the berm. He stated the fence would have to be view permeable no matter where it was placed.

Councilmember Mullen questioned if the Council was comfortable approving the variance.

Mayor Farrer stated the project with the variance provided better view corridors. She stated the berm blocked most of the development and one of the conditions guaranteed the continued existence of the berm.

Councilmember Peak stated an alternative project design would block more of the blue water view.

Councilmember Mullen stated appellants came to the Council when they were unhappy with the Planning Commission's decision. He expressed appreciation for the Planning Commission's hard work. He stated he reviewed projects to see if there was something largely inconsistent with neighboring properties. He stated the property was more sloped than neighboring properties. He stated he did not like to overturn Planning Commission decisions.

In response to Councilmember Peak, Planning Director Blue stated the existing project conditions prohibited non-view permeable construction on the berm or above road grade.

Councilmember Wagner stated it was important no construction be allowed on top of the berm.

Councilmember Peak stated it was important any fencing above the berm be view permeable.

Councilmember Wagner stated a portion of the berm was owned by Caltrans. He stated any fencing should be set behind the berm.

The maker of the motion accepted the amendment, and Mayor Pro Tem Pierson seconded the amended motion. The question was called and the amended motion carried unanimously.

- B. Collection of Fees for the Implementation of the California Integrated Waste Management Act within the Malibu Garbage Disposal District
Recommended Action: 1) Conduct the Public Hearing; and 2) Adopt Resolution No. 20-29 authorizing collection on the County Tax Roll of a fee from residential and commercial premises for the cost of preparing, adopting and implementing the City's Source Reduction and Recycling Element and Household Hazardous Waste Element imposed by Resolution No. 03-30.

Environmental Sustainability Director Bundy presented the report.

Vicki Williams was not present at the time of the hearing.

In response to Councilmember Peak, Environmental Sustainability Director Bundy stated the commercial rate was not a fixed fee but was based on the amount of waste. She stated the 0.60 cent rate per household was based on usage.

MOTION Councilmember Peak moved and Councilmember Wagner seconded a motion to adopt Resolution No. 20-29 authorizing collection on the County Tax Roll of a fee from residential and commercial premises for the cost of preparing, adopting and implementing the City's Source Reduction and Recycling Element and Household

Hazardous Waste Element imposed by Resolution No. 03-30. The question was called and the motion carried unanimously.

C. Wastewater Services Fees

Recommended Action: 1) Conduct the Public Hearing to receive public testimony and consider all protest concerning the adoption of the Engineer's Report regarding the levy of wastewater services fees through property taxes; and 2) Unless protest from majority of the effected property owners are received, adopt Resolution No. 20-30 approving the Engineer's Report and collection of wastewater services charges on the county tax roll for Fiscal Year 2020-2021 for City of Malibu Assessment District No. 2015-1 (Civic Water Treatment Facility – Phase I).

Public Works Director DuBoux presented the report.

Vicki Williams was not present at the time of the hearing.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to adopt Resolution No. 20-30 approving the Engineer's Report and collection of wastewater services charges on the county tax roll for Fiscal Year 2020-2021 for City of Malibu Assessment District No. 2015-1 (Civic Water Treatment Facility – Phase I). The question was called and the motion carried unanimously.

D. Ordinance Regarding Smoking Regulations

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 466 amending Malibu Municipal Code (MMC) Title 9 (Public Peace and Welfare) Chapter 9.34 (Smoking Regulations) to regulate smoking in the City, repealing MMC Sections 9.04.010 and 12.08.035 (Ordinance No. 265), and finding the same exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 466 for the July 13, 2020 Regular City Council meeting.

Community Services Director Bobbett presented the report.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to: 1) introduce on first reading Ordinance No. 466 amending Malibu Municipal Code (MMC) Title 9 (Public Peace and Welfare) Chapter 9.34 (Smoking Regulations) to regulate smoking in the City, repealing MMC Sections 9.04.010 and 12.08.035 (Ordinance No. 265), and finding the same exempt from the California Environmental Quality Act; and 2) direct staff to schedule second reading and adoption of Ordinance No. 466 for the July 13, 2020 Regular City Council meeting.

Assistant City Attorney Rusin read the title of the ordinance.

The question was called and the motion carried unanimously.

E. Proposed Budget for Fiscal Year 2020-2021

Recommended Action: 1) Adopt Resolution No. 20-34 adopting the Annual Budget for Fiscal Year 2020-2021; 2) Approve the Annual Work Plan for Fiscal Year 2020-2021; 3) Adopt Resolution No. 20-35 establishing the Appropriations Limit for Fiscal Year 2020-2021; and 4) Adopt Resolution No. 20-36 approving the Fiscal Year 2020-2021 Authorized Positions and Salary Ranges.

Assistant City Manager Soghor presented the report.

Kian Schulman indicated support for funding implementation of the dumpster lid locking ordinance. She stated dumpster conditions in the City were unsanitary and attracted rodents. She indicated support for creating an environmental commission.

Kraig Hill thanked Councilmember Mullen for his recognition of the Planning Commission's work. He indicated agreement for Ms. Schulman's comments. He indicated support for lowering the view preservation fee. He stated the City was not a business and some fees should be subsidized by the entire community. He stated view preservation enforcement should not be very time consuming.

Councilmember Peak thanked staff for its work on the budget and foregoing a cost of living increase. He expressed frustration the solar carport project could not be included in the budget.

Councilmember Mullen indicated support Councilmember Peak's comments. He expressed sympathy for people frustrated by delays to important projects. He stated many cities were in a worse financial position and it was important to be conservative. He stated waiving Woolsey Fire rebuilding fees was a big investment in the community. He stated the top three priorities of the Council were public safety, Woolsey Fire rebuilding, and school district separation. He stated funding for other projects needed to be scrutinized judiciously. He thanked staff for its work on the budget.

Councilmember Wagner thanked Mr. Hill and Ms. Schulman for their comments. He expressed regret the creation of an ombudsman office and an environmental commission were being delayed. He stated the Council may be able to consider funding additional projects in a few months.

Mayor Pro Tem Pierson stated the next fiscal year might be even more challenging. He stated the City need to be conservative. He requested staff provide updates to Council on major changes to budget forecasts. He stated the Council was committed to implementing projects and programs as soon as possible. He stated the number of staff hours available was limited like the budget. He stated a significant portion of staff time needed to be committed to rebuilding after the Woolsey Fire.

Mayor Farrer thanked staff for its work on the budget. She stated the City had faced budgeting challenges since the Woolsey Fire. She thanked staff for work that

contributed to the SCE settlement. She stated continuing to waive Woolsey Fire rebuilding fees was more expensive than originally projected. She stated other cities in the Las Virgenes-Malibu Council of Governments were in a worse financial position due to their reliance on sales tax. She thanked staff for foregoing a cost of living increase. She stated some projects people wanted could not be funded at this time.

Councilmember Mullen commended Councilmember Peak for agreeing to delay the solar carport project. He stated he was committed to that project in the future.

City Manager Feldman thanked the Council for its support and staff for stepping up to serve the community with reduced resources. She stated staff would provide regular updates as more financial information became available.

MOTION Councilmember Peak moved and Mayor Pro Tem Pierson seconded the motion to 1) adopt Resolution No. 20-34 adopting the Annual Budget for Fiscal Year 2020-2021; 2) approve the Annual Work Plan for Fiscal Year 2020-2021; 3) adopt Resolution No. 20-35 establishing the Appropriations Limit for Fiscal Year 2020-2021; and 4) adopt Resolution No. 20-36 approving the Fiscal Year 2020-2021 Authorized Positions and Salary Ranges. The question was called and the motion carried unanimously.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

A. Senate Bill 1099 – Support (Mayor Farrer)

Recommended Action: At the request of Mayor Farrer, authorize the Mayor to submit a letter of support for Senate Bill 1099, which would allow essential facilities to operate permitted emergency backup generators in the event of Public Safety Power Shutoffs.

Mayor Farrer presented the item.

Councilmember Mullen stated grid resiliency was important.

City Manager Feldman stated the Bill was brought to her attention by Los Angeles County Supervisor Sheila Kuehl's office and Los Angeles County Department of Public Works Director Mark Pestrella. She stated the Bill was an important step toward assisting Los Angeles County Waterworks District No. 29 (District 29) move forward with its backup generator project.

Kraig Hill questioned how the Bill would impact District 29 move forward with its backup generator project. He stated Los Angeles County Department of Public Works Director Mark Pestrella had said he would have a plan by August 2020. He stated the Big Rock residents had already created a plan and the generators should be installed by August 2020 in advance of Santa Ana winds.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to authorize the Mayor to submit a letter of support for Senate Bill 1099, which would allow essential facilities to operate permitted emergency backup generators in the event of Public Safety Power Shutoffs. The question was called and the motion carried unanimously.

ADJOURNMENT

MOTION At 10:58 a.m., Councilmember Peak moved and Councilmember Wagner second a motion to adjourn the meeting in memory of John Wright. 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)