



# Council Agenda Report

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

Prepared by: Rob Houston, Interim Deputy City Manager

Approved by: Steve McClary, City Manager

Date prepared: April 27, 2023 Meeting date: May 8, 2023

Subject: Clarified Interpretation of Section 17.02.060 of the Malibu Municipal Code & Grant Support for the Malibu Film Society to Fund Free Membership / Admission by Malibu Residents (Mayor Silverstein and Councilmember Grisanti)

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**RECOMMENDED ACTION:** At the request of Mayor Silverstein and Councilmember Grisanti,

1. Ask the City Council to provide an interpretation of Section 17.02.060 of the Malibu Municipal Code (the "MMC") that permits "religious facilities" to host gatherings and/or events sponsored by non-profit organizations and are open to the general public and free to Malibu residents,
2. Ask the City Council to approve a grant of \$85,000 to the Malibu Film Society (the "MFS") to offset (i) a forecasted deficit of approximately \$75,000 during the 2023-24 season resulting from providing membership and admission to film screenings and other events to Malibu residents free of charge, and (ii) approximately \$10,000 to establish a web-based system for registering and confirming free membership for Malibu residents who wish to avail themselves to that opportunity that is being facilitated by the City; and
3. Authorize the City Council to send a letter to the Los Angeles County Library (County) requesting that amount required to fund free membership to the MFS by Malibu residents be funded through the Malibu Library Set Aside Funds, with appropriate attribution to the Library by the MFS, including promotion of Library membership and the benefits thereof.

FISCAL IMPACT: There is an initial fiscal impact of \$85,000 associated with the recommended action. Should the County approve Library Set-Aside funds as requested, the City will receive \$85,000 to offset the initial City Grant provided. It is anticipated the cost for future years will be \$75,000, which it is hoped will be offset through the use of Library Set-Aside funds.

WORK PLAN: This item is not on the adopted workplan.

DISCUSSION:

Supporting community events for Malibu residents is an important part of the City of Malibu's services. Permitting the use of religious facilities within Malibu to host some of these events allows for a greater diversity of events to be supported within the community.

The MFS was founded in Malibu to provide educational and entertaining opportunities to help form community bonds. The MFS has historically operated in Malibu, with film screenings and other events at the Malibu Jewish Center & Synagogue (the "MJC&S"), among other locations. It was historically believed that such use of the MJC&S was permissible without a Temporary Use Permit (a "TUP"). At some point in time, however, the MJC&S became unavailable for use by the MFS (at least temporarily), the Malibu Pacific Church (the "MPC") offered its facilities for use by the MFS, and the Planning Director determined that such use of the MPC required a TUP. The Planning Director's determination also would have pertained to the use of the MJC&S by the MFS and will apply to such use if it were to be proposed in the future.

Section 17.68.040 of the MMC provides that a TUP is required for "[i]ndoor and outdoor entertainment and assembly events, including, but not limited to, weddings, fund-raisers, retreats, fairs, festivals and concerts, when not held within premises designed to accommodate such events, such as: auditoriums, stadiums or other public assembly facilities, or private clubhouse facilities not associated with public cultural or recreational facilities." The Planning Director has determined that a TUP is required for the MFS to use the MPC, MJC&S or other religious facilities, because such facilities do not qualify as "premises designed to accommodate such events" within the meaning of Section 17.68.040 of the MMC.

Separate and apart from Section 17.68.040 of the MMC, Section 17.02.060 of the MMC defines "religious facilities" as "churches, temples, or other places used exclusively for religious worship, including customary incidental educational, residential and social activities in conjunction therewith." The MPC and MJC&S are, without question, "religious facilities" within the meaning of Section 17.02.060 of the MMC. As such, use of the MPC, MJC&S, or other religious facilities by the MFS is permissible if such use is one of many "customary incidental educational, residential and social activities" in conjunction with the use of religious facilities for worship. Mayor Silverstein and Councilmember Grisanti

believe that “incidental educational and social activities” of religious facilities include gatherings or events that include the following characteristics.

- (i) Are organized by a certified 501(c)3 non-profit organization that is based in Malibu and/or regularly operating in Malibu, and which is current on all state and federal non-profit filings, and no revenue from any source outside the scope of its stated mission and/or any revenue that exceeds the actual cost of providing goods and services within the scope of its stated mission,
- (ii) Are open to the public without restriction (other than space limitations),
- (iii) Are free to the public – or, at least, to the full-time residents of Malibu (i.e., the local community), and
- (iv) Either (x) do not involve attendance of more than 50 participants or last more than 2 hours in duration, or (y) do not occur with greater frequency than 182 days per year at a given religious facility (which includes the entire property without regard to the number of rooms or other locations available to host a gathering) if they involve more than 50 participants and last more than 2 hours in duration.

If the City Council agrees with this interpretation, it will facilitate the ability of the MFS to screen films and conduct associated events within the City of Malibu and will provide an opportunity for members of the community to interact and engage with one another in an entertaining and educational setting that is free of charge. The interpretation also will facilitate a broad array of other community-serving gatherings and events at religious facilities, provided that they meet the criteria of the interpretation. Mayor Silverstein has discussed this interpretation with the Planning Director, and he has indicated that he believes the interpretation to be a reasonable one and one that the staff can follow and enforce.

In order to provide the foregoing services to Malibu residents free of charge at religious facilities in Malibu, the MFS anticipates that it will operate at a deficit of approximately \$75,000 during the 2023-24 season. Additionally, the MFS anticipates that it will require financial support of approximately \$10,000 to establish a web-based system for registering and confirming free membership for Malibu residents who wish to avail themselves to that opportunity that is being facilitated by the City. Accordingly, Mayor Silverstein and Councilmember Grisanti are requesting an initial grant to the MFS of \$85,000, which amount will be accounted for by the MFS, with any unused amount to be refunded to the City and any additional amount that may be required to be favorably looked upon by the City Council. The MFS will identify the City of Malibu as an underwriter of the MFS for the purpose of offering free admission to Malibu residents at screenings and events held at religious facilities in Malibu and the MFS will publicize that relationship as MFS deems appropriate. The request also includes that the City cover the cost of relocating the MFS

from the MPC if the City should, in the future, terminate the proposed underwriting relationship or take some other action that may require the MFS to vacate the MPC. The MFS will set-aside and guarantee no less than 50 seats for each event for Malibu residents at the MPC or other religious facility within Malibu before offering those seats to others.

Because the MFS screenings and events provide educational and entertaining opportunities for community engagement, the City Council Library Subcommittee has considered the recommended use of available Library Set Aside Funds and is in support of requesting \$85,000 for MFS from the County to support the MFS, so long as the MFS provides appropriate underwriting or sponsorship credit to the Malibu Library, and provides appropriate promotion of Library membership and the benefits thereof. The City Council may approve the recommended expenditures or make adjustments to the amounts recommended. The County will review any requests for new uses of Library set aside funds to determine if they approve use of those funds for the requested purpose.