City Council Meeting
01-08-24
Item 3.B.6.

Council Agenda Report

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

Prepared by: Kelsey Pettijohn, City Clerk

Approved by: Steve McClary, City Manager

Date prepared: December 11, 2023 Meeting date: January 8, 2024

Subject: Resolution Extending the Declaration of the Existence of a Local Emergency Regarding Conditions on Pacific Coast Highway (PCH)

RECOMMENDED ACTION: Adopt Resolution No. 24-01 extending the declaration of the existence of a local emergency related to the increase of reckless and illegal driving on pacific coast highway and directing staff to coordinate efforts with other governmental agencies to increase attention and create programs to reduce the risk and danger associated with pacific coast highway in the City.

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

STRATEGIC PRIORITY: This item is part of the day-to-day operations identified in the Adopted FY 2023-24 Strategic Priority Project List.

DISCUSSION: On November 13, 2023, the Council adopted Resolution No. 23-52 declaring the existence of a local emergency in response to increasing reckless and illegal driving on PCH.

The California Emergency Service Act allows the City to proclaim a local state of emergency when needed to protect the public safety in dire circumstances. The status and use of Pacific Coast Highway ("PCH") currently constitutes a condition, or threatened condition, of extreme peril to the safety of persons and property within the City of Malibu. PCH is the City's main thoroughfare and each day serves as a commuting route, a residential street, a business corridor, and for persons accessing beaches and other local recreation amenities, a pathway used by pedestrians and cyclists. PCH is a California State Highway (State Route 1) that is managed and maintained by the California Department of Transportation ("Caltrans") with a posted speed limit ranging between 45-55 miles per hour in the City. Excessive speeding,

reckless driving, unsafe U-turns, and distracted driving caused by cell phone use and other distractions have resulted in increased collisions with other motorists, cyclists and pedestrians on PCH that have resulted in injury and death.

According to data from the Statewide Integrated Traffic Records System obtained through UC Berkley's Transportation Injury mapping system, between 2018 and 2022 there were 22 deadly crashes on PCH in the City, resulting in the death of 23 people. Data from the California Highway Patrol indicates that there have been 49 fatalities along PCH in Malibu from 2012-22. And finally, the Los Angeles Times has reported that there have been 170 combined deaths and serious injuries to drivers, passengers, cyclists and pedestrians between 2011 and 2023 along PCH in the City. Further, countless other close calls or near misses from the danger posed by the conduct on PCH are impossible to quantify. Most recently, a crash occurred on PCH resulting in the tragic and unnecessary loss of four Pepperdine University students who were walking along PCH. According to authorities, the driver of the car was allegedly traveling at a speed in excess of 100 miles per hour when his vehicle lost control, sideswiped at least three parked cars and then crashed into a group of people including the four Pepperdine University students and two others.

These statistics and most recent tragedy are all consistent with the day-to-day experience of City residents, visitors, officials, and staff. PCH has become increasingly dangerous to residents and visitors due to the common occurrence of drivers speeding, driving recklessly, or driving while distracted. Residents and visitors are now forced to weigh and modify their use of PCH depending on the time of day and other factors (*e.g.,* weather, weekend vs. weekday, existing traffic conditions, *etc.*) because of the danger posed. Despite efforts by the City and other governmental agencies to improve the safety of PCH, the point has been reach that the risk is just too great. The status quo is no longer acceptable and action must be taken to mitigate this local emergency.

PCH is a State Highway managed and controlled by Caltrans. Sections 83 and 90 of the Street and Highways Code state that Caltrans has jurisdiction, possession, control and responsibility for the maintenance of State Highways. Further sections of the Streets and Highways Code make clear that Caltrans is the entity with decision-making power over PCH in the City, including improvements, safety elements and speed limits. Further, Streets and Highway Code section 124 states that it is Caltrans, not the City, that can restrict the use of, or close, a State Highway for the protection of the public. Law enforcement agencies such as the Los Angeles County Sheriff's Department (LASD) and the California Highway Patrol have enforcement jurisdiction over PCH for Vehicle Code violations and other code violations.

Safety on PCH is a problem that the City cannot address and fix alone, and will need to work with Caltrans to make changes to PCH itself. The City can also work through the LASD to address vehicle code violations and related enforcement action given its enforcement jurisdiction over PCH. To effectively effect change, the City must coordinate

and work together with its other governmental partners to implement strategies and solutions to reduce the danger on PCH for all users.

California Government Code Section 8630 empowers the City Council to proclaim the existence of a Local Emergency when there is extreme peril to the safety of persons and property within the territorial limits of the City. Additionally, California Government Code section 8634 empowers the City Council to promulgate orders and regulations necessary to provide for the protection of life and property during the time of a Local Emergency. These statutes codify the constitutional "police powers" of local governments to adopt local legislation designed to protect the health, safety, and welfare of the community. Further, the City's Municipal Code (Chapter 2.52) establishes the City's disaster council and policies and procedures for dealing with a local emergency. The City's purchasing ordinance (Chapter 2.56) allows for greater flexibility when making purchases for supplies or services in response to a local emergency. Thus, a declaration of local emergency provides the City greater flexibility to act expediently when trying to address and mitigate the danger posed by the local emergency. It may also aid in coordination with other governmental entities and allow the City access to other resources.

Government Code Section 8630 requires that the City Council review the need for continuing a local emergency at least once every 60 days until the City Council terminates the local emergency.

As such, City staff recommends adopting Resolution No. 24-01 extending the declaration of the existence of a local emergency. If adopted, the City Council will review, and as needed renew, this action at least every 60 days.

ENVIRONMENTAL REVIEW:

This resolution and the actions taken and/or proposed herein are not a project pursuant to the California Environmental Quality Act (CEQA) since they are activities that are excluded from the definition of a project by section 21065 of the California Public Resources Code and section 15378(b) of the State CEQA Guidelines. The proposed actions are organizational or administrative activities of government which will not result in direct or indirect physical changes in the environment. These actions are also exempt from CEQA as specific actions necessary to prevent or mitigate an emergency pursuant to section 21080(b)(4) and section 15269(c) of the State CEQA Guidelines. They also are exempt under CEQA Guidelines Section 15301 – existing facilities. Coordinating and improving infrastructure and safety as well as education and enforcement efforts for safer driving and use of PCH are all exempt activities. Further, to the extent there are minor/temporary uses of land having a negligible or no permanent effect on the environment, these activities are exempt under Section 15304(e) of the CEQA Guidelines.

ATTACHMENTS:
Resolution No. 24-01

RESOLUTION NO. 24-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU EXTENDING THE DECLARATION OF THE EXISTENCE OF A LOCAL EMERGENCY RELATED TO THE INCREASE OF RECKLESS AND ILLEGAL DRIVING ON PACIFIC COAST HIGHWAY AND DIRECTING STAFF TO COORDINATE EFFORTS WITH OTHER GOVERNMENTAL AGENCIES TO INCREASE ATTENTION AND CREATE PROGRAMS TO REDUCE THE RISK AND DANGER ASSOCIATED WITH PACIFIC COAST HIGHWAY IN THE CITY

The City Council of the City of Malibu does hereby find, order, and resolve as follows:

SECTION 1. Recitals.

A. Condition or threatened conditions of extreme peril to the safety of persons and property have arisen within the City of Malibu caused by the increase in reckless and illegal driving on Pacific Coast Highway ("PCH") in the City. This reckless and illegal driving has led to increased collisions with other motorists, cyclists and pedestrians, resulting in injury and death.

B. According to data from the Statewide Integrated Traffic Records System obtained through UC Berkley's Transportation Injury mapping System, between 2018 and 2022 there were 22 deadly crashes on PCH in the City, resulting in the death of 23 people. According to data from the California Highway Patrol, there have been 49 fatalities along PCH through Malibu from 2012-22. According to the Los Angeles Times there have been 170 deaths and serious injuries to drivers, passengers, cyclists and pedestrians between 2011 and 2023.

C. On October 17, 2023, a crash occurred in the 21500 block of PCH resulting in the tragic loss of four Pepperdine University Students who were walking along the road. According to authorities, the driver of the car was traveling at a speed in excess of 100 miles per hour when he lost control, sideswiped at least three parked cars and then crashed into a group of people including the four Pepperdine University Students and two others.

D. PCH is a California State Highway managed and maintained by the California Department of Transportation ("Caltrans"). The posted speed limit along PCH in the City ranges between 45-55 miles per hour.

E. PCH is the City's main thoroughfare and serves as a commuting route, a residential street and business corridor in the City.

F. City officials, City staff and City residents are tragically aware that PCH has become increasingly dangerous to residents, visitors and commuters, with drivers regularly exceeding the posted speed limits or driving recklessly or distracted which

has resulted in not only the killing and maiming of pedestrians, cyclists and other motorists, but a collective fear and trauma about the risks posed by accessing PCH.

G. Despite efforts by the City and other governmental agencies to improve the safety of PCH, PCH continues to pose a threat to those who drive, walk and/or cycle along it.

H. California Government Code Section 8630 empowers the City Council to proclaim the existence of a Local Emergency when there is extreme peril to the safety of persons and property within the territorial limits of the City. Additionally, California Government Code Section 8634 empowers the City Council to promulgate orders and regulations necessary to provide for the protection of life and property during the time of a Local Emergency. These statutes codify the constitutional "police powers" of local governments to adopt local legislation designed to protect the health, safety, and welfare of the community.

SECTION 2. It is hereby proclaimed that:

A. The above recitals are true and correct.

B. The increase in dangerous, illegal, reckless and/or distracted driving on PCH in the City currently poses extreme peril to persons and property in Malibu. As such, the City Council finds that the declaration of local emergency remains valid and necessary, and will remain in effect until the extreme danger has subsided.

C. To reduce and prevent the risks associated with dangers posed on PCH, City staff are directed to coordinate with Caltrans, the Los Angeles County Sheriff, the California Highway Patrol, and other entities and government agencies to implement programs, increase enforcement of existing laws and/or develop solutions to reduce the danger on PCH to pedestrians, cyclists and other motorists from dangerous, illegal, reckless and/or distracted driving on PCH.

D. The City Director of Emergency Services, or designee, is directed and authorized to address any and all impacts and conditions caused by the emergency and to obtain any and all aid and assistance from local, county, state, or federal agencies, including but not limited to aid and assistance pursuant to the California Disaster Assistance Act, California Government Code Section 8690 *et. seq.*

E. The City Manager, as the Purchasing Officer of the City pursuant to Malibu Municipal Code Section 2.56.040 (B) is authorized to make purchases of supplies or services exceeding twenty-five thousand dollars ($25,000.00) in compliance with Malibu Municipal Code, Chapter 2.56.

F. City staff are directed to report back to the City Council regarding programs and strategies proposed or implemented to mitigate the risk associated with this local emergency.

SECTION 3. The local emergency shall be deemed to continue and exist until its termination is proclaimed by the City Council. As required by law, the City Council shall review the need to continue the state of emergency every 60 days until this resolution is terminated.

SECTION 4. This resolution and the actions taken and/or proposed herein are not a project pursuant to the California Environmental Quality Act (CEQA) since they are activities that are excluded from the definition of a project by section 21065 of the California Public Resources Code and section 15378(b) of the State CEQA Guidelines. The proposed actions are organizational or administrative activities of government which will not result in direct or indirect physical changes in the environment. In the alternative, find that the actions are exempt from CEQA as specific actions necessary to prevent or mitigate an emergency pursuant to section 21080(b)(4) and section 15269(c) of the State CEQA Guidelines.

SECTION 5. The City Clerk shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this __th day of ____ 2024.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, Interim City Attorney