MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
JANUARY 13, 2020
COUNCIL CHAMBERS
6:30 P.M.

MEETING CALL TO ORDER

Mayor Farrer called the meeting to order at 6:32 p.m.

ROLL CALL

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

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

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Reva Feldman, City Manager; Lisa Soghor, Assistant City Manager; Jesse Bobbett, Community Services Director; Heather Glaser, City Clerk; Yolanda Bundy, Environmental Sustainability Director; Bonnie Blue, Planning Director; Rob DuBoux, Public Works Director; Susan Dueñas, Public Safety Manager; Sarah Kaplan, Public Safety Specialist; Jerry Vandermeulen, Fire Safety Liaison; Kelsey Pettijohn, Deputy City Clerk; Jessica Cleavenger, Associate Planner; and Richard Mollica, Assistant Planning Director

PLEDGE OF ALLEGIANCE

Doug Stewart led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to approve the agenda removing Item No. 3.A.1. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

Deputy City Clerk Pettijohn reported that the agenda for the meeting was properly posted on January 2, 2020, with the amended agenda posted on January 10, 2020.

ITEM 1 CEREMONIAL/PRESENTATIONS

Mayor Farrer stated Jeff Klein from the Los Angeles County Registrar-Recorder/County Clerk’s office had been delayed by traffic

B. Staff Update on Disaster Response and Recovery

Public Safety Manager Dueñas announced community workshops on February 20, 2020 and February 22, 2020 for the Wildfire Protection Plan. She discussed the redesigned malibocity.org/firesafety webpage and the firesafety@malibocity.org
email address now available for use. She stated staff met with the City’s traffic consultant to revise the City’s evacuation plan. She stated the draft evacuation plan would be taken to the Disaster Council on January 30, 2020 and the City Council on February 24, 2020. She stated the kick-off meeting for the siren sound study was scheduled for January 15, 2020 and the study should be completed in June 2020. She encouraged the public to sign up for disaster notifications.

Assistant Planning Director Mollica stated the Planning Department had approved 210 single family residence rebuild permits. He discussed trends for the type of rebuild permits being applied for each month. He stated approximately $1.8 million in rebuild permit fees had been waived or refunded.

Environmental Sustainability Director Bundy stated the first Woolsey Fire rebuild home had been completed. She stated the number of building safety permit applications received each month had increased. She stated 49 building permits had been issued and 91 were in plan review.

In response to Councilmember Mullen, Environmental Sustainability Director Bundy stated the City of Malibu was the only City that waived rebuild permit fees in connection with the 2018 fires in California.

**ITEM 2.A. PUBLIC COMMENTS**

Los Angeles County Sheriff’s Department Sergeant Jim Brayden reported on 2019 crime statistics. He stated an uptick in robberies could be attributed to several shoplifting incidents that escalated into robberies and two bank robberies. He discussed the increase in locked vehicle robberies in the region. He stated the 2018 Woolsey Fire may have artificially suppressed crime statistics for that year. He discussed looting after the Woolsey Fire and stated an increased law enforcement presence may be needed during rebuilding. He stated the Los Angeles County Sheriff’s Department arrested three arsonists in 2019.

In response to Councilmember Wagner, Sergeant Brayden discussed a Los Angeles Times article that reported gangs were traveling to Southern California to steal from tourists. He stated it was important to have more patrols during tourist season.

In response to Mayor Pro Tem Pierson, Sergeant Brayden stated Arson Watch had a positive impact on public safety.

Kraig Hill discussed evacuation policies, backup power for water pumps, and emergency cell towers. He requested the City provide updates on improvements in those areas.

Lloyd Ahern discussed a scoping meeting for a Mountains Recreation Conservation Authority (MRCA) beach access way project. He stated MRCA
planned to bypass City review and get approval directly from the California Coastal Commission (CCC).

Ryan Embree questioned if the Cell on Light Truck (COLT) in the City Hall parking lot could be relocated. He stated the COLT should have been deployed during a Public Safety Power Shutoff in Point Dume in October 2019.

**ITEM 1 CEREMONIAL/PRESENTATIONS (continued)**

**A. Presentation by Los Angeles County Registrar-Recorder/County Clerk on the 2020 Voting Experience**

Jeff Klein discussed Voting Solutions for All People (VSAP) and changes to the voter experience in 2020. He discussed the electronic poll book that allowed voters to go to any vote center in the County. He stated conditional voter registration would be available at every vote center up to and including Election Day. He discussed the new tally system to process ballots faster. He discussed how the interactive sample ballot could help people expedite their voting process. He explained the electronic ballot marking device was not connected to the internet and could not be tampered with. He stated the ballot marking device would produce a paper ballot that could be reviewed by the voter. He stated 250 vote centers would be open 10 days before Election Day and 1,000 vote centers would be open three days before Election Day. He stated 250 drop boxes would be available for vote by mail ballots. He stated the vote center facilities and ballot marking devices were accessible for people with disabilities. He stated the number one reason people did not vote in the last election was because they were too busy. He stated vote centers should contribute to higher voter turnout. He stated the vote center model was based on voter experiences in Colorado and Nevada. He stated the ballot marking device allowed many disabled voters to vote independently. He stated the ballot marking device was focus tested with over 5,000 individuals.

Mayor Farrer stated a demonstration of the ballot marking device was available at the Malibu Library in January 2020.

In response to Councilmember Wagner, Mr. Klein stated the electronic sample ballot linked to the Los Angeles County Registrar-Recorder/County Clerk’s website and did not save any information on the user’s device. He discussed outreach efforts about VSAP in advance of the March 3, 2020 election.

Paul Grisanti stated he had tried a demo of the ballot marking device. He stated there was little privacy at the ballot marking device. He expressed concern that people would pose as other voters at vote centers.
ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

City Manager Feldman announced the Planning Commission would have a hearing on the La Paz project on January 21, 2020. She announced MRCA’s beach access way scoping meeting on January 22, 2020, the next Library Speaker Series event on January 28, 2020, and an insurance town hall event at City Hall with California Insurance Commissioner Ricardo Lara on January 30, 2020. She stated the Malibu High School (MHS) pool was currently closed. She stated Malibu was the only City that had a COLT pre-staged during fire season, which Verizon would only activate in the event of an emergency that required evacuation.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Wagner stated he planned to attend a Santa Monica Bay Restoration Commission meeting.

Councilmember Peak stated he attended an Administration and Finance Subcommittee meeting and discussed the Fiscal Year 2019-2020 Mid-Year Budget and Woolsey Fire fee waivers.

Councilmember Mullen stated he attended an Administration and Finance Subcommittee meeting.

Mayor Pro Tem Pierson stated he planned to bring forward several important items in 2020.

Councilmember Wagner thanked Mr. Hill for his comments and stated the City was working on emergency communications.

Mayor Farrer thanked staff for its work on the Holiday Open House event. She stated she met with three other Las Virgenes-Malibu Council of Government mayors in honor of the 100th anniversary of the passage of the 19th amendment. She stated she met with Public Safety Commissioner Doug Stewart. She stated she attended a panel discussion on homelessness and a homelessness strategy meeting. She stated she attended the League of California Cities annual meeting. She stated she met with two student leaders at MHS promoting voter registration and participation. She stated she visited the two houses that had completed construction since rebuilding after the Woolsey Fire had commenced.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.B.4 and 3.B.5 were pulled by the public.

MOTION Councilmember Peak moved and Mayor Pro Tem Pierson seconded a motion to approve the Consent Calendar, except for Item Nos. 3.B.4 and 3.B.5. 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 58839-59208 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. 651 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $3,146,095.08. City of Malibu payroll check numbers 5064-5070 and ACH deposits were issued in the amount of $446,813.19.

   3. **Approval of Minutes**
      Recommended Action: Approve the minutes for the November 12, 2019 Malibu City Council Regular meeting, November 14, 2019 Malibu City Council Special meeting, November 25, 2019 Malibu City Council Regular meeting, December 3, 2019 Malibu City Council Special meeting, and December 9, 2019 Malibu City Council Regular meeting.

   6. **Community Services Department Program Cancellation and Refund Policy**
      Recommended Action: At the recommendation of the Parks and Recreation Commission, adopt Resolution No. 20-01 updating the Community Services Department Program Cancellation and Refund Policy and rescinding Resolution No. 17-04.

   7. **La Costa Area Pedestrian Improvements Project Completion and Acceptance of Work**
      Recommended Action: 1) Accept the work performed by PTM General Engineering Services, Inc. for the La Costa Area Pedestrian Improvements Project (Specification No. 2054) as complete; and 2) Authorize the Public Works Director to submit for recordation a Notice of Completion for the project.

   8. **Electric Vehicle Charging Stations Upgrades**
      Recommended Action: 1) Reject all bids received for the Electric Vehicle Charging Stations Upgrades Project, Specification No. 2069; and 2) Direct staff to return all bid bonds to the bidders.

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

4. **Third Amendment to Ground Lease for 3939 Cross Creek Road (Malibu Lumber Yard)**
   Recommended Action: Approve Third Amendment to Ground Lease for 3939 Cross Creek Road (Malibu Lumber Yard).
City Manager Feldman presented the staff report. She stated the report reflected the direction provided by the Council in a previous Closed Session.

John Mazza stated the amendments to the lease did not accurately account for inflation. He stated the lease included uses that were not allowed under the California Coastal Act.

Ryan Embree discussed donations the City received from the public for the purchase of Legacy Park and the Lumber Yard. He stated the retail locations were intended to pay off the certificates of participation (COP) for the land acquisition. He stated the Council should not consider a decrease in the base land rent.

In response to Councilmember Peak, City Manager Feldman stated any use of the property must be permitted under the City’s zoning regulations. She stated the City received a base rent increase each year based on the cost of living and the amendment would decrease the maximum of that adjustment to 10%, well below the cost of living adjustment in recent years. She stated the City also received a percentage rent based on subleases. She stated the City used the revenue to pay the COPs and the excess funds were used for clean water projects, general funds, and park maintenance.

Councilmember Wagner indicted support for requiring longer lease terms for subleases.

City Manager Feldman stated the five-year lease requirement was added at the request of the Council. She stated the formula retail ordinance protected small businesses from being forced out of spaces for more formula retail businesses.

**MOTION**

Councilmember Peak moved and Councilmember Mullen seconded a motion to approve the Third Amendment to Ground Lease for 3939 Cross Creek Road (Malibu Lumber Yard). The motion carried unanimously.

5. **Professional Services Agreement with American Ramp Company**

Recommended Action: Authorize the City Manager to execute a Professional Services Agreement with American Ramp Company for design services for the Temporary Skate Park Project.

Community Services Director Bobbett presented the staff report. He stated if the agreement was approved the first design meeting would be held on January 22, 2020.
Hamish Patterson thanked Community Services Director Bobbett and the Council for its work on the skate park.

Joni Gourson thanked staff and the Council for its work on the skate park.

**MOTION**

Councilmember Peak moved and Mayor Pro Tem Pierson seconded a motion to authorize the City Manager to execute a Professional Services Agreement with American Ramp Company for design services for the Temporary Skate Park Project. The motion carried unanimously.

Mayor Pro Tem Pierson stated American Ramp Company seemed very qualified for this project.

**ITEM 4  ORDINANCES AND PUBLIC HEARINGS**

A. Amend Malibu Municipal Code to Authorize the Implementation of a Parking Management Plan Along Two Segments of Pacific Coast Highway

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 460 determining the project is categorically exempt from the California Environmental Quality Act and adding Chapter 10.19 to Title 10 (Vehicles and Traffic) of the Malibu Municipal Code to prohibit parking on portions of the landward side of Pacific Coast Highway (PCH) between 12:00 am and 2:00 am and seaward side of PCH between 2:00 am and 4:00 am daily on two segments of PCH; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 460 for the January 27, 2020 Regular City Council meeting.

In response to Councilmember Wagner, Assistant City Attorney Rusin recommended Councilmember Wagner recuse himself based on his business’s proximity to the project location.

Councilmember Wagner left the dais at 7:48 p.m.

Assistant Planning Director Mollica presented the staff report.

Chris Frost discussed the Public Safety Commission’s recommendation. He stated restricting parking in certain areas would drive overnight campers into other areas.

Cathy Cadie indicated support for restricting parking citywide. She discussed campers parked on PCH near Zuma Beach.

Cameron Weliwood recommended restricting overnight parking citywide based on a vehicle’s height and weight. He indicated opposition to posting signage for parking restrictions. He stated businesses would suffer when patrons had to regularly move their cars.

Doug Stewart stated vehicles were being stored overnight along PCH, which prevented visitors from parking near the beach. He stated the Public Safety
Commission recommended restricting parking near Las Tunas Beach, Sweetwater Mesa to the Malibu Pier, Cross Creek Road to Webb Way, the western end of Malibu Road to Corral Canyon, Winding Way to Heathercliff, and Bonsall to the western City limit.

Kraig Hill indicated support for Mr. Frost's comments. He indicated support for considering parking restrictions based on the size of the vehicle.

Ryan Embree indicated support for parking restrictions based on the size of the vehicle. He stated the PCH needed street sweeping. He expressed concern that sewage was being spilled into storm drains. He expressed concern that vehicles registered out of state may be violating the law if the owners now lived in California.

Keegan Gibbs discussed the Public Safety Commission's recommendation. He expressed concern that the vehicles parking overnight would just relocate to other residential areas. He recommended considering a permitting process for oversize vehicles.

Assistant Planning Director Mollica discussed previous ordinances approved by the City Council to restrict parking overnight. He stated the CCC was concerned a parking permit system would favor local residents' access to the beach. He stated the Council had approved an oversize vehicle ban and the CCC had sent a letter to the City that stated the permits needed to implement the ban would be appealed to the CCC.

Planning Director Blue discussed a CCC hearing in October 2019 for similar parking restrictions east of the City. She stated the CCC raised concerns the restrictions would displace the homeless and limit lower cost access to the coast. She stated staff worked with CCC staff to try to create a program that would not be appealed by the CCC when the Coastal Development Permit (CDP) was processed. She stated the County was developing a safe parking program that would provide alternative safe parking locations when overnight parking along PCH was restricted.

Assistant City Attorney Rusin stated the CCC may be receptive to citywide parking restrictions if there was an alternative safe parking location.

Planning Director Blue stated the proposed regulations only created a partial solution but could be a first step to a larger solution.

In response to Councilmember Peak, City Manager Feldman stated signs in neighboring cities restricting the size of vehicles were permitted before the California Coastal Act. She stated the County was able to demonstrate alternative parking locations when it implemented parking restrictions east of the City. She stated vehicles in the eastern end of the City could use those same alternative parking locations. She stated a permit for parking signs to restrict the size of
vehicles would likely be appealed to the CCC and denied. Planning Director Blue stated staff was concerned including larger sections of the City could cause the CDP to be appealed. She stated the Council could decide the locations where the parking restrictions should be implemented.

Mayor Pro Tem Pierson recommended either restricting parking near the Malibu Pier, creating a safe parking program, or adding more areas of the City that could use parking restrictions. He stated Boise v. Martin was applicable to the type of regulations the Council was considering. He indicated support for a safe parking program.

Assistant Planning Director Mollica stated staff could process the CDPs for different areas of parking restrictions separately so if the CCC choose it could appeal CDPs in specific areas of concern instead of the entire project.

In response to Mayor Pro Tem Pierson, Assistant Planning Director Mollica stated staff could look into what services may be available near the western end of the City in Ventura County that could provide alternative parking locations if the City restricted parking.

Councilmember Peak indicated support for processing CDPs for each area separately.

In response to Councilmember Mullen, Planning Director Blue stated CCC staff was concerned the CCC would not respond well to restricting parking in large sections of the City. She stated the CCC generally had been more stringent than its staff on this issue.

In response to Councilmember Peak, Planning Director Blue stated she did not know how the CCC vote was split to approve the County’s project.

Mayor Pro Tem Pierson stated the County’s parking restrictions project took two years to be approved.

In response to Mayor Pro Tem Pierson, Planning Director Blue stated the CCC was very concerned about limiting coastal access at any time of day.

Mayor Farrer stated coastal access was blocked by oversize vehicles parking along PCH for multiple days. She asked anyone with evidence of sewage being spilled on the PCH to forward it to the Council or Code Enforcement. She indicated support for processing CDPs for different areas of the City separately. She stated it was important to put some new restrictions on the books as soon as possible and expand parking restrictions once there was a safe parking program. She indicated support for restricting parking along PCH near Las Tunas, Malibu Pier, and Zuma Beach. She discussed the parking ordinances in Carlsbad that required a vehicle to be moved 1/10 of a mile every 72 hours and a permit parking
program for RVs. She requested staff explore implementing parking restrictions similar to Carlsbad.

Public Safety Manager Duenas stated the City’s oversize parking ordinance included a permit program for residents to have oversize vehicles. She stated Carlsbad had abundant parking near the beach and its main street was a city-owned road. She stated Carlsbad had not received push back from the CCC regarding its parking controls because it had so much available beach parking.

Councilmember Mullen thanked the public speakers. He stated the City could no longer enforce a law prohibiting people from sleeping in their car due to Martin v. Boise. He indicated support for implementing parking restrictions incrementally. He indicated support for parking restrictions on PCH near Zuma Beach.

Mayor Farrer indicated support for adding parking restrictions near Zuma Beach and Corral Canyon.

Councilmember Peak expressed concern the CCC may view parking restrictions near Corral Canyon differently because there were not as many residences nearby.

Assistant City Attorney Rusin stated parking restrictions near Zuma Beach and Corral Canyon had not been noticed and would have to come back at a future meeting. He stated staff would process CDPs for each area of restriction separately.

City Manager Feldman stated staff would bring an item back as soon as possible for parking restrictions near Zuma Beach and Corral Canyon.

Planning Director Blue stated the only noticing necessary for this item was posting the agenda and staff report.

City Manager Feldman stated staff could bring back an item just for parking restrictions near Zuma Beach and Corral Canyon or bring back a revised ordinance adding those areas.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to:
1) introduce on first reading Ordinance No. 460 determining the project is categorically exempt from the California Environmental Quality Act and adding Chapter 10.19 to Title 10 (Vehicles and Traffic) of the Malibu Municipal Code to prohibit parking on portions of the landward side of Pacific Coast Highway (PCH) between 12:00 am and 2:00 am and seaward side of PCH between 2:00 am and 4:00 am daily on two segments of PCH; 2) direct staff to bring back a separate ordinance to enact similar parking prohibitions on PCH for the areas near Zuma Beach, Corral Canyon, and Westward Beach; 3) direct staff to process each prohibited parking section of PCH as a separate Coastal Development Permit; and 4) direct staff to schedule second reading and adoption of Ordinance No. 460 for
the January 27, 2020 Regular City Council meeting. The motion carried 4-0, Councilmember Wagner absent.

RECESSION

Mayor Farrer recessed the meeting at 8:39 p.m. The meeting resumed at 8:47 p.m. with all Councilmembers present.

B. Amendments to the Local Coastal Program and Malibu Municipal Code to Foster Fire-Resistant Landscapes Citywide

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 461 determining the project is exempt from the California Environmental Quality Act and amending Local Coastal Program Local Implementation Plan Chapter 3 (Zoning Designations and Permitted Uses) and Chapter 2 (Definitions) and Malibu Municipal Code (MMC) Title 17 (Zoning) to foster the creation of fire-resistant landscapes and repealing Ordinance Nos. 343 and 356, deleting MMC Chapter 9.22 (Landscape Water Conservation), establishing MMC Chapter 17.53 (Landscape Water Conservation and Fire Protection), and amending MMC Section 16.24.020 (Subdivision Design Standards) to eliminate reference to MMC Chapter 9.22; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 461 for the January 27, 2020 Regular City Council meeting.

Associate Planner Cleavenger presented the staff report.

Planning Director Blue stated work on future phases of the fire hardening program would need to be considered as part of the mid-year budget review and Work Plan update.

Richard Lawrence deferred his time to John Mazza.

John Mazza stated the Planning Commission spent a significant amount of time considering this item. He stated it was important to consider people’s experience with flammable landscape in the Woolsey Fire. He indicated support for the Planning Commission’s recommended action. He stated tall fences did not prevent houses from catching on fire or from being burgled.

Chris Frost deferred his time to Kraig Hill

Kraig Hill indicated support for working with the Los Angeles County Fire Department and adopting an ordinance with restrictions similar to the fire code. He recommended an ordinance to promote building with more fire-resistant materials, requiring larger side yard setback regulations, limiting the planting of trees and shrubs in road medians, and limiting how closely hedges could be planted. He discussed invasive species and encouraged the use of native plants. He recommended banning all palm trees and discussed maintenance for eucalyptus trees.

Keegan Gibbs stated fire-resistant landscapes would not prevent wildfires but
could prevent houses from burning. He recommended working with Wildfire Partners in Colorado to develop construction and landscaping regulations. He stated it was most important to have fire resistant landscaping within five feet of a structure. He indicated opposition to banning all palm, pine, and eucalyptus trees.

Councilmember Peak stated this item was heard by the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES).

Councilmember Wagner stated he read a book on Firescaping before this hearing. He indicated support for reducing the permitted fence height to five or six feet. He stated properties with high fences may be targets for theft because people cannot easily see what is happening on the property. He discussed the detailed discussion on this item held at the Planning Commission.

Councilmember Peak indicated support for focusing on landscaping within zero to five feet of the house. He expressed concern that palm trees were very flammable.

Councilmember Mullen stated it was important to build fire resistant houses. He stated the next line of defense was landscaping.

In response to Councilmember Mullen, Planning Director Blue stated staff had coordinated with Fire Safety Specialist Vandermuelen and Fire Department staff. She stated the Council could direct staff to develop an ordinance to promote fire resistant building materials. She discussed the importance of education.

Councilmember Mullen stated it was important to educate the public and promote a cultural shift. In response to Councilmember Mullen, Fire Safety Specialist Vandermuelen stated he worked with Planning Department staff through development of the ordinance. He stated it was important to educate the public on landscape maintenance.

Mayor Pro Tem Pierson discussed the fires currently burning in Australia. He indicated support for considering the ordinance point by point. He stated healthy plants were less flammable.

Councilmember Peak indicated support for banning all palm trees.

Councilmember Mullen indicated support for banning all palm trees.

In response to Mayor Farrer, Planning Director Blue stated there may be a palm variety native to the desert areas of California but not the mountain regions.

Assistant City Attorney Rusin stated the Council could ban all palm trees by modifying section 17.53.090(C)(1)(a) to read “palm trees are prohibited.”

Councilmember Peak indicated support for applying this ordinance to all new and
updated landscape plans including fire rebuilds.

In response to Councilmember Mullen, Councilmember Peak stated a solid brick or concrete fence would not be flammable like a wood fence. Planning Director Blue stated the draft ordinance required any fencing within five feet of a house to be non-flammable. She stated the Planning Commission considered a provision to allow a non-flammable solid fence in a front yard to be up to six-feet, whereas the MMC currently allowed a 42-inch solid fence and up 72-inch view-permeable fence in a front yard. She stated it could encourage people to replace hedges with non-flammable fencing.

Councilmember Peak indicated support for incentivizing people to use non-flammable fencing.

In response to Assistant City Attorney Rusin, Assistant Planner Cleavenger stated the six-foot non-flammable fence provision was not included in the draft ordinance.

Councilmember Peak indicated opposition to adding the non-flammable fencing provision to the ordinance.

In response to Councilmember Mullen, Assistant Planner Cleavanger stated staff would count the five feet from a house beginning at the eaves of the house.

Councilmember Mullen indicated support for counting the five feet from the house beginning at the eaves. He indicated support for the regulations on highly flammable trees in the draft ordinance.

Mayor Pro Tem Pierson stated well-maintained trees would not be a fire danger.

Councilmember Peak indicated support for the restrictions in the draft ordinance on trees near power lines.

Councilmember Mullen indicated opposition to any trees being near power lines.

Planning Director Blue stated the Planning Commission discussed the regulations on trees near power lines. She stated the Commissioners expressed concern that small properties with overhead utilities may be prohibited from having any trees if the regulations were too restrictive.

**MOTION**

Councilmember Mullen moved and Councilmember Peak seconded a motion to:

1) introduce on first reading Ordinance No. 461, as amended to prohibit palm trees, determining the project is exempt from the California Environmental Quality Act and amending Local Coastal Program Local Implementation Plan Chapter 3 (Zoning Designations and Permitted Uses) and Chapter 2 (Definitions) and Malibu Municipal Code (MMC) Title 17 (Zoning) to foster the creation of fire-resistant landscapes and repealing Ordinance Nos. 343 and 356, deleting
MMC Chapter 9.22 (Landscape Water Conservation), establishing MMC Chapter 17.53 (Landscape Water Conservation and Fire Protection), and amending MMC Section 16.24.020 (Subdivision Design Standards) to eliminate reference to MMC Chapter 9.22; and 2) direct staff to schedule second reading and adoption of Ordinance No. 461 for the January 27, 2020 Regular City Council meeting. The motion carried unanimously.

Mayor Pro Tem Pierson suggested considering directing staff to develop an ordinance to encourage less flammable building materials as part of the mid-year budget and Work Plan update.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

A. Resolution of Intention Regarding Potential Transition to District-Based Elections

Recommended Action: Provide direction to staff regarding Milton Grimes demand letter dated October 25, 2019, and either: 1) Adopt Resolution 20-02 finding the project exempt from California Environmental Quality Act, directing the retention of a demographer and directing a schedule be brought back to take actions related to district-based elections in accordance with Elections Code section 10010(a), and either: a) declaring its intention to adopt an ordinance pursuant to Government Code section 34886 to transition the election of its City Councilmembers from an at-large electoral system to a district-based system; or b) declaring its intention to place a binding initiative on the ballot for the 2020 General Municipal Election as to whether to transition to district-based elections; or 2) Take no action.

Assistant City Attorney Rusin presented the staff report.

In response to Councilmember Mullen, Assistant City Attorney Rusin stated he was not aware of any complaints about racially polarized voting in the City other than Mr. Grimes’ letter.

Councilmember Mullen stated switching to district voting had once been proposed as a means of gaining legal footing to separate from the Santa Monica-Malibu Unified School District and create a Malibu Unified School District.

Councilmember Peak stated Santa Monica was in litigation regarding switching to district-based elections.

Kraig Hill stated Santa Monica’s Hispanic population was twice the percentage of Malibu’s. He stated the evidence presented in Mr. Grimes’ letter did not reflect polarized voting. He recommended the Council risk litigation and expect the case to be thrown out on summary judgement.
Norm Haynie indicated opposition to switching to district-based elections. He stated districts would cause Councilmembers to focus only on representing residents in their district. He indicated support for Mr. Hill’s comments.

John Mazza indicated opposition to switching to district-based elections. He stated the California Voting Rights Act (CVRA) was passed 19 years ago. He stated 2020 was a census year and districts created this year would have to be redone with new census data next year. He indicated support for Mr. Hill’s comments.

Carolyn Carradine deferred her time to Christopher Carradine.

Christopher Carradine stated the plaintiffs had won every CVRA case. He stated the Council had to make a decision at this meeting if it wanted to use the safe harbor option. He stated putting a measure on the ballot would not fall under the safe harbor option.

Bruce Silverstein stated legal decisions should be considered in Closed Session. He stated district-based elections would not support a minority vote.

Paul Grisanti stated district-based elections would not support a minority vote. He expressed concern that each resident would only have one representative after switching to district elections.

Kevin Shenkman discussed the Santa Monica CVRA case. He stated the plaintiffs had won every CVRA case. He stated the cost of a demographer would be approximately $20,000-$25,000. He stated the City of Santa Monica owed $22.3 million dollars in legal fees to the plaintiff. He stated he specialized in this form of law. He stated a CVRA case had not been brought against the City before now because he lived in the City.

Councilmember Wagner stated the Council strived to share as much of its decision-making process with the public as possible.

Mayor Pro Tem Pierson stated it was disheartening there was not more support for bringing this item to a vote of the people. He stated the Council had to consider this item very quickly since the letter was served just before the holidays.

In response to Councilmember Mullen, Assistant City Attorney Rusin stated the Council could adopt a resolution either declaring its intention to transition to district-based elections under the safe harbor option or adopt a resolution declaring its intention to place an initiative on the ballot to transition to district-based elections. He stated both processes would require hiring a demographer and creating district maps. He stated the Council could also choose to take no action and see if the City was sued. He stated the draft resolution included alternative language to either declare the Council’s intention to transition to district-based elections or put a measure on the ballot.
Councilmember Mullen stated the Council should take action based on the community’s needs. He stated district elections were not a need he had heard from the public. He stated Malibu was a small city and at-large elections contributed to community cohesion. He indicated support for more community input on potentially switching to district elections. He stated the City was stronger together when Councilmembers considered the needs of the entire community.

Councilmember Peak expressed concern regarding the legal fees that could be incurred from a lawsuit.

Mayor Farrer expressed disappointment that the City was being forced to consider switching to district-based elections. She stated the City was stronger together. She stated Mr. Shenkman was the plaintiff’s counsel in the case against Santa Monica. She indicated support for putting an item on the ballot.

Councilmember Peak stated putting an item on the ballot did not necessarily create legal protection for the City.

Councilmember Wagner stated it was important to give the public an opportunity to weigh in on transitioning to district-based elections.

Councilmember Mullen stated there may be some positives to district-based elections and the community may show support for a ballot measure.

In response to Councilmember Peak, Assistant City Attorney Rusin stated the option to put a measure on the ballot was similar to the safe harbor option.

Councilmember Wagner indicated support for a ballot measure.

In response to Councilmember Mullen, Assistant City Attorney Rusin stated the resolution was only to declare the Council’s intention. He stated the Council could decide to adopt maps, put them on the ballot or walk away after the necessary hearings were held.

**MOTION** Councilmember Mullen moved and Councilmember Wagner seconded a motion to adopt Resolution 20-02 finding the project exempt from the California Environmental Quality Act, directing the retention of a demographer and directing a schedule be brought back to take actions and schedule public hearings related to district-based elections in accordance with Elections Code section 10010(a), and declaring its intention to place a binding initiative on the ballot for the 2020 General Municipal Election as to whether to transition to district-based elections. The motion carried 4-1, Councilmember Peak dissenting.

**ITEM 7 COUNCIL ITEMS**
A. **Council Appointment to the Parks and Recreation Commission**  
Recommended Action: Councilmember Peak to make his appointment to the Parks and Recreation Commission.  

Councilmember Peak appointed Joshua Spiegel to the Parks and Recreation Commission.

B. **Special City Council Meeting Regarding Homelessness (Mayor Pro Tem Pierson)**  
Recommended Action: At the request of Mayor Pro Tem Pierson, consider scheduling a Special City Council meeting to discuss homelessness issues and solutions.  

Mayor Pro Tem Pierson presented the report. He stated the Council needed to discuss options to address homelessness in the City.  

Councilmember Mullen stated many local communities were affected by an increase in the number of people experiencing homelessness.  

City Manager Feldman stated staff would poll the Council’s availability and determine a date and time when the meeting could be held.  

Mayor Farrer stated it was important to address the needs of the residents and people experiencing homelessness in the City.  

**CONSENSUS**  
By consensus, the Council directed staff to schedule a Special City Council meeting to discuss homelessness issues and solutions.

C. **Malibu Film Festival Fee Waiver (Councilmember Mullen)**  
Recommended Action: At the request of Councilmember Mullen, consider waiving the fees for the Malibu Film Festival to be held at City Hall on February 14-15, 2020.  

Councilmember Mullen presented the report. He stated David Katz was unwell and unable to attend the meeting.  

Rebecca Carpenter stated she was a local filmmaker working on a film about the Woolsey Fire. She stated her film was in the Malibu Film Festival with another film about the Woolsey Fire. She indicated support for waiving the fees to host the event at City Hall. She stated the Malibu Film Festival supported newer filmmakers and residents.  

John Mazza recommended the Council create a policy to determine when fees could be waived for events on City property. He stated the majority of the fees for an event came from the cost of staff.  

Elizabeth Howland was not present at the time of the hearing.
Nathan Lake, Malibu Film Festival, stated the Festival was established in 1997 and supported Malibu filmmakers. He stated the Film Festival presented a curated collection of impactful films. He requested the Council waive fees for the event to support local filmmakers. He stated the Festival usually received donations from the public but many potential donors had been impacted by the Woolsey Fire.

Councilmember Mullen expressed disappointment that Mr. Katz was not able to present on why the Film Festival needed a fee waiver. He stated there were many local filmmakers in the City.

In response to Councilmember Mullen, City Manager Feldman stated the fees to use City Hall included required staff costs and the City would still have to pay the staff costs if fees were waived.

Councilmember Wagner suggested waiving the facility fee and charging the applicant the labor costs for staff.

In response to Councilmember Peak, Community Services Director Bobbett stated any fees on the invoice not noted as staff would be the facility fees. He stated the amount of staff and security required for an event was based on the size of the event. He stated the Council typically waived facility fees not staff fees.

Councilmember Peak indicated support waiving facility fees.

In response to Mayor Pro Tem Pierson, Mr. Mazza stated according to the festival’s websites tickets were $10 per show, $500 for the weekend, or $50 for special showings. Mr. Lake stated the ticket costs were to cover their own staff costs and equipment rentals. He stated the City did not typically provide many staff members for the event.

City Manager Feldman stated the facility use request for this year was for a larger event and required more staff than previous years.

**MOTION** Councilmember Peak moved and Councilmember Wagner seconded a motion to waive $2,793 in facility use fees for the Malibu Film Festival to be held at City Hall on February 14-15, 2020. The motion carried unanimously.

**ADJOURNMENT**

At 10:36 p.m., Mayor Farrer adjourned the meeting.
Approved and adopted by the City Council of the City of Malibu on February 10, 2020.

KAREN FARRER, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)