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.

CALL TO ORDER

Mayor Pierson called the meeting to order at 3:00 p.m.

ROLL CALL

The following persons were recorded in attendance:

PRESENT: Mayor Mikke Pierson and Councilmember Steve Uhring

ALSO PRESENT: Lisa Soghor, Assistant City Manager; Ruth Quinto, City Treasurer; Renée Neermann, Finance Manager; Heather Glaser, City Clerk; Richard Mollica, Planning Director; Yolanda Bundy, Environmental Sustainability Director; Jesse Bobbett, Community Services Director; Rob DuBoux, Public Works Director; Patricia Salazar, Senior Administrative Analyst; Justine Kendall, Associate Planner; Tracey Rossine, Administrative Analyst; Parker Davis, Media Technician; and Mary Linden, Executive Assistant

APPROVAL OF AGENDA

MOTION Councilmember Uhring moved and Mayor Pierson seconded a motion to approve the agenda. The question was called, and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Executive Assistant Linden reported that the agenda for the meeting was properly posted on April 5, 2021.

ITEM 1 PRESENTATIONS

None.

ITEM 2 OLD BUSINESS

None.
ITEM 3  NEW BUSINESS

A. Approval of Minutes – April 1, 2021
Recommended Action: Approve the minutes for the Administration and Finance Subcommittee Special meeting of April 1, 2021.

MOTION Councilmember Uhring moved and Mayor Pierson seconded a motion to approve the minutes for the Administration and Finance Subcommittee Special meeting of April 1, 2021. The question was called and the motion carried unanimously.

B. Proposed Fiscal Year 2021-2022 Schedule of Fees
Recommended Action: Provide a recommendation to the City Council concerning adoption of the Fiscal Year 2021-2022 Schedule of Fees.

Assistant City Manager Soghor presented the report. She clarified the City may not charge more than its cost but, in many cases, the City was charging less than its cost. She stated the Fee Schedule would next go to City Council for a noticed public hearing.

Jo Drummond stated she requested a reduction in the view preservation fee in 2020 at both an Administration and Finance Subcommittee meeting and City Council meeting. She stated the request at that time was to lower the fee to $500 to $750. She stated the current proposed fee of $2,615 was highly prohibitive, especially because residents already paid significant fees for a primary view determination. She discussed the appeal filed by Big Rock residents about a non-cooperative property owner. She suggested providing an option for one application to protect multiple neighbors’ views. She requested the fee be reduced to no more than $750. She suggested violating owners be required to pay a penalty for overgrowth.

Rosemarie Ihde agreed with Ms. Drummond. She expressed opposition to view seekers having to pay high fees plus the cost of trimming. She stated the City should enforce its own law. She referenced Malibu Municipal Code (MMC) Section 17.40.030. She stated it was a fairness issue. She stated the owners of trees should have to pay for trimming.

Dorina Schiro stated she fully supported a reduction of the view preservation permit fee. She stated the high cost deterred homeowners from protecting their views. She requested the fee be reduced to an appropriate amount and require the violating owner to pay at least half of the initial trimming cost. She stated view protection should include any obstruction, including structures.

Eric Sosa agreed the view protection fee was too high, and owners of trees blocking views should either pay for part of the fee or the trimming itself. He stated violators were getting off easy, and the burden was on the owner with view protection. He stated Big Rock owners had to pay for trimming, pay the fee, and file necessary
paperwork, then waited four months for the City to respond about enforcement. He stated tree owners should be required to maintain them after trimming.

Assistant City Manager Soghor stated view preservation was discussed by the Administration and Finance Subcommittee last year and the recommendation was included in the proposed Fiscal Year 2020-2021 budget last August. She stated the Subcommittee could now make a different recommendation.

Mayor Pierson requested an explanation of the process for view preservation.

Councilmember Uhring stated he was less concerned with mechanics and more concerned with why it was determined this was the way it should be handled. He specifically questioned why a homeowner trying to protect their view was required to pay and not the owner of the view obstruction.

Planning Director Mollica discussed the history of view preservation going back to 2009. He stated the Council had concerns about using public funds to restore private views. He discussed the restoration application in the Big Rock area. He stated some trees outside the standard rules were at issue. He stated there was no landscape plan on file and the coral tree was not covered.

Councilmember Uhring stated there was a disconnect that required a homeowner to pay a lot of money to file a claim while the owner obstructing the view got off scot free. He stated he would do more research before it came to the City Council.

Assistant City Manager Soghor stated it would be brought to Council on April 26, 2021. She explained the fee schedule must be adopted 60 days prior to its effective date. She stated the goal was to have it effective July 1, 2021. She stated some issues may be with the ordinance itself, which must be discussed separately from the fee schedule.

Councilmember Uhring stated he needed to learn more before making an informed decision.

Mayor Pierson asked if this should go to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES).

Planning Director Mollica agreed with Assistant City Manager Soghor that the ordinance and fee were two separate issues.

Assistant City Manager Soghor stated it was her understanding that the goal was to make sure neighbors could talk with their neighbors and not have to come to the Planning Commission. She stated certain cases did not work that way and had to be elevated to a Planning Commission hearing. She stated the issue of costs not borne by the offender was outside the scope of the fee schedule.
Councilmember Uhring stated he could not recommend changing the fee today. He suggested considering splitting the fee. He asked if that discussion would go to ZORACES.

Mayor Pierson stated there were two predominant steps. He stated the first step included informal discussion, mediation, and binding arbitration. He stated if that did not work, the dispute would go to the Planning Commission where more staff time was required. He asked if the $2,600 fee for the entire process included anticipation of a potential public hearing.

Planning Director Mollica stated that resolution of a dispute did not involve the City until it had to go to the Planning Commission. He stated if a City rule existed, such as a landscape plan on file, it would be used by Code Enforcement staff. He discussed the view determination process. He agreed with Mayor Pierson about the steps. He stated the $2,600 was for taking the issue to the Planning Commission for the City to render a decision. He stated resolution cost was not a factor for the City. He stated the Planning Commission could not grant individuals the right to trespass to remove view obstructions. He stated the City could levy a daily fine if trimming did not occur.

Mayor Pierson stated he recalled the Council taking a lot of time to develop the view preservation process with a goal to avoid going to the Planning Commission.

Planning Director Mollica discussed when Code Enforcement could levy fines and force compliance. He stated the Big Rock issue was the first case filed.

In response to Mayor Pierson, Planning Director Mollica stated fees were not for 100% City cost recovery. He explained the fee included site visits to both properties, review of documentation submitted, follow-up documents, discussions with both parties, preparation of staff report and resolution, and attendance at the Planning Commission hearing. He stated City costs included Planner time, which could be 20 to 30 hours, plus publishing a notice in the paper, which cost about $300. He stated cost recovery was approximately 50% for all time and materials.

Mayor Pierson stated he would like to recommend lowering the fee, but it was a difficult decision. He stated lower fees would increase the number of claims filed.

Planning Director Mollica stated determining effectiveness was difficult. He stated staff assisted residents with a private right of action. He stated a second claim was expected. He stated he did not know the number of view issues solved without the City. He stated staff used all of its tools to avoid cases reaching the level of a Planning Commission hearing.

Mayor Pierson suggested the Subcommittee’s recommendation to Council include whether the process should be reviewed as a separate issue.
Councilmember Uhring agreed with Mayor Pierson. He suggested recommending the view preservation ordinance be referred to ZORACES to see if anything in the process could be modified.

Assistant City Manager Soghor stated that suggestion could be included in the fee schedule staff report for the April 26, 2021 Council meeting.

Councilmember Uhring asked whether the violating property owner could be required to pay at least half of the fee.

Mayor Pierson agreed that should be considered. He advised members of the public in attendance that reducing the fee would not be enough, but this would be moved forward.

Councilmember Uhring stated he received calls from residents about wireless appeal fees. He stated the enforcement arm was with the residents. He suggested reducing the wireless appeal fee while the City determined if the ordinance was working.

Planning Director Mollica stated the wireless appeal fee was $750. Councilmember Uhring recommended cutting that in half for the first six months while evaluating the effect of the ordinance.

Assistant City Manager Soghor asked if the appeal fee was for all appeals or only wireless. Senior Administrative Analyst Salazar confirmed there was only one appeal fee for any type of appeal. She stated this was similar to tobacco retailer registration. She explained the City implemented that program then halted appeals while staff reported back to the City Council regarding the ordinance.

Councilmember Uhring stated he wanted to be sure the residents had an opportunity to speak about concerns with the new ordinance. He suggested a standalone line be added for WCF appeals.

Planning Director Mollica stated a wireless appeal required a much larger public notice. He stated half the fee would just cover the public noticing in the paper.

Councilmember Uhring stated he wanted to err on the side of the residents. He agreed with Mayor Pierson to make that recommendation when it came to Council.

Councilmember Uhring discussed a resident’s concern that City fees were not consistent and the City was requiring permits for items that should not need permits. Planning Director Mollica stated fees had been categorized over time to cater to the needs of residents. He stated staff advised residents if a staff review was not required. He stated reviews were based on Malibu Municipal Code (MMC) Chapter 17.64, which explained what needed a permit. He stated if the Council wants to change what was required, ZORACES could review the MMC.
Councilmember Uhring requested staff bring to Council anything they felt needed to be reviewed. He asked if the City’s fees were ever compared to other cities.

Assistant City Manager Soghor discussed a comprehensive fee study conducted in 2015-2016 that included comparisons by the consultant.

Mayor Pierson stated other states and smaller cities had lower fees, but cost of living was also very different.

Assistant City Manager Soghor stated many cities, including the City of Los Angeles, have gone to full cost recovery for Planning fees.

Councilmember Uhring stated short-term rental (STR) demand will be high following the pandemic. He stated the City did not provide oversight. He suggested watching for compliance issues that could lead to potential reconsideration of that fee next year.

Assistant City Manager Soghor stated the enforcement ordinance process did not include in-person investigations of homes. She stated adding that would require amending the ordinance and creating a new fee.

Councilmember Uhring stated the City should be prepared for needing additional investigation, which might require an increase in the fee.

Assistant City Manager Soghor stated the fee had been increased since originally approved in Fall 2020 due to time required for approval.

Councilmember Uhring discussed illegal construction. He asked if a penalty was ever considered. Planning Director Mollica stated a Planning fee for Code Enforcement was charged plus potentially a double construction permit fee. He discussed the $177 per hour Code Enforcement fee for site visits and research.

In response to Councilmember Uhring, Planning Director Mollica stated he was unsure how many times the double construction fee was charged.

Mayor Pierson discussed remodel fees. Environmental Sustainability Director Bundy stated that was for Building Safety permits and plan check. She discussed levels for minor remodels based on the size of the remodel area and amount of staff time required.

In response to Mayor Pierson, Senior Administrative Analyst Salazar stated a new fee was established in anticipation of the WCF ordinance being adopted to avoid having to wait another 60 days.
Mayor Pierson asked if staff was expecting to increase Code Enforcement staffing for STR enforcement. Planning Director Mollica stated Code Enforcement cases more than doubled over the past year, not including implementation of the STR ordinance. He stated current staffing was not sufficient, so an additional position was added to the Fiscal Year 2021-2022 budget.

In response to Councilmember Uhring, Planning Director Mollica stated additions, such as decks or structures over slopes, fences and hedges were primary Code Enforcement issues. Senior Administrative Analyst Salazar stated Code Enforcement Manager Cleavenger estimated issues increased more than 300%, including enforcement of car shows, restaurants, special programs, dumpster locks, and STR.

Councilmember Uhring requested the Council be provided a quick overview of Code Enforcement that might allow the Council to take steps to mitigate some of the issues. Senior Administrative Analyst Salazar stated staff could categorize the Code Enforcement cases and provide a time breakdown.

Mayor Pierson stated he told Code Enforcement Manager Cleavenger to contact Council if he needed assistance.

MOTION Mayor Pierson moved and Councilmember Uhring seconded a motion to recommend the City Council: 1) Adopt the proposed Fiscal Year 2021-2022 Schedule of Fees with the request to discuss the View Preservation Permit (VPP) Fee and the Wireless Communication Facility (WCF) Appeal Fee with the entire Council.; and 2) Refer the view preservation ordinance to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) for possible modifications to the process. The question was called, and the motion carried unanimously.

ADJOURNMENT

MOTION At 4:10 p.m., Mayor Pierson adjourned the meeting.

Approved and adopted by the Administration and Finance Subcommittee of the City of Malibu on May 5, 2021.

MIKKE PIERSON, Councilmember

ATTEST:

MARY LINDEN, Executive Assistant