

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
OCTOBER 14, 2019
COUNCIL CHAMBERS
6:30 P.M.

MEETING CALL TO ORDER

Mayor Farrer called the meeting to order at 6:30 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: Christi Hogin, 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; Rob DuBoux, Public Works Director; Susan Dueñas, Public Safety Manager; Matt Myerhoff, Media Information Officer; Kelsey Pettijohn, Deputy City Clerk; Jerry Vandermeulen, Fire Safety Liaison; Andrew Sheldon, Environmental Sustainability Manager; Raneika Brooks, Associate Planner; Doug Cleavenger, Senior Code Enforcement Officer; Jessica Cleavenger, Associate Planner; and Richard Mollica, Assistant Planning Director

PLEDGE OF ALLEGIANCE

Hans Laetz led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Councilmember Mullen moved and Councilmember Wagner seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Glaser reported that the agenda for the meeting was properly posted on October 3, 2019.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Presentation of City Tile to Doug Cleavenger, Senior Code Enforcement Officer, for Seven Years of Service to the City

Mayor Farrer presented a tile to Senior Code Enforcement Officer Cleavenger.

Senior Code Enforcement Officer Cleavenger stated it had been an enjoyable seven years.

B. Presentation of City Tile to Heather Glaser, City Clerk, for Seven Years of Service to the City

Mayor Farrer presented a tile to City Clerk Glaser.

City Clerk Glaser thanked Deputy City Clerk Pettijohn, City Attorney Hogin, and City Manager Feldman for their support.

C. Staff Update on Disaster Response and Recovery

Assistant Planning Director Mollica stated the Planning Department had issued approvals for 56 like-for-like, 93 like-for-like +10%, and 12 major change projects. He stated 10 single-family home projects were under review and 161 single-family homes, 24 accessory dwelling units, and 89 accessory structure projects had been approved by the Planning Department. He stated \$842,734.35 in rebuilding fees had been waived.

Environmental Sustainability Manager Sheldon stated 85 projects were preparing for building plan check submittal, 47 projects were in building plan check, and 29 building permits had been approved. He stated the Rebuild Coordinator position was assisting residents to navigate preparation for building plan check submittal.

Public Safety Manager Dueñas stated the final disaster notification system test for western Malibu had been completed. She stated staff had gone through another Emergency Operations Center training, which included a drill (through the Big Rock neighborhood) of the City's ability to alert residents in an emergency using bullhorns from the City fleet. She stated an additional 28 Home Ignition Zone Assessments had been completed, for a total of 68 to date. She discussed preparations staff was making for possible Public Safety Power Shutoffs by Southern California Edison and Red Flag weather warnings for the area. She reminded the community to sign up for emergency notifications on the City's website.

In response to Councilmember Wagner, Public Safety Manager Dueñas stated Verizon Wireless had, at the request of City Manager Feldman, stationed a Cell on Light Truck (COLT) in Malibu that would remain through the end of the year.

ITEM 2.A. PUBLIC COMMENTS

Ian Roven, Malibu Chamber of Commerce, requested the Council place an item on a future agenda to discuss a possible Tourism Improvement District in Malibu. He discussed the need to help local businesses.

Kian Schulman deferred her time to Joel Schulman.

Joel Schulman requested the Council place an item on an upcoming agenda to consider banning pesticides in the City. He stated another mountain lion died last

week due to pesticide exposure.

Keegan Gibbs stated City staff was intentionally delaying a ban on anticoagulant rodenticides and pesticides in the City.

Brian Laspada announced a meeting on October 23, 2019, to provide the faith community an opportunity to meet Los Angeles County Sheriff's Department Malibu/Lost Hills Station Captain Vander Horck.

Barry Haldeman indicated opposition to the Los Angeles County Local Coastal Program Amendment (LCPA) to allow camping in Environmentally Sensitive Habitat Areas (ESHA). He thanked the Council for its opposition to the LCPA. He recommended the City continue to voice its objection to the Los Angeles Board of Supervisors and California Coastal Commission and consider possible litigation. He recommended an outside publicist be retained to change the way the City is viewed.

Michael Epstein thanked the Council for its support of the Nautica Malibu Triathlon and presented the Councilmembers with honorary finisher medals.

Lloyd Ahern discussed the September 24, 2019 Los Angeles County Board of Supervisors meeting. He indicated opposition to an LCPA allowing camping in ESHA.

Paul Grisanti commended the City for issuing Woolsey Fire rebuild permits quickly.

Hans Laetz stated the Nautica Malibu Triathlon caused traffic issues for much longer than previous years. He commended the fundraising efforts of the Triathlon but expressed concern for residents being isolated in their neighborhoods with no communication as to how long closures would continue on the day of the event. He questioned how much the organizing company made from the event.

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

City Manager Feldman thanked Senior Code Enforcement Officer Cleavenger for his patience and dedication. She thanked City Clerk Glaser for her seven years of service. She welcomed incoming Environmental Sustainability Director/Building Official Yolanda Bundy.

Environmental Sustainability Director Bundy thanked the Council and City Manager Feldman. She stated she was fully committed to helping the community.

City Manager Feldman announced a screening of the Johnny Strange: Born to Fly documentary at City Hall on October 24, 2019. She stated a survey was open on the City's website through October 18, 2019, to collect community input on

elements of the temporary skate park. She reminded the community to sign up for emergency notifications on the City's website.

In response to Mayor Pro Tem Pierson, City Manager Feldman announced a Woolsey Fire Anniversary Community Gathering to mark the anniversary of the Woolsey Fire and honor Malibu's recovery and resilience would be held on November 9, 2019, at Zuma Beach, Lot 8.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Wagner stated he would attend the Santa Monica Bay Restoration Commission meeting. He stated Councilmember Peak and he held an Environmental Sustainability Subcommittee meeting and a Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) meeting.

Mayor Pro Tem Pierson stated he did four Arson Watch patrols over the past weekend of high winds. He stated Councilmember Wagner, Mayor Farrer, and he attended the September 24, 2019 Los Angeles County Board of Supervisors meeting. He discussed the Homelessness Working Group meetings. He stated the community needed to better understand the options available to the City to address homelessness. He stated the Santa Monica Homelessness Steering Committee had worked with volunteers to put together 1,200 hygiene kits for those experiencing homelessness. He stated a repeater had been installed at Malibu West. He stated he attended a meeting with volunteers at Point Dume. He stated he attended the Malibu Surfside News Readers' Choice Awards event. He requested consensus to put the Tourism Improvement District on an upcoming agenda.

CONSENSUS

By consensus, the Council directed staff to place an item on an upcoming agenda to consider formation of a Tourism Improvement District in Malibu.

Mayor Pro Tem Pierson stated he attended a community fire meeting for Corral Canyon. He stated he would attend the League of California Cities Annual Conference. He thanked Senior Code Enforcement Officer Cleavenger and City Clerk Glaser for their service. He welcomed Environmental Sustainability Director Bundy.

Councilmember Mullen welcomed Environmental Sustainability Director Bundy. He thanked Senior Code Enforcement Officer Cleavenger and City Clerk Glaser for their service. He stated Mayor Farrer, City Manager Feldman, and he attended a Los Angeles County Office of Education (LACOE) meeting. He discussed bringing an item back to Council regarding a citywide pesticide ban. He discussed the proposed Los Angeles County LCPA. He discussed the importance of educating those outside of Malibu that the City was very welcoming of visitors. He encouraged the community to monitor the news when there was smoke or a fire.

Councilmember Peak thanked Senior Code Enforcement Officer Cleavenger and City Clerk Glaser for their service. He welcomed Environmental Sustainability Director Bundy.

In response to Councilmember Peak, City Attorney Hogin stated anticoagulant rodenticide use was gruesome and not limited to its target. She stated nothing was gained from those on the same side of an issue attacking each other. She stated rodenticide and pesticide use had been discontinued on City property. She stated the City had twice called for private businesses and residences to cease their use. She stated the City did not issue contracts to any business that used rodenticides or pesticides. She stated the City's position on the League of California Cities Environmental Quality Control Committee had been used to begin a campaign of education that led to the Committee recommending to the full League a change in California State law that preempted local control and allowed use statewide. She stated it would take a statewide ban to have the most impact. She stated the City had engaged its lobbyists, California Strategies, to get a bill introduced that addressed the issue, which had been turned into a two-year bill. She stated Food and Agricultural Code Section 11501.1 explicitly stated regulation regarding the registration, sale, transportation, or use of pesticides was a matter of statewide concern to the exclusion of all local regulation. She discussed the decision in *Mountainlands Conservancy v. California Coastal Commission*, which was on appeal.

In response to Councilmember Peak, City Attorney Hogin stated she had been in contact with the general counsel for the state agency that regulates pesticide use to make headway on removing the local control preemption. She stated it was not passing an ordinance but enforcing an ordinance that would make an impact. She stated local ordinances that had been adopted were unenforceable. She stated money was best spent getting a statewide ban as it would be the most effective action.

In response to Councilmember Mullen, City Attorney Hogin stated Los Angeles County had passed a law but it was not enforceable.

Councilmember Peak indicated opposition to having an ordinance that was unenforceable. He discussed the importance of continuing to work at the state level to effect change. He discussed the importance of being prepared for fire. He indicated opposition to camping in the Santa Monica Mountains.

Mayor Pro Tem Pierson suggested placing an item on an upcoming agenda to discuss banning pesticides citywide.

Councilmember Peak stated everyone agreed that rodenticides and pesticides were bad for the environment and wildlife but expressed concern for the legality of any action.

City Manager Feldman stated she would find a date to bring banning rodenticides

back to the Council for further discussion.

Councilmember Wagner thanked the Schulmans.

Mayor Farrer discussed the Tourism Improvement District and improving tourism in the off season. She thanked the Schulmans for their work. She stated facts of banning rodenticides in the City needed to be discussed. She stated homelessness was a growing problem. She discussed the September 24, 2019 Los Angeles County Board of Supervisors meeting. She stated the City paid a price for allowing the Nautica Malibu Triathlon. She questioned the amount of money the event organizer was making. She thanked City staff for its work on issuing Woolsey Fire rebuilding permits. She welcomed Environmental Sustainability Director Bundy. She thanked Senior Code Enforcement Officer Cleavenger and City Clerk Glaser for their service. She stated she attended the inauguration of the new president of Pepperdine University, James Gash. She indicated support for fostering a stronger relationship with Pepperdine University. She stated she participated in a panel discussion at Pepperdine University about women in government. She thanked everyone involved with the Malibu Task Force on Homelessness. She discussed the status update Councilmember Mullen and she had presented to LACOE. She thanked everyone that volunteered over the windy weekend, including Arson Watch, Community Emergency Response Team (CERT) members, Volunteers on Patrol (VoP), KBUU, neighborhood fire brigades, City Manager Feldman, Public Safety Manager Dueñas, Media Information Officer Myerhoff, the Los Angeles County Fire Department, and the Los Angeles County Sheriff's Department. She encouraged the community to sign up for emergency notifications on the City's website.

ITEM 3 CONSENT CALENDAR

Item No. 3.B.4. was pulled by the public.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to approve the Consent Calendar, except for Item No. 3.B.4. 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 58072-58288 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. 646 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$2,068,717.36. City of Malibu payroll check numbers 5046-5051 and ACH deposits were issued in the amount of \$409,523.33.

3. Approval of Minutes

Recommended Action: Approve the minutes for the September 9, 2019 Malibu City Council Regular meeting.

5. Professional Services Agreement with Newbury Park Tree Services, Inc.

Recommended Action: Authorize the City Manager to negotiate and execute a professional services agreement with Newbury Park Tree Services, Inc. for tree maintenance services citywide in the amount not to exceed \$45,000 annually.

6. Mutual Waiver and Release Agreement for City Hall Roof Services

Recommended Action: Authorize the City Manager to waive and release San Marino Roof Co., Inc. from the City's agreement in the amount of \$229,934 for the construction of the City Hall Roof Replacement Project, Specification No. 2071.

The following item was pulled from the Consent Calendar for individual consideration:

4. Malibu Veterans Day Annual Celebration

Recommended Action: Authorize the City's co-sponsorship for the Annual Malibu Veterans Day Celebration on Monday, November 11, 2019 by waiving the facility fees and insurance requirements for the use of City Hall and waiving the cost of providing City staff to assist with the event for a total cost of \$4,400.

City Manager Feldman presented the staff report.

Sophie Kidian thanked the Council for its support.

Dan Stark stated the Veteran population was dwindling. He stated the master of ceremonies would be Navy Captain John Payne.

In response to Mayor Pro Tem Pierson, City Manager Feldman stated adding funding to the budget each year could be considered by the Council for Fiscal Year 2020-2021.

MOTION

Councilmember Peak moved and Mayor Pro Tem Pierson seconded a motion to authorize the City's co-sponsorship for the Annual Malibu Veterans Day Celebration on Monday, November 11, 2019 by waiving the facility fees and insurance requirements for the use of City Hall and waiving the cost of providing City staff to assist with the event for a total cost of \$4,400. The motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

Councilmember Peak recused himself and left the dais at 8:10 p.m.

RECESS At 8:11 p.m., Mayor Farrer called a recess. The meeting reconvened at 8:19 p.m. with all Councilmembers present except Councilmember Peak.

- A. Appeal No. 19-002 - Appeal of Planning Commission Resolution No. 19-03 (29043 Grayfox; Appellant/Applicant: Schmitz and Associates, Inc.; Property Owner: John and Tatiana Atwill) (Continued from September 23, 2019)

Recommended Action: Adopt Resolution No. 19-45, determining the project is categorically exempt from the California Environmental Quality Act, granting Appeal No. 19-002 and approving Coastal Development Permit No. 17-043 to construct a new 7,590-square-foot, two-story single-family residence with a 966-square-foot attached garage, a 345-square-foot covered loggia on the first floor, a 293-square-foot covered loggia on the second floor, swimming pool, pool equipment, perimeter walls, landscaping, hardscaping and grading, and the installation of a new onsite wastewater treatment system, including Demolition Permit No. 17-013 for the demolition of an existing single-family residence and associated development and Site Plan Review No. 17-014 for construction in excess of 18 feet in height up to 28 feet located in the Rural Residential-One Acre zoning district at 29043 Grayfox Street (Atwill).

Associate Planner Brooks presented the staff report.

In response to Mayor Pro Tem Pierson, Associate Planner Brooks stated the Planning Commission had incorrectly applied neighborhood standards to its deliberation of the application.

Assistant Planning Director Mollica stated the applicant was concerned that a different section of the code was being applied to the project.

Mayor Pro Tem Pierson stated the Planning Commission resolution did not mention neighborhood standards.

Don Schmitz, on behalf of the applicant, discussed a mixture of one and two-story homes within a 500-foot radius of the project. He discussed the definition of neighborhood and the proposed layout of the project. He stated the project complied with the Malibu Municipal Code (MMC) with a discretionary request for site-plan review. He stated the two-story portion of the home visible from the street was 45 feet wide.

Matthew Palmheri deferred his time to John Stockwell.

David Ashwell deferred his time to John Stockwell.

Casper Stockwell deferred his time to John Stockwell.

John Stockwell stated his objection to the project was not about the square footage, but that over 3,000 square feet of the project was over 18 feet tall. He stated that much square footage above 18 feet in height was not consistent with the neighborhood character. He stated the neighbor in favor of the project was the applicant's sister.

John Mazza stated he was not speaking on behalf of the Planning Commission. He stated the staff report was incorrect. He stated the project was too big for the neighborhood. He stated the finding of neighborhood character had to be made to obtain a Coastal Development Permit (CDP) when a Site Plan Review was requested. He stated the Council would have to decide if it could make a finding contrary to the Planning Commission.

Fred Gaines, on behalf of the applicant, stated the project met all of the legal requirements for approval. He stated the Planning Commission had denied the project due to its size.

Mr. Schmitz stated the Planning Commission motion to deny the project was due to the size of the project. He stated the majority of the second story of the home was not visible from the street.

Councilmember Mullen disclosed he met with Mr. Schmitz at the project location.

In response to Councilmember Mullen, Associate Planner Brooks stated neighborhood standards was not mentioned in the Planning Commission resolution. She stated the Planning Commission had discussed square footage and applied an averaging process to determine consistency with neighborhood character.

City Attorney Hogin clarified the Council was holding a de novo hearing and should base its decision on the record, the evidence presented, and the findings in the MMC.

Councilmember Mullen stated his impression was the neighborhood generally consisted of lower profile homes. He stated he did not see a compelling reason to overturn the Planning Commission's decision.

Mayor Pro Tem Pierson disclosed he visited the property as a Planning Commissioner. He stated the staff report did not really discuss the size of the second story. He stated the project conformed to the law, but he did not think there was evidence to overturn the Planning Commission's determination on neighborhood character.

Councilmember Wagner stated he had visited the site twice on his own. He stated he took issue with 3,000 square feet on the second floor.

In response to Mayor Farrer, Associate Planner Brooks stated the project was denied by the Planning Commission due to its size being above the average of the neighborhood.

Mayor Farrer stated the setback was 65 feet and discussed the visual impact. She stated the City needed to remain on legally defensible ground.

In response to Mayor Pro Tem Pierson, City Attorney Hogin stated it was the job of the Council to identify pieces of evidence to support findings.

MOTION Councilmember Mullen moved and Councilmember Wagner seconded a motion to deny the appeal.

Mr. Schmitz requested the project be postponed for time to work with the City.

City Attorney Hogin stated the item would need to be remanded back to the Planning Commission. She cautioned Mr. Mazza to tread carefully if he wished to participate in the hearing if the project were remanded back to the Planning Commission.

Mr. Mazza stated the project would come back to the Planning Commission as a new submittal if it were denied by the Council.

City Attorney Hogin stated the applicant had paid fees and spent time up to this point that would be wasted if the matter was a simple reduction of second floor square footage.

Mr. Mazza stated the staff would work for free if the project were remanded back to the Planning Commission.

SUBSTITUTE MOTION

Mayor Pro Tem Pierson moved and Councilmember Wagner seconded a motion to remand the proposed project at 29043 Grayfox Street back to the Planning Commission on the applicant's representation that they intended to redesign parts of the project. The question was called and the substitute motion carried 4-0, Councilmember Peak absent.

Councilmember Peak returned to the dais at 9:27 p.m.

- B. An Ordinance to Prevent Trespass in a Very High Fire Hazard Severity Zone
Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 452 amending Chapter 8.12 of Title 8 of the Malibu Municipal Code to add provisions for "Very High Fire Hazard Severity Zones" and finding the same exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 452 for the October 28, 2019 Regular City Council Meeting.

Public Safety Manager Duenas presented the staff report.

In response to Mayor Pro Tem Pierson, Public Safety Manager Duenas stated an implementation plan would be needed to address where and how homeless persons would be relocated from a Very High Fire Hazard Severity Zones.

Danielle Harrington indicated concern for the homeless population of Malibu.

Marina Sangit indicated support for the ordinance but expressed concern for how and where the homeless population would be relocated.

Georgia Goldfarb indicated support for the ordinance. She expressed concern for camping in Very High Fire Hazard Severity Zones.

Rosie Strickland expressed concern for the community staying safe during a fire.

Councilmember Wagner stated the Los Angeles ordinance was prompted by fires started in areas where homeless persons were encamped. He suggested relocating homeless persons to the Pepperdine campus.

Mayor Pro Tem Pierson indicated support for the ordinance.

In response to Councilmember Peak, City Attorney Hogin stated the City could partner with resource agencies to implement the ordinance even though shelters were not available in Malibu itself.

MOTION Councilmember Mullen moved and Mayor Pro Tem Pierson seconded a motion to: 1) introduce on first reading Ordinance No. 452 amending Chapter 8.12 of Title 8 of the Malibu Municipal Code to add provisions for “Very High Fire Hazard Severity Zones” and finding the same exempt from the California Environmental Quality Act; and 2) direct staff to schedule second reading and adoption of Ordinance No. 452 for the October 28, 2019 Regular City Council Meeting. The motion carried unanimously.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

- A. District-Based City Council Elections (Councilmember Peak)
Recommended Action: At the request of Councilmember Peak, 1) Consider the merits of district-based elections and whether Malibu should transition from

at-large to district elections for City Council; 2) Provide direction to staff.

Councilmember Peak presented the report.

Matt deNicola deferred his time to Kevin Shenkman.

Kevin Shenkman stated at-large elections did not encourage equal representation. He stated Malibu was diverse. He stated the City's petition for school district separation would be hypocritical if it did not move to district-based elections.

John Mazza stated the community was not diverse enough nor large enough to warrant district-based elections. He stated there was a need for quality candidates campaigning for the entire City.

Carl Randall stated there were very few representatives from the west end of Malibu. He stated the majority of decisions were made on a citywide level. He stated the Malibu Township Council was district-based.

Jennifer deNicola stated there were plenty from each area of the City that were qualified to sit on the Council.

Councilmember Mullen stated Malibu was a small town. He stated the community should be focused on enhancing cohesion. He stated he did not see a compelling reason to move away from at-large elections.

Mayor Pro Tem Pierson indicated agreement with Councilmember Mullen. He stated he attended meetings everywhere in the City and stated he appreciated connecting with the entire City. He stated it would not be in Malibu's best interest to have elected officials that only cared about their own part of town.

Councilmember Wagner discussed his first term as Councilmember and the work he did on the east side of Malibu. He stated his two terms had been spent considering the entire City as his community. He expressed concern that moving to district-based elections may not serve the best needs of the entire community.

Mayor Farrer discussed the variety of places she had lived in the City. She stated the issues that faced the City were citywide. She discussed school district separation. She discussed Woolsey Fire rebuilding. She stated it was not the time to make a significant shift in the City's elections.

Councilmember Peak stated it would not be a significant cost.

Councilmember Wagner stated he was an eastern Malibu representative.

MOTION

Councilmember Mullen moved and Councilmember Wagner seconded a motion to receive and file the report. The question was called and the motion carried 4-1, Councilmember Peak dissenting.

ADJOURNMENT

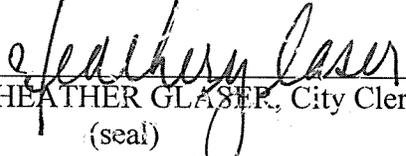
At 10:15 p.m., Mayor Farrer adjourned the meeting to 4:00 p.m. on October 28, 2019.

Approved and adopted by the City Council of the
City of Malibu on November 12, 2019.



KAREN FARRER, Mayor

ATTEST:



HEATHER GLASER, City Clerk
(seal)