

MINUTES  
MALIBU CITY COUNCIL  
REGULAR MEETING  
JUNE 13, 2016  
COUNCIL CHAMBERS  
6:30 P.M.

**CALL TO ORDER**

Mayor Rosenthal called the meeting to order at 6:42 p.m.

Mayor Rosenthal held a moment of silence for those that lost their lives in Orlando, Florida.

**ROLL CALL**

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

PRESENT: Mayor Laura Rosenthal; Mayor Pro Tem Lou La Monte; and Councilmembers Joan House, Skylar Peak and John Sibert

ALSO PRESENT: Christi Hogin, City Attorney; Reva Feldman, City Manager; Lisa Pope, City Clerk; Craig George, Environmental Sustainability Director; Bonnie Blue, Planning Director; Bob Brager, Public Works Director; Ruth Piyaman, Finance Manager; Heather Glaser, Deputy City Clerk; Amy Crittenden, Recreation Manager; Jessica Colvard, Associate Planner; and Rob DuBoux, Assistant Public Works Director

**PLEDGE OF ALLEGIANCE**

The Volunteers On Patrol in attendance led the Pledge of Allegiance.

**PUBLIC COMMENT ON CLOSED SESSION**

None.

The following item was listed on the Closed Session agenda:

**Conference with Legal Counsel – Existing litigation pursuant to Government Code Section 54956.9(d)(1):**

1. Trancas-PCH v. City of Malibu (Housing Element case)  
Los Angeles County Superior Court Case No. BS145311

**CLOSED SESSION REPORT**

City Attorney Hogin reported that the Regular meeting convened at 6:00 p.m. at which time the City Council recessed to a Closed Session pursuant to Government Code Section

54956.9(d)(1) with all Councilmembers present. She stated the Council discussed the item listed on the Closed Session agenda and took no reportable action.

## **APPROVAL OF AGENDA**

**MOTION** Councilmember House moved and Councilmember Sibert seconded a motion to approve the agenda and adjourn in memory of the victims of the Orlando, Florida shooting and Steve Karsh. The motion carried unanimously.

## **REPORT ON POSTING OF AGENDA**

Deputy City Clerk Glaser reported that the agenda for the meeting was properly posted on June 3, 2016.

## **ITEM 1 CEREMONIAL/PRESENTATIONS**

### **A. Recognition of Volunteers On Patrol for Service to the City**

Malibu/Lost Hills Sheriff Station Captain Patrick Davoren thanked the Volunteers On Patrol (VOPs).

Mayor Rosenthal thanked the VOPs and recognized the service of Lance Anderson, Connor Blake, Guy Blake, Jad Eashai, Al Ehringer, Michelle Figueroa, George Goldstein, David Kyman, Adrea Pasquettin, Mark Russo, Don Sands, Mark Stevenson, Pam Ulich, and posthumously honored Mike Crowe.

## **ITEM 2.A. PUBLIC COMMENTS**

John Mazza stated the Concert on the Bluffs was fantastic and suggested more people be allowed to buy tickets next time. He discussed the original intent of the Cultural Arts Commission.

Laureen Sills thanked the Council, Cultural Arts Commission, Recreation Manager Crittenden, and business sponsors for the Concert on the Bluffs.

Jennifer deNicola discussed the definition of a public nuisance and the contamination at Malibu High School. She stated it was the duty of the Council and the community to protect children. She requested an item regarding City intervention regarding polychlorinated biphenyl (PCB) contamination be brought back to the Council.

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

City Manager Feldman thanked the Parks and Recreation staff and Cultural Arts Commission for the Concert on the Bluffs. She stated 740 tickets were sold and

800 attended, including sponsors. She stated additional people could likely be accommodated next time if more parking were available.

**ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS**

In response to Mayor Pro Tem La Monte, City Attorney Hogin stated the Malibu Municipal Code (MMC) did, under certain circumstance, allow the City to declare and abate a nuisance after the property owner had been given due process. She stated the school was owned and run by the Santa Monica-Malibu Unified School District (SMMUSD), which answered to its own public officials. She stated an expert in PCBs would be necessary in order to determine whether the City had sufficient evidence to declare a nuisance.

**CONSENSUS**

By consensus, the Council requested the City Attorney prepare an item for a future agenda to evaluate Ms. deNicola's suggestion that the City pursue a nuisance abatement proceeding against the Santa Monica-Malibu Unified School District over the PCB contamination at Malibu High School.

Mayor Pro Tem La Monte stated he and Mayor Rosenthal attended League of California Cities Policy Planning meetings in Sacramento. He stated he, Mayor Rosenthal, and City Manager Feldman met with representatives from California Strategies on a plan to get the City's rehabilitation overconcentration bill, which has been held up by the Appropriations Committee, back on track. He stated he had been appointed to the County of Los Angeles Commission on Alcohol and Other Drugs. He stated he and Councilmember Peak had attended the Santa Monica Parent-Teacher Association Awards. He stated he and City Manager Feldman met with Diane Forte, Southern California Edison, regarding poles and possible undergrounding. He stated he attended a California Contract Cities Executive Board meeting, the Malibu High School (MHS) graduation, and the Concert on the Bluffs.

Councilmember Sibert stated the Concert on the Bluffs event was amazing. He stated he attended the Southern California Association of Governments Governing Council and Environmental Committee meeting regarding transportation issues. He discussed water issues in California and the Malibu Lagoon.

Councilmember Peak stated he attended the Concert on the Bluffs and the MHS graduation. He congratulated the graduates.

Councilmember House thanked the VOPs. She stated she attended the MHS graduation and the Concert on the Bluffs. She thanked Cultural Arts Commissioner Brickman.

Mayor Rosenthal stated she attended the Concert on the Bluffs and thanked Recreation Manager Crittenden and Cultural Arts Commissioner Brickman. She stated she attended the MHS graduation and discussed the MHS Honorary Service Awards. She stated she, City Manager Feldman and Public Works staff met with Los Angeles County Waterworks District 29. She stated she met with Caltrans officials, and attended the Business Roundtable and a League of California Cities Environmental Policy Committee meeting. She congratulated Henry Stern for his placement on the November 8 ballot for State Senate. She announced the next Malibu Unification Negotiations Committee meeting on June 14, 2016, a Point Dume Traffic Management Community meeting on June 16, 2016, the One Water Festival from 9:30 a.m. to 2:00 p.m. on June 18, 2016, a Zoning Ordinance Revisions and Code Enforcement Subcommittee meeting on June 28, 2016, and the Civic Center Wastewater Treatment Facility (CCWTF) Groundbreaking Ceremony on June 29, 2016. She suggested the person in charge of bonds provide a schedule of construction and remediation for the four Malibu schools.

### **ITEM 3      CONSENT CALENDAR**

**MOTION**      Mayor Pro Tem La Monte moved and Councilmember House seconded a motion to approve the Consent Calendar. 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 47477-47657 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. 574 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$1,976,251.76. City of Malibu payroll check numbers 4665-4667 and ACH deposits were issued in the amount of \$160,077.70.
  - 3.    Approval of Minutes  
Recommended Action: Approve the minutes for the May 9, 2016 Regular City Council meeting.
  - 4.    Commission Work Assignments for Fiscal Year (FY) 2016-2017  
Recommended Action: Approve the FY 2016-2017 Commission work assignments for the Cultural Arts Commission, Harry Barovsky Memorial Youth Commission, Parks and Recreation Commission, Public Safety

- Commission and Public Works Commission.
5. November 8, 2016 General Municipal Election  
Recommended Action: 1) Adopt Resolution No. 16-22 calling and giving notice of the holding of a general municipal election to be held on Tuesday, November 8, 2016, for the election of certain officers as required by the provisions of the laws of the State of California relating to general law cities; 2) Adopt Resolution No. 16-23 requesting the Board of Supervisors of the County of Los Angeles consolidate a General Municipal Election to be held on November 8, 2016, with the Statewide General Election to be held on the date pursuant to Elections Code Section 10403; and 3) Adopt Resolution No. 16-24 adopting regulations for candidates for elective office pertaining to candidates statements submitted to the voters at an election to be held on Tuesday, November 8, 2016.
  6. Amendment to Agreement with Governmental Financial Services (GFS)  
Recommended Action: Authorize the City Manager to execute Amendment No. 3 to agreement with GFS to increase the rate.
  7. Fiscal Year (FY) 2015-2016 Street Maintenance Project Completion and Acceptance of Work  
Recommended Action: 1) Accept the work performed by J & H Engineering General Contractors, Inc. for the FY 2015-2016 Street Maintenance Project (Specification No. 2059) as complete; and 2) Authorize the Public Works Director to submit for recordation a Notice of Completion for the project.
  8. Community Facilities District No. 2006-1 (Carbon Beach Utility Undergrounding) – Levy of Special Tax for Fiscal Year 2016-2017  
Recommended action: Adopt Resolution No. 16-25 of the City Council of the City of Malibu acting in its capacity as the legislative body of Community Facilities District No. 2006-1 of the City of Malibu (Carbon Beach Utility Undergrounding) authorizing the levy of a special tax for Fiscal Year 2016-2017.
  9. Award Point Dume Speed Advisory Signs Project to Crisp Company  
Recommended Action: 1) Approve the award and authorize the City Manager to execute a construction contract with Crisp Company in the amount of \$43,801 for the construction of the Point Dume Speed Advisory Signs Project, Specification No. 2061; and 2) Authorize the Public Works Director to approve any potential change orders up to 25% of the contract amount.
  10. Amendment to Agreement with Malibu Yellow Cab  
Recommended Action: Authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Malibu Yellow Cab to extend the term of the agreement by three years.

**ITEM 4      ORDINANCES AND PUBLIC HEARINGS**

Item Nos. 4.A., 4.B., and 4.C. were heard concurrently.

- A. Assessment District 98-1 (Big Rock Mesa)  
Recommended action: Conduct a public hearing and adopt Resolution No. 16-27 levying an assessment for the maintenance, repair and improvement of works, systems and facilities pertaining to Assessment District 98-1 (Big Rock Mesa) for Fiscal Year 2016-2017.
- B. Assessment District 98-2 (Calle Del Barco)  
Recommended action: Conduct a public hearing and adopt Resolution No. 16-28 levying an assessment for the maintenance, repair and improvement of works, systems and facilities of Assessment District 98-2 (Calle Del Barco) for Fiscal Year 2016-2017.
- C. Assessment District 98-3 (Malibu Road)  
Recommended action: Conduct a public hearing and adopt Resolution No. 16-29 levying an assessment for the maintenance, repair and improvement of works, systems and facilities of Assessment District 98-3 (Malibu Road) for Fiscal Year 2016-2017.

Public Works Director Brager presented the staff report.

In response to Councilmember Sibert, Public Works Director Brager addressed challenges of additional use of excess water out of Big Rock. He stated 50-60 gallons a day were being produced.

Mayor Pro Tem La Monte thanked the Public Works Department.

MOTION Councilmember Peak moved and Councilmember Sibert seconded a motion to: 1) adopt Resolution No. 16-27 levying an assessment for the maintenance, repair and improvement of works, systems and facilities pertaining to Assessment District 98-1 (Big Rock Mesa) for Fiscal Year 2016-2017; 2) adopt Resolution No. 16-28 levying an assessment for the maintenance, repair and improvement of works, systems and facilities of Assessment District 98-2 (Calle Del Barco) for Fiscal Year 2016-2017; and 3) adopt Resolution No. 16-29 levying an assessment for the maintenance, repair and improvement of works, systems and facilities of Assessment District 98-3 (Malibu Road) for Fiscal Year 2016-2017. The motion carried unanimously.

- D. Appeal No. 16-002 - Denial of the After-the-Fact Placement of an Art Sculpture at 27712 Pacific Coast Highway (Appellant/Applicant: Elkins, Kalt, Weintraub, Reuben, Gartside, LLP; Owner: Rosebud Ventures, LLC)  
Recommended Action: Adopt Resolution No. 16-30 denying Appeal No. 16-002 and denying Administrative Plan Review No. 15-108 and Variance No. 15-047 for the after-the-fact- placement of a 45-foot tall art sculpture with a 20-foot by 20-foot base in the Rural Residential-Two Acre (RR-2) zoning district located at 27712 Pacific Coast Highway (Rosebud Ventures, LLC).

Councilmember House recused herself and left the dais at 7:31 p.m.

Associate Planner Colvard presented the staff report.

Susan Delionne, appellant's art collection manager, discussed Mr. Bell's art collection.

Ken Ehrlich, on behalf of the appellant, stated the art did not severely impact or dominate the views of neighboring residents. He stated the art was not a structure and was intended to be for the good of the community.

Donn Taketa, legal counsel for Brian Harper, a resident within 1,000 feet of the art, stated the art should be considered a structure since it was anchored to a 400-foot wide foundation.

In response to Mayor Rosenthal, City Attorney Hogin stated Mr. Mazza could step out of his role as a Planning Commissioner and speak on the matter as a community member, though he understood that it may disqualify him from considering the matter should it come back to the Planning Commission in a different way.

Marc Gurvitz stated the art was visible from every room of his home.

Judy Villablanca stated the sculpture was in the middle of her ocean view. She stated it was not an issue of art, but an issue of MMC violation.

John Mazza, on behalf of the Malibu Arts Foundation, stated there was nothing in the MMC regarding art. He stated the sculpture did not follow the Building Code and could not be considered a structure.

Mr. Ehrlich stated the sculpture was not a structure because it was conceptually moveable. He stated the sculpture would weather and mattify over time. He discussed a zone text amendment (ZTA) to define art.

Councilmember Sibert stated antenna towers were considered structures.

In response to Councilmember Peak, City Attorney Hogin clarified the issue was the height of the sculpture.

In response to Councilmember Sibert, Mr. Ehrlich stated there had been no attempt to contact or alert neighbors before the installment of the art.

Mayor Pro Tem La Monte stated the sculpture was visible from a variety of locations. He stated the sculpture was a structure according to the MMC.

Mayor Rosenthal stated the sculpture exceeded the height allowed according to the MMC.

Councilmember Peak questioned whether Code Enforcement action could be deferred while a ZTA was processed.

Mr. Ehrlich discussed moving the sculpture to a different part of the property or reworking its position to reduce overall height.

Mayor Rosenthal stated perhaps creative solutions could be considered if a ZTA could be expedited.

City Attorney Hogin stated it was appropriate for staff to work something out with the appellant.

MOTION Mayor Pro Tem La Monte moved and Councilmember Sibert seconded a motion to adopt Resolution No. 16-30 denying Appeal No. 16-002 and denying Administrative Plan Review No. 15-108 and Variance No. 15-047 for the after-the-fact- placement of a 45-foot tall art sculpture with a 20-foot by 20-foot base in the Rural Residential-Two Acre (RR-2) zoning district located at 27712 Pacific Coast Highway (Rosebud Ventures, LLC). The question was called and the motion carried 3-1-0, Councilmember Peak dissenting and Councilmember House absent.

- E. Proposed Budget for Fiscal Year 2016-2017  
Recommended Action: 1) Conduct the Public Hearing and consider pending budget expenditures; and 2) Consider recommendations of Administration and Finance (A&F) Subcommittee regarding the Proposed Budget and General Fund Grants for Fiscal Year 2016-2017.

Councilmember House returned to the dais at 8:22 p.m.

City Manager Feldman presented the staff report.

Matt deNicola discussed homelessness and the importance of grants.

Jennifer deNicola discussed homelessness and requested more grant funding for the Community Assistance Resource Team (CART).

John Mazza discussed rate of return on reserves. He recommended not moving forward with funding a Civic Center specific plan.

Reverend Paul Elder recommended approval of the grants listed in the staff report.

Burt Ross thanked the Council for considering grants to provide services to

benefit the homeless.

In response to Councilmember Peak, City Manager Feldman discussed the adopted investment policy. She stated she had discussed investment options with City Treasurer Lippman, making a few short-term investments with higher yields. She stated the upcoming CCWTF project required liquid funds during the construction period.

Mayor Rosenthal requested \$3,000 be allocated for wellness programs for staff.

**MOTION** Mayor Pro Tem La Monte moved and Councilmember House seconded a motion to allocate an amount not to exceed \$3,000 for a health incentive program for City staff to be administered by the City Manager

Councilmember Peak suggested Fitness for Life.

The question was called and the motion carried unanimously.

**ITEM 5 OLD BUSINESS**

None.

**ITEM 6 NEW BUSINESS**

- A. Local Coastal Program Amendment No. 16-003- Rezoning Four Open Space Lots to Rural Residential (Assessor Parcel Numbers 4449-009-001, -002, -003 and -004)

Recommended Action: Direct staff to: 1) Continue processing LCPA No. 16-003 as an applicant-initiated amendment; or 2) Refund the applicant's deposit and return with a resolution for a City-initiated LCPA.

Planning Director Blue presented the staff report. She clarified the deposit collected to process the LCPA was \$15,000.

In response to Councilmember Peak, Planning Director Blue stated the amendment had been requested by the City previously, but California Coastal Commission (CCC) staff had anticipated the lots to be dedicated as open space by former owner Mountains Restoration Trust.

Norm Haynie stated the loan for the property was given when the property was zoned residential. He stated staff should not have withdrawn its CCC application to rezone the property. He stated the burden should be on the City, not the applicant.

In response to Councilmember Peak, Mr. Haynie clarified that the loan was made

to his client in 2001 when the property was zoned as residential.

**MOTION** Councilmember Peak moved and Mayor Rosenthal seconded a motion to refund the applicant's deposit for LCPA No. 16-003 - rezoning four Open Space lots to Rural Residential (Assessor Parcel Numbers 4449-009-001, -002, -003 and -004); and 2) directed staff to bring back a resolution for a City-initiated LCPA. The motion carried unanimously.

**B. Funny Zoo Public Art Exhibit**

**Recommended Action:** 1) Receive presentation from the Cultural Arts Commission on the proposed Funny Zoo Art Exhibit; and 2) Authorize the City Manager to execute the Loan Agreement with Funny Zoo for placement of up to 8 sculptures at Malibu Bluffs Park and Legacy Park.

Recreation Manager Crittenden presented the staff report.

Richard Gibbs recommended the Cultural Arts Commission find a different location for the Big Clay art sculpture. He stated the Cultural Arts Commission supported the Funny Zoo Art Exhibit.

**MOTION** Mayor Rosenthal moved and Mayor Pro Tem La Monte seconded a motion to authorize the City Manager to execute the Loan Agreement with Funny Zoo for placement of up to eight sculptures at Malibu Bluffs Park and Legacy Park.

Councilmember Peak thanked the Cultural Arts Commission.

The motion carried unanimously.

**ITEM 7 COUNCIL ITEMS**

**A. Short-term Residential Rentals (Councilmember House)**

**Recommended Action:** At the request of Councilmember House, receive update on issues related to short-term residential rentals.

John Mazza stated short-term residential rentals should be regulated and enforced.

Sandra Sternberg deferred her time to Kathryn Holguin.

Gene Zilinkas deferred his time to Kathryn Holguin.

Kathryn Holguin, Ramirez Canyon Association President, discussed the use of a home on Via Acero and violations of the special event ordinance. She stated the City should adopt a short-term rental ordinance.

Chris discussed code enforcement and short-term rentals.

Lotte Cherin discussed safety issues that arose from short-term rentals. She stated the City should require insurance naming the City and surrounding neighbors as additional insured, have code enforcement, and set a time limit for closing code violations.

Bill Sampson discussed homes being operated as businesses.

Beatrix Zilinskas stated Solid Waste Solutions only responded to noise and parking violations.

In response to Mayor Rosenthal, City Attorney stated Code Enforcement was largely compliant-driven with the goal of compliance. She stated an open code enforcement case did not prevent short-term rentals according to the MMC.

In response to Councilmember Peak, City Manager Feldman stated the special event policy would be before the Council on June 27, 2016. Councilmember Peak stated another Code Enforcement Officer was necessary to deal with short-term rentals. He stated the City should start issuing business licenses for short-term rentals. He stated no residence currently under a code violation should be allowed to rent the home on a short-term basis.

Councilmember House concurred that violating homes should not be allowed to rent on a short-term basis. She recommended disallowing whole home rentals without the presence of the host.

Mayor Pro Tem La Monte stated the issue was beyond code enforcement.

Councilmember Sibert indicated support for an ordinance regulating short-term rentals. He expressed concern for overloading septic systems.

Mayor Rosenthal expressed concern for requiring the presence of the host for a short-term rental. She suggested hosts only be allowed to rent their primary residence on a short-term basis.

Councilmember Peak suggested banning short-term rentals.

Mayor Rosenthal stated it was important to not penalize people that were following the rules and avoid unintended consequences.

Councilmember House requested the public email her with suggestions for an ordinance.

#### CONSENSUS

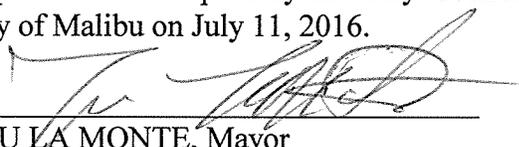
By consensus, the Council directed staff to bring back an item exploring ordinances regulating short-term rentals, including primary residency requirement

of hosts, code violation consequences, licensing of short-term rentals, occupancy limits, onsite ticketing and fine structure, and methods of enforcement.

**ADJOURNMENT**

**MOTION** At 10:12 p.m. Councilmember Sibert moved and Mayor Rosenthal seconded a motion to adjourn the meeting in memory of the victims of the Orlando, Florida shootings and Steve Karsh. The motion carried unanimously.

Approved and adopted by the City Council of the  
City of Malibu on July 11, 2016.

  
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LOU LA MONTE, Mayor

ATTEST:

  
\_\_\_\_\_  
HEATHER GLASER, Acting City Clerk  
(seal)