

MINUTES  
MALIBU CITY COUNCIL  
REGULAR MEETING  
AUGUST 10, 2009  
COUNCIL CHAMBERS  
6:30 P.M.

**CALL TO ORDER**

Mayor Stern called the meeting to order at 6:36 p.m.

**ROLL CALL**

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

PRESENT: Mayor Andy Stern, Mayor Pro Tem Sharon Barovsky (via teleconference), Councilmembers Jefferson Wagner, John Sibert and Pamela Conley Ulich

ALSO PRESENT: Jim Thorsen, City Manager; Christi Hogin, City Attorney; Reva Feldman, Administrative Services Director/ Assistant City Manager; Bob Stallings, Parks and Recreation Director; Bob Brager, Public Works Director; Stefanie Edmondson, Acting Planning Manager; Claudio Sanchez, Deputy City Engineer; Vance Pomeroy, Contract Planner; Joseph Smith, Associate Planner; Tiffany Edwards, Assistant Planner; Kelsey Bealer, Deputy City Clerk; and Lisa Pope, City Clerk

**PLEDGE OF ALLEGIANCE**

Deputy City Clerk Bealer led the Pledge of Allegiance.

**CLOSED SESSION REPORT**

**Public Comment on Closed Session Items**

None.

City Attorney Hogin announced that the regular meeting convened at 5:30 p.m. at which time the City Council recessed to closed session to discuss the following items:

**Real Estate negotiation matters pursuant to Government Code Section 54956.8**

1. Property Address: 3939 Cross Creek Road  
City Negotiator: City Manager Thorsen or designee  
Property Negotiator: Richard Weintraub, Weintraub Financial Services  
Under Negotiation: Price and terms of payment

**Conference with Legal Counsel - Existing litigation per Government Code Section 54956.9**

**(a):**

2. National Resources Defense Council (NRDC) & Santa Monica Baykeepers v. City of Malibu  
United States District Court Case No.: CV-08-01465 AHM (PLAx)

3. Malibu Township Council v. City of Malibu  
Los Angeles Superior Court Case No. BS120290
4. Santa Monica Baykeeper v. City of Malibu (La Paz)  
Los Angeles Superior Court Case No. BS118259
5. Santa Monica Baykeeper v. City of Malibu (Legacy Park)  
Los Angeles Superior Court Case No. 120033

**Conference with Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b)**

6. Threatened Litigation  
Number of Potential Cases: 1

City Attorney Hogin reported that Council discussed all items on the posted agenda but took no reportable action.

**APPROVAL OF AGENDA**

MOTION Councilmember Conley Ulich moved and Councilmember Sibert seconded a motion to approve the agenda. The motion carried unanimously.

**REPORT ON POSTING OF AGENDA**

City Clerk Pope reported that the agenda for the meeting was posted on July 31, 2009, with the Amended Agenda posted August 5, 2009.

**ITEM 1 CEREMONIAL/PRESENTATIONS**

- A. Proclamation Declaring September 2009 as National Alcohol and Drug Addiction Recovery Month in the City of Malibu

Mayor Stern read the proclamation declaring September 2009 as National Alcohol and Drug Addiction Recovery Month in the City of Malibu.

**ITEM 2.A. PUBLIC COMMENTS**

Marissa Coughlan provided an update on the 101<sup>st</sup> Airborne Unit.

In response to Councilmember Conley Ulich, Ms. Coughlan stated the event at Fort Campbell and would cost about \$800 for her to attend. She stated she had represented the City for the past seven years. Councilmember Conley Ulich asked if the City could send Ms. Coughlan. City Manager Thorsen stated funds were currently not in the budget. He explained that Ms. Coughlan could apply for a General Fund Grant in the future. Councilmember Conley Ulich suggested Councilmember Sibert or Councilmember Wagner attend since they had served in the military.

**ITEM 2.B. COMMISSION / COMMITTEE UPDATES**

None.

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

Councilmember Sibert stated the Girl Scouts would be conducting a Day without a Bag on August 15.

Councilmember Wagner stated Councilmember Sibert had joined the Zoning Ordinance Review and Code Enforcement Subcommittee (ZORACES).

Councilmember Conley Ulich announced the upcoming Library Task Force meeting on September 24, 2009.

Mayor Stern discussed the impacts of fireworks on animals. He stated he would bring up the matter at the next Quarterly meeting.

Councilmember Conley Ulich stated she attended the Marine Life Protection Act (MLPA) Task Force meeting in Santa Monica and she entered the City's resolution into the record. She stated she supported the area off of Pt. Dume to be protected.

Councilmember Sibert stated the MLPA would come before the Santa Monica Bay Restoration Commission on August 20, 2009.

**ITEM 3 CONSENT CALENDAR**

Item No. 3.B.6. was pulled by the public. Item No. 3.B.8. was pulled by Mayor Stern. Item No. 3.B.10. was pulled by Councilmember Wagner.

**MOTION** Councilmember Sibert moved and Councilmember Conley Ulich seconded a motion to approve the Consent Calendar, with the exception of Item Nos. 3.B.6., 3.B.8. and 3.B.10. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

None.

B. New Items

1. Waive further reading

Staff recommendation: 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

Staff recommendation: Allow and approve warrant demand numbers 26376-26514 and 26516-26556 listed on the register from the General Fund and direct the City Manager/City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 424 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$1,875,886.25. City of Malibu payroll check numbers 2744-2774 direct deposits were issued in the amount of \$159,680.38.

3. Approval of Minutes

Staff recommendation: Approve the minutes for the July 13, 2009 Regular City Council meeting.

4. Amendment No. 2 to Agreement with Granicus, Inc. for Media Management and Web Streaming

Staff recommendation: Authorize the City Manager to negotiate and execute Amendment No. 2 to Agreement with Granicus, Inc. extending the agreement for an additional 3 years.

5. Publication of Public Notices, Announcements and Ordinances with Malibu Surfside News

Staff recommendation: Authorize the City Manager to negotiate and execute a Professional Services Agreement with the Malibu Surfside News for the publication of public notices, announcements and ordinances.

7. Paradise Cove Stormwater Treatment Facility Project Contract

Staff recommendation: Authorize the City Manager to execute a construction contract with the responsible low bidder for the construction of the Paradise Cove Stormwater Treatment Facility Project in an amount not to exceed \$1,127,000.

9. Award of Construction Contract for Malibu Legacy Park Project, Specification No. 2030

Staff recommendation: 1) Reject the bid protest submitted by American Landscaping, Inc. and authorize the Mayor to execute a construction contract with LH Engineering Company, Inc. in the amount of \$6,338,447 for the construction of the Malibu Legacy Park Project, Specification No. 2030; 2) appropriate up to \$370,447 from the General Fund to Account No. 500-9045-5100 (Legacy Project Fund); and 3) authorize the Public Works Director to approve change orders in an amount not to exceed \$950,000.

**ITEM 3.B.6. On-Site Parking at Malibu Bluffs Park**

Staff recommendation: Permit the Malibu Little League and American Youth Soccer Organization to restrict vehicle access to program participants between 6:00 a.m. and noon at Malibu Bluffs Park on opening day, closing day and picture day of the two seasons.

Ryan Embree asked the operating hours of the park and suggested parking be restricted while the park was closed.

Parks and Recreation Director Stallings stated the park opened at 8:00 a.m. He explained the difficulty of restricting parking during non-park hours.

In response to Councilmember Sibert, Parks and Recreation Director Stallings stated tickets were not issued for parking during off-hours. Councilmember Sibert suggested issuing tickets during closed hours.

Councilmember Wagner asked if there were legal ramifications with restricting parking. City Manager Thorsen stated it was allowable to close on specific event days.

Councilmember Conley Ulich agreed that parking at Bluffs Park was an issue. She expressed concern with Little League and American Youth Soccer Organization (AYSO) volunteers enforcing parking restrictions. She indicated support for restricting parking to three hours or requiring payment for parking.

Mayor Stern stated he was opposed to restricting parking to three hours.

Parks and Recreation Director Stallings stated the organizations had offered to hire a security company to enforce parking restrictions.

Mayor Pro Tem Barovsky left the meeting at 6:54 p.m.

**MOTION** Mayor Stern moved and Councilmember Conley Ulich seconded a motion to permit the Malibu Little League and American Youth Soccer Organization to restrict vehicle access to program participants between 6:00 a.m. and noon at Malibu Bluffs Park on opening day, closing day and picture day of the two seasons. The motion carried 4-0, Mayor Pro Tem Barovsky absent.

Mayor Pro Tem Barovsky returned to the meeting at 6:57 p.m.

**ITEM 3.B.8. Amendment to Transportation Services Agreement for the Point Dume Nature Shuttle**

Staff recommendation: Authorize the City Manager to execute Amendment No. 1 to the Agreement with Administrative Services Cooperative, Inc. (ASC) to provide shuttle services to and from the Point Dume Natural Preserve at an annual rate of \$54,600.

Mayor Stern stated the shuttle was not utilized and the cost per rider was approximately \$60. In response to Mayor Stern, City Manager Thorsen stated the funds came from special transportation funds. Mayor Stern stated he would move the item but found it ridiculous.

MOTION Mayor Stern moved and Councilmember Conley Ulich seconded a motion to authorize the City Manager to execute Amendment No. 1 to the agreement with Administrative Services Cooperative, Inc. (ASC) to provide shuttle services to and from the Point Dume Natural Preserve at an annual rate of \$54,600.

Councilmember Conley Ulich discussed the City of Agoura Hills Beach Shuttle. She requested the Council implement a shuttle that could be used by citizens to go from one end of town to the other.

The motion carried unanimously.

**ITEM 3.B.10. Professional Services Agreement with LPA, Inc. for Architectural Design Services of City Hall**

Staff recommendation: Authorize the City Manager to negotiate and execute a Professional Services Agreement with LPA, Inc. for Architectural Design Services of City Hall and appropriate \$64,000 for Fiscal Year 2009 – 2010. (103-9050-5100).

Councilmember Wagner requested LPA present its proposal.

Rick D'Amoto, LPA Architects, provided an overview of the proposal for the new City Hall building.

Councilmember Conley Ulich thanked Mr. D'Amoto for his expertise on the library. She asked the timeframe for completion. Administrative Services Director Feldman stated it was anticipated that it would take one year to complete. Councilmember Conley Ulich asked how the consultant would work with staff. Administrative Services Director Feldman explained space need meetings with staff and each Councilmember. Councilmember Conley Ulich asked if the City Council would be informed of the requests of staff. Mr. D'Amoto explained the reporting on requested information.

MOTION Councilmember Wagner moved and Councilmember Sibert seconded a motion to authorize the City Manager to negotiate and execute a Professional Services Agreement with LPA, Inc. for Architectural Design Services of City Hall and appropriate \$64,000 for Fiscal Year 2009 – 2010. (103-9050-5100). The motion carried unanimously.

**ITEM 4 ORDINANCES AND PUBLIC HEARINGS**

A. Approval of Certificates of Participation to Finance the Purchase of City Hall (23825 Stuart Ranch Road)

Staff recommendation: Adopt Resolution No. 09-50 authorizing the execution and delivering of the City's Certificates of Participation, 2009 (the "Certificates) and authorizing the execution and delivery of certain documents and directing certain actions in connection therewith in order to finance the acquisition of City Hall (23825 Stuart Ranch Road).

Mayor Stern discussed the recent meeting in San Francisco at Standard and Poors regarding the City's bond rating.

Mayor Pro Tem Barovsky left the meeting at 7:12 p.m.

Special Counsel Forbath presented the staff report. Bond Underwriter Oberlies provided an overview of the bond rating.

In response to Councilmember Sibert, Bond Underwriter Oberlies explained the rating process.

In response to Councilmember Conley Ulich, Special Counsel Forbath explained the additional funds requested. Bond Underwriter Oberlies stated it was anticipated that the actual bond issuance would be \$20.5 million.

City Attorney Hogin explained that the bond debt was structured so that the City would not be paying on both buildings at the same time.

Councilmember Conley Ulich discussed wastewater issues in the Civic Center area and questioned whether the City should be asking for funding for wastewater related issues. Mayor Stern stated he would not support borrowing additional funds for speculation.

MOTION Mayor Stern moved and Councilmember Sibert seconded a motion to adopt Resolution No. 09-50 authorizing the execution and delivering of the City's Certificates of Participation, 2009 (the "Certificates) and authorizing the execution and delivery of certain documents and directing certain actions in connection therewith in order to finance the acquisition of City Hall (23825 Stuart Ranch Road).

- C. Local Coastal Program Amendment No. 08-012 and Zoning Text Amendment No. 06-001 – An Amendment to the Local Coastal Program and Malibu Municipal Code to Add Definitions for Natural Slope, Permitted Manufactured Slope and Unpermitted Manufactured Slope and to Clarify General Development Standards Applicable to Natural Slopes and Unpermitted Manufactured Slopes – Applicant: City of Malibu; Location: Citywide

Staff recommendation: 1) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 339 approving Local Coastal Program Amendment (LCPA) No. 08-12 and Zoning Text Amendment (ZTA) No. 06-001 to amend the Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP) and Malibu Municipal Code (M.M.C.) Title 17 (Zoning) to add definitions for natural slope, permitted manufactured slope and unpermitted manufactured slope and to clarify general development standards applicable to natural slopes and unpermitted manufactured slopes; and 2) direct staff to schedule a second reading and adoption of Ordinance No. 339 for the September 14, 2009 Regular City Council meeting.

Associate Planner Smith presented the staff report.

Norm Haynie expressed concern regarding grading done legally, without a permit or with a permit that was lost. He explained grading allowances prior to the City's incorporation.

Mayor Stern stated there were no permits for his old home.

Joseph Smith explained why all required documentation was necessary.

In response to Mayor Stern, Acting Planning Manager Edmondson discussed the possibility of review on an individual basis.

Councilmember Sibert discussed a project before the Planning Commission at which a variance was granted due to improving a slope with permits.

Councilmember Wagner indicated support for the proposal.

MOTION Councilmember Conley Ulich moved and Councilmember Sibert seconded a motion to: 1) introduce on first reading Ordinance No. 339 approving Local Coastal Program Amendment (LCPA) No. 08-12 and Zoning Text Amendment (ZTA) No. 06-001 to amend the Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP) and Malibu Municipal Code (M.M.C.) Title 17 (Zoning) to add definitions for natural slope, permitted manufactured slope and unpermitted manufactured slope and to clarify general development standards applicable to natural slopes and unpermitted manufactured slopes; and 2) direct staff to schedule a second reading and adoption of Ordinance No. 339 for the

September 14, 2009 Regular City Council meeting. The motion carried 4-0, Mayor Pro Tem Barovsky absent

RECESS At 7:40 p.m., Mayor Stern called a recess. The meeting reconvened at 7:48 p.m., with all Councilmembers present except Mayor Pro Tem Barovsky.

- D. Appeal Nos. 08-006 and 08-008 regarding Coastal Development Permit (CDP) No. 04-051, Variance Nos. 05-043, 05-045, 07-043 and 07-044, Site Plan Review No. 05-052, Lot Line Adjustment No. 08-003, Initial Study No. 07-008 and Negative Declaration No. 07-007 to Allow for the Construction of a 28 Foot High, Two-story, 10,517 Square Foot, Single-family Residence with a 398 Square Foot Covered Loggia, Basement, Pool, Trellis, Walls, Tennis Court, Hardscape, Driveway, Landscaping, and an Alternative Onsite Wastewater Treatment System, including a Site Plan Review for Height Above 18 feet, up to 28 Feet with a Pitched Roof, and For Construction on Slopes, Variances for Construction on Slopes Exceeding 2½ to 1, Retaining Walls in Excess of Six Feet in Height (to Widen the Access Road), a Reduction in the Required Scrub Environmentally Sensitive Habitat Area (ESHA) Buffer and a Reduction in the Required Riparian ESHA Buffer, a Lot Line Adjustment for the Four Properties Involved and an Initial Study which Resulted in a Negative Declaration; Appellant (Appeal No. 08-006): Lynn Heacox; Appellant (Appeal No. 08-008): Al Broussard; Appeal No. 08-006 Filed: October 9, 2008; Appeal No. 08-008 Filed: October 17, 2008; Application Filing Date: November 18, 2004 (CDP No. 04-051); Applicant: Lynn Heacox; Property Owner: Diane Breitman, Trustee of the Breitman Residence Trust Dated 10/1/03. (Breitman Trust); Location: 21000 and 21100 Seaboard Road, within the appealable coastal zone; APNs: 4450-022-055, 4450-022-054, 4450-022-057, 4450-022-050 and 4450-022-056; Zoning: Rural Residential – Twenty Acres (RR-20)

Staff recommendation: Adopt Resolution No. 09-51 denying Appeal Nos. 08-006 and 08-008 and approving Coastal Development Permit (CDP) No. 04-051, Variance (VAR) Nos. 05-043, 05-045, 07-043 and 07-044, Lot Line Adjustment (LLA) No. 08-003, Site Plan Review (SPR) No. 05-052, Initial Study (IS) No. 07-008 and Negative Declaration (ND) No. 07-007.

Contract Planner Pomeroy presented the staff report.

Councilmember Conley Ulich indicated she had nothing to disclose.

Councilmember Sibert stated he had heard the matter while on the Planning Commission. He stated he had walked the entire road and spoken with Lynn Heacox and neighbors.

Councilmember Wagner stated he had walked the property and talked to Al Broussard on the phone.

Mayor Stern stated he had had contacts with the applicant over the years complaining about the slowness of the process. He stated he also had contact with the neighbors questioning why the process was going so fast.

Lou La Monte, Big Rock Mesa Property Owners Association, indicated the property owners opposed the project. He stated the project was a development of four large houses and access, rather than a single-family residence development.

Ken Ehrlich, attorney representing the Appellant, discussed the road construction and effects on the environment. He suggested an environmental impact report be prepared. He discussed the retaining walls on steep slopes. He stated the neighbors wanted their concerns recognized and folded into the development plan.

Al Broussard presented a PowerPoint depicting the private road and depicting the sensitivity of the area. He discussed fire rebuilds and the need for inclusion of turn-outs.

Lynn Heacox, applicant, provided an overview of the proposed project. He explained the assessor lot configuration. He discussed easements and legal access.

Steven Kaufmann, counsel for the Breitman Trust, discussed the application for a basement. He requested the old basement standards be applied. He discussed a previous case where the appeal was overturned. He stated no significant adverse effect on the environment existed with the project. He stated a negative declaration was appropriate and an environmental impact report (EIR) should not be required.

Lynda Harris deferred her time to Louise Ann Fernandez.

Robert Dankanyin deferred his time to Louise Ann Fernandez.

Louise Ann Fernandez discussed the need for transparency and stated an EIR was required. She expressed concern about development of the road. She questioned the statement that there was not access to Pacific Coast Highway.

Vivian Broussard deferred her time to Kraig Hill.

Arlene Broussard deferred her time to Kraig Hill.

Kraig Hill presented a PowerPoint and stated an EIR would address issues that were unknown and should be required. He stated the property in question could be a park according to the Santa Monica Mountains Conservancy. He questioned the legality of the three lots. He discussed Environmentally Sensitive Habitat Area (ESHA).

Katie Fernandez deferred her time to Shea Broussard.

Charlene Dawkawayiw deferred her time to Shea Broussard.

Katie Fernandez deferred her time to Shea Broussard.

Shea Broussard discussed the benefits of an alternate road. She discussed the ESHA map and indicated it was incorrect. She distributed a historic photo showing a 1938 landslide.

Carol Randall expressed concern about drainage from the bluff.

Brant Didden discussed conflict resolution. He discussed the legal access along the adjacent properties included in the title reports. He stated the proposed road went directly up a coastal bluff. He suggested an EIR be prepared for the secondary access road. He discussed issues of geology and stability.

John Cadarette discussed access to the subject property. He discussed the unknown impact of adding two additional parcels to the dewatering assessment district. He discussed noise, ESHA disturbance, piecemealing and impacts to private Seaboard Road. He requested the impacts be reviewed more thoroughly with an EIR.

John Barnes discussed the dangerous conditions on the road.

John Morris deferred his time to Dave Olan.

Dave Olan stated there would be environmental impacts that had not been studied. He stated the project was being piecemealed.

Rosemaire Ihde stated she walked Big Rock daily and it was already dangerous. She suggested another access be investigated.

Gene Sprouse stated he was the only one that would be affected by the 20-foot widening. He stated the road would run right underneath his house.

Jay Dunitz discussed the 1993 fire in Big Rock.

Ken Ehrlich, attorney for the Appellant, stated no analysis of the impact on dewatering in the area had been provided. He stated water issues were not addressed in the negative declaration or initial study.

Reid Breitman, applicant, encouraged the Council to rely on the experts.

RECESS At 9:18 p.m., Mayor Stern called a recess. At 9:34 p.m., the meeting reconvened with all Councilmembers present except Mayor Pro Tem Barovsky.

Councilmember Conley Ulich asked if the four houses were reviewed for impermeable versus permeable coverage and runoff. Contract Planner Pomeroy clarified that the application was for one house. Councilmember Conley Ulich asked if the cumulative impacts were reviewed.

Councilmember Wagner indicated support for requiring an EIR.

Councilmember Sibert discussed the proposed size of the homes.

In response to Councilmember Sibert, City Attorney Hogin explained the substantial evidence required for an EIR.

In response to Mayor Stern, Contract Planner Pomeroy explained the Planning Commission's determination on the basement requirements.

In response to Mayor Stern, Mr. Ehrlich discussed the existing dewatering district. He stated three of the four homes would be part of the dewatering effort. He stated the impact on dewatering had not been analyzed. Contract Planner Pomeroy stated the issue of dewatering had not been risen before. Deputy City Engineer Sanchez stated the dewatering district had not been reviewed but any properties within the district would have to contribute to the district. In response to Mayor Stern, Deputy City Engineer Sanchez stated the project could have potential ramifications on the dewatering area. Mayor Stern asked about investigation of the road. Contract Planner Pomeroy discussed the location of the road.

In response to Mayor Stern, City Attorney Hogin explained that the property owner could be required to mitigate the impacts caused by development. She discussed the Big Rock Assessment District and explained inclusion of new legal lots. Contract Planner Pomeroy discussed the analysis of drainage patterns. In response to Mayor Stern, City Attorney Hogin discussed potential traffic mitigation. In response to Mayor Stern, Contract Planner Pomeroy discussed the City Geologist's analysis of drainage and landslide potential.

In response to Councilmember Sibert, Contract Planner Pomeroy discussed the borings in place for testing. Councilmember Sibert stated he had looked down on the site from Gene Sprouse's home. He discussed the width of the road. Contract Planner Pomeroy discussed the Fire Department requirements.

In response to Councilmember Conley Ulich, Mr. Heacox stated the cost of the EIR would depend on the required information. Councilmember Conley Ulich stated she would be comfortable approving the project without an EIR as long as

the project was restricted to 2 homes. Mr. Breitman stated the cost of an EIR would be about \$200,000 and take approximately a year.

Councilmember Wagner discussed the proposed road and possible water runoff issues. Deputy City Engineer Sanchez stated that issue would be addressed as part of the stormwater management plan.

Contract Planner Pomeroy stated the initial study addressed the general concept of hydrology on the site. He discussed the process to receive approval from Public Works from a stormwater standpoint.

MOTION Councilmember Sibert moved and Councilmember Conley Ulich seconded a motion to adopt Resolution No. 09-51 denying Appeal Nos. 08-006 and 08-008 and approving Coastal Development Permit (CDP) No. 04-051, Variance (VAR) Nos. 05-043, 05-045, 07-043 and 07-044, Lot Line Adjustment (LLA) No. 08-003, Site Plan Review (SPR) No. 05-052, Initial Study (IS) No. 07-008 and Negative Declaration (ND) No. 07-007.

Mayor Stern discussed the impact of construction and truck trips on the road.

City Attorney Hogin discussed mitigating the impacts of construction and utilizing a construction management plan.

Councilmember Wagner stated an EIR was required.

In response to Mayor Stern, City Attorney Hogin explained that if the Council found there was substantial evidence that an EIR was required, an EIR could be prepared. She stated the Council needed to determine what environmental impacts should be studied.

Councilmember Sibert stated an EIR should be required on the road impact and construction impact.

The question was called and the motion failed 0-4, Mayor Pro Tem Barovsky absent.

MOTION Councilmember Sibert moved and Councilmember Conley Ulich seconded a motion to direct staff to prepare an EIR to address the following: 1) the impact on Seaboard Road and whether a narrower road could be built; 2) the impact of construction on the existing road, specifically the paved portion of Seaboard Road; and 3) the impact of all development on the drainage in the area.

Councilmember Wagner concurred with the proposed motion. He stated it was necessary to determine where the accumulated water would end up.

The question was called and the motion carried 4-0, Mayor Pro Tem Barovsky absent.

**ITEM 5 OLD BUSINESS**

A. Malibu International Marathon

Staff recommendation: Consider the request by Forever Runners to hold the Malibu International Marathon event in Malibu.

Parks and Recreation Director Stallings presented the staff report.

Ryan Embree questioned whether the co-sponsors were sharing funding. He expressed concern about fire season during the proposed event. He suggested the event terminate upon declaration of local emergency, a fire within the City limits, or activation of the Emergency Operations Center (EOC). He discussed the need for restroom facilities, medical care and evacuation plans. He questioned how many participants would be attending the event.

Mayor Stern agreed that the event should be cancelled if there was a major fire. In response to Mayor Stern, Councilmember Conley Ulich stated 3000 people participated in the Malibu Triathlon.

Councilmember Conley Ulich distributed copies of the Los Angeles City Marathon agreement.

**MOTION** Councilmember Conley Ulich moved and Councilmember Sibert seconded a motion to create an ad hoc committee of Councilmember Conley Ulich and Councilmember Wagner to negotiate an agreement for the Malibu Marathon. The motion carried 4-0, Mayor Pro Tem Barovsky absent.

**ITEM 6 NEW BUSINESS**

None.

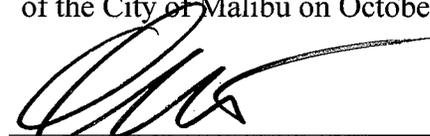
**ITEM 7 COUNCIL BUSINESS**

None.

**ADJOURNMENT**

MOTION At 10:30 p.m., Councilmember Sibert moved and Mayor Stern seconded a motion to adjourn. The motion carried 4-0, Mayor Pro Tem Barovsky absent.

Approved and adopted by the City Council  
of the City of Malibu on October 12, 2009.



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ANDREW STERN, Mayor

ATTEST:



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LISA POPE, City Clerk  
(seal)