MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
JANUARY 20, 1998
MALIBU CITY HALL
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:35 p.m.

ROLL CALL

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

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Joan House, Councilmembers Walt Keller, Carolyn Van Horn and John Harlow.

ALSO PRESENT: Harry Peacock, City Manager; Christi Hogin, City Attorney; Craig Ewing, Planning Director; John Clement, Public Works Director; Vic Peterson, Building Official; Catherine Walters, Parks & Recreation Director; Andrea Daroca, Interim Finance Director; City Biologist, Dr. Marti Witter; Jeffrie Madland, Recording Secretary.

FLAG SALUTE

Lt. O'Brien led the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Jennings stated there was a request to move up Item 14. City Manager Peacock explained that the City Biologist was scheduled to arrive at 9:00 p.m. because that was the estimated time of the item. The City Council agreed to take up Item 14, out of order if necessary, when the City Biologist arrived.

MOTION Councilmember Van Horn moved, seconded by Mayor Pro Tem House, to approve the agenda as posted. The motion carried unanimously.

COMMUNITY COMMENTS

There were no community comments.

COUNCIL/STAFF COMMENTS

Mayor Pro Tem House asked for Council support to place an item on a future agenda to allow the Council to make a recommendation to fill the vacancy on the Coastal Commission. Council concurred. She also requested that the City present Fran Pavely and John Merrick with commendations. She spoke about the Paradise Cove

filming issue regarding Lethal Weapon 4. She asked how many days filming occurred at Paradise Cove over the last year. Public Works Director Clement responded there were 72 days last year and 34 days this year. City Attorney Hogin reported on the meeting between the City and the film's project manager. She stated the project manager would provide additional information which will be considered prior to the City issuing the film permit. Mayor Pro Tem House questioned what use could constitute a studio? She felt the Council might want to look further into filming quotas in residential areas. She stated the City received 67 responses from the care package sent out by the Emergency Preparedness Study Group.

Councilmember Van Horn asked the Council to support direction to the City Manager to write a letter in support of the goat program. She stated there are two HOAs very interested in the program. Councilmember Keller suggested the City also contact the National Park Service regarding their opposition to the program. Councilmember Van Horn talked about the Surfrider Foundation's January 12, 1998, memo to City Engineer Morgan opposing the proposed outfall. She asked for a response from the Public Works Department. She asked about the letter from the County of Los Angeles Public Work's Department regarding the integrated waste management plan. Public Works Director Clement stated that the City opposed the County's plan and the letter was simply in response. She asked for Council support to contact Aladdin Rubbish to empty the public trash containers. She reported on the decrease in crime over the past year.

Councilmember Harlow asked if the Kissel Co. had declared income from film shoots in the information provided to the City in support of its rent increase application. City Manager Peacock responded yes. Councilmember Harlow agreed with Councilmember Keller with respect to the National Park Service but did not feel the City would gain their cooperation. He did support the City's participation in the goat program. He confirmed that with the recent staff changes in the Planning Department, the department is still 2 positions short.

Councilmember Keller stated he received a complaint about lane closures on PCH because of filming. He read a letter he received from a resident who was having difficulty building a home in the City. He stated he would discuss it with the Planning Director.

Mayor Jennings confirmed there was Council support to (1) place a discussion on the next agenda regarding the Coastal Commission vacancy, (2) present commendations to John Merrick and Fran Pavely and (3) send a letter supporting the goat program.

Old Business

ITEM 8 **Mid-Year Budget Review**

a. Presentation of 1996-97 audit by Vavrinek, Trine, Day & Co. LLP (Reports Received and Filed by the City Council on November 24, 1997

Joe Aguilar, Vavrinek, Trine, Day & Co., presented an overview of the 1996-97 City audit.

Councilmember Harlow questioned why the audit did not discover the City was not being reimbursed for CDBG funds. Mr. Vavrinek stated that depending on how the system is accounted for, it is possible it didn't show in the audit.

Councilmember Keller questioned why the audit did not pick up the money the City owes to FEMA for overpayment. Mr. Vavrinek responded that that amount has shown on the books for over two years and that that amount has decreased over time.

Mayor Jennings confirmed with the auditors that their recommendations were adequately addressed by the City.

b. December Finance Report and Results of operation for first six months and projection for remainder of fiscal year - recommendations or adjustments to budget.

Interim Finance Director Daroca presented a six month budget review. She reviewed the proposed budget amendments set forth on page 14. She reviewed (1) what percentage of property tax is allocated to the City, (2) the difference between the estimated budget revenues and projected revenues, (3) the difference between the estimated budget expenditures and projected expenditures, (4) the monthly balances at LAIF since June 1997. She stated the City needed to plan for the loss of the special 10 year City subventions which will reduce by 50% at the 10 year mark. She urged the Council to maintain excess funds for future infrastructure catch-up needs.

Councilmember Harlow questioned whether the motor vehicle in lieu and alarm permit fees should be reduced. He felt much more comfortable with the disaster recovery refunds. He was concerned about the state & local transportation grant funds. City Manager Peacock stated the money had already been transferred to the County pursuant to the Kanan Dume Road agreement. Councilmember Harlow stated page 13 did not reflect the correct amounts in the adopted budget. City Manager Peacock explained the difference is because the overhead has been removed from the numbers to reflect the actual amounts.

Councilmember Van Horn asked if the revenue for parking citation fines should be increased. City Manager Peacock responded the overage reflects Summer months' revenues. Councilmember Van Horn asked about the alarm permit fee revenue. City Attorney Hogin clarified that she was working on amending the Ordinance. Councilmember Van Horn asked about the municipal facility use fee. City Manager Peacock explained that was rent charged for the use of City facilities.

Councilmember Keller asked if the City was overcharging for building permits. Interim Finance Director Daroca stated the City is providing a lot of services and many of the services would be performed over future fiscal years.

Mayor Pro Tem House questioned whether facility operation needed to be increased. City Manager Peacock stated there were initial up front expenses paid at the beginning of the fiscal year and the account should be on target by the end of the year.

Mayor Jennings confirmed that the City will not lose 50% of the intergovernmental revenue until the year 2001.

MOTION Councilmember Van Horn moved, seconded by Mayor Pro Tem House, to approve Amendment No. 1 on page 14 of the staff report. The motion carried unanimously.

City Manager Peacock clarified that the Council already authorized the investigation of the Dial-a-ride program. He recommended the Council authorize the amendment to carry the program through to the end of the year. Public Works Director Clement stated there was enough money in Prop. A funds to carry the program in the interim. He stated the City needed to approve the amendment before MTA would approve disbursing funds to the City. Mayor Pro Tem House questioned why the recommendation did not include limitations on the program. City Manager Peacock responded that staff had not been able to look into the parameters of the program yet.

MOTION Mayor Pro Tem House moved, seconded by Councilmember Keller, to approve Amendment No. 2 on page 14 of the staff report.

Councilmember Harlow wanted to verify that the meter ran while the passenger shopped and the taxi waited. City Manager Peacock stated the City may need to renegotiate the contract with the service provider.

The question was called and the motion carried unanimously.

MOTION Councilmember Van Horn moved, seconded by Mayor Jennings, to approve Amendment No. 3 on page 14 of the staff report.

Councilmember Harlow stated he read that Caltrans would only agree to recognize a lesser amount of over head. He did not want to see the program disappear. Public Works Director Clement stated he hoped this would get Caltrans off the stick. Councilmember Keller felt this reiterated that the City did not have a good rapport with Caltrans. Public Works Director Clement stated the City has a very good working relationship with the local representatives.

(Councilmember Harlow excused himself from the meeting.)

The question was called and the motion carried as follows:

YES:	Councilmembers:	Van Horn, Keller, House, Jennings
ABSENT:	Councilmember:	Harlow

MOTION Councilmember Van Horn moved, seconded by Mayor Jennings, to approve Amendment No. 4 on page 14 of the staff report.

(Councilmember Harlow returned to the meeting.)

Councilmember Keller asked if the City could challenge the MTA's position since the bus stops on demand. Public Works Director Clement stated the MTA is unwilling to change the restrictions on this program. He stated MTA controls the bus stop signs. Councilmember Keller urged the Public Works Director to pursue negotiations with MTA. City Manager Peacock stated there were other ways to fund this project which the Council could discuss at a later date.

The question was called and the motion carried as follows:

YES:	Councilmembers:	Harlow, Van Horn, House, Jennings
NO:	Councilmember:	Keller

MOTION Councilmember Van Horn moved, seconded by Mayor Jennings, to approve Amendment No. 5 on page 14 of the staff report. The motion carried unanimously.

Mayor Jennings asked if Amendment No. 6 was for anticipated work. City Manager Peacock responded that it was partially for anticipated work.

MOTION Mayor Pro Tem House moved, seconded by Councilmember Van Horn, to approve Amendment No. 6 on page 15 of the staff report.

Councilmember Harlow was concerned that monies were being taken from other programs. He felt monies should be allocated from the general fund reserve (street maintenance/street overlays) not the contingency reserve. Public Works Director Clement stated those funds are set aside for bi-annual programs. Councilmember Harlow did not support spending money set aside for street maintenance because he felt the City would end up short down the road. City Manager Peacock stated that it is the City's money regardless of what account is used.

Councilmember Van Horn asked if the sandbags created any revenue for the City. Public Works Director Clement stated they were free to residents. Councilmember Van Horn supported the City having the ability to respond to street cleanup.

The question was called and the motion carried as follows:

YES:	Councilmembers:	Van Horn, Keller, House, Jennings
NO:	Councilmember:	Harlow

Mayor Jennings confirmed Amendment No. 7 was a result of the *Randall/Teufel* settlement already approved by the Council.

Councilmember Keller confirmed this was in addition to what was originally set aside for the year. City Manager Peacock clarified the amendment would provide a buffer in the account after the payment of the *Randall/Teufel* settlement.

MOTION Mayor Pro Tem House moved, seconded by Councilmember Van Horn, to approve Amendment No. 7 on page 15 of the staff report. The motion carried unanimously.

MOTION Mayor Pro Tem House moved, seconded by Councilmember Keller, to approve Amendment No. 8 on page 15 of the staff report.

Councilmember Harlow asked if this was realistic. Parks & Recreation Director Walter responded it was based upon the window of opportunity available to renovate the park between scheduled uses.

The question was called and the motion carried unanimously.

RECESS Mayor Jennings recessed the meeting at 8:50 p.m. The meeting reconvened at 9:00 p.m. with all Councilmembers present.

ITEM 9 **Quarterly Program Priorities - progress reports on accomplishment of items contained in 1997-98 budget**

a. City Manager

City Manager Peacock highlighted a few of the items contained in the staff report. He asked how serious the Council was about Item B-1 (*Evaluate sheriff's contract services*). Councilmembers Van Horn and Keller supported eliminating the item. Mayor Pro Tem House stated her position in no way reflected disappointment with the services currently provided to the City but she supported sending a letter to other local departments to at least see if there are alternatives available that the City should to look into.

Councilmember Harlow did not support talking with the Santa Monica Police Department. He did support an audit of the services provided to the City presently and to explore the possibility of creating the City's own sheriff's department or police department. City Manager Peacock stated that the sheriff charges what is allowed under the law for the services provided and that the price changes based upon the service provided.

Mayor Jennings agreed that the sheriff was doing a good job in the City. He mentioned that the Council just adopted a policy to review contracts every two years to ensure the contract is competitive. He stated this priority was consistent with the Council's policy. He supported an informal report on the range of possibilities available. Councilmember Keller suggested obtaining advice from a resident police chief. Mayor Jennings felt it was within the City Manager's expertise to make a recommendation to the Council.

Councilmember Van Horn emphasized that there are no complaints regarding the services presently provided to the City and did not support wasting staff time and city resources.

There was no support to send a letter. Council agreed to drop Item B-1.

City Manager Peacock stated he was still looking for direction from the Council on B-2 (*Prepare options on acquisition of County owned property*). Councilmember Keller suggested the City simply identify all property owned by public agencies. Mayor Pro Tem House was interested in determining what properties were easements. City Manager Peacock stated the properties were not easements -- they were properties owned in fee. He stated the City would have to purchase the property.

City Manager Peacock suggested Item C-2 (*Propose options for initiating legislation designating Kanan Dume Road as a toll road*) be dropped. Council supported it being dropped. Councilmember Keller suggested legislation be considered to give the road to the State with conditions. There was no Council support for that recommendation.

Mayor Pro Tem House asked if there was room for additional items. She supported dropping Item C-5 (*Prepare options on process to recount City's population*) and changing Item C-7 (*Prepare cost-benefit analysis of City Hall lease alternatives*) to a level B priority. Mayor Jennings concurred on Item C-5. Mayor Pro Tem House mentioned that the election was not on the list. City Manager Peacock responded that he did not consider the election or budget to be projects -- they must be completed regardless of Council priorities. Mayor Pro Tem House supported educating the community with respect to a future census. She suggested establishing a fixed point tax. City Manager Peacock stated that would benefit the City and could be accomplished simply by educating the public. Mayor Pro Tem House suggested the Parks & Recreation Department spearhead an incorporation anniversary party for March 28.

Councilmember Keller recommended dropping Item B-3 (*Prepare analysis on methods to fund sheriff's beach patrol services with other than general funds*). Council concurred. He supported proceeding with Item C-7.

b. Environmental Building and Safety

Building Official Peterson reviewed several of the items listed in his report.

Councilmember Keller asked about Peter Warshall's work on the wastewater handbooks. He supported his review prior to distribution. Building Official Peterson stated there was nothing that would require Dr. Warshall's review at this time but that he would review the handbook before it was presented to the Wastewater Study Group for final comments and then to Council. He clarified that the initial draft of the handbook came from Peter Warshall. Councilmember Keller confirmed that purging records does not mean discarding necessary information.

Councilmember Van Horn was very encouraged by the report on the weed abatement program. Mayor Jennings questioned the need for the measure because the Fire Department clears properties in non-compliance and adds the cost to the property tax bill. City Manager Peacock clarified there was a difference between weed abatement and brush clearance.

c. Department of Parks and Recreation
Parks & Recreation Director Walter was present to answer questions.

Councilmember Van Horn confirmed the City Manager was working on Item B-14 (*The SMMUSD-Equestrian Trial Agreement*). Parks and Recreation Director Walter stated the Coastal Commission was going to inspect the trail and give a recommendation on what standards to apply. Councilmember Van Horn suggested Building and Safety be involved in Item B-17 (*Charmlee Natrual Area Quitclaim Deed*) with respect to sewage disposal.

Councilmember Keller asked about Item B-16 (*Bluffs Park water bill*). He stated his understanding was that the pipelines had been in place for years. Parks and Recreation Director Walter stated she had an estimate that it would cost $100,000 to install the proper pipes to create the required two systems.

Mayor Jennings did not think that the access trail could meet standards without physically moving the fence. Parks and Recreation Director Walter stated the trail needed to be greatly improved before the City could accept it.

d. Planning Department
Planning Director Ewing was at the Planning Commission but had provided a written staff report to the Council.

Councilmember Harlow asked about Item A-6 (*Zoning Ordinance Update and Local Coastal Plan*). He asked if the drafts could be made available to the Planning Commission and Council. City Attorney Hogin stated that staff had provided the consultant with responses on the drafts and suggested that circulating them could cause delay and confusion. Councilmember Harlow asked what the LCP issue papers are. City Manager Peacock stated they were documents that are being reviewed by the LCP Committee.

Councilmember Keller asked for a schedule of completion date from the consultants. He asked about the status of the fast track items. He wanted to confirm that the new Planning Director was aware of the policy on the sphere of influence.

e. Public Works Department
Public Works Director Clement was available to answer questions.

Councilmember Harlow asked about the July deadline on Item B-7 (*Complete Malibu Lagoon Disinfection Project*). Public Works Director Clement stated this was a new

restriction to require the City to proceed with the project. Councilmember Harlow expressed concern about the right of entry. Public Works Director Clement stated that they were on Monday night's agenda for approval. Councilmember Harlow wanted to insure that design fees were collected up-front from the proponents on Item B-12 (*Propose an alternate access resolution for the Rambla Pacifico area*). Public Works Director Clement stated that was the standard operating procedure for assessment districts.

Mayor Pro Tem House asked if the HOA was involved in the right of entry agreement on Item B-7. Public Works Director Clement responded yes.

Councilmember Keller asked if there were two alignments on Item B-12. Public Works Director Clement clarified that was accurate and he would discuss it further with the Council. Councilmember Keller asked for the status of the Point Dume Transit Study. Public Works Director Clement stated MTA had completed its part and the results would go to the Transportation Study Group and then would be presented to Council.

The Council agreed to hear Item 14 because the City Biologist was present and there were residents who were present to speak to the item.

ITEM 14 **Implementation of General Plan Conservation Element Policy 1.2.5**
POLICY QUESTION: Should the City staff continue its current practice of requiring landscaping plans submitted to the City for approval to preclude plant species which are invasive in the Santa Monica biogeographic area?
Staff recommendation: 1. Affirm the current staff practice of discouraging the planting of invasive exotic plant species by requiring they be deleted from the plans as a condition of approval. 2. Direct the staff to coordinate the development of a list of prohibited species which are consistent with both the requirements of the Fire Code and the General Plan for use by landscape architects, designers and homeowners in Malibu.

City Biologist Witter was present to answer questions.

Judy Decker stated the landscaping ordinance does not cover single family residences. She stated she was informed by City Biologist Witter that the Fire Department has adopted regulations that require single family residences to undergo review by the ERB for properties located within ESHAs. As long as single family homes are exempt, she did not feel the review should continue.

City Biologist Witter explained that single family homes are exempt from the City's Water Conservation Ordinance but that the City has landscaping requirements that do apply to single family homes.

Mayor Jennings asked what prompted review by the City. City Manager Peacock responded that Section 9.3.03.A.17 required review of landscaping plans.

Councilmember Keller felt staff's landscaping requirements were in violation of the General Plan. He stated the General Plan was very clear. The Implementation Measure reads "adopt landscaping requirements and, where feasible and excluding private garden areas, favor use of native plants." He stated this item was raised on behalf of all Malibu residents not just on behalf of Ms. Mondesir. He stated the staff is not properly implementing the policies contained in the General Plan because there are no corresponding City ordinances.

Councilmember Van Horn asked if there are complaints about the landscaping reviews. Building Official Peterson stated there have been no complaints that he is aware of. City Biologist Witter stated Ms. Mondesir initially did not understand the content of the letter and after a telephone conversation she appreciated the information. She stated she provides the residents with the information necessary to understand what reviews lay before them with respect to all regulating agencies. Councilmember Van Horn stated that she had not heard that the reviews were creating problems and felt the reviews were necessary because of the City's location.

Councilmember Harlow felt the Ordinance was all messed up. He asked how many landscaping plans City Biologist Witter reviewed over the past year for new construction and fire rebuilds. City Biologist Witter stated she could check her records. Councilmember Harlow stated there have been 45 new single family home permits issued in 1996 and 33 fire rebuilds. He assumed they were all accompanied by landscaping plans. He was concerned that the City still did not have maps showing the sensitive areas within the City. He reviewed the City's adoption of Ordinance No. 96 whereby the City ignored the State's exemption of single family homes. He referred specifically to page 6, B1. He stated he received information from the Fire Department regarding landscaping requirements. He stated he was told that the City's list preempts the Fire Department's list. He compared the two lists and found that out of the 100 prohibited City plants, only 6 were also prohibited by the Fire Department, 9 were prohibited by the County but okay with the City, 5 that are not okay by the City but okay by the County. He supported exempting single family homes and fire rebuilds from review and encouraging the planting of water saving plants.

Mayor Jennings confirmed that the IZO provides that every project requires a landscape plan but the ordinance only speaks to the issue of view preservation. He stated the Council had previously determined that plants are not structures and are not grandfathered. He confirmed there is a provision that projects be reviewed by the City Biologist for environmental review and then either the City Biologist or the Planning Director may refer a project to the ERB. City Biologist Witter stated she makes recommendations or conditions on the landscaping plans which could exclude invasive species. Mayor Jennings asked if there was a specific ordinance that authorized such mitigation measures. City Biologist Witter responded no. Mayor Jennings asked if this was a routine requirement. City Biologist Witter stated it is not an uncommon condition because there are numerous properties in the City located in sensitive areas. Mayor Jennings confirmed that there are also separate requirements from the Fire Department and the Coastal Commission. He did not feel the current practice conflicted with Policy 1.2.5. He was concerned about the lack of an ordinance setting forth standards to be applied in establishing conditions. He felt that if the City did not support allowing review and mitigation, the General Plan should be amended to remove all such policies.

Mayor Pro Tem House asked how all the requirements of the different agencies overlap. City Biologist Witter reviewed each of the different purposes behind the requirements. Mayor Pro Tem House felt the City Biologist was performing within the guidelines of the City's Mission and Vision statements.

Councilmember Keller felt the intent of the General Plan policies was to educate not prohibit.

Councilmember Van Horn asked about the maps of the sensitive areas. City Biologist Witter stated there are maps and the General Plan is as specific as possible. Councilmember Van Horn confirmed that around a single family residence anything could be planted. She was concerned that there is no ordinance which would allow the City Biologist to continue reviews. She recommended that the requirements be consolidated and combined. She asked Planning Director Ewing to review La Cañada's landscaping requirements. Planning Director Ewing stated landscape plans were an application requirement and the plans were reviewed by the Planning Commission for view affects. He stated they did not address native and non-native planting issues.

Mayor Jennings was concerned that there are no specific standards by which these projects are to be judged by the City Biologist.

MOTION Councilmember Keller moved to not tell residents what they can plant on single family lots with regard to invasive and exotic plants. Councilmember Harlow seconded the motion.

Councilmember Harlow was concerned that there is no consistency between the regulatory agencies' lists. He felt the City Biologist's time would be better served producing maps that would allow property owners to know if their property is located within a sensitive area.

Mayor Jennings clarified that the Coastal Commission will still prohibit invasive plant species to be planted around the home. He asked whether the issue of review was an actual conflict or potential conflict. The Garden Club responded that they did not know that it was an actual problem. Judy Decker stated the Garden Club had requested during the General Plan hearings that single family residences be excluded altogether from landscaping ordinances. She explained that once the LCP is adopted the City will be the only regulatory agency. Mayor Jennings did not support removing all protective measures but was concerned about inconsistencies and wanted to see an ordinance brought back to clarify.

The question was called and the motion failed as follows:

YES:	Councilmembers:	Harlow, Keller
NO:	Councilmember:	Van Horn, House, Jennings

MOTION Mayor House moved, seconded by Councilmember Van Horn, to affirm the current practice of staff and to direct staff to bring back an ordinance to establish standards to add cohesiveness to the issue.

Mayor Jennings did not support the motion because he did not feel there was any legal basis for implementation of the practice. He indicated he would support the motion without affirming staff's current practice.

AMENDED Mayor House amended her motion to only direct staff to bring back an ordinance establishing standards for landscape reviews. Councilmember Van Horn accepted the amended motion. The question was called and the motion carried as follows:

YES:	Councilmembers:	Van Horn, House, Jennings
NO:	Councilmember:	Harlow, Keller

ITEM 10 Substitutions/additions to be considered by the Council submitted by Councilmember Keller.
(Continued at adjournment to January 26, 1998)

ITEM 11 **City Council Policy - Recovery of City Administrative Costs**
Staff recommendation: Approve Recovery of City Administrative Costs or Overhead (Indirect Costs).
(Continued at adjournment to January 26, 1998)

ITEM 12 **Senior Center Facility**
Staff recommendation: Direct staff to explore options for use of CDBG funds for creation of a Senior Center, i.e., lease or development on property to be acquired by City through other means.
(Continued at adjournment to January 26, 1998)

ITEM 13 **Policy on Sheriffs Speed Tolerance on Residential Streets.**
Staff recommendation: Determine whether to request that the Sheriffs Department use a tolerance level of 5 mph for speed law enforcement on residential streets.
(Continued at adjournment to January 26, 1998)

ADJOURN At 11:20 p.m., Mayor Pro Tem House moved, seconded by Mayor Jennings, to adjourn to Friday, January 23, 1998, at 1:00 p.m. at City Hall. The motion carried unanimously.

Approved and adopted by the City Council of the City of Malibu on April 13, 1998.

MAYOR JEFFREY D. JENNINGS

ATTEST:

HARRY PEACOCK, City Clerk
(seal)

PREPARED BY:

JEFFRIE MADLAND, Recording Secretary