

**MINUTES OF A REGULAR MEETING OF THE MALIBU CITY COUNCIL
HELD JUNE 22, 1998 AT 6:30 P.M. AT HUGHES AUDITORIUM**

CLOSED SESSION

At 6:00 p.m. the Regular Meeting of the Malibu City Council convened into Closed Session upon City Attorney Hogin's announcement that the purpose of the Closed Session was to discuss matters listed on the Agenda pursuant to Government Code Sections 54956.9(a) and 54957.6(a).

OPENING MATTERS

Call to Order; Roll Call; Pledge to the Flag; Posting and Approval of Agenda

Mayor House called the meeting to order at 6:33 p.m. The following persons were listed in attendance:

Council: Mayor House, Mayor pro Tem Keller, Councilmember Van Horn, Councilmember Hasse and Councilmember Barovsky

Staff: City Manager Peacock; City Attorney Hogin; Planning Director Ewing; Public Works Director Clement; Finance Officer Thomas; Building and Safety Official Peterson; Public Works Project Manager Collins; Geotechnical Consultant Phipps and Recording Clerk Kelkar

The Pledge to the Flag was led by Efram Fader. Councilmember Barovsky recalled the landslide near Las Flores Canyon which forced the closure of PCH between Las Flores and Big Rock Drive; he noted that the matter had arisen after the posting of the Agenda and stated that immediate action was required by the City to minimize impacts on businesses and residents, requesting that this matter be placed on the Agenda this date as an Urgency Item. **IT WAS MOVED** by Councilmember Barovsky and seconded by Mayor House to add this as an Urgency Item (before Ordinances and Public Hearings) for discussion and action; **SAID MOTION WAS AMENDED BY UNANIMOUS ROLL CALL VOTE** to include the removal of the Civic Center Discussion/Action Item 5B, continuing said matter to a future date for a meeting devoted solely to same. **IT WAS MOVED** by Councilmember Barovsky, seconded by Councilmember Hasse and unanimously agreed to approve the Agenda as amended by motion, which Agenda was duly posted prior to the meeting in accordance with Government Code Section 54954.2 on June 12, 1998.

Closed Session Report

City Attorney Hogin noted that Closed Session had convened at 6:00 p.m. pursuant to Government Code Sections 54956.9 and 54957.6; she reported that the Council had discussed both items listed on the Agenda but had taken no reportable action.

CEREMONIAL PRESENTATIONS

Mayor House presented Malibu Tiles to Councilmembers Barovsky and Hasse, for their work on the Planning Commission. Malibu Tiles were presented to Clarence "Bill" Carson and Peter Thompkins, in honor of their work on the Mobile Home Rent Stabilization Commission. Mayor House presented

retiring Captain Saylor with a Malibu Tile, and delivered one to Betty Glass for her dedication to education, in honor of her retirement. Mayor House thanked all those people who continue to work to make Malibu better for all.

ORAL COMMUNICATIONS

Communications From The Public Concerning Matters Not on the Agenda

Kevin Goff spoke on behalf of his father, who is under full-time medical care and lives at 86 Malibu Colony; Mr. Goff referenced as under construction a three story residence next door at 23500 Malibu Colony Road and stated that at issue is possible misrepresentation by agents of the [owner] client in order to secure Variance/signing off on the project. Mr. Goff said that the process for obtaining a Variance is flawed and does not protect the rights of affected property owners. He referenced the requirement in the City of Los Angeles for physically presenting your application/case to neighbors and obtaining their signatures in person, and that city then notifies signators in writing after decision. He described the instant activity next door originally as a teahouse with a side setback of six inches on the west which was demolished, and the new structure required a Variance to rebuild six inches from the property line; he stated that there was no notification until after the second Variance had been granted, and the problem is that there is no guarantee that [his father] received such a letter and if there are no protests there are no problems. Mr. Goff stated that the original Variance was to replace the teahouse with a size increase of 50% however it is no longer a teahouse as volume has increased indefinably and the structure now has a second story, six inches from his father's house as a result of a flip. He referenced a letter dated 8/18/92 that the process collected letters of concurrence from the neighboring owners, and he doubted that such letters exist in his father's case. He referenced monetary damages and noted that there was no supervising architect overseeing the activity and changes are being made that are not in the approved plans, and requested help from the Council and offered availability for further information.

Paul Pilger noted he has been coming to Malibu since 1962 and referenced making a left hand turn several months ago in the morning from Malibu Canyon onto Civic Center Way and did not notice the signs; he had never known this and stated he understood that the intent of the law was to make it safer for the schools however this occurred on the Friday before Easter when schools were closed. He said that the fine was steep (\$150) and was referred to the City by the Sheriff.

Jeff Peterson, Malibu Chamber of Commerce, Geoffrey's, spoke about the landslide on PCH and thanked Councilmembers Van Horn and Hasse for their availability; Building Official Peterson and Deputy City Clerk Bloom for their information and special thanks for Lt. Bradstock. He said the latest slide has had an extremely negative impact on the business community, and the Malibu businesses need the summer months to survive the winter. He stated that the hotline was a great benefit, and hoped to resolve the issue of PCH's closure as soon as possible.

Pat Greenwood, Chair, Parks & Rec Study Group, introduced Mr. Fred Ex, who had joined the group several months prior. Ms. Greenwood stated that the Group was very lucky to have him and thanked him for the time and energy he spent on the successful Golf tournament.

Mr. Fred Ex, Parks & Rec Study Group, reported that the Celebrity Golf for Kids was very successful, and many people had offered to help in next year's event. He thanked and recognized by name all the members of the Volunteer Committee, and recognized Parks & Recreation staff Catherine Walter

and Paul Adam for their work and help, and also thanked the celebrity hosts of the event; he invited Brian Bosworth forward. Mr. Ex and Mr. Bosworth presented the Council with a ceremonial check for \$11,000.

Judy Decker thanked the Council for allowing her to contribute to the City by being a member of the Local Coastal Plan Committee for four years.

Commission/Study Group Reports — None this date.

Council Comments on Oral Communications and Commission/Study Group Reports

Mayor House invited Lt. Bradstock to speak. Lt. Bradstock addressed a previous public comment and reported that there had been a complaint about a deputy on a traffic stop on PCH several weeks previous, which deputy had pulled over a truck; according to the deputy before he reached the driver of the truck he was approached by a woman demanding that he move his vehicle as he was blocking the driveway. Lt. Bradstock stated that the deputy admitted he was abrupt because he was concerned about his own safety as it is known among police agencies that one of the most dangerous times for a peace officer is the first few minutes of a traffic stop. The deputy's words were "Leave me alone Ma'am." and asked her to move away from him; the deputy proceeded to obtain the documents from the truck's driver and then turned to address the woman and discovered she had already left. Lt. Bradstock spoke with the driver of the truck, who confirmed that the driver's opinion was consistent with the deputy's opinion with the exception that the driver recalled the woman having arrived at his vehicle's door prior to the peace officer's arrival at the same door. There was no traffic citation written, and the deputy had estimated the incident took five minutes; Lt. Bradstock stated that the deputy had said that after the woman left, he moved his vehicle, approximately two minutes into the five; Lt. Bradstock stated his belief to date was that this action was appropriate and that there was one additional witness he intended to contact.

Councilmember Hasse congratulated Mr. Ex, the members of the Study Group and all those who helped with the success of the Golf for Kids Tournament; he reported that he witnessed their enthusiasm and hard work at their recent meeting. He stated his support for a report from Planning staff regarding the previous speaker's comments on the Variance and confirmed that the gentleman who spoke about the left turn restriction at Civic Center Way had not seen the signage. Councilmember Hasse stated that he appreciated people's having kept him updated on the PCH situation; he reported that he had contacted the Director of Intergovernmental Affairs in the Governor's office and made him aware of the situation; such gentleman was willing to help. He reported he had contacted Assemblyperson Kuehl's and State Senator Haydn's office. He suggested holding a type of "town meeting" bringing in said individuals, having a full report and discussion on the status and long-range considerations of the State Highway [PCH].

Councilmember Van Horn stated she would support such a meeting, and expressed appreciation for Mr. Peterson's having come to the City and well as Lt. Bradstock's following through on the issue he discussed; she agreed with Ms. Decker that volunteerism is very important. Councilmember Van Horn congratulated all those who worked on the Golf Tournament, thanking them for the \$11,000. She expressed her support for the Planning Director's addressing Mr. Goff's concerns. Upon her request for clarification Public Works Director Clement reported that there are six signs announcing the a.m. left turn restriction from Malibu Canyon onto Civic Center Way; he noted that the restriction is not only for the schools but also to keep commuters off Civic Center Way.

Councilmember Barovsky referenced Mr. Goff's comments, stating that the Planning Commission had previously passed an Overlay District for Malibu Colony, and suggested that Mr. Goff consult the Planning Director on whether the subject activity was within the Custom Overlay. He stated that everyone gets tickets and the signs are visible, he noted that it was unfortunate that the speaker had not seen the sign. Councilmember Barovsky thanked Fred Ex, Danny Tartabull and Bryan Bosworth and everybody else who did such a great job on the Golf Tournament. He stated that Ms. Decker should be proud of herself, as he is proud of her and her volunteerism; he noted that everyone had started as a volunteer and anticipated that volunteerism will be even more important in the future than in the past. Regarding PCH he said he had moved to amend the Agenda this date to speak to that issue, and had a motion prepared which he hoped the Council would support.

Mayor pro Tem Keller supported a report from staff regarding Mr. Goff's problem, and he stated that the contribution of time and labor from those who organized the Golf Tournament was even greater than the very satisfactory \$11,000 result. He sympathized with the business problems, noting that it is all of Malibu's problem; he stated that he has long been concerned with the City's having more of a voice in the control of PCH. Mayor pro Tem Keller stated he thought the traffic fine was stiff; City Attorney Hogin confirmed that the City sets the fines.

Mayor House indicated that she had heard several Councilmembers support the idea of Planning Director Ewing's investigating the situation next door to Mr. Goff, and noted the address as 23500 Malibu Colony Road. Regarding Mr. Peterson, she stated she received a letter from Assemblyperson Kuehl's and according to such letter had attended a meeting on June 12th which was the first meeting Assemblyperson Kuehl had scheduled in order to form a Task Force on traffic safety issues on PCH, and all agencies from the tunnel all the way through Malibu were present. Mayor House indicated that Assemblyperson Kuehl is dedicated to pursuing some type of resolution to the entire problem, and matters of communication, information and control had been discussed and the Task Force will be ongoing. She thanked Judy Decker for all her volunteer work and looked forward to Ms. Decker's work in the future. Mayor House announced that Golf for Kids was the best tournament ever, and that many people deserved thanks including Mr. Ex, Mr. Tartabull and all those on the Committee. She read the Mission Statement of the Committee which stressed its dedication to providing children and families with the facilities that are needed; she noted that all comments she heard/overheard agreed that it was the best tournament ever. She also thanked the hosts, and reiterated her appreciation for Mr. Ex's effort.

URGENCY ITEM

Note: The following Item was placed on the Agenda this date as an Urgency Item, upon unanimous motion of the Council during the Agenda approval process.

Immediate Matters Concerning PCH Closure/Las Flores Canyon Landslide

Mayor House introduced this item, and invited Mr. Steve Stannis (Design Maintenance support), Mr. Jim Lee (Project Manager/Las Flores) and Maintenance Area Superintendent Jim Hanson, all of CalTrans, to report on the current situation. Mr. Hanson stated that CalTrans interfaces with the City, and partners quite well. He explained that upon learning of a landslide, their engineering geologist is called in to evaluate the situation, and they usually bring the City's geologist in and with input from both a decision is made. Mr. Hanson stated that closing PCH in the morning this date was with the input from both; he indicated that CalTrans has been moving on "fast forward" since noon this date moving people out/storing

goods, and further that they planned to begin grading tomorrow June 23. He stated they did not know when they would demolish the houses and it would take approximately five days to unload 25,000 yards off the top of the slide to make it safe to open one lane in each direction. Mayor House and Mr. Hanson discussed the road's closure/opening/closure, and Mr. Hanson stated he did not have information on that however he came from a pre-Malibu fire meeting and learned that the road was closed; he stated that the CalTrans geologist had gone up and re-evaluated the situation because he had some concerns, and the geologist had a letter he had received from the City regarding possible imminent failure.

Mayor House invited questions from the Councilmembers. Mayor pro Tem Keller was surprised that the City geologist was consulted, and confirmed it was CalTrans' decision to close the road; Superintendent Hanson stated CalTrans quite often brings in the City geologist as they recognize that these matters impacts private property in Malibu, further that the City geologist has much information, property listings etc which CalTrans needs access. Mr. Hanson stated he personally had worked on the slide Saturday and Sunday, and the actual top of the slide sank about 2 ½ feet in six hours, and the concern was the high rate of dropping while showing no distress at the bottom, meaning it was charging and if it let loose at the bottom there would be a catastrophic failure. Mayor pro Tem Keller noted his understanding that on Friday when it was first closed PCH had only small stones on the highway, and Mr. Hanson confirmed that it was the threat of imminent slide that led them to close the road. Mayor pro Tem Keller inquired into some residents complaining that they had been allowed to park their cars and walk through, however were not later allowed to walk back and leave. Mr. Hanson stated that the slide was accelerating, and they would make a determination to allow people to pass when they can, but their engineering geologist's input was the basis for when it was unsafe to allow people to walk or drive through.

Councilmember Barovsky stated he had gone to the site recently, and the City appreciated that the people on the site are doing a great job and working very hard, however the problems go beyond that fact and there were matters to be dealt with later.

Councilmember Hasse confirmed that PCH would be closed through Friday, and after that one lane would be open in each direction; Mr. Hanson stated this configuration would remain for approximately 120 days. He was not aware of any way to expedite this process, and explained that CalTrans' Engineering Geologist was responsible for deciding whether work took place twenty-four hours, seven days a week or during daylight hours only.

Upon inquiry by Councilmember Van Horn, Mr. Hanson stated he was not aware of the criteria for deciding whether or not to work daylight or twenty-four hours, seven days a week. He noted that the Geologist reports to CalTrans' Engineering staff; if the City would wish to pursue expediting the work it would best contact the District Director Tony Harris. Superintendent Hanson noted that there are few disposal sites which are open twenty-four hours per day which are cost effective. He stated that the dirt is being moved to Portero Canyon. Mr. Lee stated that nighttime work is much less safe for CalTrans workers due to visibility. He stated CalTrans would work with the contractor to see if round the clock work was possible; contractors were being used to remove the dirt.

Mayor House expressed concern that the City is not always immediately informed/aware of incidents; upon her inquiry Mr. Hanson noted that CalTrans contacts [Street Maintenance Manager] Richard Calvin and [Emergency Services Coordinator] Hap Holmwood for the City. Mayor House requested that the City Manager be notified as well; she further stated that there is a high need for local businesses to be informed; she suggested that CalTrans also contact the Chamber of Commerce. Mr. Hanson stated his

