

**AVALON CITY COUNCIL MEETING  
TUESDAY, DECEMBER 17, 2013 – 6:00 P.M.  
CITY COUNCIL CHAMBERS  
410 AVALON CANYON ROAD, AVALON  
A G E N D A**

In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact Denise Radde, City Clerk (310) 510-0220. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35. 102-35.104 ADA Title II). All public records relating to an agenda item on this agenda are available for the public inspection at the time the records are distributed to all, or a majority of all, members of the City Council. Such records shall be available at City Hall located at 410 Avalon Canyon Rd.

**CALL TO ORDER / PLEDGE OF ALLEGIANCE / INVOCATION / ROLL CALL**

**ANNOUNCEMENTS / WRITTEN COMMUNICATIONS**

**PRESENTATION - None**

**ORAL COMMUNICATION**

Members of the public may address the City Council at this time. No action will be taken on non-agenda items at this meeting. Speakers should limit comments to three (3) minutes each.

**CONSENT CALENDAR**

All items listed on the Consent Calendar are considered to be routine by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a specific item is removed from the Consent Calendar for further discussion and possible action.

1. Actions

Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.

Recommended Action

Approve actions from the December 3, 2013 City Council meeting.

2. Expenditures Submitted for Approval

- o Warrants in the amount of \$1,173,776.93
- o Payroll in the amount of \$177,042.99

Recommended Action

Approve total expenditure amount of \$1,350,819.92.

3. Adopt Ordinance Amending Chapter 7 of Title 9 of the Avalon Municipal Code to Expand the Definition of Temporary Signs and Establish Guidelines and Find the Adoption of the Ordinance Categorically Exempt from CEQA

The Municipal Code has language governing temporary signs, however, the language does not allow temporary signs announcing new businesses during construction of such businesses or other uses for temporary signs. This ordinance was introduced and all further readings waived at the last City Council meeting on December 3, 2013.

Recommended Action

Adopt ordinance amending Chapter 7 of Title 9 of the Avalon Municipal Code to expand the definition of, and establish guidelines for, temporary signs.

4. Adopt Ordinance Amending the Municipal Code to Revise the Powers and Duties of the City Manager and Fire Chief and Find the Adoption of the Ordinance Categorically Exempt from CEQA

The City of Avalon's Municipal Code currently reflects compatibility between the offices of the City Manager and the Fire Chief, such that both offices report to the City Council and both offices could be held by the same individual without creating a conflict.

The City now desires to reorganize the structure of these offices to have the Fire Chief report to the City Manager rather than the City Council. This ordinance was introduced and all further readings waived at the last City Council meeting on December 3, 2013.

Recommended Action

Adopt ordinance amending the City of Avalon's Municipal Code to revise the powers and duties of the City Manager and the Chief of the Fire Department.

5. Authorization to Retain Consultant, Dr. Stanley Grant, to Assess Compliance with the TMDL Required by the Cease and Desist Order

As part of the Cease and Desist Order (CDO) from the California Regional Quality Control Board and The Clean Water Act, which require the implementation of Total Maximum Daily Loads (TMDLs) to resolve impairments, the City has limits on the maximum amount of a pollutant that the Harbor can receive and still meet quality standards.

Recommended Action

Authorize Staff to retain the consultant services of Dr. Stanley Grant to perform the listed tasks and direct the City Manager to execute a contract.

**GENERAL BUSINESS**

6. Encroachment Permit for Southern California Edison Underground Vaults at Two Locations

Southern California Edison is proposing to remove and replace two existing underground utility vaults in the public right of way in the street. The vaults are located (1) between 123 Metropole and Crescent Avenue and (2) Adjacent to 131 Metropole. The existing vaults have reached the end of their lifespan. The Municipal Code states that an encroachment may be granted if the City Council determines an encroachment is necessary or desirable, that the use of the encroachment does not create a substantial adverse impact on persons or property, and that the encroachment use does not adversely affect the public health, welfare or safety.

Recommended Action

Approve Encroachment Permit with recommended conditions.

7. Presentation on Transportation Opportunities - Jordan Monroe

A discussion evaluating our current transportation design, qualities and limitations while looking for new opportunities available to make improvements and assessing the long term goals of what we would like transportation to look like in Avalon while acting on readily available opportunities.

**CITY COUNCIL AGENDA  
DECEMBER 17, 2013  
PAGE 3**

Recommended Action

Listen to presentation, discuss and provide direction to Staff.

**CLOSED SESSION**

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: Race Course of Catalina Island Grand Prix 2013, including Hour Trail.  
Agency Negotiators: Ben Harvey, City Manager and Scott Campbell, City Attorney  
Negotiating Party: The Santa Catalina Island Company  
Under Negotiation: Price and terms of payment
2. PUBLIC EMPLOYEE EVALUATION  
Title: City Manager

**CITY MANAGER REPORT**

**CITY ATTORNEY REPORT**

**COUNCILMEMBER REPORTS**

**MAYOR REPORT**

**ADJOURN**

**NOTICE OF POSTING**

I, Denise Radde, declare that the City Council Agenda for December 17, 2013 was posted on Friday, December 13, 2013, on the City's website [www.cityofavalon.com](http://www.cityofavalon.com), and at City Hall, 410 Avalon Canyon Road. Copies of agendas and staff reports are available at City Hall.



---

Denise A. Radde, City Clerk / Chief Administrative Officer

**CITY COUNCIL**

**MEETING DATE:** December 17, 2013  
**ORIGINATING DEP:** City Clerk  
**PREPARED BY:** Denise Radde, City Clerk  
**SUBJECT:** City Council Actions

**AGENDA ITEM:** 1

**CITY MANAGER:** 

---

**RECOMMENDED ACTION(S):**

Approve City Council Actions from the regular City Council meeting on December 3, 2013.

**REPORT SUMMARY:**

Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.

**FISCAL IMPACTS:**

N/A

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

N/A

**FOLLOW UP ACTION:**

File actions in the City Clerk's office.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**

This item was properly listed on the posted agenda.

**ATTACHMENTS:**

City Council Actions will be provided under separate cover.

**AVALON CITY COUNCIL**

**MEETING DATE:** December 17, 2013

**AGENDA ITEM:** 2

**ORIGINATING DEPT:** Finance

**CITY MANAGER:** BA

**PREPARED BY:** Betty Jo Garcia - Finance Director

**DEPT. HEAD:** R.G.H.

---

**SUBJECT:** Warrant List

---

**RECOMMENDATION(S):** Approve the warrants in the amount of \$1,173,776.93 and the payroll in amount of \$177,042.99 for a total expenditure amount of \$1,350,819.92.

**REPORT SUMMARY:** Attached you will find the warrant list for all general warrants issued for the the dates as indicated drawn on U.S. Bank. The warrant list represents check numbers #17345 - #17483 in the amount of \$1,173,776.93 for a total expenditure amount of \$1,173,776.93.

Also represented is the payroll dated November 27, 2013 in the amount of \$177,042.99 for a total expenditure amount of \$177,042.99.

**FISCAL IMPACT:** There are sufficient funds available, and the expenditures have been approved in the adopted fiscal year 13/14 budget.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S):** N/A

**FOLLOW UP ACTION(S):** N/A

**ADVERTISING, NOTICE AND PUBLIC CONTACT:** Agenda Posting

**ATTACHMENTS:** Audit Certificate and Warrant List

**CITY COUNCIL**

**MEETING DATE:** December 17, 2013

**AGENDA ITEM:** 3

**ORIGINATING DEPT:** Planning

**CITY MANAGER:** BH

**PREPARED BY:** Amanda Cook, Planning Director

**DEPT. HEAD:** \_\_\_\_\_

**SUBJECT:** Second Reading of an Ordinance Amending Chapter Seven of Title Nine of the Municipal Code to expand the definition of, and establish guidelines, for Temporary Signs and determination that the ordinance is exempt from CEQA review.

**RECOMMENDED ACTION(S):** Adopt ordinance that amends Chapter 7 of Title 9 of the Municipal Code to expand the definition of, and establish guidelines for, temporary signs.

**REPORT SUMMARY:** The City Council introduced and waived all readings of the ordinance at the December 3<sup>rd</sup> meeting. 'This Ordinance establishes guidelines for approval of temporary signs. The proposed ordinance does not constitute a 'project' under CEQA or is exempt pursuant to California Code or Regulations, title 14, section 15061(b)(3), because the minor, limited changes that may result do not have a potential for resulting in either a significant direct physical change in the environment or a reasonably foreseeable significant indirect physical change in the environment. Further, no special circumstances exist that would prevent the application of these exemptions.

The proposed ordinance is attached.

**FISCAL IMPACTS:** None.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S):** The difficulty managing temporary signs would continue with some signs requiring variances.

**ALTERNATIVE ACTION(S):** None

**FOLLOW UP ACTION(S):** None

**ADVERTISING, NOTICING AND PUBLIC CONTACT:**  
This item is included on the posted Agenda.

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVALON AMENDING CHAPTER SEVEN OF TITLE NINE OF THE MUNICIPAL CODE TO EXPAND THE DEFINITION OF AND GUIDE LINES FOR TEMPORARY SIGNS**

**WHEREAS**, the City of Avalon (“City”) does not currently have permitting guidelines for temporary signs to announce new businesses during construction or other possible uses for temporary signs; and

**WHEREAS**, certain construction projects or renovations of existing structures may wish to advise the Public what is being constructed or created at the location; and

**WHEREAS**, certain events may wish to erect signs on a temporary basis to advertise or announce the event; and

**WHEREAS**, the Avalon Municipal Code (“AMC”) imposes specific requirements for temporary signs; and

**WHEREAS**, the City’s wishes to allow project proponents or event organizers to keep the public informed; and

**WHEREAS**, at the October 16th meeting of the Planning Commission (“Commission”), the Commission found it is in the best interest of the public to modify the definition of “Temporary signs;” and

**WHEREAS**, at that same October 16th meeting, the Commission reached a consensual understanding of the appropriate Temporary sign definition, and found it necessary to amend the AMC to incorporate that standard definition; and

**WHEREAS**, the Planning Commission has recommended that the City Council amend the AMC to expand the definition on guidelines for Temporary signs to better keep the public informed; and

**WHEREAS**, on December 3, 2013, a Public Hearing was held before the City Council on proposed changes to the AMC. Based on the public input received at the public hearing and the recommendation of City Staff and the Commission, the City Council finds that amending the AMC to expand the definition and guidelines for temporary signs is consistent with the above recitals and would benefit the community. Based upon the recitals above, the information presented at the City Council meeting and the staff report,

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sec. 9-7.719 of Chapter 7 of Title 9 of the AMC is amended to read:

Except as otherwise provided herein, permits for temporary signs may be issued by the City Manager or Planning Director on conditions deemed appropriate for signs pertaining to civic, patriotic or special events taking place within the City or to announce the future opening of a business at the location, provided that such signs are not detrimental to the public welfare, interest or safety where the temporary sign is located. A special event is one which is not an on-going part of the nature of the business.

The City Manager or Planning Director may determine appropriate size of the temporary signs. Temporary signs shall not be self-illuminated, luminescent, or fluorescent, nor contain any substance which causes them to glow or shine. Temporary signs shall be removed within the time determined by the City Manager or Planning Director, as applicable, but in no event shall temporary signs be displayed for more than thirty (30) days and shall be removed no later than three (3) days following the end of the event except for signs announcing the future opening of a business while under construction, which may be erected once a building permit for the location is issued and which may be allowed to remain in place until construction is complete or building permits expire. Temporary signs may be made of less durable material than permanent signs. The fee for temporary signs shall be as set by resolution of the City Council.

**Section 2. CEQA.** The City Council finds that the adoption of this Ordinance is not a "project" as defined by CEQA, or is exempt pursuant to California Code of Regulations, title 14, section 15061(b)(3), because the minor, limited changes that may result do not have a potential for resulting in either a significant direct physical change in the environment or a reasonably foreseeable significant indirect physical change in the environment. The City Council further finds that no special circumstances exist that would prevent the application of these exemptions.

**Section 3. Severability.** If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decisions shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

**Section 4. Certification.** The City Clerk of the City of Avalon shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

**INTRODUCED** at a regular meeting of the City Council of the City of Avalon on the 3<sup>rd</sup> day of December, by the following vote

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council of the City of Avalon on this 17<sup>th</sup> day of December, by the following vote:

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

---

Bob Kennedy, Mayor

**ATTEST:**

---

Denise Radde, City Clerk

**APPROVED AS TO FORM:**

---

Scott Campbell  
Best Best & Krieger, LLP

CITY OF AVALON CITY COUNCIL

MEETING DATE: December 17, 2013

AGENDA ITEM: 4

ORIGINATING DEP: Administration

CITY MANAGER: BA

PREPARED BY: Ben Harvey, City Manager

SUBJECT: Adopt Ordinance Amending the Municipal Code to Revise the Powers and Duties of the City Manager and Fire Chief and Find the Adoption of the Ordinance Categorically Exempt from CEQA

---

RECOMMENDED ACTION(S): Adopt Ordinance Amending the City of Avalon's Municipal Code to Revise the Powers and Duties of the City Manager and the Chief of the Fire Department.

REPORT SUMMARY:

The City Council introduced and waived all readings of this ordinance at the December 3, 2013 meeting. The City of Avalon's Municipal Code currently reflects a compatibility between the offices of the City Manager and the Fire Chief, such that both offices report to the City Council and both offices could be held by the same individual without creating a conflict.

The City now desires to reorganize the structure of these offices to have the Fire Chief report to the City Manager rather than the City Council. With this proposed change, the City Manager will oversee the Fire Department, with cooperation and recommendations from the Fire Chief.

The proposed amendments to the Municipal Code also specify the grounds for which the Fire Chief may be terminated. This change clarifies that the Fire Chief may only be removed for the specified reasons which include refusal or failure to act in accordance with any lawful direction or order from the City Manager, conviction of a felony or any criminal activity involving fraud or malfeasance or the failure to perform the duties of Fire Chief.

The proposed amendment also makes certain language changes and clarifies that the contract between the City Manager and City can be approved by way of a written agreement.

FISCAL IMPACTS: None.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:** The Fire Department and Fire Chief will remain under the oversight and supervision of the City Council.

**FOLLOW UP ACTION:** Publish ordinance in the paper..

**ADVERTISING, NOTICE AND PUBLIC CONTACT:** Brown Act.

**ATTACHMENTS:** Ordinance of the City of Avalon Amending the City of Avalon Municipal Code to Revise the Powers and Duties of the City Manager and Chief of the Fire Department.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF AVALON AMENDING THE CITY OF AVALON MUNICIPAL CODE TO REVISE THE POWERS AND DUTIES OF THE CITY MANAGER AND CHIEF OF THE FIRE DEPARTMENT**

**WHEREAS**, Article 2 of Chapter 2 of Title 2 of the City of Avalon Municipal Code provides for the appointment and compensation of the Chief of the Fire Department; and

**WHEREAS**, Article 3 of Chapter 2 of Title 2 of the City of Avalon Municipal Code creates the office of the City Manager and also defines the powers and duties of the City Manager; and

**WHEREAS**, a previous amendment to the Municipal Code ensured there was no incompatibility between the offices of the City Manager and the Chief of the Fire Department, such that a single individual could perform both functions; and

**WHEREAS**, with the offices of the City Manager and the Chief of the Fire Department now held by two individuals, the City desires to cause the Chief of the Fire Department to report to the City Manager.

**NOW THEREFORE THE CITY COUNCIL OF THE CITY OF AVALON DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Section 2-2.202 is hereby amended to read as follows:

**“Section 2-2.202 Appointment; Compensation; Removal.**

(a) All appointments to the office of Chief of the Fire Department shall be made by the City Manager. Such appointment shall only be terminated for cause by the City Manager.

(b) The City Manager may remove the Chief of the Fire Department from office by providing the Chief of the Fire Department with written notice of the cause of removal. All compensation and benefits shall immediately terminate upon the effective date of any cause for removal.

(c) Removal “for cause” shall mean if the Chief of the Fire Department:  
(i) refuses or fails to act in accordance with any specific, lawful, significant director or order from the City Manager; (ii) is convicted of a felony; (iii) is convicted of any criminal act involving fraud or malfeasance, or (iv) neglects to perform the duties of the Fire Chief.”

**Section 2.** Sections 2-2.203 (d), (e), (h), (i), (j), (k), (l) and (n) are hereby amended to read as follows:

“(d) To report to the City Manager any conditions existing in the City which may be likely to cause destruction of life or property by fire;

(e) To attend to all fires in the City;

(h) To recommend to the City Manager the appointment, removal, promotion, and demotion of any and all subordinate officers and employees of the Fire Department, subject however, to the rules and regulations of the Firefighter Procedural Bill of Rights;

(i) To recommend to the City Manager such reorganization of offices, positions, departments, or units to the Fire Department as may be indicated in the interest of the efficient, effective, and economical conduct of the City's business;

(j) To prepare and submit the proposed annual budget and the proposed annual salary plan for the Fire Department to the City Manager for his or her approval;

(k) To be responsible for the recommendation of the purchase of all supplies, services, and equipment for the Fire Department as provided in Chapter 4 of Title 3 of this Code;

(l) To make investigations into the affairs of the Fire Department and any Fire Department contract and the proper performance of any obligation of the Fire Department, and to make recommendations to the City Manager with regard to the results of such investigations;

(n) To perform such other duties as the City Manager shall direct."

**Section 3.** Section 2-2.306 is hereby amended to read, in part, as follows:

"The City Manger shall receive such compensation and expense allowances as the Council shall from time to determine and fix by contract . . ."

**Section 4.** The introductory paragraph of Section 2-2.307 and paragraphs (b), (c), (d), (h), (i), (j), and (l) of Section 2-2.307 are hereby amended to read as follows:

"The City Manager shall be the administrative head of the government of the City under the direction and control of the Council. He shall also be responsible for the efficient administration of all the affairs of the City which are under his control. In addition to his general powers as administrative head of all City departments, and not as a limitation thereon, he shall also have the following powers and duties:

...

(b) Authority over Employees. To control, order, and give directors to all heads of departments and subordinate officers and employees of the City under his jurisdiction through their department heads;

(c) Power of Appointment and Removal. To appoint, remove, promote, and demote any and all officers and employees of the City except the City Clerk, City Attorney, City Treasurer, and any other position subject to appointment and removal by the Council as set forth in any resolution of the Council, subject, however, to the rules and regulations of the Civil Service Commission, if such Commission exists;

(d) Reorganization of Officers. To recommend to the Council such reorganization of offices, positions, departments, or units under his direction, as may be indicated in the interests of the efficient, effective, and economical conduct of the City's business;

...

(h) Budget. To prepare and submit the proposed annual budget and the proposed annual salary plan, to the Council for its approval;

(i) Purchasing Agent. To be responsible for the purchases of all supplies for all the departments or divisions of the City, as provided in Chapter 4 of Title 3 of this Code. No expenditure shall be submitted or recommended to the Council except upon a report and approval by the City Manager;

(j) Investigations. To make investigations into the affairs of the City, and any department or division thereof, and any contract or the proper performance of any obligation of the City.

...

(l) Public Properties. To exercise general supervision over all public buildings, public parks, and other public properties, which are under the control and jurisdiction of the Council;

**Section 5.** Section 2.2-309 is hereby amended to read as follows:

**"Section 2-2.309 Departmental Cooperation.**

It shall be the duty of all subordinate officers and the City Clerk, Treasurer, and City Attorney to assist the City Manager in administering the affairs of the City efficiently, economically, and harmoniously so far as may be consistent with their duties as prescribed by laws and ordinances of the City."

**Section 6.** Section 3-4.103 is hereby amended to read as follows:

**"Section 3-4.103 Purchase Orders.**

Purchases of supplies and equipment shall be made only by purchase order issued by the City Manager or his designee."

**Section 7.** Section 3-4.104 is hereby amended to read as follows:

**"Section 3-4.104 Encumbrance of Funds.**

Except in the case of emergency, neither the City Manager or his designee shall issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged."

**Section 8.** The first sentences of each of paragraphs (b) and (c) of Section 3-4.105 are hereby amended to read as follows:

“ . . .

(b) Bidder's Security. When deemed necessary by the City Manager, bidder's security may be prescribed in the public notices inviting bids . . .

(c) Bid Opening Procedure. Sealed bids shall be submitted to the City Manager or his designee, and shall be identified as bids on the envelope . . . ”

**Section 9.** The introductory paragraph of Section 3-4.106 and paragraphs (b), (c), and (d) of Section 3-4.106 are hereby amended to read as follows:

“Purchases of supplies and equipment of an estimated value in the amount of less than Five Thousand dollars (\$5,000) may be made by the City Manager or his designee, in the open market without observing the procedure prescribed by Section 3-4.105 of this article.

. . .

(b) Notice Inviting Quotes. The City Manager or his designee, shall solicit quotes by written requests to prospective vendors, by telephone, and/or by written notice which has been mailed to prospective vendors or posted on a public bulletin board in a City facility.

(c) Record of Quote. Quotes shall be submitted to the City Manager or his designee. The City Manager or his designee, shall keep a record of all open market orders and bids for a period of two (2) years after the submission of quotes or the placing of orders. Such records shall be maintained by the Director of Finance and while so kept, shall be open to public inspection.”

**Section 10.** Section 3-4.107 is hereby amended to read as follows:

**“Section 3-4.107 Inspection and Testing.**

The City Manager or his designee shall inspect the supplies and equipment delivered to determine their conformance with the specifications set forth in the order or contract. The City Manager or his designee shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.”

**Section 11. Effective Date.** This Ordinance shall become effective thirty (30) days after its adoption.

**Section 12. Exemption from California Environmental Quality Act.** The City finds that the amendment to the Municipal Code, made pursuant to this Ordinance, is exempt from the California Environmental Quality Act (“CEQA”) because it does not constitute a project within the meaning of CEQA Section 15378. The amendment herein has no potential for resulting in physical change to the environment, directly or indirectly. The City further finds, under

Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This amendment does not allow any new activities, but rather modifies the duties of the City Manager and the Chief of the Fire Department. The City Clerk shall be the custodian of record for the documentation supporting this action. Staff is hereby directed to file a Notice of Exemption with the Los Angeles County Clerk's Office within five (5) working days.

**Section 13.** The City Clerk is directed to certify the adoption of this Ordinance and cause the same to be published as required by law.

**INTRODUCED** at a Regular Meeting of the City Council of the City of Avalon, California, on the \_\_\_\_th day of \_\_\_\_\_, 2013, and thereafter **ADOPTED** at a Regular Meeting of said City Council held on the \_\_\_\_th day of \_\_\_\_\_, 2013, by the following vote to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY COUNCIL

MEETING DATE: December 17, 2013

ADENDA ITEM: 5

ORIGINATING DEP: Administration

CITY MANAGER: BA

PREPARED BY: Jordan Monroe, Management Aide

SUBJECT: Authorization to Retain Consultant, Dr. Stanley Grant, to Assess Compliance with the Total Maximum Daily Loads (TMDL) Required by the Cease and Desist Order

---

**RECOMMENDED ACTION(S):** Authorize Staff to retain the consultant services of Stanley Grant, PhD to perform the listed tasks and direct the City Manager to execute a contract.

**REPORT SUMMARY:**

The Avalon Harbor (Avalon Beach) is currently listed on the 2008/2010 Clean Water Act section 303(d) impaired waters list as an entity whose waters are impaired due to indicator bacteria. As part of the Cease and Desist Order (CDO) from the California Regional Quality Control Board and The Clean Water Act, which require the implementation of Total Maximum Daily Loads (TMDLs) to resolve impairments, the City has limits on the maximum amount of a pollutant that the Harbor can receive and still meet quality standards. These limits are dependent upon defined variables and require a set of best management practices (BMP) for monitoring the water in the Harbor.

Dr. Stanley Grant, who has assisted the City on numerous occasions for other Bay Water Quality Studies, was asked to submit a proposal to assess the City's compliance with the Fecal Bacterial TMDL ordered by the CDO. His proposal will consist of the following:

1. Evaluating the City's progress towards meeting the established TMDL limits,
2. Evaluating the City's Best Management Practices to reduce impairments,
3. Review Standard Operating Procedures (SOPs) in Avalon's Water Quality Testing Lab,
4. Assess Water Quality Testing Lab's measurements with LA Department of health Services,
5. Analyze Water Quality Testing Lab data for trends and patterns, and
6. Make recommendations for improvements to the City's efforts as needed.

**FISCAL IMPACTS:**

Budgeted item FY 2013-2014 Professional Services towards CDO – 107 Sewer Fund.  
Not to exceed \$14,400.00.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

The City's budgeted Professional Services monies will remain unspent. The City's TMDL compliance efforts will not be assessed, reviewed or followed up on at this time and the City could be found not in compliance with the CDO.

**FOLLOW UP ACTION:** Implement City Council direction and if approved enter into a contract with Dr. Stanley Grant.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:** This item was properly listed on the posted agenda.

**ATTACHMENTS:** Proposed Work Plan prepared by Stanley Grant.

CITY COUNCIL

MEETING DATE: December 17, 2013

AGENDA ITEM: 6

ORIGINATING DEPT: Planning

CITY MANAGER: BA

PREPARED BY: Amanda Cook

DEPT. HEAD: \_\_\_\_\_

SUBJECT: Encroachment Permit for Southern California Edison Underground Vaults at Two Locations

---

**RECOMMENDED ACTION(S):** Approve Encroachment Permits with recommended conditions.

**REPORT SUMMARY:**

The applicant is proposing to remove and replace two existing underground utility vaults in the public right of way in the street. The vaults are located (1) between 123 Metropole and Crescent Avenue and (2) Adjacent to 131 Metropole. The existing vaults have reached the end of their lifespan. The new vaults will be more structurally and mechanically sound, thereby ensuring the continued reliable provision of utility services to the City and ensuring a safe work environment for SCE employees performing work in the vaults.

The Municipal Code states that an encroachment may be granted if the City Council determines an encroachment is necessary or desirable, that the use of the encroachment does not create a substantial adverse impact on persons or property, and that the encroachment use does not adversely affect the public health, welfare or safety.

Staff is recommending approval of the encroachment permits with the following conditions:

1. Prior to the issuance of the Encroachment Permits, the City must receive, review, and approve, the following documents:
  - a. Traffic control plans for the affected streets;
  - b. Dewatering plan in which all water is filtered before entering the sewage system;
  - c. Excavation/Shoring Plan;
  - d. Storm water runoff devices to be used;
  - e. Backfill materials to be used;
  - f. Grading plans, if applicable;
  - g. Support of relocations for existing utilities;
  - h. Which trees, if any, will be removed and the tree replacement plan.

2. Any portion of public property disturbed by the installation of the underground vaults will be restored to the same or better condition as existed prior to the installation of the replacement vaults. Specifically,
  - a. Asphalt areas must be repaved completely across the street, not limited to only the areas disturbed;
  - b. Replacement trees must be approved by the City, which will verify replacement trees have been properly planted, are in good condition, and are likely to grow;
  - c. All traffic markings will be repainted;
  - d. Sidewalks, planters, and all other improvements must be replaced to the nearest construction joint;
  - e. All debris must be hauled away; excavation and installation site must be completely clean.
3. The applicant shall execute a recordable covenant, running with the land, releasing the City from all claims in the event the City determines to widen or improve the public place where the encroachments are situated and agreeing to defend, indemnify, and hold the City harmless from all liability and damages and from all costs of suit, including attorneys fees, arising from the encroachments.
4. The applicant shall furnish a bond or deposit in an amount sufficient for the removal and replacement of the encroachment in the event the Applicant fails to comply with the conditions of the encroachment permit

**FISCAL IMPACTS:** None

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S):** Applicant would not be able to update electrical vaults.

**ALTERNATIVE ACTION(S):** None

**FOLLOW UP ACTION(S):** None

**ADVERTISING, NOTICING AND PUBLIC CONTACT:** Pursuant to the Brown Act.

**ATTACHMENTS:**

- City of Avalon Resolution
- Performance Bond
- Declaration of Covenants regarding conditions, restrictions and liability
- Plans for 24 hour lane closure
- Planning Commission Resolution

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY OF AVALON GRANTING ENCROACHMENT PERMITS  
FOR THE EXCAVATION AND INSTALLATION OF TWO UNDERGROUND UTILITY  
VAULTS BY SOUTHERN CALIFORNIA EDISON**

**WHEREAS**, Section 4-9.105 of the City of Avalon Municipal Code requires the City Council to approve all encroachment permit applications in which the proposed encroachment would substantially interfere with the public use of the streets or which are not minor encroachments; and

**WHEREAS**, Southern California Edison currently has two underground utility vaults located between 123 Metropole and Crescent Avenue and adjacent to 131 Metropole; and

**WHEREAS**, such vaults have reached the end of their lifespan and must be excavated and replaced with new vaults; and

**WHEREAS**, the replacement is necessary to ensure the continued safe and reliable provision of utilities to the City and to maintain a safe environment for utility workers performing work in the vaults; and

**WHEREAS**, such excavation will require substantial encroachments into the public right of way in the public street; and

**WHEREAS**, the City Council may approve the encroachment permits for the two locations if it finds that the encroachments are necessary or desirable, that the encroachments do not create a substantially adverse impact on persons or property; and that the encroachments do not adversely affect the public health, welfare, and/or safety; and

**WHEREAS**, any encroachment permits issued are subject to certain conditions contained within a recordable covenant running with the land and any conditions imposed by the City Council; and

**WHEREAS**, such conditions include obtaining approvals of all construction plans and completely restoring City property; and

**WHEREAS**, Southern California Edison must obtain a bond or provide a deposit to cover the cost of repairs that may be necessary as a result of the excavation or eventual removal of the faults.

**NOW THEREFORE THE CITY COUNCIL OF THE CITY OF AVALON DOES HEREBY  
FIND AS FOLLOWS:**

**Section 1. The City Council makes the following findings:**

- a. The encroachments are both necessary and desirable as the old utility vaults must be removed and replaced to ensure the vaults are safe, structurally sound, and contain updated electrical and mechanical components.

- b. No adverse effects will result to persons or property as a result of the encroachments being granted.
- c. The encroachments do not adversely affect the public health, welfare, and/or safety in any way.
- d. The conditions established by the City are reasonably related to the impacts created by the encroachments and are necessary to protect the public's health, safety and welfare.

**Section 2. Granting of Encroachment Permits:**

As a result of the above findings, the City Council hereby granted the applied-for encroachment permits to Southern California Edison, pursuant to all conditions specified orally or in writing in this Resolution or the Recordable Covenant.

**Section 3. Conditions Precedent to Issuance of Encroachment Permit.**

The following items must be submitted and approved by the City's Capital Improvements Project Manager prior to the issuance of the Encroachment Permits:

- a. Traffic control plans for the affected streets;
- b. Dewatering plan in which all water is filtered before entering the sewage system;
- c. Excavation/Shoring Plan;
- d. Storm water runoff devices to be used;
- e. Backfill materials to be used;
- f. Grading plans, if applicable;
- g. Support of relocations for existing utilities;
- h. Which trees, if any, will be removed and the tree replacement plan.

**Section 4. Restoration of Public Property.**

Any portion of public property disturbed by the installation or excavation of the utility vaults will be promptly restored to as good a condition or better as existed prior to the installation or excavation, respectively, of the utility vaults. Specifically;

- a. Asphalt areas must be repaved completely across the street, not limited to only the areas disturbed;
- b. Replacement trees must be approved by the City, which will verify replacement trees have been properly planted, are in good condition, and are likely to grow;

- c. All traffic markings will be repainted;
- d. Sidewalks, planters, and all other improvements must be replaced to the nearest construction joint;
- e. All debris must be hauled away; excavation and installation site must be completely clean.

Approved at a Regular Meeting of the City Council of the City of Avalon, California, on the 17th day of December, 2013 by the following vote to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Robert Kennedy, Mayor

ATTEST:

\_\_\_\_\_  
Denise Radde, City Clerk