

**AVALON CITY COUNCIL MEETING  
TUESDAY, FEBRUARY 4, 2014 – 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**

Avalon Bay Water Quality Status Report

A detailed update on the City of Avalon's Cease and Desist Order will be provided by Shawn Hagerty, Best Best & Krieger, and Daniel Apt, RBF consultant. It will highlight where we were, where we are now, and where we need to be.

**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 January 21, 2014 City Council meeting.

2. Expenditures Submitted for Approval

- o Warrants in the amount of \$661,550.19
- o Payroll in the amount of \$199,946.97

Recommended Action

Approve total expenditure amount of \$861,497.16.

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3. Renewal of Hamilton Cove tideland Lease  
The City leases a portion of the tidelands in Hamilton Cove where ten of the thirty-six moorings are installed. City Staff is in the process of applying for a fifteen year extension from the State Lands Commission.  
Recommended Action  
Adopt resolution authorizing execution of a lease agreement with the State Lands Commission for a portion of the Hamilton Cove Tidelands and authorize the City Manager to file the required application with the State Lands Commission.
  
4. Resolution Delegating Authority to the City Manager to Take Emergency Action up to \$50,000 Without Engaging in Public Bidding  
Pursuant to the Public Contract Code, work done on public works contracts must be subject to a formal bid. This resolution will allow the City Manager limited authority to take emergency action, in emergency situations, with reporting requirements to the City Council rather than ratifying such actions after they occur.  
Recommended Action  
Adopt resolution delegating authority to the City Manager to take emergency action up to \$50,000 without engaging in public bidding.

**GENERAL BUSINESS**

5. Ordinance Amending Sections of the Municipal Code to Include a Definition of "Gross Receipts"  
The City requires businesses operating within the City to calculate various taxes and fees based on the businesses' "gross receipts". Currently there is no definition of "gross receipts" within the Avalon Municipal Code.  
Recommended Action  
Introduce and waive all further readings of an ordinance amending sections of the Municipal Code to include a definition of "Gross Receipts".
  
6. Revision to Solid Waste Ordinance  
This ordinance revision updates the City's solid waste regulations and ensures that they are consistent with the recently executed Franchise and Lease Agreement with CR&R, Incorporated.  
Recommended Action  
Introduce and waive all readings of an ordinance amending Articles 1 and 2 of Chapter 2 of Title 6 of the Avalon Municipal Code regarding solid waste collection.

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**7. Cost Savings, Revenue Enhancements and Expense Offset Measures for Fiscal Year 2013-2014 and 2014-2015**

In November the Fiscal Year 2013-2014 budget was adopted with an approximate deficit of \$1.6 M. City Staff has been working to identify cost saving measures, revenue enhancements and expense offsets to eliminate the budget deficit.

**Recommended Action**

Review and discuss list of cost savings, revenue enhancements and expense offset measures for Fiscal Year 2013-2014 and 2014-2015.

**CITY MANAGER REPORT**

**CITY ATTORNEY REPORT**

**COUNCILMEMBER REPORTS**

**MAYOR REPORT**

**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. **Conference with Legal Counsel--Existing Litigation**  
(Paragraph (1) of subdivision (d) of Section 54956.9)  
Name of Case: Hermosa Hotel v. City of Avalon: CV 13-02439 ABC

**ADJOURN**

**NOTICE OF POSTING**

I, Denise Radde, declare that the City Council Agenda for February 4, 2014 was posted on Friday, January 31, 2014, 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:** February 4, 2014  
**ORIGINATING DEP:** City Clerk  
**PREPARED BY:** Denise Radde, City Clerk  
**SUBJECT:** City Council Actions

**AGENDA ITEM:** 1  
**CITY MANAGER:** BA

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**RECOMMENDED ACTION(S):**

Approve City Council Actions from the regular City Council meeting on January 21, 2014..

**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:** February 04, 2014

**AGENDA ITEM:** 2

**ORIGINATING DEPT:** Finance

**CITY MANAGER:** TJA

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

**DEPT. HEAD:** BGA

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**SUBJECT:** Warrant List

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**RECOMMENDATION(S):** Approve the warrants in the amount of \$661,550.19 and the payroll in amount of \$199,946.97 for a total expenditure amount of \$861,497.16.

**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 #17630 - #17699 in the amount of \$661,550.19 for a total expenditure amount of \$661,550.19.

Also represented is the payroll dated January 24, 2014 in the amount of \$199,946.97 for a total expenditure amount of \$199,946.97.

**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

WARRANT LIST

AVALON CITY COUNCIL  
MEETING OF FEBRUARY 4, 2014

CHECK NUMBER	AMOUNT	PAYEE	DESCRIPTION	
17630	01/17/14	60.20	AIR SOURCE INDUSTRIES	SUPPLIES - FIRE
17631	01/17/14	767.26	ALL THE KINGS FLAGS	SUPPLIES - HARBOR
17632	01/17/14	4,290.02	AMERICAN EXPRESS	CREDIT CARD CHGS - ALL DEPTS
17633	01/17/14	114,686.58	AVALON ENVIRONMENTAL SVCS	CONTRACT SVCS - DEC 2013
17634	01/17/14	46,404.44	BEST, BEST & KRIEGER, LLP	CONTRACT SVCS - DEC 2013
17635	01/17/14	3,222.50	BEYOND SOFTWARE SOLUTIONS	IT SERVICES - ADMIN
17636	01/17/14	1,930.00	BILL JONES PLUMBING	SERVICE - PUBLIC WORKS
17637	01/17/14	69.73	BLUE TARP FINANCIAL	SUPPLIES - PUBLIC WKS
17638	01/17/14	3,396.14	BOARD OF EQUALIZATION	STOR. TANK FEES - FUEL DOCK
17639	01/17/14	1,802.57	BUYSOCCERUNIFORMS.COM	SUPPLIES - RECREATION
17640	01/17/14	47,035.00	CALPERS	12/11-12/24/2013 RETIREMENT
17641	01/17/14	625.64	CALPERS	12/11-12/24/2013 RETIREMENT PEPRA
17642	01/17/14	395.00	CAL ACT	YRLY DUES - PLANNING
17643	01/17/14	110.00	CSMFO	YRLY DUES - FINANCE
17644	01/17/14	267.23	DEPT. OF CONSERVATION	QTRLY SMIP FEES - PLANNING
17645	01/17/14	74.70	CALIF. BUILDING STANDARDS COMM	QTRLY FEES - PLANNING
17646	01/17/14	475.66	CATALINA BEVERAGE CO.	SUPPLIES - ALL DEPTS
17647	01/17/14	3,550.00	CATALINA BOAT YARD, INC	STORAGE FEES - FUEL DK/HBR
17648	01/17/14	30.00	CATALINA CHAMBER OF COMMERCE	CHAMBER MIXER FEES - ADMIN
17649	01/17/14	37,342.20	CATALINA EXPRESS	SUBSIDY - 2ND HLF DEC 2013
17650	01/17/14	437.43	CATALINA FREIGHT LINE	FREIGHT - ALL DEPTS
17651	01/17/14	1,743.89	CATALINA ISLAND PLUMBING	SERVICE - MOLE/PEOPLE PK
17652	01/17/14	500.00	CATALINA ISLANDER	ADVERTISING - ADMIN
17653	01/17/14	208.00	CATALINA PEST CONTROL	SERVICE - HARBOR
17654	01/17/14	2,598.18	CITY OF SIGNAL HILL	AREA F GRANT REIMBURSEMENT
17655	01/17/14	1,997.20	CLINE, HAROLD	REIMB MEDICAL JULY-DEC 2013
17656	01/17/14	1,203.38	CDW GOVERNMENT	IT SUPPLIES - ADMIN
17657	01/17/14	4,340.56	CHET'S HARDWARE	SUPPLIES - ALL DEPTS
17658	01/17/14	5,360.00	CONSTRUCTORS PLUS	CONTRACT SVCS - ADMIN
17659	01/17/14	98,711.50	CO. OF LA SHERIFF'S DEPTS	RESIDENT DEPUTY - DEC 2013
17660	01/17/14	575.00	DEVICES FOR LIFE, LLC	SUPPLIES - HBR/FIRE
17661	01/17/14	256.00	DEWEY PEST CONTROL	SERVICE - HBR/ADMIN
17662	01/17/14	7,649.17	EDISON	UTILITIES - ALL DEPTS
17663	01/17/14	3,470.84	ENVIRONMENTAL ENGINEERING	SERVICE - BB & K
17664	01/17/14	23,000.00	ENVIRON STRATEGY CONSULTANTS	LIABILITY INSURANCE
17664	01/17/14	9,775.00	ENVIRON STRATEGY CONSULTANTS	WWTP OVERTIME
17665	01/17/14	1,686.80	ESGIL CORPORATION	PLAN CK FEES - PLANNING
17666	01/17/14	241.42	GRAINGER	SUPPLIES - GARAGE
17667	01/17/14	1,208.56	HAAKER	SUPPLIES - GARAGE
17668	01/17/14	625.00	HAMILTON, KATHERINE	CONTRACT SVCS - DEC 2013
17669	01/17/14	1,000.00	HARVEY, BEN	REIMB O/P COSTS RELOCATION FEES
17670	01/17/14	1,200.00	HELVETIC CONSULTING	CONTRACT SVCS - PLANNING
17671	01/17/14	3,297.50	IAG, LTD	SERVICE - BB & K
17672	01/17/14	110,902.50	JORDAHL CONSTRUCTION, INC.	PROGRESS PYMT - PB GRAVITY MAIN
17673	01/17/14	9,464.00	LOCAL GOVERNMENT SERVICES	CONTRACT SVCS - ADMIN
17674	01/17/14	781.61	MATTHEWS	SUPPLIES - CEMETERY
17675	01/17/14	1,022.96	MED-TECH RESOURCE, INC	SUPPLIES - FIRE
17676	01/17/14	2,592.92	MEYERS FOZI, LLP	SERVICE - BB & K
17677	01/17/14	1,116.25	PACIFIC ALLIANCE	SERVICE - ADMIN
17678	01/17/14	2,295.91	PEBBLY BEACH BUILDING SUPPLY	SUPPLIES - ALL DEPTS
17679	01/17/14	116.48	PONCE, MICHAEL	REIMB O/P COSTS - TRAVEL
17680	01/17/14	584.90	PORT SUPPLY	SUPPLIES - HARBOR

17681	01/17/14	657.00	PITNEY BOWES	POSTAGE MACHINE LEASE - ADMIN
17682	01/17/14	245.44	QUILL CORP.	SUPPLIES - ADMIN
17683	01/17/14	56.77	RADDE, DENISE	REIMB O/P COSTS - TRAVEL
17684	01/17/14	34,509.00	RBF CONSULTING	CONTRACT SVCS - CDO
17685	01/17/14	321.44	REGIONAL GOVERNMENT SERVICES	CONTRACT SVCS - PLANNING
17686	01/17/14	897.37	RICOH AMERICAS CORP.	COPIER LEASE - PLANNING/REC
17687	01/17/14	790.00	ROEDER, ERIC	DAMAGED VESSEL - SEAQUEL
17688	01/17/14	5,105.85	SANTA CAT. ISLAND RESORT SVCS	PROP TAX/FUEL DK/UTILITIES/PARKING
17689	01/17/14	28.16	TASK FORCE TIPS	SUPPLIES - HARBOR
17690	01/17/14	180.78	TIGER DIRECT	IT SUPPLIES - ADMIN
17691	01/17/14	12.00	UNDERGROUND SVC ALERT	SERVICE - PLANNING
17692	01/17/14	191.76	VWR	SUPPLIES - CDO
17693	01/17/14	725.00	WITTMAN ENTERPRISES, LLC	SERVICE - DEC 2013
17694	01/17/14	36.60	ZELLER CONSTRUCTION	REFUND - OVERPAYMENT
17695	01/17/14	419.39	CALPERS	BAL DUE - MISC/FIRE
17696	01/17/14	19.64	CALPERS	BAL DUE - MISC/FIRE PEPR
17697	01/21/14	47,110.31	CALPERS	12/25-1/7/2014 RETIREMENT
17698	01/21/14	1,992.23	CALPERS	12/25-1/7/2014 RETIREMENT PEPR
17699	01/21/14	1,753.62	LEISUREMORE CORPORATION	SUPPLIES - ANIMAL CONTROL

\$ 661,550.19

RECORD OF CHECKS DRAWN ON JANUARY 17 & 21, 2014 FOR CM OF 02/04/14

MONTH OF FEBRUARY

US BANK WARRANT #17630 - #17696	\$610,694.03	01/17/2014
US BANK WARRANT #17697 - #17699	\$50,856.16	01/21/2014
US BANK WARRANT	\$0.00	
US BANK WARRANT	\$0.00	
EFT TO BOE - FUEL DOCK SALES TAX	\$0.00	
		\$661,550.19
PAYROLL DATED January 24, 2014	\$199,946.97	
PAYROLL DATED	\$0.00	
		\$199,946.97
TOTAL DISBURSEMENTS	\$861,497.16	\$861,497.16

CERTIFICATE

IN ACCORDANCE WITH SECTION 32702 OF THE GOVERNMENT CODE, I CERTIFY THAT THE ABOVE DEMANDS ARE ACCURATE AND THAT FUNDS ARE AVAILABLE FOR PAYMENT.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED THIS 4TH DAY OF FEBRUARY 2014

APPROVED AND AUDITED  
THIS 4TH DAY OF FEBRUARY 2014

\_\_\_\_\_  
AUDIT COMMITTEE - W.F. OLSEN

\_\_\_\_\_  
CITY MANAGER - BEN HARVEY

\_\_\_\_\_  
AUDIT COMMITTEE - RALPH MORROW

*Betty Jo Garcia*  
\_\_\_\_\_  
FINANCE DIRECTOR - BETTY JO GARCIA

**CITY COUNCIL**

**MEETING DATE:** February 4, 2014

**AGENDA ITEM:** 3

**ORIGINATING DEPT:** Harbor

**CITY MANAGER:** [Signature]

**PREPARED BY:** Harbor Master

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

**SUBJECT:** Renewal of Hamilton Cove Tidelands Lease

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**RECOMMENDED ACTION(S):** Adopt the Resolution to extend the Hamilton Cove Tideland Lease an additional fifteen years to June 30, 2029 and authorize the City Manager to file the required application with the State Lands Commission.

**REPORT SUMMARY:** The City leases a portion of the tidelands in Hamilton Cove where ten of the thirty six moorings are installed. The Harbor Master is in the process of applying for a fifteen year extension to the Hamilton Cove Tideland Lease from the State Lands Commission.

The State Lands Commission requires a Resolution from the City of Avalon authorizing the City Manager to execute the lease for the Hamilton Cove area and an application fee of \$1500 for processing.

**FISCAL IMPACTS:** The Application for Lease of State Lands requires a \$1500 deposit for processing. After paying the State 25% of the nightly and lease revenue derived from the ten moorings in the State Tidelands Lease Area, the City nets approximately \$23,000 each year.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S):** The current lease will expire on June 30, 2014.

**ALTERNATIVE ACTION(S):** NONE

**ATTACHMENTS:**

1. Resolution
2. Application for Lease of State Lands

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF AVALON AUTHORIZING EXECUTION OF A LEASE  
AGREEMENT WITH THE STATE LANDS COMMISSION  
FOR A PORTION OF THE HAMILTON COVE TIDELANDS**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AVALON that the City Manager is hereby authorized to execute a lease with the State Lands Commission for certain tidelands located in the vicinity of Hamilton Cove, said lease being in the form of the document attached hereto, and incorporated in full as Exhibit A.

PASSED, APPROVED AND ADOPTED THIS 4<sup>TH</sup> DAY OF FEBRUARY 2014.

Ayes:  
Noes:  
Absent:  
Abstain:

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

ATTEST:

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

CITY COUNCIL

MEETING DATE: February 4, 2014

AGENDA ITEM: 4

ORIGINATING DEP: City Attorney

CITY MANAGER: RF

PREPARED BY: Scott Campbell, City Attorney

SUBJECT: Resolution Delegating Authority to the City Manager to Take Emergency Action up to \$50,000 Without Engaging in Public Bidding (FOUR-FIFTHS VOTE REQUIRED)

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**RECOMMENDED ACTION(S):**

Adopt a Resolution Delegating Authority to the City Manager to Take Emergency Action up to \$50,000 Without Engaging in Public Bidding.

**REPORT SUMMARY:**

Normally, work done on public works contracts must be formally bid pursuant to procedures established by the Public Contract Code. Following these procedures can add weeks if not months to projects. In past circumstances when emergency work is required, the City Council has authorized such work at a meeting by a four-fifths vote or, when a meeting was not feasible, has ratified work authorized by the City Manager. It is a "best practice" to grant the City Manager limited authority to take emergency action in emergency situations, with reporting requirements to the City Council rather than ratify such actions after they occur.

Specifically, Public Contract Code section 22050(a)(1) authorizes the City Council to take certain actions without engaging in public bidding. In case a City Council does not want to wait for a meeting to authorize emergency work to be performed, Public Contract Code section 22050(b)(1) authorizes the City Council to delegate such authority to the City Manager by passing a resolution with a four-fifths vote.

In the event of an emergency, this delegation of authority authorizes the City Manager to enter into contracts without engaging in public bidding, to do the following:

1. Repair or replace a public facility;
2. Take any directly related and immediate action required by the emergency; and/or
3. Procure the necessary equipment, services, and supplies for those purposes.

If the City Manager takes any such action, he or she must report to the City Council at the next regularly scheduled meeting the reasons justifying why the emergency did not permit the delay that would have resulted from soliciting competitive bids, and why the action was necessary to respond to the emergency. If the action taken by the City Manager is ongoing, the City Council must review the emergency action at every subsequent regularly scheduled meeting and determine, by a four-fifths vote, whether the emergency action should continue. If the action is ongoing, the City Council should terminate it at the earliest time at which it would be possible to continue the response through competitive public bidding.

This delegation of authority does not impact or remove the City Council's ability to take emergency action without soliciting competitive public bids if circumstances exist where the City Manager determines that City Council action is appropriate or when the need to enter into a contract can wait until a City Council meeting can be called. The resolution limits the amount of the emergency contract the City Manager can enter into to \$50,000. Expenditures larger than that require City Council approval.

In order to give the City Manager the ability to enter into contracts on an emergency basis without delay, staff is recommending that the resolution be adopted.

**FISCAL IMPACTS:**

None.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

The City Manager will not have emergency contracting authority and all emergency contracting without public bidding will continue to go through the City Council exclusively.

**FOLLOW UP ACTION:**

N/A.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**

Pursuant to the Brown Act.

**ATTACHMENTS:** Proposed Resolution

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

**A RESOLUTION OF THE CITY OF AVALON CITY COUNCIL DELEGATING AUTHORITY  
TO THE CITY MANAGER TO TAKE EMERGENCY ACTION WITHOUT ENGAGING IN  
PUBLIC BIDDING**

**WHEREAS**, in the event of an emergency, Section 22050(a)(1) of the Public Contract Code authorizes the City Council to take certain responsive action without engaging in the public bidding process, provided such actions are approved by a four-fifths vote; and

**WHEREAS**, Section 22050(b)(1) of the Public Contract Code authorizes the City Council to also delegate such authority to the City Manager by passing a resolution with a four-fifths vote; and

**WHEREAS**, in the event the City Manager utilizes such authority to take responsive action in the event of an emergency, the City Manager must report the action taken to the City Council at the next public meeting, along with why such action was necessary; and

**WHEREAS**, the City Council has determined that giving the City Manager such authority benefits the health, safety, and welfare of the City, its residents, and its visitors by allowing the City Manager to take immediate action in the event of an emergency, without the need to wait for the next City Council meeting; and

**WHEREAS**, the City Council will still retain the ability to authorize emergency responses without public bidding in situations where an emergency contract can be awarded at a City Council meeting or when the City Manager does not determine it is necessary to immediately enter into a contract.

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

**Section 1.** Pursuant to Public Contract Code section 22050(b)(1), the City Council of the City of Avalon delegates the authority to the City Manager or acting City Manager to take any of the following actions in response to an emergency, without complying with public contracting requirements in an amount up to \$50,000.00:

- (a) Repair or replace a public facility;
- (b) Take any directly related and immediate action required by the emergency; and/or
- (c) Procure the necessary equipment, services, and supplies for those purposes.

**Section 2.** If the City Manager or acting City Manager takes any action described in Section 1, the City Manager or acting City Manager must report to the City Council at its next meeting the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation of bids and why the action is necessary to respond to that emergency (Public Contract Code section 22050(b)(3)).

**Section 3.** If the action taken by the City Manager or acting City Manager is ongoing, the City Council must review the emergency action at every subsequent regularly scheduled meeting to determine, by a four-fifths vote, that the emergency action should continue, unless the emergency action has been terminated by the City Manager or acting City Manager (Public Contract Code section 22050(c)(2)).

**Section 4.** When the City Council reviews the emergency action taken by the City Manager or acting City Manager pursuant to Section 3 of this Resolution, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids (Public Contract Code section 22050(c)(3)).

ADOPTED at a Regular Meeting of the City of Avalon City Council held on the 4th day of February, 2014 by the following vote to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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

ATTEST:

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

CITY OF AVALON CITY COUNCIL

MEETING DATE: February 4, 2014

AGENDA ITEM: 5

ORIGINATING DEP: City Attorney

CITY MANAGER: BA

PREPARED BY: City Attorney

SUBJECT: Ordinance Amending Sections of the Municipal Code to Include a Definition of "Gross Receipts"

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RECOMMENDED ACTION(S): That the City Council introduce and waive all readings of an Ordinance Amending Sections of the Municipal Code to Include a Definition of "Gross Receipts."

REPORT SUMMARY:

The City of Avalon's Municipal Code currently requires businesses operating within it to calculate various taxes and fees based on the business's "gross receipts." As no definition of "gross receipts" exists anywhere in the Municipal Code, there are occasional questions regarding what this term means. Additionally, the City leases are being updated and these leases contain a definition of gross receipts.

To provide clarity as to the definition of "gross receipts" and to ensure the term is applied fairly and uniformly in all instances, the proposed amendments to the Municipal Code add a definition of the term to each chapter in which the term appears. Specifically, the proposed amendments add the definition to three chapters – 1 (business licensing), 3 (taxes), and 5 (cable television franchises) of Title 3 – Finance, and to one chapter – 2 (harbor regulations) of Title 10 – Planning and Zoning.

FISCAL IMPACTS: None.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: "Gross receipts" will not be defined in the Municipal Code.

FOLLOW UP ACTION: None.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Brown Act.

ATTACHMENTS: Copy of the Ordinance Amending Sections of the Municipal Code to Include a Definition of "Gross Receipts."

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

**AN ORDINANCE OF THE CITY OF AVALON AMENDING SECTIONS OF THE MUNICIPAL CODE TO INCLUDE A DEFINITION OF "GROSS RECEIPTS"**

**WHEREAS**, the City of Avalon's ("City") Municipal Code requires businesses operating within it to calculate various taxes based on the business's monthly "gross receipts," and

**WHEREAS**, the City's leases require that tenants in certain circumstances pay the City a percentage of their gross receipts; and

**WHEREAS**, to reduce confusion, promote consistency and fairness, and provide clarity to City businesses and the City itself, the City now desires to add a definition of the term "gross receipts" to the Municipal Code in those Chapters which utilize the term.

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

**Section 1.** Sec. 3-1.101(h) is hereby added to read as follows:

*(h) "Gross Receipts" shall mean the total amounts received from all revenue sources during the relevant period, except admission taxes, sales taxes, California redemption taxes, and use taxes/fees."*

**Section 2.** Sec. 3-3.206 is hereby amended to read as follows:

*"Sales Taxes and Definition*

*(a) For the privilege of selling tangible personal property at retail, a tax is hereby imposed on all retailers in the City at the rate set forth in Section 3-3.202 of this article on the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City on and after the operative date of this article.*

*(b) For purposes of this chapter, the term "gross receipts" means the total amounts received from all revenue sources during the relevant period, except admission taxes, sales taxes, California redemption taxes, and use taxes/fees."*

**Section 3.** Sec. 3-5.101(p) is hereby added to read as follows:

*(p) "Gross Receipts" shall mean the total amounts received from all revenue sources during the relevant period, except admission taxes, sales taxes, California redemption taxes, and use taxes/fees."*

**Section 4.** Sec. 10-2.101(p) is hereby added to read as follows:

*"For the purposes of this chapter, certain words and phrases defined shall, unless the context clearly indicates otherwise, have the following meanings:*

...

(p) "Gross Receipts" shall mean the total amounts received from all revenue sources during the relevant period, except admission taxes, sales taxes, California redemption taxes, and use taxes/fees."

**Section 5. Severability.** The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance, or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance or the application of those provisions.

**Section 6. Effective Date.** This Ordinance shall become effective thirty (30) days after its adoption.

**Section 7. Exemption from California Environmental Quality Act.** The City finds that the amendments to the Municipal Code, made pursuant to this Ordinance, are exempt from the California Environmental Quality Act ("CEQA") because they do not constitute a project within the meaning of CEQA Section 15378. The amendments herein have 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. These amendments do not allow any new activities, but rather merely define a previously undefined term. 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 8.** 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 4th day of February, 2014, and thereafter **ADOPTED** at a Regular Meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTEST:

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

CITY COUNCIL

MEETING DATE: February 4, 2014

AGENDA ITEM: 6

ORIGINATING DEP: City Attorney

CITY MANAGER: 

PREPARED BY: Scott Campbell, City Attorney

SUBJECT: Revisions to Solid Waste Ordinance

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**RECOMMENDED ACTION(S):**

Introduce, read by title only and waive all readings of an Ordinance of the City of Avalon Amending Articles 1 and 2 of Chapter 2 of Title 6 of the Avalon Municipal Code ("AMC") Regarding Solid Waste Collection. This Ordinance updates the City's solid waste regulations and ensures that they are consistent with the recently executed Franchise and Lease Agreement with CR&R, Incorporated.

**REPORT SUMMARY:**

The City Council selected CR&R, Incorporated ("CR&R") as the City's solid waste hauler and facility operation service provider. The City and CR&R have executed a Franchise and Lease Agreement ("Agreement") for these services. The Agreement took effect on July 1, 2013.

As part of this process, the City Attorney reviewed Chapter 2 of Title 6 of the AMC, the City's solid waste ordinance, to ensure it was consistent with the Agreement and reflected current best practices. The enclosed ordinance recommends changes to the ordinance based on this review.

Chapter 2 of Title 6 is divided into four Articles. Article 1 regulates general residential solid waste collection, and Article 2 covers commercial collection. Articles 3 and 4 specify special regulations for hazardous waste and construction and demolition debris disposal. While Articles 3 and 4 were adopted or updated recently and are consistent with the Agreement, Article 1 and 2 have not been recently updated, use outdated terminology and conflict in some respects with the Agreement.

To remedy this, the City Attorney has prepared the enclosed ordinance amending Articles 1 and 2. These changes are explained below.

-Terminology: The current ordinance uses outdated terminology like “garbage,” “refuse,” and “householder.” The current ordinance also contains its own definition for defined terms in the Agreement like “recyclables” and “receptacle/container.” To ensure consistency with the Agreement, the ordinance replaces these terms with modern terminology like “solid waste,” “green waste” and “occupant.” The ordinance also ensures that defined terms like “recyclable” have consistent definitions.

-Self-Haul (§ 6-2.103(a)): The ordinance currently permits occupants to “self-haul” solid waste to the landfill. This consistent with the Agreement. However, staff wanted to clarify that occupants remain responsible for the payment of solid waste collection fees if they self-haul. This has been clarified in the draft ordinance and avoids any argument that self-hauling waste excuses one from paying for solid waste service.

-Sale of Recyclables (§ 6-2.103(b)): Staff recommends adding this subsection. It permits anyone to sell or give away any recyclables they generate prior to disposal. Under state law, the City actually cannot prohibit someone from selling or giving away their recyclables. This addition ensures that the ordinance is consistent with this requirement.

-Receptacles (§ 6-2.109): As part of the new Agreement, CR&R has provided standardized receptacles for customers. This departed from the City’s previous practice of permitting customers to place solid waste in any receptacle or garbage bag. This amendment reflects this new practice and ensures that the City can require residents to use CR&R-provided receptacles.

-Size & Weight Requirements (§ 6-2.110): The Agreement contains certain mandatory size and weight requirements for solid waste disposal. For example, over-sized green waste must be bundled and placed alongside a receptacle. The ordinance currently contains similar but inconsistent requirements. This amendment ensures that these size and weight requirements are consistent.

-Trucks (§§ 6-2.112, 6-2.113, 6-2.114, 6-2.115): The Agreement requires CR&R to maintain clean and orderly trucks and to promptly clean up any solid waste spilled from the trucks. The ordinance previously had similar, but slightly different requirements. Staff proposes modifying these requirements to ensure they are consistent with the Agreement.

-Bond (§ 6-2.120): Both the ordinance and Agreement require CR&R to maintain a bond. The ordinance limited the bond to \$1,000 and imposed certain terms and conditions on the bond. The proposed edits will ensure these requirements are consistent with the Agreement.

-Solid Waste Accumulation (§§ 6-2.123, 6-2.124, 6-2.125.): The ordinance contains a confusing set of rules regarding when garbage and refuse may remain private property

before becoming a public nuisance. In light of the new terminology and to streamline these provisions, the draft ordinance creates two rules: (1) solid waste which is putrid, offensive, likely to attract rodents or combustible must be removed within a calendar week and (2) any other solid waste must be removed within fifteen days. In addition, the burning or burying of solid waste remains prohibited.

-Construction & Demolition Debris (§ 6-2.129): As noted above, Article 4 of Chapter 2 governs construction and demolition debris. The draft ordinance includes a new section reminding residents of these rules.

-Commercial Collection (Article 2; §§ 6-2.202, 6-2.203, 6-2.204): As discussed above, Article 2 governs commercial solid waste collection. It is currently provides largely duplicative, but slightly differently phrased, provisions for commercial solid waste. This is problematic as it introduces potential ambiguity, given that residential and commercial solid waste is largely treated the same under the Agreement. To remedy this, the proposed ordinance makes commercial solid waste collection subject to the provisions of Article 1 for residential collection except as otherwise explicitly noted.

-Terminology (§ 6-2.201): Similar to the above, the draft ordinance updates and amends the terms used in the ordinance to ensure they are consistent with the Agreement.

-Cooking Oil (§ 6-2.205): The ordinance currently requires businesses to dispose of cooking oil in 50 pound watertight containers. As the City recently amended its sewer ordinance, the draft ordinance simply requires businesses to dispose of cooking oil as permitted by the sewer ordinance.

-Excessive Quantities (§§ 6-2.208, 6-2.211): Similar to Section 6-2.110, this section sets certain size and weight requirements, generally a cubic yard, for commercial waste disposal. Waste over these limits is subject to an additional charge. The Agreement has similar requirements but does not impose a hard cubic yard limit. To ensure maximum flexibility, the draft ordinance simply references the limits contained in the Agreement.

-Commercial Waste Enforcement (§ 6-2.214(g)): This section contains special administrative citation for enforcing the commercial waste requirements. To help clarify that these are optional procedures, the draft ordinance adds a subsection noting that the City may utilize any other available enforcement procedures.

## RECOMMENDATION

Introduce, read by title only and waive all first readings of an Ordinance of the City of Avalon Amending Article 1 and 2 of Chapter 2 of Title 6 of the AMC Regarding Solid Waste Collection.

**FISCAL IMPACTS:**

Adoption of the ordinance.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

The City's solid waste ordinance will be outdated and inconsistent with the Agreement.

**FOLLOW UP ACTION:**

N/A.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**

General agenda posting.

**ATTACHMENTS:**

Ordinance  
Redline of Changes

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ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF AVALON,  
CALIFORNIA AMENDING ARTICLES 1 AND 2 OF  
CHAPTER 2 OF TITLE 6 OF THE AVALON MUNICIPAL  
CODE REGARDING SOLID WASTE COLLECTION

WHEREAS, the California Integrated Waste Management Act of 1989, commonly referred to as Assembly Bill 939, codified in substantial part at Public Resources Code § 40000 et seq., authorizes cities to regulate most aspects of solid waste collection and disposal within their jurisdictions; and

WHEREAS, the California laws regarding solid waste, and best practices for the collection and disposal of solid waste, have changed considerably since the City's solid waste ordinance, generally codified in Chapter 2 of Title 6 of the Avalon Municipal Code, was last significantly amended; and

WHEREAS, in connection with the recent award of a solid waste franchise, the City has undertaken a review of the existing solid waste ordinance to ensure that the ordinance is consistent with the new franchise agreement and reflects current best practices regarding the collection and disposal of solid waste; and

WHEREAS, this review of the City's ordinance revealed that certain updates and amendments are necessary to ensure consistency between the City's new solid waste franchise agreement and the ordinance, and to reflect current best practices regarding solid waste.

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

- Section 1.** The recitals set forth above are incorporated herein.
- Section 2.** Chapter 2 of Title 6 of the Avalon Municipal Code is hereby re-titled as follows:  
"CHAPTER 2 – SOLID WASTE COLLECTION".
- Section 3.** Article 1 of Chapter 2 of Title 6 of the Avalon Municipal Code is hereby amended to read as set forth in the attached Exhibit A, incorporated by this reference.
- Section 4.** Article 2 of Chapter 2 of Title 6 of the Avalon Municipal Code is hereby amended to read as set forth in the attached Exhibit B, incorporated by this reference.
- Section 5.** **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 6. CEQA Exemption.** The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15358 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, the City Council finds that this ordinance is exempt under CEQA pursuant to Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment) of the CEQA Guidelines because this Ordinance will not cause a change in any of the physical conditions within the area affected by the Ordinance.

**Section 7. Certification and Effective Date.** 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. This Ordinance shall take effective upon the latter of (1) thirty days from its adoption.

**INTRODUCED** at a regular meeting of the City Council of the City of Avalon on the \_\_\_\_ day of \_\_\_\_\_, 2014, 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 \_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Bob Kennedy, Mayor

**ATTEST:**

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

CITY COUNCIL

MEETING DATE: February 4, 2014

AGENDA ITEM: 7

ORIGINATING DEPT: City Manager

CITY MANAGER: BA

PREPARED BY: City Manager

SUBJECT: Cost savings, revenue enhancements and expense offset measures for Fiscal Year 2013-2014 and 2014-2015.

**RECOMMENDED ACTION(S):** Review and discuss list of cost savings, revenue enhancements and expense offset measures for Fiscal Year 13-14 and 14-15.

**REPORT SUMMARY:** In November of 2013, the City adopted the Fiscal Year 2013-2014 Municipal Budget for the City of Avalon. With \$23,937,949 in expenditures, and \$22,316,694 in revenue, the adopted budget has a deficit of approximately \$1.6M. From the time the budget was adopted, City staff has been working to identify cost saving measures, revenue enhancements and expense offsets to ultimately eliminate the deficit.

At Mayor Kennedy's direction, City Staff is providing the City Council with an update on this effort. Items have been categorized into three general categories: Cost saving measures, revenue enhancements, or expense offsets. These items are grouped into two distinct timeframes: those that fall within FY 2013-2014, and those that fall within FY 2014-2015. Listed below are two tables providing this information by Fiscal Year.

**Fiscal Year 2013-2014**

Item	Description and Comments	Measure Type	Fiscal Year	Estimated Amount Saved
Reduced expert, consultant and legal fees associated with Toxics case	\$500,000 budgeted FY 13-14; YTD spending is approximately \$150,000, with an anticipated future expenditures of \$150,000 remaining in FY 13-14.	Cost savings	13-14	\$200,000
Administrative cost recovery – Successor Agency	In accordance with State guidelines, the City is anticipating being able to recoup up to \$200,000 in administrative costs for projects and activities attributed to the Successor Agency.	Expense offset	13-14	\$200,000

Item	Description and Comments	Measure Type	Fiscal Year	Estimated Amount Saved
CR&R Construction Materials & Debris Reimbursement	The City did not budget for revenue derived from the reimbursement of construction materials and debris.	Revenue enhancement	13-14	\$100,000
Retirements and/or separations from City employment	Four (4) full-time City employees have either indicated their intentions to retire and/or separate from employment from the City in FY 13-14 (Public Works Director, Recreation Director, Garage Supervisor and Firefighter). It is anticipated that two of these four full-time positions will not be filled. Cost savings is determined after netting out anticipated accrued leave payouts.	Cost savings	13-14	\$75,000
Street sweeper contract services	The City has received an informal proposal from CR&R for street-sweeper services for \$36,000 annually. This proposal includes personnel, machinery and overhead, including fuel. The City anticipates savings realized from the release of part-time personnel, relief from fuel and parts costs associated with the street sweeper. The City will retain its existing sweeper for emergency, back-up and special event needs.	Cost savings	13-14	\$25,000

Item	Description and Comments	Measure Type	Fiscal Year	Estimated Amount Saved
Recreation Department Savings	Youth & Adult Sports Insurance Premium Reduction, Above Ground Pool and Summer Camp	Cost savings	13-14	\$30,000
Joe Machado Concession Stand	The City budgeted \$50,000 for improvements to the Joe Machado Concession Stand for a commercial kitchen. The awarded bid, including contingencies for change orders, came to \$185,000. Packy Offield has pledged to bridge the delta between the two with a secured pledge from the Offield Foundation	Expense offset	13-14	-0-
			<b>TOTAL</b>	<b>\$630,000</b>

### Fiscal Year 2014-2015

Item	Description and Comments	Measure Type	Fiscal Year	Estimated Amount Saved
Retirements and/or separations from City employment	Four (4) full-time City employees have either indicated their intentions to retire and/or separate from employment from the City in FY 13-14 (Public Works Director, Recreation Director, Garage Supervisor and Firefighter). It is anticipated that two of these four full-time positions will not be filled.	Cost savings	14-15	\$475,000

Item	Description and Comments	Measure Type	Fiscal Year	Estimated Amount Saved
CR&R Construction Materials & Debris Reimbursement	Ongoing revenue derived from the reimbursement of construction materials and debris.	Revenue enhancement	14-15	\$100,000
Proposed City employee cafeteria plan	As part of the collective bargaining process, management is proposing the implementation of a cafeteria plan for health benefits with an approximate monthly cap of \$1000 per full-time employee. Currently the City does not have a monthly cap in place for health benefit premiums.	Cost savings	14-15	\$100,000
Renegotiation of Los Angeles County Baywatch Paramedic Contract	Daryl Osby, Fire Chief Los Angeles County, has pledged to review the City/County contract for paramedic services. The City of Avalon feels a significant reduction in the current contract (currently at approximately \$500k/year, with an escalation clause through 2030) is merited considering gaps in available service and the County's obligation to serve Santa Catalina Island (AKA unincorporated Los Angeles County territory outside Avalon City limits).	Cost savings	14-15	TBD
			<b>TOTAL</b>	<b>TBD</b>

**FISCAL IMPACTS:** \$630,000 reduction in budget deficit for the FY 2013-2014 budget.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S):** Continuation of on-going budget deficit.

**ALTERNATIVE ACTION(S):** Identify additional or alternative cost-saving, potential revenue enhancement and/or expense offset measures.

**FOLLOW UP ACTION(S):** Mid-year revenue adjustment potentially scheduled for the February 18, 2014 City Council agenda with resulting potential for additional budget deficit reduction.

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