

**CITY OF AVALON CITY COUNCIL MEETING  
TUESDAY, JUNE 17, 2014- 6:00 P.M.  
CITY COUNCIL CHAMBERS  
410 AVALON CANYON ROAD, AVALON  
AGENDA**

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**

**PRESENTATIONS**

1. Wayne Griffin, President and CEO of the Catalina Island Chamber of Commerce and David Creigh, Director of Cruise Development will present the results of the Chamber's Feasibility Study for a Cruise Ship Berthing Facility intended for the City of Avalon.
2. Plastic Bag Ban – Power point presentation outlining the current state legislation that is being proposed.

**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 June 3, 2014 City Council meeting.

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### 2. Expenditures Submitted for Approval

- Warrants in the amount of \$538,208.03
- Payroll in the amount of \$204,448.99
- Electric Fund Transfer in the amount of \$118,834.62

#### Recommended Action

Approve total expenditure amount of \$861,491.64.

### 3. Purchase of a Salt Water Pump Control Panel for Catherine Lift Station

The City is continuing its efforts to improve proper operative procedures of our salt water pumping facilities. In this Fiscal Year 13/14 we budgeted to upgrade and provide new, compatible equipment at the Catherine Lift Station.

#### Recommended Action

Direct Staff to enter into an agreement with Environ Strategy Consultants, Inc. in order to purchase the items necessary for a new Salt Water Pump Control Panel, at the Catherine Lift Station and make a finding that the purchase can be made more economically and efficiently without following the City's bidding procedures.

### 4. Supervisory Control and Data Acquisition (SCADA) Phase 2 Implementation

The City is continuing its efforts to improve proper operative procedures at our Waste Water Treatment Facility. The continuation of the SCADA Phase 2 plan is required to bring our current systems up to proper standards and reliability. This was a budgeted item in FY 13/14.

#### Recommended Action

Direct Staff to enter into an agreement with Environ Strategy Consultants, Inc. in order to continue work on the "Supervisory Control And Data Acquisition" (SCADA) project, and purchase the items necessary and required for Phase 2 of this plan and determine that the public interest would be served if this agreement was executed as there would not be a competitive advantage in soliciting bids for this work.

### 5. Purchase Shredder Pumps for Low Flow Diverters

The Low Flow Diverts located in the downtown area capture runoff waters and pump it into the sewer system. It is necessary to replace the worn shredder pumps in the low flow diverters.

#### Recommended Action

Direct Staff to purchase six (6) SK Series Shredder Pumps for the Low Flow Diverters from the low bidder.

### 6. Gas Pump System Purchase

The Fiscal Year 2013-14 budget includes monies for the purchase of replacement fuel pumps and a fuel management system for the City Maintenance Yard. Currently we do not have any type of tracking mechanism for consumption other than a security camera.

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Recommended Action

Authorize the City Manager to purchase new fuel pumps and a fuel management system for both gas and diesel distribution at the City Maintenance Yard from the low bidder, Source Fueling Equipment Solutions, in the amount of \$20,789.36.

7. Ordinance Adding a Definition of "Gross Receipts" to the Municipal Code  
The City of Avalon's Municipal Code currently requires businesses operating within it to calculate various taxes and fees based on the business "gross receipts." As no definition of "gross receipts" exists anywhere in the Municipal Code, there are occasional questions regarding what this term means.

Recommended Action

Adopt an Ordinance of The City of Avalon Adding a Definition of "Gross Receipts" to the Municipal Code and Determine that Adoption of the Ordinance is Categorically Exempt.

8. Biennial Review of the City's Conflict of Interest Code  
Pursuant to the requirements set forth in Section 87306.5 of the Political Reform Act, Council is to direct review of the City's Conflict of Interest Code and filing of a Biennial Notice.

Recommended Action

Direct Staff to review the City's Conflict of Interest Code and file of a Biennial Notice with the City Clerk regarding such review.

9. Review of the City of Avalon Civil Rights Title VI  
The City of Avalon was awarded a \$2.4 Million Ferry Boat Discretionary Program Grant in 2012 to rehabilitate the Cabrillo Mole Ferry Terminal. A requirement for receiving the funds is an approved Title VI Plan.

Recommended Action

Review and approve the City of Avalon Civil Rights Title VI Plan and adopt resolution authorizing the implementation of the plan and its related policies.

10. Approve Amendments to Sewer System Management Plan (SSMP)  
Under the State Sanitary Sewer Overflow Order, the City is required to maintain an SSMP, which includes provisions for the proper and efficient management, operation, and maintenance of the City's sanitary sewer systems. (This entire document is 502 pages and may be viewed at City Hall.)

Recommended Action

Approve amendments to the Sewer System Management Plan (SSMP) and direct recertification of the SSMP into the California Integrated Water Quality System.

11. Purchase Isolation Valves for Pebbly Beach Pump Station  
The Pebbly Beach Pump Station has three isolation valves. These valves operate or divert the different flows within the structure. All of the existing valves are inoperable and need to be replaced.

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Recommended Action

Authorize Staff to purchase three (3) Knife Grate Isolation Valves for the Pebbly Beach Pump Station.

**GENERAL BUSINESS**

12. Consideration of an Urgency Ordinance Regarding Water Conservation and Determination that Adoption of the Ordinance is Categorically Exempt

The City is proposing to adopt all CPUC tariffs related to water rationing in order to preserve water, going above and beyond the tariffs by adopting strict penalties and fines to ensure compliance with conservation requirement.

Recommended Action

Review and discuss urgency ordinance regarding water conservation and make the determination that adoption of the ordinance is categorically exempt. Should the City Council wish to adopt this urgency ordinance, a fourth fifths (4/5) vote is required, and the ordinance would take effect immediately.

**CLOSED SESSION**

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Subdivision (a) of Section 54956.9

Name of Case: Tiberio Lizza v. City of Avalon, et al, LASC Case No. BS 135644

2. CONFERENCE WITH LEGAL COUNSEL

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9

Number of Cases: One

**CITY MANAGER REPORT**

**CITY ATTORNEY REPORT**

**COUNCILMEMBER REPORTS**

**MAYOR REPORT**

**ADJOURN**

**NOTICE OF POSTING**

I, Denise Radde, declare that the City Council Agenda for June 17, 2014 was posted on Friday, June 13, 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:** June 17, 2014

**AGENDA ITEM:** 1

**ORIGINATING DEP:** City Clerk

**CITY MANAGER:** BA

**PREPARED BY:** Denise Radde, City Clerk

**SUBJECT:** City Council Actions

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**RECOMMENDED ACTION(S):**

Approve City Council Actions from the regular City Council meeting on June 3, 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: JUNE 17, 2014

AGENDA ITEM: 2

ORIGINATING DEPT: Finance

CITY MANAGER: BH

PREPARED BY: Chris Woidzik, Interim CFO

DEPT. HEAD: OW

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SUBJECT: Warrant List

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**RECOMMENDATION(S):** Approve the warrants in the amount of \$538,208.03, payroll in the amount of \$204,448.99 and EFTS in the amount of \$118,834.62 for a total expenditure amount of \$861,491.64.

**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 number #18066 in the amount of \$606.00 and check numbers #18405-18479 in the \$537,602.03 for a total expenditure of \$538,208.03.

Also represented is the payroll dated May 30, 2014 in the amount of \$204,448.99 and EFTS in the amount of \$118,834.62 for a total expenditure of \$323,283.61.

**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 JUNE 17, 2014

CHECK NUMBER		AMOUNT	PAYEE	DESCRIPTION
18066	03/28/01	606.00	KATIE'S KITCHEN	SENIOR MEALS - MAR 14
18405	06/06/14	60.20	AIR SOURCE INDUSTRIES	SUPPLIES - FIRE
18406	06/06/14	9,139.99	AMERICAN EXPRESS	CREDIT CARD CHGS - ALL DEPTS
18407	06/06/14	301.80	AMERIFLEX	FSA ADMIN CHGS - ADMIN
18408	06/06/14	191.73	AT & T LONG DISTANCE	LONG DISTANCE - ADMIN
18409	06/06/14	2,386.01	AVALON BOAT STAND	SUPPLIES - HARBOR
18410	06/06/14	6,792.23	AVALON MOORING & DIVING	SERVICE - HARBOR
18411	06/06/14	159.80	A-Z LOGIC SYSTEMS	SUPPLIES - HARBOR
18412	06/06/14	465.63	BESTWAY LAUNDRY SOLUTIONS	SERVICE - FIRE
18413	06/06/14	2,920.50	BEYOND SOFTWARE SOLUTIONS	IT SERVICES - ADMIN
18414	06/06/14	1,157.25	BILL JONES PLUMBING	SERVICE - FIRE
18415	06/06/14	658.55	BISHOP COMPANY	SUPPLIES - PUBLIC WKS
18416	06/06/14	43.80	BLUE TARP FINANCIAL	SUPPLIES - PUBLIC WKS
18417	06/06/14	2,357.00	BROWNELL & DUFFEY	AUDIT SVCS - FINANCE
18418	06/06/14	5,543.30	BURNS & MCDONNELL	SERVICE - BB&K
18419	06/06/14	234.55	CAMERON, SCOTT	LASD SUBSISTENCE
18420	06/06/14	10.94	CATALINA DISCOUNT & VARIETY	SUPPLIES - PUBLIC WKS
18421	06/06/14	26,775.00	CATALIN EXPRESS	1ST HLF 5/14 - SUBSIDY
18422	06/06/14	1,394.02	CATALINA ISLAND PLUMBING	SERVICE - CITY RESTROOMS
18423	06/06/14	85.20	CATALINA LAUNDRY	SERVICE - GARAGE/RECREATION
18424	06/06/14	1,190.81	CDW GOVERNMENT	IT SUPPLIES - ADMIN
18425	06/06/14	5,053.62	CHET'S HARDWARE	SUPPLIES - ALL DEPTS
18426	06/06/14	247.02	CHROMIAK, ALLEN	LASD SUBSISTENCE
18427	06/06/14	5,652.53	CO. OF LA SHERIFF'S DEPT.	WATERFRONT PT - 4/14
18428	06/06/14	7,110.64	COLLINS COLLINS MUIR & STEWARD	LITIGATION FEES - ADMIN
18429	06/06/14	417.47	CONNOLLY PACIFIC CO.	SUPPLIES - CEMETERY
18430	06/06/14	6,080.00	CONSTRUCTORS PLUS	CONTRACT SVCS - ADMIN
18431	06/06/14	332.89	COORDINATED WIRE ROPE	SUPPLIES - HARBOR
18432	06/06/14	176,272.00	CO. OF LOS ANGELES FIRE DEPT.	4TH QTR - PARAMEDIC CONTR.
18433	06/06/14	6,722.51	DELTA DENTAL	DENTAL - JUNE 2014
18434	06/06/14	18.07	EDISON	PROPANE - PUBLIC WKS
18435	06/06/14	7,555.00	EDD	QRTLY U/I INSURANCE PYMT
18436	06/06/14	83,168.41	ENVIRON STRATEGY CONSULTANTS	CONTRACT SVCS - APR 14
18436	06/06/14	15,820.74	ENVIRON STRATEGY CONSULTANTS	ASA 1121,1125 & 1127
18437	06/06/14	5,148.68	ENVIRONMENTAL ENGINEERING	SERVICE - BB&K
18438	06/06/14	176.90	GALLIVER, JIM	LASD SUBSISTENCE
18439	06/06/14	814.23	GALLS RETAIL CA	UNIFORMS - HARBOR
18440	06/06/14	143.55	HARBOR FREIGHT TOOLS	SUPPLIES - HARBOR
18441	06/06/14	186.15	HD SUPPLY FACILITIES MAINT.	SUPPLIES - GARAGE
18442	06/06/14	2,472.80	HELVETIC CONSULTING, INC.	CONTRACT SVCS - PLANNING
18443	06/06/14	355.05	HOTEL METROPOLE	VOIDED - INCORRECT VENDOR
18444	06/06/14	30.00	ISLAND EXPRESS	FREIGHT - GARAGE
18445	06/06/14	1,700.50	JORDAHL CONSTRUCTION	SUPPLIES - HARBOR
18446	06/06/14	296.64	KECO PUMP & EQUIPMENT	SUPPLIES - HBR
18447	06/06/14	15,940.00	LOCAL GOVERNMENT SERVICES	CONTRACT SVCS - ADMIN
18448	06/06/14	564.29	MATTHEWS	SUPPLIES - CEMETERY

18449	06/06/14	190.70	MCDONALD, AUDRA	REIMB O/P COSTS - TRAVEL
18450	06/06/14	2,177.35	MCMASTER-CARR	SUPPLIES - HARBOR
18451	06/06/14	150.40	MORENO, TOMAS	REIMB O/P COSTS - UNIFORMS
18452	06/06/14	812.50	MUNICIPAL COURT - AVALON	PARKING CITATIONS - APR 14
18453	06/06/14	1,573.76	NAPA AUTO PARTS	SUPPLIES - GARAGE
18454	06/06/14	213.68	PADILLA, VERONICA	REIMB O/P COSTS - TRAVEL
18455	06/06/14	226.00	PARTY TIME ICE	SUPPLIES - FUEL DOCK
18456	06/06/14	3,211.67	PHILLIPS STEEL COMPANY	SUPPLIES - HARBOR
18457	06/06/14	77,332.95	PLATINUM CONSULTING GRP	CONTRACT SVCS - JAN-APR 14
18458	06/06/14	673.66	PORT SUPPLY	SUPPLIES - CDO
18459	06/06/14	63.00	PRAXAIR	SUPPLIES - HARBOR
18460	06/06/14	1,909.44	PROACTIVE WELDING ZONE, INC.	SUPPLIES - HARBOR
18461	06/06/14	2,000.00	PROGRESSIVE INSURANCE	SETTLEMENT CLAIM
18462	06/06/14	673.27	QUILL CORP.	VOIDED - INCORRECT VENDOR
18463	06/06/14	2,450.00	RBF CONSULTING	SERVICE - CDO
18464	06/06/14	2,316.87	REGIONAL GOVERNMENT SERVICES	CONTRACT SVCS - PLANNING
18465	06/06/14	642.74	RICOH USA, INC.	SERVICE - JMF PROJECT
18466	06/06/14	1,201.75	RINCON CONSULTANTS, INC.	SERVICE - PLANNING
18467	06/06/14	83.34	SAFEWAY, INC.	SUPPLIES - FIRE/ADMIN
18468	06/06/14	3,817.08	SANI-TEC USA	CITY RESTROOM SUPPLIES
18469	06/06/14	4,512.88	SANTA CAT. RESORT SERVICES	PROP TAX/UTILITIES - ALL DEPTS
18470	06/06/14	90.00	STEUTER ELECTRIC	SERVICE - ADMIN
18471	06/06/14	453.20	SUN LIFE FINANCIAL	LIFE INSURANCE - JUNE 2014
18472	06/06/14	23,650.25	DAVE THOMPSON CONSTRUCTION	PROGRESS PYMT #4 - JMF
18473	06/06/14	156.18	TOMARK SPORTS	SUPPLIES - RECREATION
18474	06/06/14	7.50	UNDERGROUND SERVICE ALERT	SERVICE - PLANNING
18475	06/06/14	1,488.89	US BANK	CREDIT CARD CHGS - ALL DEPTS
18476	06/06/14	150.00	VEGA, SALVADOR	SERVICE - GARAGE
18477	06/06/14	1,123.50	WESTERN METER EXCHANGE	SUPPLIES - FUEL DOCK
18478	06/06/14	76.47	WITMER PUBLIC SAFETY GRP	SUPPLIES - FIRE
18479	06/06/14	25.00	ZIM'S OF CATALINA	SERVICE - HARBOR

**\$538,208.03**

RECORD OF CHECKS DRAWN ON MARCH 28 & JUNE 6, 2014 FOR CM OF 06/17/14

MONTH OF MAY

US BANK WARRANT # 18066	\$606.00	3/28/2014
US BANK WARRANT # 18405-18479	\$537,602.03	6/6/2014
US BANK WARRANT #	\$0.00	
US BANK WARRANT	\$0.00	
EFT TO BOE - CALPERS HEALTH	\$70,331.85	6/6/2014
EFT TO CALPERS - RETIREMENT	\$48,502.77	6/6/2014
		\$657,042.65
PAYROLL DATED MAY 30, 2014	\$204,448.99	
PAYROLL DATED	\$0.00	
		\$204,448.99
TOTAL DISBURSEMENTS	\$861,491.64	\$861,491.64

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 17TH DAY OF JUNE 2014

APPROVED AND AUDITED  
THIS 17TH DAY OF JUNE 2014

\_\_\_\_\_  
AUDIT COMMITTEE - RICHARD HERNANDEZ

\_\_\_\_\_  
INTERIM CFO - CHRIS WOIDZIK

\_\_\_\_\_  
AUDIT COMMITTEE - CINDE CASSIDY

## CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 3

ORIGINATING DEP: Public Works

CITY MANAGER: [Signature]

PREPARED BY: Dennis Jaich, Interim Public Works Director

SUBJECT: Purchase of a Salt Water Pump Control Panel for Catherine Lift Station

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### RECOMMENDED ACTION(S):

Direct Staff to enter into an agreement with Environ Strategy Consultants, Inc. (ES) in order to purchase the items necessary for a new Salt Water Control Panel, at the Catherine Lift Station and make a finding that the purchase can be made more economically and efficiently without following the City's bidding procedures.

### REPORT SUMMARY:

In continuing our efforts to improve longstanding proper operative procedures of our salt water pumping facilities, it is required to upgrade and provide new and compatible equipment performance issues and listed below are the necessary improvements that Staff is highly recommending to put in place in order to bring our current systems up to proper standards and reliability:

New custom built stainless steel control panel to replace the existing, including:

- (1) VFDs to allow for soft-start capabilities
- (2) HOA Switches, for both salt pumps
- (3) Logic devices and controllers for automated pump functions
- (4) Logic devices for sump pumping functions
- (5) 480V to 240/120V controls power transformer
- (6) New breaker panel for all devices
- (7) All necessary wireless I/O hardware to interface with SCADA system
- (8) Logic devices to interface for associated SCADA features

The equipment and above-mentioned items include engineering and procurement of the materials and equipment only. Installation, programming and start-up services will be provided under separate cover. ES has been able to secure very competitive pricing for this equipment, the equipment can be quickly delivered and separately going to out bid for this equipment would not result in more economical or efficient purchase.

### FISCAL IMPACTS:

The costs presented by Environ Strategy for the services and equipment is \$113,318.00. This work is budgeted in the "Salt Water Infrastructure Fund" 113-25-6681. However, as stated

above, please note that the installations and programming activities will be provided to the City Council in the future for approval in the FY 14/15 City Budget.

**GOAL ALIGNMENT: N/A**

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

The City's goal to improve and advance in the salt water delivery process, and the need to upgrade old systems, will be in jeopardy. This equipment will interface with the new SCADA system and will provide advance warnings of potential spills. Additionally, many old well-worn mechanisms that are affected here need to be upgraded in order to avoid potential future interruptions of service.

**FOLLOW UP ACTION:**

Allow Staff to enter into an agreement with ES to perform the services listed above.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**

In compliance with the Brown Act.

**ATTACHMENTS:**

Proposal from Environ Strategy.

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 4

ORIGINATING DEP: Public Works

CITY MANAGER: BH

PREPARED BY: Dennis Jaich, Interim Public Works Director

SUBJECT: SCADA Phase 2 Implementation

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**RECOMMENDED ACTION(S):**

Direct Staff to enter into an agreement with Environ Strategy (ES) in order to continue work on the "Supervisory Control And Data Acquisition" (SCADA) project, and purchase the items necessary and required for Phase 2 of this plan and determine that the public interest would be served if this agreement was executed as there would not be a competitive advantage in soliciting bids for this work.

**REPORT SUMMARY:**

In continuing our efforts to improve longstanding performance issues and proper operative procedures of our sewer facilities, the continuation of the SCADA Phase 2 plan is required. Listed below are the necessary upgrades that Staff is highly recommending to put in place in order to bring our current systems up to proper standards and reliability:

**New Equipment & Instrumentation:**

- (1) Two, 20 HP VFDs for installation in the Catherine Station Sump
- (2) Three, Auto Clean DO probes submersible assemblies
- (3) Three, three phase monitor relays
- (4) Two, rotary screen wet well probes
- (5) Miscellaneous terminals, relays, etc., as required

**SCADA System Additions/Modifications**

- (1) Wet well high level alarms for Catherine and Pebbly Pump Stations
- (2) Three phase power loss alarms for the main plant and the two Pump Stations
- (3) WAS & RAS flow rate controls
- (4) Effluent flow meter display
- (5) Enhanced Catherine Station capabilities

**FISCAL IMPACTS:**

The costs presented by ES for the above-mentioned services and equipment is \$55,330.00. This work is budgeted in the "Sewer Infrastructure Fund" 110-25-6676. Because Environs operates the waste water treatment facilities, they are in the best position to purchase and install the additional equipment and systems and there would be no competitive advantage from soliciting bids for this work.

**GOAL ALIGNMENT: N/A**

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

The City's goal to improve and advance in sewer treatment services, and the need to upgrade old systems, will be in jeopardy. Plus the new SCADA system may provide advance warnings of potential spills; this will also not be able to be achieved. Additionally, many old timeworn mechanisms that are affected here need to be upgraded in order to avoid potential future interruptions of service.

**FOLLOW UP ACTION:**

Allow Staff to enter into an agreement with Environ Strategy to perform the services listed above.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**

In compliance with the Brown Act.

**ATTACHMENTS:**

Proposal from Environ Strategy.

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 5

ORIGINATING DEP: Public Works

CITY MANAGER: BH

PREPARED BY: Dennis Jaich, Interim Public Works Director

SUBJECT: Purchase Shredder Pumps for Low Flow Diverter

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**RECOMMENDED ACTION(S):**

Direct Staff to purchase six (6) SK Series Shredder Pumps for the Low Flow Diverter.

**REPORT SUMMARY:**

The City has in place a series of "Low Flow Diverter" around the downtown area. These Diverter, capture some runoff waters, and pump it into the sewer system. This concept was developed some time ago, in an attempt to rectify runoff waters from entering our Bay.

As time goes on, and the wear and tear of the equipment continues, it is necessary to replace and install new equipment. This situation has occurred and needs to be dealt with.

We have obtained three (3) quotes for the type of equipment needed in this application:

(1)	Cortech	\$	11,365.11
(2)	Ferguson	\$	15,610.32
(3)	BJM	\$	13,534.20

**FISCAL IMPACTS:**

Staff has analyzed the quotes above and recommends purchasing the SK Series pumps from Cortech. That cost is as shown above, \$11,365.11. This work is budgeted in the "Replace Low Flow Pumps" 124-25-6684.

**GOAL ALIGNMENT:** N/A

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

The integrity of the existing pumps are suspect and may prove to be unworkable in the near future.

**FOLLOW UP ACTION:**

Allow Staff to enter into an agreement with Cortech to purchase the equipment.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**

In compliance with the Brown Act.

**ATTACHMENTS:** Three (3) quotes as stated above.

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 6

ORIGINATING DEPT: Public Works

CITY MANAGER: BH

PREPARED BY: Dennis Jaich, Interim Public Works Director

SUBJECT: Gas Pump System Purchase

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**RECOMMENDED ACTION(S):** Authorize the City Manager to purchase new fuel pumps and a fuel management system for both gas and diesel distributed at the City Maintenance Yard from the low bidder, Source Fueling Equipment Solutions, in the amount of \$20,789.36.

**REPORT SUMMARY:** The Fiscal Year 2013-14 budget includes monies for the purchase of replacement fuel pumps and a fuel management system for the City Maintenance Yard. The existing gas and diesel pumps used to supply City vehicles are in need of replacement and do not have any type of tracking mechanism associated with them other than a security camera. Charlie Behrschmidt researched and found the Gasboy fueling system would be a good application for our needs.

Listed below are bids received for a Gasboy Fuel Pumps and Management system.

Source Fueling Equipment Solutions	\$20,789.36
Northwest Pump and Equipment Company	\$21,959.70
Petroleum Marketing Equipment	\$23,505.21

**FISCAL IMPACTS:** \$25,000 is budgeted in account 138-25-3625 to purchase the fuel pumps and management system.

**GOAL ALIGNMENT:** N/A

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S):** City fuel assets will continue to be unmonitored and the current pumps will still need replacement.

**ALTERNATIVE ACTION(S):** N/A

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

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**  
In compliance with the Brown Act.

**ATTACHMENTS:** Three quotes for fuel pumps and management system.

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 7

ORIGINATING DEP: City Attorney

CITY MANAGER: BU

PREPARED BY: City Attorney

SUBJECT: Ordinance Adding a Definition of "Gross Receipts" to the Municipal Code

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**RECOMMENDED ACTION(S):** That the City Council adopt an Ordinance Adding a Definition of "Gross Receipts" to the Municipal Code.

**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 the updates 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 amendment to the Municipal Code adds a definition of the term "gross receipts". "Gross receipts" shall mean the total amounts received from all revenue sources during the relevant period, except admission taxes, sales taxes, California redemption taxes, use taxes/fees and reasonable commissions actually paid to third parties. Such commissions shall not exceed 20% of the price paid by the consumer/customer.

This definition was discussed at a previous City Council meetings and was modified to eliminate reasonable commissions paid to third parties from funds constituting gross receipts so long as the commission is capped at 20% of the price paid. This may encourage business owners to provide "package deals" to visitors without having to pay for taxes and fees on the commissions paid to put the package together.

The City's auditors reviewed the definition made three comments. Their letter of February 28, 2014 is attached. First, they suggested that if commissions were to be excluded, they should be capped at 20%. This suggestion is incorporated into the proposed ordinance.

Second, the auditors noted that the definition would mean that certain items that have been excluded from inclusion into the calculation of taxable revenues would be included as the definition of gross revenues includes the "total amounts received from all revenue sources." It is the intention of the definition to include these previously excluded items if sold in conjunction with an activity. For instance, in a snorkeling tour, equipment included in a

package would be included in the calculation of gross receipts. If such equipment was purchased by a customer, and not part of the tour, then it would not be included in the calculation of gross receipts.

Third, the auditors noted that the definition excludes City fees and taxes from the definition, thus potentially resulting in a loss of income. This exclusion is recommended as any taxes based upon gross receipts should only be based upon the underlying activity, not based upon the underlying activity plus fees or taxes. The auditors also suggested that the admissions taxes and harbor use fees are levied upon the seller, not the customer. This is not necessarily the case. With respect to the admission taxes, the Municipal Code states that the business "shall collect the amount of the tax imposed from the person paying the admission charge at the time of the payment of such admission charge..." (AMC, Section 3-3.303.) There is nothing in the AMC prohibiting a business from collecting the harbor use fees from the customer and many businesses do collect these fees from their customers.

At the City Council meeting of June 3, 2014, the City Council introduced and waived all readings of the proposed ordinance.

**FISCAL IMPACTS:** Unknown.

**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:** Pursuant to the Brown Act.

**ATTACHMENTS:** Copy of the Ordinance Adding a Definition of "Gross Receipts" to the Municipal Code and the letter from Browne and Duffy.

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

AN ORDINANCE OF THE CITY OF AVALON ADDING A DEFINITION OF "GROSS RECEIPTS" TO THE MUNICIPAL CODE

**WHEREAS**, the City of Avalon's ("City") Municipal Code requires businesses operating within it to calculate various fees and taxes based on "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, the City now desires to add a definition of the term "gross receipts" to the Municipal Code.

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

**Section 1.** Sec. 1-3.13(w) is hereby added to read as follows:

*(w) "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 City of Avalon use taxes/fees and reasonable commissions which are paid to third parties. For purposes of calculating Gross Receipts, such commissions shall not exceed 20% of the price paid by the consumer/customer "*

**Section 2. 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 3. Effective Date.** This Ordinance shall become effective thirty (30) days after its adoption.

**Section 4. 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 5.** 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 3th day of June, 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:

\_\_\_\_\_  
Mayor

ATTEST:

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

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 8

ORIGINATING DEP: Administration

CITY MANAGER: BF

PREPARED BY: Denise Radde, City Clerk/Assistant City Manager

SUBJECT: Biennial Review of the City's Conflict of Interest Code

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**RECOMMENDED ACTION(S):** It is recommended that the City Council direct the City Clerk and City Attorney to review the City's Conflict of Interest Code and to comply with the filing of a Biennial Notice with the City Clerk regarding such review, as required by the Political Reform Act.

**REPORT SUMMARY:** The proposed action is pursuant to the requirements set forth in section 87306.5 of the Political Reform Act and placed upon the City Council as the City's code-reviewing body.

**BACKGROUND:** The Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), requires all public agencies to adopt and maintain a conflict of interest code. The primary effect of the code is to establish disclosure requirements for various government positions involved in the requisite level of decision-making as set forth in the Act. The Act requires each city to adopt a local conflict of interest code designating city positions not otherwise designated in the Act itself, that are involved in making or participating in the making of city decisions at all levels of city government.

The Act further requires that agencies, including cities, regularly review and update their codes as necessary as directed by their code-reviewing bodies or when change is necessitated by changed circumstances. (Gov. Code §§ 87306, 87306.5.)

The Act provides that no later than July 1 of each even-numbered year, code-reviewing bodies shall direct the review of all agency codes under their jurisdiction and requires that the agency head, no later than October 1, shall file a statement regarding the results of that review. The City Council is the code-reviewing body for the City's Code and must direct the biennial review of its Conflict of Interest Code ("Code") on or before July 1. (Gov. Code § 82011(c), 87306.5)

The Act also requires that the City Manager file a statement regarding the results of the review no later than October 1 of the same year. If a change in the Code is necessitated by this review, it must be submitted to the City Council for approval within ninety (90) days of the filing of the Local Agency Biennial Notice with the City Clerk. (Gov. Code § 87303, 87306.5)

**FISCAL IMPACTS:** N/A

**FOLLOW UP ACTION:** Start review of the City's Conflict of Interest Code.

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

**ATTACHMENTS:** None

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 9

ORIGINATING DEPT: Planning

CITY MANAGER: RT

PREPARED BY: Audra McDonald, Administrative Analyst

**SUBJECT:** Review of the City of Avalon Civil Rights Title VI Plan which is required by the Los Angeles County Metropolitan Transportation Authority as a condition of receiving Federal Transportation Administration grant funds for the Cabrillo Mole Ferry Terminal Rehabilitation Project.

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**RECOMMENDED ACTION(S):** Review and approve the City of Avalon Civil Rights Title VI Plan and adopt the corresponding Resolution authorizing the implementation of the plan and it's related policies.

**REPORT SUMMARY:** The City of Avalon was awarded a \$2.4 Million Ferry Boat Discretionary Program Grant in 2012 to rehabilitate the under-side of the Cabrillo Mole Ferry Terminal and to construct a shade/weather structure on the top-side of the terminal. A requirement of the receiving the funds for the Cabrillo Mole Project is that the City of Avalon have an approved Title VI Plan. The grant funds originate from the Federal Transportation Administration (FTA), passed on to the Los Angeles County Transportation Authority (LACMTA) and finally, passed on to the City of Avalon making the City a sub-recipient of the funds.

As a background, Title VI of the Civil Rights Act of 1964 is a Federal statute and provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program receiving Federal financial assistance. The Civil Rights Restoration Act of 1987 clarified the broad, institution-wide application of Title VI and allowed the FTA to require all recipients receiving federal funds to comply with the Department of Transportation's Title VI regulations. As part of the Title VI program, in 2000 President Clinton signed an executive order, *Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiency* to further clarify Title VI of the Civil Rights Act of 1964. The DOT published policy guidance regarding the executive order to address Limited English Proficient (LEP) persons and its relationship to identified protected classes. The statutes, policies and executive orders are the required guidance staff used to prepare the attached City of Avalon Title VI Plan.

The City of Avalon Title VI Plan addresses the general requirements and plans for inclusive public participation in the project specific to the plan which is the Cabrillo Mole Ferry Terminal. Should the City receive future grants from The Department of Transportation, The Federal Transportation Administration or The Federal Highway Administration the Title VI Plan would be amended to include additional funding or new projects.

The Language Assistance Plan provides analysis of the City of Avalon's Limited English Proficient (LEP) population which determines the level of language assistance the City is **required** to provide LEP Persons. City of Avalon staff used the required census data to perform the analysis and determined that LEP persons in the City are under the threshold that requires all vital documents be translated. All vital documents must provide contact information regarding assistance for LEP persons. If a translation is requested the translation must be provided at no cost to the LEP individual. In a continual effort to be inclusive, the City may want to voluntarily provide translated vital documents. The City of Avalon Title VI Plan states the City of Avalon will be working toward that goal. Staff training is addressed as part of the Language Assistance Plan and will need to be implemented in the near future. Identifying City of Avalon employees that are capable of providing translating skills (both orally and written) will need to be done within 30 days of adoption of the plan.

**FISCAL IMPACTS:** The estimated cost is unknown at the authoring of the staff report. The identified fiscal impacts could include staff training, translation costs, staff time and legal fees and would not be budget neutral.

**GOAL ALIGNMENT:** N/A

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION (S):** The City would not be eligible to receive federal financial assistance for the Cabrillo Mole Ferry Terminal Project.

**FOLLOW UP ACTION(S):** Forward the City of Avalon Title VI Plan and adopted resolution to LACMTA.

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

**ATTACHMENTS:**

1. City of Avalon Title VI Plan
2. Resolution

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AVALON AUTHORIZING  
THE TITLE VI COMPLIANCE PLAN

WHEREAS, the City of Avalon desires to comply with Title VI of the Civil Rights Act of 1964, including new provisions detailed in U.S. Department of Transportation's FTA Circular 4702.1B "Title VI Requirement Guidelines for Federal Transit Administration Recipients."

WHEREAS, the City of Avalon wishes to authorize the approval of the Compliance Plan Developed by staff to comply with necessary provisions of the Civil Rights Act.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Avalon as follows:

1. The City Manager is authorized to implement components of the plan in order to meet federal requirements.
2. The City Manager is authorized to implement policies that may be necessary to comply with subsequent revisions or interpretations to the Civil Rights Act.

Passed, Approved and Adopted on the \_\_\_\_\_ day of June, 2014.

I, the undersigned, hereby that the foregoing Resolution Number \_\_\_\_\_ was duly adopted by the City Council of the City of Avalon following a roll call vote:

Ayes:

Noes:

Absent:

Abstain:

\_\_\_\_\_  
Ann H. Marshall, Mayor

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

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 10

ORIGINATING DEP: Administration/Legal

CITY MANAGER: BT

PREPARED BY: City Attorney

SUBJECT: Approve Amendments to Sewer System Management Plan ("SSMP")

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**RECOMMENDED ACTION(S):** That the City Council approve amendments to the Sewer System Management Plan ("SSMP") and direct recertification of the SSMP into the California Integrated Water Quality System ("CIWQS")

**REPORT SUMMARY:**

In April 2012, the Los Angeles Regional Water Quality Board ("Regional Board") adopted a Cease and Desist Order for the City of Avalon (R4-2012-0077) ("Cease and Desist Order"). The Cease and Desist Order requires the City to cease discharging waste to Avalon Bay in violation of its NPDES Permit and the State Sanitary Sewer Overflow Order. It also required the City to complete an updated System Evaluation and Capacity Assurance Plan ("SECAP") by June 30, 2013. The SECAP was completed and submitted to the Regional Board last year.

Under the State Sanitary Sewer Overflow Order, the City is required to maintain an SSMP, which includes provisions for the proper and efficient management, operation, and maintenance of sanitary sewer systems. The Cease and Desist Order requires the SECAP element of the SSMP to be revised and recertified in CIWQS in light of the plan that was completed in June of 2013. The SSMP was last revised in June of 2012. The revisions presented for consideration and approval include revisions to the SECAP element to account for the plan completed in June of 2013. Additional revisions to the SSMP reflect the City's actions to comply with the Cease and Desist Order and State Sanitary Sewer Overflow Order over the last two years and are summarized as follows:

- Chapter 1: SSMP Goals. Revised to include compliance with the tasks identified in the Cease and Desist Order.
- Chapter 2: Organizational Structure. Revised to reflect changes in staffing.
- Chapter 3: Legal Authority. Revised to reflect ordinances the City adopted over the last two years to regulate discharges to the sanitary sewer system.
- Chapter 4: Operation and Maintenance. Revised to summarize the City's comprehensive program for information collection, inspection, maintenance tracking and repair work, including a description of the pipe cleaning program, flushing

program, root abatement program, pipeline and manhole rehabilitation and replacement program, and employee training program.

- Chapter 5: Overflow Emergency Response Plan. Revised to reflect the Sanitary Sewer Overflow Response and Cleanup Plan, which was updated in April 2014.
- Chapter 6: Fats, Oil and Grease (“FOG”) Control Program. Added to reflect the program implemented by the City over the last year. This chapter describes the best management practices, grease control devices, and inspections required of food service establishments.
- Chapter 7: System Evaluation and Capacity Assurance Plan. Revised to reflect the SECAP completed in June, 2013. This chapter summarizes the flow monitoring and capacity analysis conducted between March 19 and June 4, 2013, and references the existing conditions, future conditions, and recommendations contained in the SECAP. This chapter also incorporates a short- and long-term capital improvement plan addressing pipe size, inflow and infiltration reduction programs, increases and redundancy in pumping capacity and storage facilities required by the State Sanitary Sewer Overflow Order.
- Chapter 8: Design and Performance Standards. Revised to reflect the standard specifications for public works construction minimum pipeline design and rehabilitation criteria for the City’s sewer collection system.
- Chapter 9: Monitoring, Measurement, and Program Modifications. Revised to provide additional information regarding the methods the City uses to track performance measures for its preventative operations and maintenance activities, capital improvements, and FOG control program.
- Chapter 10: SSMP Audits. No substantive revisions.
- Chapter 11: Communications Program. Revised to reflect the City’s increased public outreach efforts for its private lateral program, tree root blockage prevention program, and other overflow prevention issues. These efforts include additional print and customer communications and outreach to business and location organizations.

**FISCAL IMPACTS:** This action will have no financial impact.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:** Failure to approve and recertify the SSMP by June 30 may result in a violation of the Cease and Desist Order. This may subject the City to additional fines and penalties by the Regional Board, including but not limited to, prohibitions on future connections to the sewer system or direct management of the collection system.

**FOLLOW UP ACTION:** None.

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

**ATTACHMENTS:** The complete Sewer System Management Plan (SSMP) document is 502 pages. A full version is available for viewing at City Hall.

Attached is a portion of the Sewer System Management Plan:

- SSMP Goals
- Organizational Structure
- Legal Authority

CITY OF AVALON CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 11

ORIGINATING DEP: Public Works

CITY MANAGER: BA

PREPARED BY: Dennis Jaich, Interim Public Works Director

SUBJECT: Purchase Isolation Valves for Pebbly Pump Station

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**RECOMMENDED ACTION(S):**

Allow Staff to purchase three (3) Knife Gate Isolation Valves for the Pebbly Beach Pump Station.

**REPORT SUMMARY:**

At the Pebbly Beach Pump Station, there exist three isolation valves. These valves operate or divert the different flows within the structure. For proper operation and maintenance of the facilities, it is necessary to occasionally divert flows for maintenance, and or various other actions while maintaining the facility. All of these existing valves are inoperable and should be replaced.

We have obtained three (3) quotes for the type of equipment needed in this application:

(1)	Cortech	\$	10,368.00
(2)	Sureflow	\$	8,402.37
(3)	Ferguson (Sureflow)	\$	7,879.89

**FISCAL IMPACTS:**

Staff has analyzed the quotes above and recommends purchasing the Sureflow Valves from Ferguson. That cost is as shown above, \$7,879.89. This work is budgeted in the "Replace Three Isolation Valves at Pebbly" Fund 124-25-6684.

**GOAL ALIGNMENT:** N/A

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:**

Servicing, properly maintaining and containing proper fluid levels in the Pump Station will continue to be a challenge.

**FOLLOW UP ACTION:**

Allow Staff to enter into an agreement with Ferguson to purchase the equipment.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:**

In compliance with the Brown Act.

**ATTACHMENTS:**

Three (3) quotes as stated above.

CITY COUNCIL

MEETING DATE: June 17, 2014

AGENDA ITEM: 12

ORIGINATING DEP: City Manager and City Attorney

CITY MANAGER: BA

PREPARED BY: City Attorney and City Manager

**SUBJECT:** Consideration of an Urgency Ordinance Regarding Water Conservation and Determination that Adoption of the Ordinance is Categorically Exempt

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**RECOMMENDED ACTION(S):** Review and discuss urgency ordinance regarding water conservation and make the determination that adoption of the ordinance is categorically exempt. Should the City Council wish to adopt this urgency ordinance, a fourth fifths (4/5) vote is required, and the ordinance would take effect immediately.

**REPORT SUMMARY:** A good portion of the western United States, including Southern California, Los Angeles County, Santa Catalina Island and the City of Avalon is embroiled within a prolonged water drought. Governor Brown has twice proclaimed a drought emergency within the State of California this year alone, and has called on cities to conserve water in every way possible.

Southern California Edison (SCE) is the water purveyor on Santa Catalina Island, including the City of Avalon. The California Public Utilities Commission (CPUC) is the regulatory agency charged with oversight over SCE and its delivery of water to the residents and visitors of Avalon.

At the direction of Mayor Marshall and Council Member Sampson, an urgency ordinance has been prepared for City Council consideration. The ordinance proposes the following:

1. That all new construction applications wherein there is no water allocation granted by SCE, will not be accepted by the City of Avalon unless a hardship is determined by the City Council, until such time that either the water rationing has ceased and/or a new water source is identified.
2. That the City generally adopts all CPUC tariffs related to water rationing into the Avalon Municipal Code such that the City of Avalon is able to use its police powers to actively enforce water rationing.
3. That the City actively strives to preserve water, going above and beyond the CPUC tariffs, and adopts strict penalties and fines to ensure compliance with conservation requirements.
4. That specified water use restrictions be observed continually as best practices, whether there is a drought or not.

Justifications for the urgency ordinance are contained within the whereas clauses within the ordinance itself. In the interest of brevity, they are not repeated here within the staff report.

**GOAL ALIGNMENT:** To be determined.

**FISCAL IMPACTS:** None.

**CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:** Potential impact to available potable water supply for the City of Avalon.

**FOLLOW UP ACTION:** Development and implementation of a code enforcement plan to enforce water rationing restrictions.

**ADVERTISING, NOTICE AND PUBLIC CONTACT:** Posted pursuant to the Brown Act.

**ATTACHMENTS:** Urgency Ordinance Regarding Water Conservation.

ORDINANCE NO. \_\_\_\_

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVALON AMENDING MUNICIPAL CODE SECTION 6-6.13 AND ADDING SECTIONS 6-6.14, 6-6.15, 6-6.16, AND 6-6.17 TO CHAPTER 6 OF TITLE 6 OF THE MUNICIPAL CODE REGARDING WATER CONSERVATION**

**WHEREAS**, a reliable minimum supply of potable water is essential to the public health, safety and welfare of the residents of the City of Avalon ("City") and is vital to the City's economy, which is dependent upon large numbers of people who visit the City on a daily basis; and

**WHEREAS**, potable water is provided to the City and its residents by Southern California Edison ("SCE"), which is regulated by the California Public Utilities Commission ("CPUC"), through groundwater wells and some limited desalination; and

**WHEREAS**, due to the climate and hydrology of the island, as well as its isolated location and lack of water supply alternatives, there is a limited supply of potable water for the City, and the City is highly susceptible to water shortages that impact the health, safety and welfare of its residents; and

**WHEREAS**, Governor Brown has twice proclaimed a drought emergency within the State of California this year alone, and has called on cities to conserve water in every way possible.

**WHEREAS**, the City must play an active role in water conservation and strict water conservation regulations are necessary for the City to prevent waste and ensure a reliable and sustainable minimum supply of water for its residents and visitors. The City is authorized to adopt and enforce such water conservation regulations pursuant to its police powers in Article XI, Section 7 of the California Constitution; and

**WHEREAS**, pursuant to Schedule 14.1 of SCE's Santa Catalina Island water tariffs approved by the CPUC, there are four stages of mandatory customer water conservation and rationing that SCE must declare when the water levels of the Middle Ranch Reservoir fall below a certain number of acre feet; and

**WHEREAS**, schedule 14.1 of the CPUC tariffs authorizes SCE to enforce such mandatory conservation restrictions and impose penalties for violations. The City, however, does not have the authority to enforce violations of SCE's water conservation requirements, as the City may only enforce water conservation regulations that it has itself adopted; and

**WHEREAS**, at present, SCE has declared a Stage 1 mandatory water conservation and rationing situation, and due to the current water supply conditions, a Stage 2 declaration is

imminent. There is a threat that there will not be sufficient water supply for City residents and visitors in the coming months of this year; and

**WHEREAS**, each day that passes without additional restrictions on the use of potable water results in a waste of such water for domestic purposes and, according to SCE, quickens the imposition of additional restrictions; and

**WHEREAS**, residents and visitors to the City will be negatively impacted if additional restrictions are imposed, thus harming the City's economy and City residents' health, safety and welfare; and

**WHEREAS**, as a result, it is imperative that the City adopt and enforce water conservation regulations so it can work with SCE to immediately preserve the public peace, health, safety, and welfare of its residents by minimizing the waste of potable water and safeguarding potable water for appropriate and necessary uses; and

**WHEREAS**, California Government Code Section 36937(b) authorizes the City Council to adopt by a four-fifths vote an urgency ordinance, effective immediately upon passage, if the ordinance relates to the "immediate preservation of the public peace, health or safety" and such ordinance contains a declaration of the facts constituting the urgency.

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

**Section 1:** Findings. The recitals set forth above are hereby adopted as the findings of fact of the City Council in connection with the adoption of this ordinance.

**Section 2:** Section 6-6.13 of Chapter 6 of Title 6 of the Avalon Municipal Code is amended to read as follows:

**6-6.13 Water Conservation**

~~Until such time that Southern California Edison or other provide of fresh water to consumers within the City of Avalon, has lifted Phase One of the Santa Catalina Island Fresh Water Rationing Plan (the "Plan") as set forth in Rule 14.1 of the tariff issued by the California Public Utilities Commission, it shall be unlawful for any person to cause or to permit to be caused, any use of freshwater supplied by such provided, as follows:~~

~~(a) The washing of streets, driveways, parking lots, patios, piers, sidewalks, tennis courts, walkways, and other hard surfaced areas by hosing or by use of fresh water directly from faucets or other outlets, except where done by means of a bucket or container not exceeding three (3) gallon capacity;~~

~~(b) The washing of motor vehicles, trailers, boats, golf carts, or airplanes by hosing or by use of fresh water directly from faucets or other outlets, except where done by means of a bucket or container not exceeding three (3) gallon capacity;~~

- ~~(c) The use of fresh water from fire hydrants for any purpose other than fire suppression;~~
- ~~(d) The use of fresh water for soil compaction;~~
- ~~(e) Water of outdoor landscaping and vegetation by hoses or sprinkling systems except between the hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 7:00 p.m. during the period that Pacific Daylight Time is in effect, and from 6:00 a.m. to 8:00 a.m. and 4:00 p.m. to 6:00 p.m. during the period that Pacific Standard Time is in effect. Watering by use of a bucket or container not exceeding a three (3) gallon capacity is permitted at any time.~~
- ~~(f) The service of drinking water to a customer at any restaurant or bar or other place which serves food and/or beverages except upon request by such person. Businesses subject to this subsection shall post notice thereof in a conspicuous place, bearing language similar to the following: "In order to conserve Avalon's limited fresh water supply, water is served upon request only."~~

~~The City of Avalon shall be exempt from the provisions of Section 6-6.13, but the City Manager shall implement all reasonable measures to conserve freshwater use by the City.~~

~~A first violation of this section shall be punishable as an infraction, subject to a Fifty and no/100ths (50.00) Dollar fine. A second violation committed within twelve (12) months of the first violation, and any subsequent violations thereafter, shall be punishable as a misdemeanor.~~

- (a) Due to the lack of long-term reliability of the City's potable water supply, the following water conservation requirements are effective at all times and apply to the use of potable water.
  - (1) No use of potable water that results in flooding or runoff in gutters or streets is allowed.
  - (2) No individual shall wash cars, private boats or aircrafts with a hose except with the use of a positive action shut-off nozzle or a three-gallon bucket. No use of potable water for washing commercial aircraft, buses, boats, trailers, or other commercial vehicles at any time is allowed, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use.
  - (3) No use of potable water for washing buildings and structures, street cleaning, driveways, patios, parking lots, tennis courts, or other hard-

surface areas is allowed, except in the cases where public health and safety are at risk.

- (4) No use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping, is allowed, other than by drip irrigation, water efficient sprinklers, or hand watering with quick acting positive action shut-off nozzles. Watering by use of a container or bucket not exceeding a three-gallon capacity is permitted.
  - (5) No watering or irrigating of any turf, lawns, gardens, landscape or other vegetated area in a manner that causes or allows excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter, ditch or other paved surface is permitted.
  - (6) The watering of outdoor turf, lawns, gardens, or landscape by hoses or sprinkler systems is limited to the hours of 5:00 p.m. to 9:00 a.m.
  - (7) No service of water by any restaurant except upon request of a patron.
- (b) The requirements of Section 6-6.13(a) do not apply to the following:
- (1) Uses of water necessary to protect public health and safety
  - (2) The use of recycled water.
  - (3) The use of potable water for gardens that produce food for human consumption, including fruit and vegetable gardens.
  - (4) The use of water by the City, but the City Manager shall implement all reasonable measures to conserve potable water use by the City.

**Section 3:** Sections 6-6.14, 6-6.15, 6-6.16 and 6-6.17 of Chapter 6 of Title 6 are added to the Avalon Municipal Code to read as follows:

**6-6.14. Stages of Mandatory Water Conservation and Rationing**

- (a) If Stage 1 of Southern California Edison's, or any other provider of water's, Water Rationing Plan set forth in Rule 14.1 of the tariff issued by the Public Utilities Commission or its successor tariff is in effect, the following additional restrictions are placed upon the uses of potable water:
  - (1) No potable water may be used if, after the provider of water has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system, the customer has failed to effect such repairs within five business days of such notice.

- (2) No use of potable water for any construction purposes such as consolidation of backfill, dust control, mixing of concrete, or other construction-related uses is allowed.
  - (3) No operation of commercial car washes without recycling of at least 50% of the potable water used per cycle is allowed.
  - (4) No use of potable water for the filling or refilling of swimming pools, spas, hot tubs and decorative fountains is allowed.
  - (5) The use of fresh water from fire hydrants, at any time, for any purpose other fire suppression is prohibited.
  - (6) The use of potable water for outdoor landscape and vegetation, including turf, lawns, and gardens, except for gardens that produce food for human consumption such as fruit and vegetable gardens, by hoses or sprinkler systems shall be limited to the hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 7:00 p.m., during the period Pacific Daylight Time is in effect, and 6:00 a.m. to 8:00 a.m. and 4:00 p.m. to 6:00 p.m., during the period Pacific Standard Time is in effect.
- (b) If Stage 2 of Southern California Edison's or any other provider of water's Water Restoration Plan set forth in Rule 14.1 of the tariff issued by the Public Utilities Commission or its successor tariff is in effect, the following additional restrictions are placed upon the uses of potable water:
- (1) Same as Stage 1, 1 through 6.
  - (2) The use of potable water for outdoor landscape and vegetation, including turf, lawns, and gardens, except for gardens that produce food for human consumption such as fruit and vegetable gardens, by hoses or sprinkler systems shall be limited to Tuesdays and Fridays only, during the hours of 6:00 p.m. to 7:00 p.m., during the period Pacific Daylight Time is in effect, and 5:00 p.m. to 6:00 p.m., during the period Pacific Standard Time is in effect. Watering by use of a container or bucket, not exceeding a three-gallon capacity, will be permitted at any time on Tuesdays and Fridays only.
  - (3) The use of potable water for use on golf courses is prohibited, other than for greens and tee box areas.
- (c) If Stage 3 of Southern California Edison's or any other provider of water's Water Restoration Plan set forth in Rule 14.1 of the tariff issued by the Public Utilities Commission or its successor tariff is in effect, the following additional restrictions are placed upon the uses of potable water:

- (1) Same as Stage 1, 1 through 6, and Stage 2.
  - (2) The use of potable water for outdoor landscape and vegetation, including turf, lawns, and gardens, except for gardens that produce food for human consumption such as fruit and vegetable gardens, is prohibited. The washing of motor vehicles, trailers, boats, or airplanes, washing buildings and structures, street cleaning, driveways, patios, parking lots, tennis courts, or other hard-surfaced areas with potable water, except in the cases where health and safety are at risk, is prohibited.
- (d) If Stage 4 of Southern California Edison's or any other provider of water's Water Restoration Plan set forth in Rule 14.1 of the tariff issued by the Public Utilities Commission or its successor tariff is in effect, the following additional restrictions are placed upon the uses of potable water:
- (1) Same as Stage 1, 1 through 6, Stage 2, and Stage 3.
  - (2) The use of potable water for gardens that produce food for human consumption, including fruit and vegetable gardens, is prohibited.
- (e) The City of Avalon shall be exempt from provisions of Section 6-6.14, but the City Manager shall implement all reasonable measures to conserve potable use by the City.

**Section 6-6.15. Permits**

- (a) Due to the City's current lack of short and long-term water supply reliability that threatens the public health, safety, and welfare of the City's residents, the City will not issue any new permits for commercial or residential projects that require new or expanded water service. Projects which have already been approved for and received a potable water allocation from Southern California Edison or any other provider of water are not subject to this Section 6-6.15(a).
- (b) The prohibition on issuance of new permits pursuant in Section 6-6.15(a) may be lifted by separate action of the City Council. In deciding whether to lift such prohibition, the City Council shall consider the following factors, among others, in the context of protecting the public health, safety, and welfare of the City's residents: the water levels of the Middle Ranch Reservoir, the availability and development of alternative sources of water, including desalination and recycled water, projected weather patterns, and local hydrological conditions.

**Section 6-6.16. Hardship Waiver**

- (a) If due to unique circumstances, a specific requirement of Sections 6-6.13, 6-6.14, and 6-6.15 would result in undue hardship to a person using potable water or to property upon which potable water is used, that is disproportionate to the impacts

to water users generally or to a similar property or classes of water users, then the person may apply for a waiver to requirements as provided in this section.

- (b) A waiver may be granted or conditionally granted only upon a written finding of the existence of facts demonstrating an undue hardship to a person using water or to property upon which water is used, that is disproportionate to the impact to water users generally or to similar property or classes of water users due to specific and unique circumstances of the user or the user's property.
- (c) An application for a waiver will be denied unless the City Manager finds, based on all of the information provided in the application, including any and all supporting documents, all of the following:
  - (1) That the waiver does not constitute a grant of special privilege inconsistent with the limitations upon other residents and businesses;
  - (2) That because of special circumstances applicable to the property or the water use, the strict application of Sections 6-6.13, 6-6.14 and 6-6.15 would have a disproportionate impact on the property or use that exceeds the impacts to residents and businesses in general;
  - (3) That the authorizing of such waiver will not be of substantial detriment to adjacent properties, and will not materially affect the ability of the City to effectuate the purpose of this chapter and will not be detrimental to the public interest; and
  - (4) That the condition or situation of the subject property or the intended use of the property for which the waiver is sought is not common, recurrent or general in nature.
  - (5) That the applicant has made reasonable efforts to secure alternate sources of potable water and cannot reasonably do so.
- (d) Notwithstanding anything to the contrary, a hardship waiver may also be granted if the City Manager finds that a specific requirement of Sections 6-6.13, 6-6.14, and 6-6.15 would result in threat to the public safety, health, or welfare.
- (e) The City Manager must act upon any submitted application no later than ten (10) days after receipt by the City and the City Manager may approve, conditionally approve, or deny the waiver. The applicant requesting the waiver must be promptly notified in writing of any action taken and the City Council shall be provided a copy of the decision. Any decision of the City Manager is final and is appealable pursuant to Chapter 4 of Title 1 of the Municipal Code.

#### **Section 6-6.17 Violations and Penalties**

- (a) Any violation of any provision of Sections 6-6.13, 6-6.14, and 6-6.15 may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars (\$1,000).
- (b) The following penalties apply to violations of any provisions of Sections 6-6.13, 6-6.14, and 6-6.15:
  - (1) A first violation will result in a fine not to exceed two hundred and fifty (\$250) dollars.
  - (2) A second violation committed within twelve months (12) of the first violation, or if the violation occurred in connection with a development project while the development project is ongoing, whichever is longer, is punishable by a fine not to exceed five hundred dollars (\$500).
  - (3) A third violation committed within twelve (12) months of the first violation, or if the violation occurred in connection with a development project while the development project is ongoing, whichever is longer, and any subsequent violations thereafter, is punishable by a fine not to exceed one thousand dollars (\$1,000).
- (c) Each day that a violation of Sections 6-6.13, 6-6.14, or 6-6.15 occurs and each violation of Section 6-6.13, 6-6.14 or 6-6.15 is a separate offense.
- (d) In addition to the penalties in Section 6-6.17(a) and (b) and due to the need to protect the public health, safety and welfare, the City may issue a stop work notice for any person or entity who violates any provisions of Sections 6-6.13, 6-6.14, or 6-6.15, including a stop work notice for any project illegally using potable water, and such person or entity must immediately cease the illegal activity.
- (e) The City is authorized to enforce any of the provisions of this chapter by civil injunction.
- (f) In addition to the penalties in this Section 6-6.17, the City may adopt additional penalties for violations of Sections 6-6.13, 6-6.14, or 6-6.15

**Section 4:** CEQA Exemption. The adoption of this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA"). The adoption of this Ordinance does not commit the City to any action that may have a significant effect on the environment because the water conservation that would result from the implementation of the Ordinance's provisions would not result in any significant environmental effects. As a result, these actions do not constitute a project subject to the requirements of CEQA. See State CEQA Guidelines, § 15378. Also, there are no circumstances concerning the project that would result

in a significant adverse impact on the environment because the project would actually result in the conservation of water, a limited and currently scarce natural resource, and would, therefore, have a beneficial effect on the environment. On this basis and the information contained in the whole of the administrative record, the adoption of this Ordinance is exempt from CEQA and no further analysis is required. State CEQA Guidelines, § 15061(b)(3).

**Section 5:** Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

**Section 6:** Effective Date. This Ordinance shall become effective immediately upon adoption if adopted by at least a four-fifths vote of the City Council.

**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:

\_\_\_\_\_  
Ann H. Marshall, Mayor

**ATTEST:**

\_\_\_\_\_  
Denise A. Radde, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Scott Campbell  
Best Best & Krieger, LLP