

**CITY OF AVALON
CITY COUNCIL ACTIONS
JUNE 19, 2012**

Call to Order: 6:02 p.m.

Pledge of Allegiance and Invocation

Roll Call: Present: Mayor Bob Kennedy, Mayor Pro-Tem Michael Ponce, Councilmembers Richard Hernandez, Ralph Morrow and Oley Olsen. Also present: City Manager Steven Hoefs, City Attorney Scott Campbell, Chief Administrative Officer Charlie Wagner and City Clerk Denise Radde.

The City Attorney announced that an item needing immediate consideration came to the attention of the City after the agenda was posted. The Department of Finance has determined that the ACIA allocated funding of \$ 1 million for the Pebbly Beach Road Project was not an enforceable obligation, because there was no existing construction agreement for the project. A Closed Session concerning this item needed to be added to the agenda. Three Councilmembers Hernandez, Morrow and Olsen each had a potential conflict of Interest, due to earned income, and needed to recuse themselves. Three votes were needed to add this item, so straws were drawn. Councilmember Olsen drew the short straw. He will participate and vote on this particular item from this point forward. Motion to add item to Closed Session by Michael Ponce, seconded by Oley Olsen. (3 Ayes- Kennedy, Ponce and Olsen, 2 Abstained – Hernandez and Morrow)

Item to be added:

Title: Conference with Legal Counsel with Anticipated Litigation.

Initiation of Litigation Pursuant to subdivision C, Section 54956.9 (one case)

The Department of Finance determined that the ACIA allocated funding of \$ 1 million for the Pebbly Beach Road Project was not an enforceable obligation, because there was no existing construction agreement for the project. With the Santa Catalina Island Company involved in the contract Councilmembers Hernandez, Morrow and Olsen drew straws to find who can participate in the adding and voting on this issue due to a Conflict of Interest. Motion to add item to closed session made by Michael Ponce, seconded by Oley Olsen (3 Ayes-Kennedy, Olsen and Ponce, 2 abstentions-Morrow and Hernandez)

Written Communication: Letter received from Kevin Strege in support of Item 5 on the agenda.

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Oral Communication: Comments were heard from Mark Malan in regards to the issuance of CUPs by the Planning Commission. He requested that City Council direct the Planning Commission to abide by the guidelines that he felt were set forth in the General Plan regarding providing residents with affordable, market rate housing units.

Consent Calendar:

There were three items on the Consent Calendar. Item #3 was pulled by Councilman Olsen for further discussion. Motion to approve items #1 and #2 by Ralph Morrow, seconded by Michael Ponce. (All Ayes)

1. Approved actions from the May 15, 2012 and June 5, 2012 City Council meetings.
2. Appointed Mark Tasca and Gene Eubanks as Assistants to the Vehicle Hearing Officer for a two year term.

Pulled Item:

3. Authorize Environ Strategy (ES) to Prepare Necessary Documents and Obtain a Five Year Renewal of the City's NRDES Permit.

Councilmember Olsen asked if Charlie Wagner could meet with Environ Strategies to modify existing discharge permit to allow future changes in discharging and its associated costs. Motion to authorize ES to prepare necessary documents and obtain a five year renewal of the City's NRDES Permit made by Oley Olsen, seconded by Michael Ponce (All Ayes)

Adjourned to the Avalon Municipal Hospital Board of Trustees' Meeting – 6:21-6:34 p.m.

General Business:

4. Expulsion Appeal- Chris Schwartz
Heard a harbor expulsion appeal from Chris Schwartz, owner of "Reel Time". Mr. Schwartz gave a description of the events that led up to the harbor discharge and showed a picture of the valves in question. After discussion a motion was made by Oley Olsen to uphold the one year expulsion from Avalon Harbor and to not prosecute as a misdemeanor but as an infraction. Harbor Master Brian Bray was going to notify the courts of the Council's decision. (All Ayes)

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5. Appeal of Staff/City Attorney Interpretation of Code Relating to Restaurant/Hotel in High Density Residential Zone

Heard an appeal from David Creigh, attorney representing the owner of Seaport Village. City Attorney Scott Campbell gave Staff's interpretation of the Municipal Code and its position on the appeal. After discussion consensus was to direct Staff to draft an ordinance to amend the allowable conditional uses in the High Density Zone to allow restaurants for hotels that exist as off June 19, 2012. Motion made by Ralph Morrow, seconded by Oley Olsen. (4 Ayes, 1 Nay-Michael Ponce)

Break 7:25 – 7:30

6. Pavement Assessment Program

Retroactively approved contract with RBF Inc. for \$18,500 to conduct a Pavement Assessment Study and make recommendations. Motion made by Ralph Morrow, seconded by Oley Olsen. (All Ayes)

7. Presentation on the Sewer System Management Plan (SSMP) and Adoption of the Edited Sewer System Management Plan

As required by the Cease and Desist Order, by June 30, 2012 the City of Avalon has to post the SSMP changes updating the companies and individuals that are involved in the sewer plan and explain SSMP to the public and why it is important. Adopt amended revisions to the SSMP. Motion made by Oley Olsen, seconded by Michael Ponce. (All Ayes)

8. Required Science Studies for the Cease and Desist Order

Charlie Wagner explained the items on the Cease and Desist Order requiring the City to conduct scientific studies relating to Bay Water Quality. Motion to authorize the City to commence work on science studies to comply with the Cease and Desist Order by Michael Ponce, seconded by Oley Olsen. (All Ayes)

9. Bay Water Quality Action

Charlie Wagner gave a presentation on the various concepts developed by Mix Marketing. Council agreed that they would like to use the concept logo of "Commitment 2 Compare" over "Avalon Bay Commitment". Charlie will discuss with Mix Marketing if they can incorporate two examples of the signage into one that will be posted along the beaches.

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10. Introduce Ordinance Amending the Time of Regular City Council Meetings
Introduce and waive further readings of an ordinance of the City of Avalon amending Chapter 1, Title 2, Section 2-1.01 of the Avalon Municipal Code to change the time of regular meetings on the first and third Tuesday of each month to 6:00 p.m. Motion made by Oley Olsen, seconded by Michael Ponce. (4 Ayes, 1 Nay- Hernandez)

CITY ATTORNEY REPORT-The Department of Finance has approved all the expenditures that council approved for the sewer projects; however, the DOF indicated that the funding for Pebbly Beach Road was not an enforceable obligation, therefore that money is subject to be taken by the state. This matter will be discussed further in closed session.

COUNCILMEMBER REPORT-Councilmember Olsen report that he and Mayor Kennedy met with the CPUC commissioners along with the Island Consortium and Edison regarding the pending rate case up in San Francisco.

CLOSED SESSION- 8:07 – 9:20 p.m.

Following the appropriate announcement of the Closed Session items the City Council went into Closed Session to discuss the following:

1. Conference with legal counsel-existing litigation
Subdivision (a) of Section 54956.9
Title: in the matter of Avalon K-12 School Site, 200 Falls Canyon Road, Avalon, CA 90704 I/SED: 11/12-003
2. Title: Conference with Legal Counsel with Anticipated Litigation.
Initiation of Litigation Pursuant to subdivision C, Section 54956.9 (one case)

Following Closed Session the City Attorney reported that City Council directed legal counsel to take appropriate legal action on the Pebbly Beach Road matter.

ADJOURN: Mayor Kennedy adjourned the City Council meeting a 9:22 p.m.

I, Denise Radde, City Clerk of the City of Avalon, do hereby certify that the DVD videotape of the City Council Meeting of June 19, 2012, is the official record of that Council Meeting and is on file and maintained in City Hall.

Denise A. Radde, City Clerk/Assistant City Manager

