County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101

DAVID E. JANSSEN
Chief Administrative Officer

June 5, 2001

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

PROPOSITION 218 ASSESSMENT BALLOT-CITY OF MALIBU ASSESSMENT DISTRICT NO. 98-2 (CALLE DEL BARCO) (THIRD) (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Support the assessments on County owned properties within the boundaries of the City of Malibu Assessment District No 98-2 (Calle Del Barco) for improvement to, and on-going maintenance of, an existing landslide abatement system at an annual cost of $3,848 plus a one time charge of $1,904 for installation and construction of an additional improvement (dewatering well), and direct the Chief Administrative Officer to cast the ballots in support of the assessments for the properties.

2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

As a result of the passage of Proposition 218, property owned by government agencies, including Los Angeles County, became subject to assessment by various County and non-County assessment districts on July 1, 1997. The County, like other property owners, is

able to cast ballots supporting or opposing the assessments and its ballots will be weighted to reflect its proportionate share of the total assessment.

One such district which is in the process of seeking property owner approval for assessments is in the City of Malibu, identified as Assessment District No. 98-2 (Calle Del Barco). Since the County owns properties within the boundaries of this district, it has the right to participate in the balloting on the assessments. This is a city assessment district and the public hearing on the proposed assessments is scheduled for June 11, 2001.

The County properties which these ballots represent is a vacant residential lot (APN 4451-015-901) acquired by the County in a legal settlement in 1990 and designated as a geologic hazard area, and two County Waterworks District Number 29 parcels (APN 4451-011-903 and 4451-011-904). The City of Malibu adopted a Resolution of Intention on April 23, 2001, to levy the proposed assessments, including the County owned properties. The Department of Public Works (DPW) has determined that the services to be financed by the City's assessment district will be of sufficient benefit to warrant the County's support. Accordingly, it is recommended that your ballots be completed as supporting the city's assessments.

In order to be approved under Proposition 218, the majority of property owners who return their ballots will have to approve the proposed assessments with their ballots being weighted according to their individual assessments based on the size, location, type of improvements and benefits received by the property. The proposed one-time total amount of the assessment is $39,595 to finance the installation and construction of an additional dewatering well and appurtenant facilities, and $80,033 to provide for on-going maintenance, repair and improvement for Fiscal Year (FY) 2001-02.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs that we invest in public infrastructure, in order to strengthen the County's fiscal capacity. Support for the benefit assessments levied against the County properties to facilitate improvement of an existing landslide abatement system fills an identified public need and supports this strategy by complying with the Strategic Asset Management Principles (Goal 3, Strategy 3, Objective 3.3.2).

FISCAL IMPACT/FINANCING

The total assessment for FY 2001-02 to be levied on the subject DPW property is $5,752 and consists of a one-time installation and construction cost of $1,904 and a maintenance, repair and improvement of the landslide abatement system cost of $3,848. Additional total annual maintenance assessments are anticipated beginning in FY 2002-03 estimated for the subject DPW property at $3,848 which may be adjusted in subsequent years for any increases in the Consumer Price Index (CPI) not to exceed 5 percent in any one year, or a re-balloting of property owners, except for normal Southern California Edison Company energy increases.

The assessments will be charged to DPW, which has jurisdiction over the assessed parcels. Based on your Board's approval of other Proposition 218 assessments, this is in keeping with the current policy and practice of charging such assessments to the County departments occupying or deriving use from the assessed properties. DPW is aware of and supports this financing plan. Future financing for approved assessments will be addressed as part of the annual budget process.

The financial burden of paying this increased assessment on the budget of DPW is not significant.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Proposition 218, approved by the voters in November 1996, requires public agencies to send ballots to all affected property owners prior to increasing or imposing a new assessment. The agency cannot increase an assessment or impose a new assessment if a majority of the ballots returned oppose the proposed assessment. The ballots are weighted according to the proposed assessment amount of the properties. In addition, publicly owned properties will no longer be exempt from the assessment unless the parcels receive no special benefit.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of this benefit assessment will help ensure the maintenance, repair and improvement and the public's safety in the City of Malibu's landslide abatement area (Calle Del Barco).

ENVIRONMENTAL DOCUMENTATION

This project is categorically exempt as specified under Appendix G, Class 1, of the Revised Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, which allows the repair and minor alterations of existing public facilities and/or utilities used to provide electric power, natural gas, water, sewage, or other public services, involving negligible or no expansion of use beyond that previously existing at the facility.

CONCLUSION

It is requested that the Executive Officer, Board of Supervisors return two copies of the adopted, stamped Board letter to the Chief Administrative Office, Real Estate Division, 222 South Hill Street, 4th Floor, Los Angeles, CA 90012.

Respectfully submitted,

DAVID E. JANSSEN
Chief Administrative Officer

DEJ:SNY
DS:rc

Attachments (1)

c: County Counsel
Auditor-Controller
Department of Public Works
City of Malibu

CITY OF MALIBU
PROPOSED CHANGES IN CONNECTION WITH ASSESSMENT DISTRICT NO. 98-2
(CALLE DEL BARCO)
ASSESSMENT BALLOT

To vote, mark the square before the word "YES" or before the word "NO," sign, date the ballot, and seal (fold where indicated, peel off backing to adhesive located at the bottom of the page, and presss firmly to seal) and return it in the enclosed envelope. The ballot must be completed in ink. The ballot must be received by the City Clerk prior to the time the City Council closes the public input portion of the public hearing on the proposed assessment. The public hearing is scheduled for June 11, 2001 at 6:30 p.m. The City Clerk will pick up mailed ballots at 4:30 p.m. on June 11th.

Mail or deliver ballot to the City Clerk at:
Malibu City Hall, 23555 Civic Center Way, Malibu, CA 90265

Fold Here Fold Here

Assessor Parcel Number: 4451-015-901
Assessment Identification Number: B11
Benefit Assessment Units (BAU's) currently assigned to this parcel: 1.00
Situs Address (if available): 3811 PASEO HIDALGO ST, MALIBU CA 90265-5107 C001

One-time assessment for installation and construction of Additional Improvement (dewatering well):	$380.72
Increased Assessment for maintenance, repair and improvement of landslide abatement system (fiscal year 2001-2002):	$769.55 *

* For subsequent fiscal years, the maximum annual assessment for maintenance, repair and improvement of the landslide abatement system is $ 769.55 per Benefit Assessment Unit (BAU), adjusted each year (commencing with fiscal year (2002-2003) based upon any increase from previous year in the Consumer Price Index, All Urban Consumers for the Los Angeles-Ananheim-Riverside Area (not to exceed five percent (5.00%) in any one year).

☐ YES, I approve of the assessment of my property at or below the above amounts for the installation and construction of the Additional Improvement and the maintenance, repair and improvement of landslide abatement improvements, including the Additional Improvement.

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☐ NO, I do not approve of the one-time assessment of my property and the increased annual maintenance assessment described above.

I hereby declare, under penalty of perjury, that I am the record owner, or the authorized representative of the record owner, of the parcel identified above.

Signature

Date

Print Name

LA COUNTY
500 W TEMPLE ST, # 754
LOS ANGELES, CA 90012-2713

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(CALLE DEL BARCO)
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Signature _____ Date _____

Print Name _____

LA COUNTY
500 W TEMPLE ST, # 754
LOS ANGELES, CA 90012-2713

REMOVE TO EXPOSE ADHESIVE

CITY OF MALIBU
PROPOSED CHANGES IN CONNECTION WITH ASSESSMENT DISTRICT NO. 98-2
(CALLE DEL BARCO)
ASSESSMENT BALLOT

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Mail or deliver ballot to the City Clerk at:
Malibu City Hall, 23555 Civic Center Way, Malibu, CA 90265

Fold Here ..... Fold Here

Assessor Parcel Number: 4451-015-903
Assessment Identification Number: A24
Benefit Assessment Units (BAU's) currently assigned to this parcel: 2.00
Situs Address (if available):

One-time assessment for installation and construction of Additional Improvement (dewatering well): $761.44

Increased Assessment for maintenance, repair and improvement of landslide abatement system (fiscal year 2001-2002): $1,539.10 *

* For subsequent fiscal years, the maximum annual assessment for maintenance, repair and improvement of the landslide abatement system is $769.55 per Benefit Assessment Unit (BAU), adjusted each year (commencing with fiscal year (2002-2003) based upon any increase from previous year in the Consumer Price Index, All Urban Consumers for the Los Angeles-Ananheim-Riverside Area (not to exceed five percent (5.00%) in any one year).

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Signature _____ Date _____

Print Name _____

L A CO WATERWORKS DIST NO 29
PO BOX 1460
ALHAMBRA, CA 91802-1460

REMOVE TO EXPOSE ADHESIVE

CITY OF MALIBU
PROPOSED CHANGES IN CONNECTION WITH ASSESSMENT DISTRICT NO. 98-2
(CALLE DEL BARCO)
ASSESSMENT BALLOT

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Mail or deliver ballot to the City Clerk at:
Malibu City Hall, 23555 Civic Center Way, Malibu, CA 90265

Fold Here ..... Fold Here

Assessor Parcel Number: 4451-015-904
Assessment Identification Number: A23
Benefit Assessment Units (BAU's) currently assigned to this parcel: 2.00
Situs Address (if available): 21510 CALLE DEL BARCO , MALIBU CA 90265-5103 C001

One-time assessment for installation and construction of Additional Improvement (dewatering well): $761.44

Increased Assessment for maintenance, repair and improvement of landslide abatement system (fiscal year 2001-2002): $1,539.10 *

* For subsequent fiscal years, the maximum annual assessment for maintenance, repair and improvement of the landslide abatement system is $ 769.55 per Benefit Assessment Unit (BAU), adjusted each year (commencing with fiscal year (2002-2003) based upon any increase from previous year in the Consumer Price Index, All Urban Consumers for the Los Angeles-Ananheim-Riverside Area (not to exceed five percent (5.00%) in any one year).

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Signature _____ Date _____

L A CO WATERWORKS DIST NO 29
PO BOX 1460
ALHAMBRA, CA 91802-1460

Print Name _____

REMOVE TO EXPOSE ADHESIVE

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(CALLE DEL BARCO)
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Assessment Identification Number: A24

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L A CO WATERWORKS DIST NO 29
PO BOX 1460
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Print Name

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I hereby declare, under penalty of perjury, that I am the record owner, or the authorized representative of the record owner, of the parcel identified above.

Signature _____ Date _____

L A CO WATERWORKS DIST NO 29
PO BOX 1460
ALHAMBRA, CA 91802-1460

Print Name _____

REMOVE TO EXPOSE ADHESIVE

Harry Barovsky
Honorary Mayor 2000-2001
In Memoriam

City of Malibu

PUBLIC WORKS DEPARTMENT
City Engineer - Rick Morgan, P.E.
23555 Civic Center Way, Malibu, California 90265
(310) 456-2489 ext. 247 ❖ fax (310) 456-3356

ASSESSMENT BALLOT ENCLOSED

April 25, 2001

Assessment No.: B11
Assessor's Parcel No.: 4451015901
Situs Address: 3811 PASEO HIDALGO ST, MALIBU CA 90265-5107 C001

Re: NOTICE TO PROPERTY OWNERS WITHIN ASSESSMENT DISTRICT NO. 98-2 (CALLE DEL BARCO)

Dear Property Owner:

As you may be aware, the City maintains the existing Calle Del Barco dewatering system that was installed by the County and later improved by the City in connection with Assessment District No. 98-2 (Calle Del Barco) through an annual special assessment on your tax bill. There is chronic seepage observed on the east side of the slope above the Rambla Orienta retaining wall. Review of historic data and aerial photographs suggests that this spot historically has had a high groundwater condition. Recently completed slope stability analyses indicate the slide is very sensitive to water levels and that this area in particular may be a critical location for additional dewatering. Bing Yen & Associates recommends that a new dewatering well be constructed adjacent to this critical spot to improve the slope stability. In addition, this well will help to replace dewatering capacity lost as a result of the 1998 slope failure. Furthermore, the impact on prevailing wages by recent State legislation has resulted in a substantial annual maintenance budget deficit for Assessment District No. 98-2. Therefore, Public Works has proposed the levy of an additional one-time assessment to fund the construction of the new dewatering well and an increase in the annual assessment for the continued maintenance of the dewatering system.

Proposition 218, approved by the California voters in 1996, requires the City to conduct a mailed ballot election on the proposed new one-time assessment and the increase in the annual maintenance assessment. The City has included a ballot for you to indicate your support of, or opposition to, the proposed new assessments. Ballots will be counted at the public hearing on the assessments. In counting the ballots, the ballot for each parcel will be weighted according to the proposed assessments against the parcel. A majority protest will cause the abandonment of the proposed new one-time assessment for the cost of the proposed dewatering well and the proposed increase in the annual maintenance assessment. In such case, the City Council will hold a public hearing to consider the confirmation of the maintenance assessment for fiscal year 2001-2002 in an amount which does not exceed the amount previously authorized for fiscal year 2000-2001, increased by the increase in the CPI (3.2%). Please note that the proposed increased maintenance assessment, if approved, will

Please

not be in addition to the existing maintenance assessment. Before submitting the enclosed ballot please plan to attend the community meeting to discuss the proposed new improvement and answer your questions.

May 8th, 2001 - Community Meeting to be held at 6:00 pm in the City Hall Conference Room.

June 11th, 2001 - Public Hearing to be held at 6:30 pm in the Council Chambers at Hughes Research Center.

Enclosed is the Notice of Public Hearing for the EXISTING maintenance assessments (colored yellow), Notice of Public Hearing and Ballot (showing assessment amounts) for the proposed NEW dewatering well and INCREASE in the annual maintenance assessment (colored green), a self addressed stamped envelope for returning your ballot, the Council Agenda Staff Report and resolutions with comparisons of assessments, and assessment ballot procedures. Copies of the full Engineer's Report and City Geologist's Annual report are available for review at City Hall.

This is your district and your property being protected – come to the Community Meeting and then make an informed choice as to what you want the City to undertake on your behalf.

Sincerely,

Mitch Mosesman

Mitch Mosesman, Vice President
David Taussig and Associates
for
Rick Morgan, P.E.
City Engineer

Please

*******ASSESSMENT BALLOT ENCLOSED*******

NOTICE OF PUBLIC HEARING
in connection with
ASSESSMENT DISTRICT NO. 98-2 (CALLE DEL BARCO)

Dear Property Owner:

The City Council of the City of Malibu is currently undertaking proceedings to order changes in connection with an existing Assessment District designated "Assessment District No. 98-2 (Calle Del Barco)" (the "Assessment District"). Your property is located in the Assessment District.

The City Council proposes to order the installation and construction of an additional dewatering well and appurtenant facilities (the "Additional Improvement") as part of the system of landslide abatement works and improvements in your neighborhood and to levy a supplemental assessment to pay for the Additional Improvement. In addition, the City Council proposes to increase the annual assessment for the ongoing maintenance, repair and improvement of the landslide abatement system.

Resolution of Intention and Engineer's Report

On April 23, 2001 the City Council adopted a resolution declaring its intention to order changes in connection with the Assessment District pursuant to the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code) and Article XIII D of the California Constitution. In addition, the City Council approved an engineer's report prepared in connection with the proposed changes. The engineer's report contains, among other things, plans and specifications for the proposed Additional Improvement; an estimate of the total cost of the Additional Improvement; a diagram of the Assessment District; and an assessment of the total cost of the proposed Additional Improvement spread against the properties in the Assessment District.

The Proposed Additional Improvement

The proposed Additional Improvement may be briefly described as follows: The installation and construction of a 4-inch dewatering well and appurtenant facilities, to be located midway up the slope between Rambla Orienta and Calle Del Barco at the first terrace drain, which will become part of the system of works and facilities necessary to prevent, mitigate, abate and control a geologic hazard located within the Assessment District. The Additional Improvement is described in the engineer's report.

Proposed Assessments

The City proposes to finance the installation and construction of the Additional Improvement with a one-time assessment. In addition, the City Council proposes to continue to finance the ongoing maintenance, repair and improvement of the landslide abatement improvements, including the Additional Improvement. As described below, the City Council proposes to increase the annual maintenance assessment.

As set forth in the engineer's report, the costs of the Additional Improvement and the ongoing maintenance were apportioned to each property based on the number of Benefit Assessment Units (BAUs) assigned to each property. Properties were assigned 2 BAUs if located inside the landslide boundaries and 1 BAU if located outside the landslide boundaries.

The total proposed assessment to pay for the installation and construction of the Additional Improvement is $39,594.88 (which equals $380.72 per BAU). Your share of this proposed one-time assessment is set forth on the enclosed ballot.

The total proposed assessment to pay for the maintenance, repair and improvement of the landslide abatement system, including the Additional Improvement, for fiscal year 2001-02 is $80,033.20 (which equals $769.55 per BAU). This represents an increase over the maintenance assessment of $48,225.97 (or $450.71 per BAU) levied in fiscal year 2000-01. Your share of the proposed fiscal year 2001-02 annual maintenance assessment is set forth on the enclosed ballot.

If approved by the property owners, in subsequent fiscal years, the City Council may levy the annual maintenance assessment at any rate or amount that is less than or equal to $769.55 per BAU, adjusted each year for inflation (commencing with fiscal year 2002-03) based upon any increase from the previous year in the Consumer Price Index, All Urban Consumers for the Los Angeles-Anaheim-Riverside Area ("CPI") as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor. The amount of any increase due to inflation shall not exceed five percent in any one year.

Existing Assessments

The total principal amount of unpaid assessments already levied against all of the property proposed to be assessed, as calculated in accordance with the engineer's report, is $6,998.67.

Public Hearing

The City Council will hold a **public hearing** regarding the proposed assessments on **Monday, June 11, 2001 at 6:30 p.m. in the Council Chambers, HRL Auditorium,** 3011 Malibu Canyon Road, Malibu, California 90265. At the public hearing, interested persons may testify regarding the proposed assessments.

Ballot Procedure

The City strongly encourages you to return the enclosed assessment ballot indicating your support of, or opposition to, the proposed assessments. Please check the box indicating your position and sign and return the ballot.

Ballots may be either mailed or delivered in person to the City Clerk at City Hall, 23555 Civic Center Way, Malibu, California 90265, or delivered to the City Clerk at the public hearing on the proposed assessments. All ballots must be received by the City Clerk prior to the time the City Council closes the public input portion of the public hearing on the proposed assessment. To ensure that ballots are received on time, mailed protects must be received by the City no later than 4:30 p.m. on June 11, 2001. Ballots received after 4:30 p.m. on June 11, 2001 will only be counted if the public input portion of the public hearing is continued to a later date and the ballots are received by the City Clerk prior to the conclusion of the public input portion of the public hearing on the later date.

Enclosed with this notice are the City's Procedures Applicable to the Completion, Return and Tabulation of Ballots.

Majority Protest/ Abandonment of Proposed Changes

At the public hearing, the City Council will tabulate the returned ballots. The one-time assessment for the proposed Additional Improvement and the proposed increase in the annual maintenance assessment will be abandoned if a majority protest exists upon the conclusion of the public hearing. A majority protest exists if ballots submitted in opposition to the proposed assessments exceed the ballots submitted in favor of the assessments.

In the event of a majority protest, the City Council will hold a public hearing to consider levying the annual maintenance assessment in an amount which does not exceed the amount authorized for fiscal year 2000-01, increased by the increase in the CPI.

Additional Information

Copies of the Resolution of Intention and the Engineer's Report are on file in the office of the City Clerk and available for inspection. For more information regarding the proposed assessments, please contact Mr. Rick Morgan, City Engineer, telephone number (310) 456-2489 ext 247.

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CITY OF MALIBU
Assessment District No. 98-2 (Calle Del Barco)
PROCEDURES FOR THE COMPLETION, RETURN, AND TABULATION OF BALLOTS

I. Completion of Assessment Ballots

- **Who may complete a ballot**

An assessment ballot ("ballot") may be completed by the owner of the parcel to be assessed. As used in these Procedures, the term "owner" includes the owner's authorized representative. If the owner of the parcel is a partnership, joint tenancy, or tenancy in common, a ballot may be completed by any of the general partners, joint tenants, or tenants in common. Except as set forth below, only one ballot may be completed for each parcel.

- **Proportional assessment ballots**

If a parcel has multiple owners, any owner may request a proportional ballot. If the ownership interest of the owner is not shown on the last equalized secured property tax assessment roll, such request must include evidence, satisfactory to the City, of the owner's proportional rights in the parcel. The City will provide the proportional ballot to the owner at the address shown on the assessment roll. Any request for a ballot to be mailed to another location must be made in writing and must include evidence, satisfactory to the City, of the identity of the person requesting the ballot. Each proportional ballot will be marked to show the date on which the ballot was provided, to identify it as a proportional ballot and to indicate the owner's proportional rights in the parcel. The City will keep a record of each proportional ballot provided to an owner.

- **Duplicate ballots**

Upon the request of an owner, if the ballot is wrongly marked, torn or defaced, the City will provide a duplicate ballot to the owner upon receipt of such ballot from the owner. In addition, if a ballot is lost, destroyed or never received, the City will provide a duplicate ballot to the owner upon receipt of a request in writing delivered by the owner to the City Clerk at City Hall, 23555 Civic Center Way, Malibu, California 90265, or at the public hearing on the proposed assessment. The duplicate ballot will be marked to show the date on which the ballot was provided and to identify it as a duplicate ballot or a duplicate proportional ballot. The same procedure applies to duplicate ballots or duplicate proportional ballots which are lost, destroyed, or never received.

- **Marking and signing the ballot**

To complete a ballot, the owner of the parcel must (1) stamp or mark the appropriate box supporting or opposing the proposed assessment, and (2) sign, under penalty of perjury, the statement on the ballot that the person completing the ballot is the owner of the parcel or the owner's authorized representative. Only one box may be stamped or marked on each ballot. Ballots must be completed in ink.

- **Only assessment ballots provided by the City will be accepted**

The City will only accept ballots mailed or otherwise provided to owners by the City. Photocopies, faxes, and other forms of the ballot will not be accepted.

II. Return of Assessment Ballots

- **Who may return ballots**

A ballot may be returned by the owner of the parcel or by anyone authorized by the owner to return the ballot.

- **Where to return ballots**

Ballots may be mailed to the address indicated on the ballot. Ballots may also be delivered in person to the City Clerk at City Hall, 23555 Civic Center Way, Malibu, California 90265, or at the public hearing on the proposed assessment.

- **When to return ballots**

All returned ballots must be received by the City Clerk prior to the time the City Council closes the public input portion of the public hearing on the proposed assessment. The public input portion of the public hearing may be continued from time to time. The City Clerk will stamp on each ballot the date of its receipt.

The City Clerk will pick up mailed ballots at 4:30 p.m. on the date scheduled for the public hearing on the proposed assessment. To ensure that mailed ballots are received by the City Clerk prior to the conclusion of the public input portion of the public hearing, mailed ballots must be received by the City Clerk prior to that time. Mailed ballots received after 4:30 p.m. on the date scheduled for the public hearing will only be counted if the ballots are received by the City Clerk prior to the conclusion of the public input portion of the public hearing. The City makes no representation as to whether the public input portion of the public hearing will be concluded on the date scheduled for commencement of the public hearing or continued to a later date.

- **Withdrawal of assessment ballots**

After returning a ballot to the City, the person who signed the ballot may withdraw the ballot by submitting a written request to the City Clerk directing the City Clerk to withdraw the ballot. Such request must be received by the City Clerk prior to the close of the public input portion of the public hearing on the proposed assessment. If any ballot has been withdrawn, the person withdrawing the ballot may request a duplicate ballot. The City Clerk will retain all withdrawn ballots and will indicate on the face of such ballots that they have been withdrawn.

III. Tabulation of Assessment Ballots

- **Which assessment ballots will be counted**

Only ballots which are completed and returned in compliance with these procedures will be counted. Ballots received by the City Clerk after the close of the public input portion of the public hearing on the proposed assessment will not be counted. Ballots which are not signed by the owner will not be counted. Ballots with no boxes marked, or with more than one box marked, will not be counted. Ballots withdrawn in accordance with these procedures will not be counted.

The City Clerk will keep a record of each proportional or duplicate ballot provided to an owner and will verify, prior to counting any duplicate ballot, that only one ballot has been returned for the parcel (or for the owner in the case of proportional ballots). If a non-duplicate ballot has been returned, the City will count the non-duplicate ballot and disregard all duplicate ballots. If only duplicate ballots have been returned, the City will count the earliest provided duplicate ballot and disregard the later provided duplicate ballots. If an owner returns both a non-proportional ballot and a proportional ballot, the City will count the proportional ballot and disregard the non-proportional ballot.

- **When and where assessment ballots will be tabulated**

The tabulation of ballots will be performed at the public hearing following the close of the public input portion of the public hearing. The public hearing may be continued from time to time for the purpose of tabulating ballots. Ballots will not be unsealed until the tabulation begins.

- **How assessment ballots will be tabulated**

Ballots may be counted by hand, by computer or by any other tabulating device.

Ballots will be weighted according to the proportional financial obligation of the affected property; provided, however, that proportional ballots shall be weighted in accordance with the respective ownership interests of each proportional ballot submitted. If one or more proportional ballots are returned for a parcel and a non-proportional ballot is returned for the parcel, the non-proportional ballot will either be disregarded (if the same owner has returned a proportional ballot) or treated as a proportional ballot (if the same owner has not returned a proportional ballot).

- **Who will tabulate assessment ballots**

Ballots may be tabulated by the City Clerk or by any impartial person designated by the City who does not have a vested interest in the outcome of the proposed assessment.

- **Results of tabulation**

The results of the tabulation will be announced following the completion of the tabulation and entered in the minutes of the City Council meeting. If ballots submitted in opposition to the proposed assessment exceed the ballots submitted in favor of the proposed assessment (as tabulated above), the assessment will not be imposed. During and after the tabulation, the assessment ballots shall be treated as disclosable public records and equally available for inspection by the proponents and the opponents of the proposed assessment.

IV. Resolution of Disputes

In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the City will make such determination from the last equalized assessment roll and any evidence of ownership submitted to the City Clerk prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to ownership of property and the City's determination of ownership will be final and conclusive.

In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the City may rely on the statement on the ballot, signed under penalty of perjury,

that the person completing the ballot is the owner's authorized representative and any evidence submitted to the City Clerk prior to the conclusion of the public hearing. The City will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and the City's determination will be final and conclusive.

V. General Information

For further information, contact Rick Morgan, City Engineer, telephone number (310) 456-2489.

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Council Agenda Report

Harry Barovsky
Honorary Mayor 2000-2001
In Memoriam

To: Mayor Hasse and the Honorable Members of the City Council

Prepared by: Rick Morgan, City Engineer

Reviewed by: Chuck Bergson, Public Works Director

Approved by: Christi Hogin, Interim City Manager

Date prepared: April 25, 2001 Meeting date: April 23, 2001

Subject: **AMENDED ITEM 6B**
Calle Del Barco Landslide Assessment District

RECOMMENDED ACTION: Staff recommends that the City Council:

1. Adopt Resolution of Intention No. 01-17 declaring the City's intention to *order changes in connection with Assessment District 98-2 (Calle Del Barco)* pursuant to the Municipal Improvement Act of 1913, Division 12 of the California Streets and Highways Code *and Article XIIID of the California Constitution*; and

2. Adopt Resolution No. 01-18 preliminarily approving the Engineer's Report *in connection with the proposed changes* for Assessment District No. *98-2* (Calle Del Barco) and setting a Public Hearing to be held on June 11, 2001 at 6:30 pm, in the Council chambers at HRL; and

3. Set the time and place to hold a Community Meeting for May 8, 2001at 6:00 pm in the City Library.

FISCAL IMPACT: None, all costs for administering this Assessment District are paid through the District.

DISCUSSION: *(NOTE – The proposed resolutions must be adopted on the April 23, 2001 to provide adequate time for public noticing prior to the Public Hearing on June 11, 2001 to complete assessment proceedings and collect assessments in the 2001-02 tax year.)*

In response to heavy rainfall in 1998 and the reactivation of the Calle Del Barco landslide, the City created new Assessment District No. 98-2 to install additional dewatering facilities. The new district also created a new district boundary which was expanded to include all properties which derive access benefits from the stability of the landslide (approximately 62 additional properties). Two zones have been identified within the district to distinguish between types of benefit. Zone A comprises all properties which are located in whole or in part within the ancient landslide area and benefit by protection of property and roadway access due to landslide stabilization. All parcels within Zone A have been assigned 2.00 Benefit Assessment Units (BAU's). Zone B comprises all other properties which benefit by roadway access due to landslide stabilization. Parcels within Zone B are assigned 1.00 BAU.

As a result of the 1998 landslide and subsequent lawsuits, the City undertook extensive geotechnical investigations of the slide which were performed by Bing Yen & Associates. This work was funded by the City to defend ourselves in the lawsuits. A side benefit was that BYA gathered important information about the stability of the Calle Del Barco landslide. This new information has led them to recommend the installation of an additional dewatering well to improve long term stability. For this reason *staff* is recommending *the levy of a supplemental assessment against properties within the Assessment District. In addition, staff is recommending an increase in the annual maintenance assessments due to recent State Legislation requiring that Bing Yen & Associates pay their field technician at California Prevailing Wage Rates.*

The proceedings and assessment balloting must be in accordance with new legislation resulting from the passage of Proposition 218. See the attached detail of Ballot Procedures which is appended to the Resolution of Intention. Ballots will be mailed April 26, 2001 with the Notice of Public Hearing and approval of the *supplemental assessment and increased maintenance assessment* will be subject to a majority protest procedure.

Simply stated, a majority protest exists if the majority of ballots received at conclusion of the Public Hearing are in opposition to the proposed *assessments*.

The Public Hearing is scheduled to be held on June 11, 2001. In case *of a majority protest*, at this Council Meeting staff will recommend *that the* annual maintenance assessments be set at the maximum allowed without a ballot. This will leave a deficit budget and may require scaling back on some maintenance expenses over the next year.

At time of this writing, the Engineers Report with recommended assessment amounts and plans and specifications for proposed improvements are still in preparation. This document will be distributed to Council prior to April 20, 2001.

ALTERNATIVES: No *supplemental assessment or increase in annual maintenance assessment* and continued budget deficit and reduced slide maintenance services.

STAFF FOLLOW UP: Upon approval of *the resolution of intention*, staff will mail necessary notices and ballots, hold community meeting, and take all steps necessary to assure successful *assessment* proceedings.

ATTACHMENTS:
Reso. 01-17, Resolution of Intention
Reso. 01-18, Preliminary Approval of Engineers Report
Preliminary Assessment Engineer's Report

RESOLUTION NO. 01-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU DECLARING ITS INTENTION TO ORDER CHANGES IN CONNECTION WITH ASSESSMENT DISTRICT NO. 98-2 (CALLE DEL BARCO) PURSUANT TO THE MUNICIPAL IMPROVEMENT ACT OF 1913 AND ARTICLE XIIID OF THE CALIFORNIA CONSTITUTION AND TO COMPLY WITH THE REQUIREMENTS OF DIVISION 4 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE BY PROCEEDING UNDER PART 7.5 THEREOF

THE CITY COUNCIL OF THE CITY OF MALIBU HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The City Council (the "City Council") of the City of Malibu (the "City"), pursuant to the Municipal Improvement Act of 1913, Division 12 of the California Streets and Highways Code, commencing with Section 10,000 (the "1913 Act") and as provided in Article XIIID of the California Constitution ("Article XIII"), by its Resolution No. 98-033, declared its intention (i) to order improvements, described as the construction and substantial reconstruction of a system of works and facilities necessary to prevent, mitigate, abate and control a geologic hazard, including dewatering wells, inclinometers, pneumatic piezometers, hydraugers, storm drain facilities, slope protection facilities, and drainage swales (the "Improvements"), within an assessment district designated as "Assessment District No. 98-2 (Calle Del Barco)" (the "Assessment District"), (ii) to levy an assessment to pay for the cost of the Improvements and (iii) to levy on an annual assessment to maintain, repair and improve the Improvements and ordered the Assessment Engineer, David Taussig and Associates, Inc., (the "Assessment Engineer") to prepare and file a report (the "Engineer's Report") with the City Clerk.

Section 2. The City Council, by its Resolution No. 98-034, preliminarily approved the Engineer's Report entitled, "Preliminary Engineer's Report, Assessment District No. 98-2 (Calle Del Barco) of the City of Malibu, County of Los Angeles."

Section 3. On June 29, 1998, following notice duly given in accordance with law, the City Council held a full and fair public hearing regarding Resolution No. 98-033 and the Engineer's Report and regarding protests and objections thereto and to the proposed Improvements. At such public hearing, the Assessment Engineer presented to the City Council certain proposed modifications to the Engineer's Report.

Section 4. The City Council, by its Resolution No. 98-051, (i) ordered such modifications to the Engineer's Report to be made, and approved the Engineer's Report as so modified (the "Modified Engineer's Report"), (ii) confirmed the assessment for the cost of the Improvements provided for in subdivisions (d) and (e) of Section 10204 of the 1913 Act and set forth in the Modified Engineer's Report, (iii) ordered the Improvements set forth in the Modified Engineer's Report to be made, (iv) approved the estimate of expenditures for the maintenance, repair and improvement of the Improvements for fiscal year 1998-99 as shown in the Modified Engineer's Report, and (v) determined to levy and collect an assessment for the maintenance, repair and improvement of the Improvements for fiscal year 1998-99 in the amount shown in the Modified Engineer's Report.

Section 5. A copy of the Modified Engineer's Report is on file in the office of the City Clerk and open for public inspection. For a full and complete description of the exterior boundaries of the Assessment District, reference is hereby made to the Assessment Diagram labeled "Assessment Diagram for Assessment District No. 98-2, City of Malibu - (Calle Del Barco), Los Angeles County, California,"which Assessment Diagram was previously approved by the City Council and is now on file in the office of the City Clerk and open to public inspection.

Section 6. The City Council hereby (i) finds that the public interest, necessity and convenience require and (ii) declares its intention to order the installation and construction of an additional 4-inch dewatering well and appurtenant facilities, to be located midway up the slope between Rambla Orienta and Calle Del Barco at the first terrace drain, to serve the properties in the Assessment District, which dewatering well will be a part of the system of works and facilities necessary to prevent, mitigate, abate and control a geologic hazard within the Assessment District (the "Additional Improvement"), and to order the levy of a supplemental assessment against the properties within the Assessment District to pay for the costs of installing and constructing the Additional Improvement. The total cost of installing and constructing the Additional Improvement is estimated to be $39,594.88.

Section 7. The City Council hereby declares its intention to levy an increased annual assessment commencing in fiscal year 2001-02 to maintain, repair, or improve the system of works and facilities described herein, including the Additional Improvement described in Section 6, pursuant to Section 10100.8 of the 1913 Act. The City Council hereby reaffirms its finding and declaration set forth in its Resolution No. 98-051 that due to the marginal stability of the Calle Del Barco area and the nature of the Improvements, including the Additional Improvement, it will be necessary to incur maintenance, repair and improvement expenses more frequently than every five years in order to maintain the level of benefit to the assessed parcels. The City Council reaffirms its further finding and declaration set forth in its Resolution No. 98-051 that the level of benefit to the assessed parcels would otherwise decline more rapidly than usual for other public works of the type involved because of circumstances which do not ordinarily affect such public works, to wit, geologic instability.

Section 8. The City Council hereby finds and declares that if the increased assessment to maintain, repair or improve the system of works and facilities described herein, including the Additional Improvement, proposed by this Resolution is approved by the property owners pursuant to Article XIIID of the California Constitution for fiscal year 2001-02, the City Council may thereafter impose such assessment in subsequent fiscal years at any rate or amount that is less than or equal to the amount authorized for fiscal year 2001-02, adjusted each year based upon any increase from the previous year in the Consumer Price Index, All Urban Consumers for the Los Angeles-Anaheim-Riverside Area ("CPI"), as determined by the United States Department of Labor, Bureau of Labor Statistics, or its successor. The amount of any increase on account of inflation shall not exceed five percent in any one year. The proposed total amount of the assessment for maintenance, repair and improvement of the landslide abatement system for Fiscal Year 2001-02 is $80,033.20 (which equals $769.55 per Benefit Assessment Unit). The total amount of the assessment for maintenance, repair and improvement of the landslide abatement system for Fiscal Year 2000-01 was $48,225.97 (which equaled $450.71 per Benefit Assessment Unit).

Section 9. The City Council hereby declares its intention to comply with the applicable requirements of the Special Assessment Investigation, Limitation and Majority Protest Act of

1931, Division 4 of the California Streets and Highways Code (the "1931 Act") by proceeding under Part 7.5 of the 1931 Act.

Section 10. The proposed Additional Improvement and the proposed maintenance assessment described in Sections 7 and 8 hereof are hereby referred to the Assessment Engineer to make and file with the City Clerk of the City Council a report in writing in accordance with Article XIIID, Section 4 of the California Constitution and Section 10204 of the 1913 Act, which report shall also contain all of the information required by Section 2961 of the 1931 Act.

Section 11. The City Council hereby designates the City Treasurer, or the designated agent of the City Treasurer, to collect and receive the assessments.

Section 12. The City Council hereby appoints and designates the City Engineer to perform the duties and functions of the Superintendent of Streets in connection with such proceedings.

Section 13. Any surplus moneys remaining in the improvement fund after the completion of the proposed Additional Improvement and the payment of all claims from the improvement fund shall be disposed of in accordance with California Streets and Highways Code Section 10427.

Section 14. The City Council hereby determines that it is in the public interest and more economical to do work on private property to eliminate any disparity in level or size between the proposed Additional Improvement and private property than to adjust the work on public property to eliminate such disparity.

Section 15. The City Council hereby determines that it is in the public interest to perform a portion of the work on private property with the prior written consent of the owner thereof.

Section 16. In the opinion of the City Council, the public interest will not be served by allowing property owners to take a contract to perform any of the work.

Section 17. Procedures of the City applicable to the completion, return and tabulation of the ballots required pursuant to Article XIIID, Section 4 of the California Constitution are hereby approved. The City Clerk is hereby directed to maintain a copy of such Procedures on file in the office of the City Clerk.

PASSED, APPROVED and ADOPTED this 23rd day of April, 2001.

/S/
Thomas J.D. Hasse, Mayor

ATTEST:

/S/
City Clerk

RESOLUTION NO. 01-018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU APPROVING A REPORT OF THE ENGINEER IN CONNECTION WITH PROPOSED CHANGES REGARDING ASSESSMENT DISTRICT NO. 98-2 (CALLE DEL BARCO), AND APPOINTING A TIME AND PLACE FOR HEARING PROTESTS

THE CITY COUNCIL OF THE CITY OF MALIBU HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. Pursuant to a resolution of the City Council of the City of Malibu declaring its intention to order certain changes in connection with Assessment District No. 98-2 (Calle Del Barco), the Assessment Engineer, David Taussig and Associates, Inc., has filed with the City Clerk of the City of Malibu and the City Clerk has presented to the City Council a report entitled, "Preliminary Changes and Modifications to Engineer's Report, Assessment District No. 98-2 (Calle Del Barco) of the City of Malibu, County of Los Angeles" regarding Assessment District No. 98-2 (Calle Del Barco) and the proposed changes described in such resolution of intention.

Section 2. The report described in Section 1 above has been considered by the City Council, and such report is hereby preliminarily approved as filed.

Section 3. The City Council hereby appoints June 11, 2001, at 6:30 p.m. in the Council Chambers, HRL Auditorium, 3011 Malibu Canyon Road, Malibu, California 90265, as the time and place for hearing protests to the proposed changes.

Section 4. The City Clerk is hereby directed to give notice of such hearing in accordance with law.

Section 5. The City Council hereby designates Rick Morgan, City Engineer, telephone number (310) 456-2489, to answer inquiries regarding the protest proceedings.

PASSED, APPROVED and ADOPTED this 23rd day of April, 2001.

/S/
Thomas J.D. Hasse, Mayor

ATTEST:

/S/
City Clerk

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The City of Malibu City Council will hold a public hearing on **MONDAY, June 11, 2001, at 6:30 p.m. in the Council Chambers at HRL**, located at 3011 Malibu Canyon Road, Malibu, CA, for the project identified below.

PUBLIC HEARING TO HEAR COMMENTS ON THE CONTINUED LEVY OF AN EXISTING ASSESSMENT TO FINANCE MAINTENANCE OF LANDSLIDE ABATEMENT FACILITIES FOR THE FOLLOWING AREA:

Assessment District No. 98-2 (Calle Del Barco)

Written objections or comments regarding the Assessment District may be submitted to the City either by mail addressed to the City Clerk or City Engineer, Malibu City Hall, 23555 Civic Center Way, Malibu, California 90265, or may be delivered directly to City Hall during regular business hours, 8:30 a.m. to 5:00 p.m., Monday through Friday, between now and 5:00 p.m. on Monday, June 11, 2001. Written objections or comments may also be submitted to the Recording Secretary at City Hall prior to the start of the hearing. All written objections or comments must be received by the City prior to the opening of the public hearing.

A copy of all relevant material, including a resolution, staff report, Engineer's Report, and City Geologist's Annual Report are on file in the office of the City Clerk and City Engineer, Malibu Civic Center, 23555 Civic Center Way, Malibu, California 90265. Copies are available for public inspection during regular office hours from 8:30 a.m. to 5:00 p.m., Monday through Friday. The City Hall phone number is (310) 456-2489.

Please note that the City Council is concurrently undertaking proceedings to authorize an increase in the annual maintenance assessment and a one-time assessment for installation and construction of a new dewatering well. If the property owners in Assessment District No. 98-2 do not approve the one-time assessment and increased maintenance assessment, the City Council will consider levying the maintenance assessment for fiscal year 2001-02 at the maximum amount which does not require property owner approval (which equals the amount for fiscal year 2000-01 increased by increase in the CPI).

IF YOU CHALLENGE THE COUNCIL'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, EITHER AT OR PRIOR TO THE PUBLIC HEARING.

_____
Acting City Clerk

_____
Publish Date