

MINUTES

City Council Regular Meeting
2212 Beach Boulevard
Pacifica, CA 94044

March 24, 2008

Mayor Vreeland called the meeting to order at 6:30 p.m., stating that all councilmembers were present except for Councilmember Hinton and announced that the Council would meet in Closed Session. City Attorney Quick announced the business to be discussed:

PURSUANT TO GOVERNMENT CODE SECTION 54957.6: Conference with Labor Negotiator. Agency Negotiator: Ann Ritzma. Employee organization: Management Teamsters Local 350; Wastewater Teamsters Local 856; Miscellaneous Teamsters Local 856.

Mayor Vreeland called the meeting to order at 7:05 p.m.

Present: Councilmembers: DeJarnatt, Digre, and Vreeland.
Excused: Councilmembers: Hinton and Lancelle.

Staff Present: Steve Rhodes, City Manager; Cecilia Quick, City Attorney; Ann Ritzma, Administrative Services Director.

Mayor Vreeland led the Salute to the Flag.

Commission Liaison: None.
Chamber Liaison: None.

CLOSED SESSION:

None.

CONSENT CALENDAR:

Councilmember DeJarnatt moved approval of the Consent Calendar, as amended, as follows: Approval of disbursements dated 02/29/08 to 03/07/08 in the amount of \$317,979.73, regular and quick checks numbered 81703, and 119773 to 119942; and disbursements dated 03/03/08 to 03/13/08 in the amount of \$282,953.94, regular and quick checks numbered 81704 to 81705 and 119943 to 120045, as set forth in Item #1; Approval of Minutes of regular City Council meeting of March 10, 2008, as set forth in Item #2; Adoption of Notice of Completion for the Monterey Road Sanitary Sewer Improvements Project, as set forth in Item #3; Authorization of Staff to Advertise for Request for Proposal (RFP) for the Installation Design of the Enequa Ultra Violet Disinfection System at the Calera Creek Water Recycling Plant, as set forth in Item #4; Adoption of Resolution of Intention for Sewer Rate Revision, as set forth in Item #5, moved to consideration as Item 9; Approval of Establishment of a Job Description and Salary Range for the Position of Director of Wastewater Collections and Plan Operations, as set forth in Item #6; seconded by Councilmember Digre.

ROLL CALL VOTE:

Ayes: Councilmembers: DeJarnatt, Digre, and Vreeland.
Noes: Councilmembers: None.

Motion carried: 3-0.

SPECIAL PRESENTATION:

Mayor Vreeland read a proclamation honoring Susan Manheimer on her induction into the San Mateo County Women's Hall of Fame.

Susan Manheimer thanked the City and Council for honoring her, adding that she was proud to be a part of the community and the City itself.

Mayor Vreeland read a proclamation honoring Natashia La Vogue on her induction into the San Mateo County Women's Hall of Fame, as well as on being a recipient of the Young Woman of Excellence Award.

Nancy Eagan, JUHSD Partnership for a Safe and Healthy Pacifica, accepted the proclamation on behalf of Natashia La Vogue, adding that they had a large group attending the Hall of Fame dinner to honor her.

COUNCIL COMMUNICATIONS:

Councilmember DeJarnatt stated that the Pacifica School Volunteers could use help April 1 to sort books at Linda Mar School and that they would also have a Children's Book Sale on April 5 in the Linda Mar Shopping Center. He mentioned a comment he made during the previous meeting's Oral Communications regarding an article in the Times that he probably should not have said. He had stated that the story on the wastewater spill had very little truth which wasn't accurate. He clarified that what was said was true, but it didn't give the whole story and he mentioned some specific discrepancies. He had a phone conversation with the writer following which the paper published corrections, and he felt that it was only fair to apologize to her. He added that his comments were in reaction to criticism by several individuals during Oral Communications and he didn't think it was fair for Councilmembers to react to individuals who criticize the Council.

Councilmember Digre thanked the people who attended the Fire Consultant's meeting and the transit meeting, adding that there was still time for individuals to give input. She attended the WestPac meeting and met the gentleman who would be doing the streetscape. She thought the meeting went well. She thought the Walgreen and McDonald's projects which were going up so rapidly were exciting. She mentioned the ongoing concern regarding the condition of the Manor overpass and thought something needed to be done to protect it. She also commented on a new café by the 7/11 and a new place at Fairmont. She encouraged people to report to the *Tribune* on any new businesses, stating that foot traffic was important for any local economy. She mentioned that April 16 would be the City's first budget meeting.

Mayor Vreeland stated that he had been contacted by residents from Shelter Cove, voicing their concern about the access to their homes. He asked if they could discuss this in an open session agenda to give an update on the status.

City Attorney Quick stated that she would be happy to put it on the next Council agenda.

Mayor Vreeland added that it would give them and the property owner an opportunity to talk, and the residents could hear where they were in the process. He felt the first meeting in April would be great. He thanked Caltrans for the tunnel tour, stating that the structure was spectacular. He added that they hoped to have the bridges done and connected and turned over to the contractors

doing the drilling from this side in the summer. He also mentioned working with Caltrans on the opportunity to have an onramp at the off ramp at Manor which would alleviate some of the traffic congestion at the Manor overpass. He also mentioned working on a master plan with Caltrans for maintenance of the highway from Daly City to the new project, as well as the Highway 1 bridge needing to be made to the appropriate flood stage standard. He was reminded by Councilmember Digre that there was a memorial for Congressman Tom Lantos on Wednesday at the So. San Francisco Convention Center.

ORAL COMMUNICATIONS

Mayor Vreeland opened Oral Communications.

Barbara Louthan, Tobacco Use Prevention Education Program, thanked Chief Saunders for paving the way for making the tobacco ordinance possible, giving some specifics of his help and guidance, then thanked the Council as well.

Devyn Saunders, Oceana High senior, thanked the Councilmembers for meeting with them and listening to their presentations.

Amanda Cue, co-chair of the San Mateo Tobacco Education Coalition and prevention director of the Youth Leadership Institute, acknowledged the Council for their past and future participation in helping to support the community to promote positive and healthy behavior.

Nancy Eagan, JUHSD, stated that she remembered when this project was just a paper and they needed to bring the City in as a partner. She stated that they have been so supportive.

Derek Smith, San Mateo County Director of the Tobacco Prevention Program, stated that he was honored to have been working with this youth group and the involved adults and wanted to acknowledge what the Pacifica City Council had been doing in being a model for the youth.

Mayor Vreeland felt that the Council wasn't a model but rather a forum, with the youth being the real model of public involvement. He thought their ability to get an ordinance passed showed their leadership. He stated that they should be proud of what they have done, and he thought it was an honor to serve as a forum for their commitment.

Councilmember Digre appreciated the Mayor's comments. She appreciated what their adult leadership had done by not taking over but enabling the youth to be the voice. She added that the shuttle and present bus system was due to the survey work and follow through of other youth. She felt they would all be a model for younger youth as they go off to college, with the key being to allow the youth to lead.

Tod Schlesinger, Linda Mar, stated that, if the Mayor was apologizing, the back-handed apology was a day late and a dollar short, adding that the Mayor wouldn't have to apologize if he had done the right thing at the beginning. He referred to the Detroit mayor scandal. He then commented on the City putting out RFPs for a rewrite of the General Plan. He wondered why it happened after a letter written by PSD and signed by Andrew Leone and Pete Schumaker in April 2007, when he had been harping on it for ten years. He felt he should be given the credit, adding that he had written in his candidate statement in 2006 what the #1 priority was. He again asked the Mayor to answer the question of why he didn't disclose in January to the Channel 2 News, and at the Council meeting, information regarding Linda Mar Beach's sewage spill. He stated that everyone knows what's going on in the town, and he needed to come clean.

Aaron Tinker, Pacifica, stated that he and Mary Harris had some comments. As residents of Shelter Cove, they had a growing concern about access to their homes. He knew that it was a contentious issue and was aware that things take time to get resolved, but the residents were caught in the middle. He stated that they have to go in and out of their homes through the top floor of a ten-story building. He stated that they would like an interim solution so they can access their homes and continue to live there.

Mary Harris, Pacifica, stated that she had lived at Shelter Cove for a total of 41 years. She felt it was a wonderful, beautiful place to live but they presently didn't have very good access. She felt the tenants had a right to life at Shelter Cove. She thought the people complaining about their path damaging their places were confused because Mother Nature had destroyed their path and the cliff above, adding that the person building a house on landfill didn't help. She mentioned a Planning Department design for a new path that wouldn't undercut any houses.

Mayor Vreeland mentioned that he had requested that a discussion on this issue take place at the next Council meeting.

City Manager Rhodes stated that they would put it on the agenda, adding that they might have a large agenda because of the present meeting being limited.

Mayor Vreeland added that, if it was a big agenda, they would have to help manage it, but this was a dire straits situation for the residents of Shelter Cove. He asked confirmation that, while they couldn't talk about anything that was potential litigation, they could talk about where they were from a project standpoint.

City Attorney Quick clarified that there were two matters, potential litigation and an application filed with the Planning Department for repair to the path, adding that she would coordinate with the planners and report back to the Council.

Mayor Vreeland acknowledged that they could at least get a sense of where it was. He stated that they were trying to move it forward and they would hopefully have a public discussion at the next meeting.

Bill Moore, 23 Spruce Court, stated that he was reemphasizing the problems on Beach Boulevard. He mentioned the sump hole that was discovered, and that the City Manager and Councilmember Lancelle checked it out, and then stated that the City had to do something. He mentioned that a disaster could involve the entire coast because of the sewage coming out of the sewer pipe underneath the street.

Thom Ball, Library Manager in Pacifica, referred to the annual report of the San Mateo County Libraries, as well as the activities at the two Pacifica libraries, in the Council's packet. He gave some details of the activities during the 2006/2007 year, concluding that library usage was at an all-time high, despite the advent of the internet. He and his staff thanked the City Council and the City Manager for their support of library services and looked forward to forging a vibrant library future for Pacifica.

Pat Paik, Director of Pacifica Resource Center, related a story of a family who came to them, and how they had worked with them for over a year. The father went off the deep end and was out of the picture, the mother was given help with medical care, food, and other assistance until

she had doubled her salary and was in a position to actually give back to the Resource Center to help others in a similar situation.

Nancy Morrison, President of Resource Center Advisory Board, stated that was what the Resource Center was all about, neighbors helping neighbors. They were present to thank the City for partnering with them to allow them the opportunity to continue providing that safety net for people who were in dire need. She then read some specific details from their report of what they were able to do during the past year.

Mayor Vreeland thanked them for all their work, adding that their statistics were amazing for the size of their organization. He acknowledged that they really did help out people in dire need. He thanked them for coming, adding that they would be talking about it during the budget process.

Bernie Sifry, Pacifica, stated that there was a time to complain and a time to pat them on the back. He stated that all three Councilmembers deserved accolades and he was impressed with their sharing with the community on all the activities in which they have been involved. He felt community reaction was a positive one.

Kathy Meeh, 1276 Alicante Drive, commented on the Mayor and the Council continually assuring the community that everything was okay, yet selling off City property, adding taxes and fees, downsizing, legally transferring money into the General Fund to balance the budget while City infrastructure was in a state of decay. She mentioned that some people were late in understanding what had happened. She commented on the small percentage of property that was still actually developable, and urged the Council to support development in the quarry. She stated that driving out progress was a failure that had serious long term negative repercussions for a City.

Janet Kennedy, 939 Fassler Avenue, stated she was a member of Pacificans for Progress, and they were supporting the Pooch Group which was attempting to establish a dog park. They agreed that the park was necessary for residents' safety and were happy that the City Manager was working with them to find a location and get it started. She stated that they would soon be meeting with the Pooch Group prior to their Pacificans for Progress meeting, and invited anyone interested in the financial economic and infrastructure progress of the City to attend. She was happy that they were moving forward with the General Plan, but was surprised that the Council was disappointed that the study group didn't find a potential area for redevelopment. She stated that we had one, and she hoped they would add the accomplishment of developing the quarry soon.

Stephanie Vinces, Park Pacifica, stated that she was present to thank the City for working so hard on Beach Boulevard. She appreciated the quick response, but thought it brought up questions on exactly where the City was in finding funding for a full repair. She hoped that they could get some revetment in soon. She also would appreciate an update in a future meeting. She had attended both the fire meeting and traffic meeting, and appreciated the work being done to give out the information and keep it aboveboard. She appreciated their efforts at well intended changes.

Mayor Vreeland asked the City Manager the status of doing an x-ray of Beach Boulevard.

City Manager Rhodes stated that the report was presented to the Council last fall.

Mayor Vreeland stated that he thought they had done some more work.

City Manager Rhodes stated that what was going on now was to call for bids on the work for the revetment, as well as the work for the pier. He added that they needed to get the coastal permit and were planning to do work this spring, while identifying funding for part of it.

Mayor Vreeland reiterated that they were going through the process to do an RFP and get a bid on the work being done.

City Manager Rhodes thought that in a future meeting they might be able to provide a more thorough update on the progress.

Mayor Vreeland stated that he was just letting people know that it was moving forward, and finding a funding source was one of the necessary steps.

Mayor Vreeland closed Oral Communications.

PUBLIC HEARINGS:

None.

CONSIDERATION

7. Introduction of Ordinance Amending the Municipal Code Penalty Provisions to Allow Recovery of Attorney's Fee and Costs.

City Attorney Quick presented the staff report.

Mayor Vreeland opened public comments.

Janet Breger, Pacifica, asked if an individual would have to pay the City's fees if they sued a City Council member and lost.

City Attorney Quick stated that the city was seeking through either an administrative or judicial process to bring a code enforcement action against someone who was a public nuisance and the City was forced to incur legal fees to bring them into compliance and be able to recover its fees, but it didn't have anything to do with third parties initiating litigation against the City.

Janet Breger stated that she might not understand it, but she was referring to the building inspector who refused to sign off on some inspections.

Mayor Vreeland stated that this was changing the ordinance for attorney fees, and that her particular subject was better addressed under Oral Communications.

Janet Breger stated that an individual had sued the Mayor and the Planning Director and lost due to a technicality, and she was told he might have to pay the attorney's fees.

City Attorney Quick stated that this ordinance had no bearing on that situation, having nothing to do with third parties who initiate litigation against the City or the City's officials. This was concerning the City initiating litigation to compel compliance with City codes.

Janet Breger stated that she was told that the City was making a decision to force him to pay their legal fees.

City Attorney Quick clarified that the situation she mentioned had nothing to do with what was before the Council this evening.

Bernie Sifry, Pacifica, asked the City Attorney what problem this ordinance was supposed to solve or eliminate.

City Attorney Quick explained that this would make it clear that, when the City was forced to bring code enforcement action to a property owner, the City would be able to recover the legal fees expended.

Bernie Sifry asked if it would be on the assumption that the City wins.

City Attorney Quick responded affirmatively.

Bernie Sifry asked if this would be applicable if a complaint was brought against the City.

City Attorney Quick responded that it would not, only to City initiated actions.

Bernie Sifry stated that he knew that a judge had the right to determine whether a suit was frivolous and adjudicate legal fees based on that. He concluded that the City Attorney was saying that this didn't apply here.

City Attorney Quick responded affirmatively.

Bernie Sifry asked if anything was retroactive or would only take effect once it was posted.

City Attorney Quick stated that it would take effect once it was posted, 30 days after adoption.

Kathy Meeh, 1276 Alicante Drive, stated that she thought this extended into such action as whistle blower but she now acknowledged that it didn't, but was strictly an ordinance as mentioned.

City Attorney Quick confirmed that she was correct, again stating that it strictly applied to actions that the City initiated.

Janet Kennedy, 939 Fassler Avenue, stated that she also didn't completely understand it. This supposedly took effect in 30 days, however, there was a sentence that said it applied to pending actions, and she asked if they had any outstanding pending suits filed by the City.

City Attorney Quick responded that there was nothing pending at this moment.

Mayor Vreeland closed public comments.

Councilmember DeJarnatt moved to read Ordinance entitled "An Ordinance of the City Council of the City of Pacifica amending Chapter 2 of the Pacifica Municipal Code adding Section 1-2.10" by title only and waiving reading beyond the title; and move introduction of the Ordinance; seconded by Councilmember Digre.

Councilmember Digre thought it was a fairness issue because of citizens who had created a nuisance and didn't acknowledge that and didn't fix things. She felt this was a way of helping the entire community.

ROLL CALL VOTE:

Ayes: Councilmembers: DeJarnatt, Digre, and Vreeland.

Noes: Councilmembers: None.

Motion passed: 3-0.

8. Resolution Adopting Regulations for Candidates for Elective Office Pertaining to Candidates Statements Submitted to the Voters at an Election to be Held on Tuesday, November 4, 2008, and at Future Elections.

City Attorney Quick presented the staff report.

Councilmember DeJarnatt asked confirmation that it would require payment of a deposit.

City Attorney Quick stated that it would require a deposit and, if the actual cost was less, the excess would be refunded.

Councilmember DeJarnatt thought it was always more.

There were no public comments.

Councilmember DeJarnatt moved to adopt the Resolution entitled "Resolution of the City Council of the City of Pacifica Establishing Adopting Regulations for Candidates for Elective Office Pertaining to Candidate's Statements Submitted to the Voters at an Election to be Held on Tuesday, November 4, 2008 and at Future Elections;" seconded by Councilmember Digre.

Councilmember Digre stated that one time when she ran, it was less by \$10.

ROLL CALL VOTE:

Ayes: Councilmembers: DeJarnatt, Digre, and Vreeland.

Noes: Councilmembers: None.

Motion passed: 3-0.

Mayor Vreeland reiterated that the City Attorney said, if it was less, the excess would be refunded to the candidate.

City Attorney Quick responded affirmatively, adding that the County Elections Official prepared the estimate.

Mayor Vreeland clarified that they gave the City the bill.

City Attorney Quick stated that they gave the City the bill and did the reconciliation after.

9. Adoption of Resolution of Intention for Sewer Rate Revision.

Administrative Services Director Ritzma presented the staff report.

Councilmember DeJarnatt stated that he understood that other Bay Area cities would be building wastewater plants because they didn't do it previously, and he asked how many there were.

Admin. Services Director Ritzma stated they knew of several plants making improvements, and the increase would be reflected in their rates. She stated that there was a plant in the North Bay that would be paying \$100 to \$150 million to build one similar to ours. She stated that waiting would have cost us more.

Councilmember DeJarnatt asked if that one would serve a population approximately the size of Pacifica.

Admin. Services Director Ritzma responded affirmatively.

Councilmember Digre asked if it would have cost us \$150 million to build a plant if we had waited until now to create our present plant.

Admin. Services Director Ritzma stated that \$100 to \$150 million was the estimate for this other community's plant, which was similar in size and capacity to what we have. She added that, when the Council made the decision to build the plant, we were well beyond capacity and would have incurred many fines for not being able to handle the sewage in Pacifica.

Councilmember Digre asked if we paid \$40 million.

Admin. Services Director Ritzma stated that it was a total of \$51 million.

Mayor Vreeland opened public comments.

Stephanie Vinces, Park Pacifica, stated that she was not complaining about the rates, but wanted to clarify the statement that the 3-5% over the next five years would build in a reserve. She asked if the incremental raise was including labor raises and the cost of supplies, and questioned whether that was a realistic number. She would like to avoid having balloon increments, but rather a predictive increment no matter what it was.

Bernie Sifry, Pacifica, reminded the Council that last year Scott Holmes brought this up with a 9% increase to be followed this year by another 9% increase. He heard that it was now 14%. He acknowledged that it might be legitimate, but he asked what the citizens can expect from that money going into the sewer plant, after one or two years. He stated that they would have to convince the community and he suggested that they put down in the letter the exact revenue and the uses for the money, such as the debt, etc., so nothing is hidden.

Bill Moore, 23 Spruce Court, stated that he agreed with Stephanie Vinces. He calculated that they were going up 18% this year, and rates had gone up over 200% in the last six years. He suggested that they use a business format, and project where they need to be in five years, what they need, and come up with a constant rather than balloon payments. He mentioned that the plant has had a lot of problems, and the manufacturer has gone bankrupt and we have to have things custom made if something goes wrong, and the City needed to include all the costs to make sure there was a constant rate.

Mayor Vreeland closed public comments.

Admin. Services Director Ritzma stated that, for anyone who wanted to know what the increased rates would get them, there were two budget work sessions which would be covering the sewer fund. She stated that they would be going over it line by line to see what was inside the rates and what they can see at the end of the year.

Mayor Vreeland clarified that, in addition to the actual budget process, there would be several public hearings on this item alone.

Admin. Services Director Ritzma agreed, stating that there was one on May 12.

City Attorney Quick clarified that May 12 was the public hearing and May 27 was the consent item for the second reading of the ordinance.

Mayor Vreeland reiterated that there wouldn't be another meeting about it until May 12 when it was an official request from staff to approve the ordinance.

Admin. Services Director Ritzma stated that the notice going out within 72 hours was a standard form that the City was required to put out per Prop. 218 but details would be available at the work session.

Mayor Vreeland clarified, for the speaker asking for more information in the notice, that the letter was a boilerplate notice.

Admin. Services Director Ritzma reiterated that it was a boilerplate notice inviting individuals to come to the May 12 public hearing, but they would like them to be there for the work session prior to May 12 to hear what the treatment plant staff had in store for the coming year.

Mayor Vreeland stated that there was a much less formal session on April 12.

Admin. Services Director Ritzma clarified that it was on April 30.

Mayor Vreeland reiterated that May 12 would be the hearing and they encouraged people to participate and get answers on why the City was proposing this action in a very transparent open session.

Councilmember DeJarnatt commented that, in retrospect, maybe a new plant technology shouldn't have been used, and he probably would have felt that way, referring to the previous time when they thought they had bought a wastewater treatment plant which turned out to be a storm runoff treatment plant that never worked. He stated that, at this point, it was academic. However, he acknowledged that they were doing things very differently this year and there wouldn't be anything hidden. He stated that he was tired of unexpected bumps in the costs of services provided.

Councilmember Digre asked about the date after May 12.

Admin. Services Director Ritzma stated that the 12th would be on the General Fund, the 30th would be the budget work session, May 12 would be the public hearing on the sewer rates, and May 27 would be the second adoption at a regular Council meeting.

Councilmember DeJarnatt moved to adopt a Resolution of the City Council of the City of Pacifica Stating Its Intention to Revise the City's Sewer Charges Beginning Tax Year 2008/09; seconded by Councilmember Digre.

ROLL CALL VOTE:

Ayes: Councilmembers: DeJarnatt, Digre, and Vreeland.

Noes: Councilmembers: None.

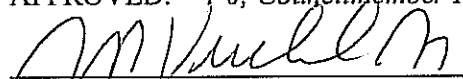
Motion passed: 3-0.

Mayor Vreeland adjourned the meeting at 8:31 p.m. The entire Council sent their best wishes to Councilmember Hinton and expressed the hope that they would see him back soon.

Respectfully submitted,

Barbara Medina,
Public Meeting Stenographer

APPROVED: *4-0; Councilmember Hinton absent; 4/14/08*



Jim Vreeland, Mayor