

CITY OF PACIFICA CITY COUNCIL AGENDA

MAYOR JIM VREELAND
MAYOR PRO TEM JULIE LANCELLE
COUNCILMEMBER CALVIN HINTON
COUNCILMEMBER SUE DIGRE
COUNCILMEMBER PETER DEJARNATT

CITY COUNCIL CHAMBERS
2212 BEACH BOULEVARD
PACIFICA, CALIFORNIA 94044

July 28, 2008

www.cityofpacifica.org

Off-street parking is allowed by permit for attendance at official public meetings. Vehicles parked without permits are subject to citation. You should obtain a permit from the rack in the lobby and place it on the dashboard of your vehicle in such a manner as is visible to law enforcement personnel.

6:45 p.m. **CLOSED SESSION**

1. **PURSUANT TO GOVERNMENT CODE SECTION 54957.6 Conference with Labor Negotiator. Agency Negotiator: Ann Ritzma. Employee Organization: Miscellaneous Employees Teamsters Local 856.**

Call to Order

Roll Call

Salute to the Flag led by Mayor Vreeland

Commission Liaisons:

Closed Session Report:

CONSENT CALENDAR

Items on the consent calendar will be adopted by one motion unless a Councilmember or person in the audience requests, before the vote on the motion, to have an item discussed under the Consideration portion of the agenda. Time limit on comments is three minutes or less.

1. Approval of disbursements dated 06/30/08 to 06/30/08 in the amount of \$412,776.47. Regular and quick checks numbered 121364 to 121485 and 121490 to 121571 and disbursements dated 07/01/08 to 07/17/08 in the amount of \$238,269.47. Regular and quick checks numbered 81727 to 81732, 121900 to 121929, 121931 to 121959 and 121961 (**Proposed action:** approve)
2. Approval of Minutes of Regular City Council Meeting of July 14, 2008 (**Proposed action:** approve)
3. 2008 Local Agency Biennial Notice (Conflict of Interest Code) (**Proposed action:** direct staff to prepare amendments to the City of Pacifica's Conflict of Interest Code)
4. Cancellation of the August 25, 2008 City Council Meeting (**Proposed action:** approve cancellation of the August 25, 2008 City Council meeting)
5. A Resolution Opposing Fiscally Irresponsible State Budget Decisions That Would "Borrow" Local Government, Redevelopment and Transportation Funds (**Proposed action:** adopt the resolution opposing fiscally irresponsible state budget decisions that would "borrow" local government, redevelopment and transportation funds and authorize the Mayor to send this resolution and communicate this Council's strong and unswerving opposition on this matter to our Legislators and the Governor along with an expression of our continued appreciation for the Governor's and any supportive legislators' steadfast opposition to further borrowing or seizure of these funds)

6. Biodiesel Lease Amendment and Deed Restriction (**Proposed action:** approve the lease amendment and deed restriction, direct the City Clerk to record the document, and authorize the City Manager to execute the lease amendment and deed restriction and to execute any documents necessary to implement it or the special conditions)

SPECIAL PRESENTATION

Senator Leland Yee – State Budget Update

PUBLIC HEARING

During public hearings, an applicant or their agent and appellants have ten minutes for their opening presentation and three minutes for rebuttal before the public hearing is closed. Members of the public are limited to three minutes.

7. Public Hearing: To Consider Proposed Resolution of the City Council of the City of Pacifica Accepting the Report of Sewer Charges for Fiscal Year 2008-2009 and Directing the Filing of Charges for Collection by the County Controller (**Proposed action:** move to adopt the proposed resolution “A Resolution of the of the City Council of the City of Pacifica Accepting the report of Sewer Service Charges for Fiscal year 2008-2009 and Directing the Filing of Charges for Collection by the County Controller”

ORAL COMMUNICATIONS

This portion of the Agenda is available for the public to address the City Council on any issue that is not on the Agenda. Any person wishing to address the Council shall be recognized by the Mayor during Oral Communications, provided, however, that during the Oral Communications portion of the agenda, only items not on the agenda for that meeting may be addressed. All remarks shall be addressed to the Council as a body and not to any member thereof. Councilmembers shall not enter into debate with speakers under Oral Communications. A maximum time of three minutes will be allowed for any speaker. Pursuant to Pacifica Municipal Code Title 2, Chapter 1, Section 2-1.118 any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the presiding officer and, if such conduct continues, may, at the direction of the presiding officer, be ordered barred from further audience before the Council during the meeting.

CONSIDERATION

8. Comments on the Draft General Management Plan for the Golden Gate National Recreation Area (**Proposed action:** move that the City Council direct staff to prepare a letter for the Mayor’s signature transmitting Council comments on the recommendations and alternatives in the GMP/EIS Newsletter 4/Spring 2008 to the National Park Service)
9. Update on Green House Gas Emissions Inventory and Local Government Climate Action Plan (CAP) (**Proposed action:** this item is information only but the Council may wish to ask questions regarding the GHG emissions inventory and local government Climate Action Plan (CAP)

COUNCIL COMMUNICATIONS

The purpose of Council Communications is for Councilmembers to inform each other of items of potential interest to other Councilmembers, such as interagency meetings.

* * * * *

NOTICE: If you challenge a city’s zoning, planning or other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Judicial review of any city administrative decision may be had only if a petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The City of Pacifica will provide assistance for disabled citizens upon at least 24 hours advance notice to the City Manager's Office (650) 738-7301, or send request via email to: o'connellk@ci.pacifica.ca.us If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to the disabled.

The Pacifica Municipal Code is available on line at the City's website (www.cityofpacifica.org); at the website, scroll down to find the Link.

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Posted agendas:

Agendas are posted the Friday prior to the City Council meeting date, at the entrance to City Hall, 170 Santa Maria Avenue

View on the Internet:

Follow the link to Council agenda, at www.cityofpacifica.org

E-mail subscription:

Send a request to Kathy O'Connell, at o'connellk@ci.pacifica.ca.us

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Council meetings:

Agendas are available at the City Council meeting

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A copy of the complete agenda packet is available for public review on the Friday prior to the City Council meeting, at the Pacifica Library, 104 Hilton Way or the Sanchez Library, 1111 Terra Nova Blvd., Pacifica

View staff reports on the Internet:

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A complete agenda packet is available for review at the City Council meeting.

HOW TO REACH YOUR LEGISLATORS

- Governor Arnold Schwarzenegger, State Capitol Building, Sacramento CA 95814 (916) 445-2841
- State Senator Leland Yee, 400 So. El Camino Real, Ste. 630, San Mateo, CA 94402 (650) 340-8840
- Assemblymember Gene Mullin, 1528 So. El Camino Real, Ste 302, San Mateo CA 94402 (650) 341-4319
- Congresswoman Jackie Speier, 400 So. El Camino Real, Ste 410, San Mateo CA 94402 (650) 342-0300
- Senator Barbara Boxer, 1700 Montgomery Street, Ste 240, San Francisco CA 94111 (415) 403-0100
- Senator Dianne Feinstein, #1 Post Street, Ste 2450, San Francisco CA 94104 (415) 393-0710
- President George W. Bush, 1600 Pennsylvania Ave. NW, Washington DC 20500 (202) 456-1111

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
July 28, 2008

Agenda Item No. 3

SUBJECT:

2008 Local Agency Biennial Notice (Conflict of Interest Code Review)

ORIGINATED BY:

City Manager

DISCUSSION:

At the June 9, 2008 City Council meeting staff requested that the City Council, as the code reviewing body, direct the City Manager to review the City of Pacifica's Conflict of Interest Code and prepare recommendations to update the code if necessary.

As the attached 2008 Local Biennial notice indicates, the City Manager has determined that the City of Pacifica's Conflict of Interest Code does require amendment.

FISCAL IMPACT:

None

ATTACHMENTS:

2008 Local Agency Biennial Notice

COUNCIL ACTION REQUESTED:

Direct staff to prepare amendments to the City of Pacifica's Conflict of Interest Code

2008 Local Agency Biennial Notice

Name of Agency: City of Pacifica
Mailing Address: 170 Santa Maria Ave. Pacifica, CA 94044
Contact Person: Kathy O'Connell Office Phone No: 650-738-7307
E-mail: o'connellk@ci.pacifica.ca.us Fax No: 650-359-6038

This agency has reviewed its conflict-of-interest code and has determined that:



An amendment is required. The following amendments are necessary:

(Check all that apply.)

- Include new positions (including consultants) that must be designated.
- Delete positions that manage public investments from the list of designated positions.
- Revise disclosure categories.
- Revise the titles of existing positions.
- Delete titles of positions that have been abolished.
- Other *(describe)* _____



Code is currently under review by the code-reviewing body.



No amendment is required.

The agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding the designated positions; and the code includes all other provisions required by Government Code Section 87302.

Stephen A. Rhodes
Signature of Chief Executive Officer

7/23/08
Date

Complete this notice regardless of how recently your code was approved or amended.
Please return this notice no later than **October 1, 2008**, to:

(PLACE RETURN ADDRESS OF CODE- REVIEWING BODY HERE)

City Council of the City of Pacifica
170 Santa Maria Ave.
Pacifica, CA 94044

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

Fair Political Practices Commission
428 J Street, Suite 620, Sacramento, CA 95833
For Technical Assistance: (866) ASK-FPPC

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
July 28, 2008

Agenda Item No. 4

SUBJECT:

Cancellation of the August 25, 2008 City Council Meeting

ORIGINATED BY:

City Manager

DISCUSSION:

The City Council has traditionally cancelled the second meeting in August to allow for a vacation period. This item is being brought to the council to determine if it is the wish of the council to cancel the meeting of August 25, 2008.

FISCAL IMPACT:

None.

ATTACHMENTS:

None.

COUNCIL ACTION REQUESTED:

Approve cancellation of the August 25, 2008 City Council meeting.

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
July 28, 2008

Agenda Item No. 5

SUBJECT:

A resolution opposing fiscally irresponsible state budget decisions that would "borrow" local government, redevelopment and transportation funds

ORIGINATED BY:

City Manager at the request of the League of California Cities

DISCUSSION:

As you know, California is in the midst of a state budget stalemate. In recent weeks, a number of rumors have been circulating that state officials are considering borrowing local government property tax revenues (including redevelopment) and transportation revenues to help close the \$15.2 deficit.

Last Friday, the Governor confirmed the accuracy of these rumors in an interview with the *L.A. Times*. In addition to this idea being fiscally irresponsible, the Governor also made it clear that raids on these funds should be avoided because California's voters spoke loudly in 2004 and 2006 when they approved protections for local government and transportation revenues.

Friday, July 18, Senate President Pro Tempore Don Perata and Senate Budget Chair Denise Ducheny issued a joint statement reacting to the *L. A. Times* story saying: "In particular, Democrats have never advocated nor believed in taking money from Propositions 1A, 42 and 10." Assembly Speaker Karen Bass and Assembly Budget Chair John Laird also issued a joint statement on July 18, saying that they were not considering borrowing from the voter-approved propositions. There have been no reassuring statements as of this date from either the Senate or Assembly Republican caucuses.

The City of Pacifica has already faced a delay in the receipt of \$300,000 in transportation funds due to the State holding payment of those funds until September in order to earn the interest off of the amount withheld. Additional holds or delays in payment of funds to the City will undermine our ability to continue to perform projects to repair and improve the City's infrastructure and reduce the City's ability to provide services to its citizens. In the current economic situation, the City does not have sufficient funds to replace those taken

by the State and may instead have to reduce services in order to maintain a balanced budget.

FISCAL IMPACT:

Undetermined but could be significant based on the source and amount of funds "borrowed".

ATTACHMENTS:

Resolution

COUNCIL ACTION REQUESTED:

Adopt the resolution opposing fiscally irresponsible state budget decisions that would "borrow" local government, redevelopment and transportation funds and authorize the Mayor to send this resolution and communicate this Council's strong and unswerving opposition on this matter to our Legislators and the Governor along with an expression of our continued appreciation for the Governor's and any supportive legislators' steadfast opposition to further borrowing or seizure of these funds.

A RESOLUTION OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET DECISIONS THAT WOULD “BORROW” LOCAL GOVERNMENT, REDEVELOPMENT AND TRANSPORTATION FUNDS

WHEREAS, on July 1, 2008 the State Legislature missed its Constitutional budget deadline; and

WHEREAS, both the Governor and the Legislative Budget Conference Committee have recommended balanced budgets without resorting to “loans” or seizures of local government property tax, redevelopment tax increment and transportation sales tax funds; and

WHEREAS, in 1952 the voters of California approved Article XVI, Section 16 of the California Constitution, providing for tax increment financing for community revitalization—not balancing the state budget, and the voters never authorized the legislature to take or “borrow” community redevelopment funds for state programs; and

WHEREAS, in 2004 by an 84% margin of approval the voters of California approved Proposition 1A and sent a loud and unambiguous message to state leaders that they should stop the destructive and irresponsible practice of taking government funds to finance the state budget and paper over the state deficit; and

WHEREAS, in 2006 by a 77% margin of approval the voters of California also approved Proposition 1A, providing similar protections to transportation funding for state and local transportation projects, including important street maintenance and public transit programs; and

WHEREAS, both ballot measures allow the Governor to declare a “severe state of fiscal hardship” and “borrow” these funds if they are repaid in three years with interest, but the Governor believes it would be irresponsible to “borrow” such funds because it would deepen the state’s structural deficit and cripple local government and transportation services; and

WHEREAS, refusal by the Legislature to carryout its constitutional obligation to compromise on a balanced budget is not a “severe state of fiscal hardship” and would not justify reductions in critical local services, community revitalization programs and infrastructure maintenance at a time when cities are struggling to balance their own budgets during this economic downturn; and

WHEREAS, city investments in infrastructure, affordable housing and basic public safety and other community services will create needed jobs and speed our economic recovery; and

WHEREAS, the Legislature should balance the state budget with state revenues and respect the overwhelming support of voters for not using local property taxes,

redevelopment tax increment and transportation sales tax funds to fund the day-to-day operating cost of state programs; and

WHEREAS, it would be the height of fiscal irresponsibility to paper over the state structural deficit with more borrowing, and Californians deserve state leaders who will tell them honestly what needs to be done to produce a balanced budget; and

WHEREAS, it is time for the state of California to cut up its local government credit cards and deal with the budget deficit in a straightforward way. Balance the state budget with state funds.

NOW, THEREFORE, BE IT RESOLVED, that the City of Pacifica hereby opposes any and all efforts by state government to “borrow” or seize local tax funds, redevelopment tax increment and transportation sales tax funds by the state government to finance state operations. Such a move would be fiscally irresponsible for the state and hamper effective local services and infrastructure investments.

RESOLVED FURTHER, that the Mayor is hereby requested to send this resolution and communicate this Council’s strong and unwavering opposition on this matter to our Legislators and the Governor along with an expression of our continued appreciation for the Governor’s and any supportive legislators’ steadfast opposition to further borrowing or seizure of these funds.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 28th of July 2008, by the following vote:

- AYES**, Councilmembers:
- NOES**, Councilmembers:
- ABSENT**, Councilmembers:
- ABSTAIN**, Councilmembers:

CITY OF PACIFICA

By: _____
James M. Vreeland, Jr., Mayor

ATTEST:

By: _____
Kathy O’ Connell, City Clerk

Approved as to form:

By: _____
Cecilia M. Quick, City Attorney

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT

July 28, 2008

Agenda Item No. _____

SUBJECT:

Public Hearing: To consider Proposed Resolution of the City Council of the City of Pacifica Accepting the Report of Sewer Service Charges for Fiscal Year 2008-2009 and Directing the Filing of Charges for Collection by the County Controller.

ORIGINATED BY:

Finance Department

DISCUSSION AND RECOMMENDATION:

The sewer service charges for Fiscal Year 2008-2009 have been calculated in accordance with City Ordinance No. 606-C.S. A Notice of Public Hearing set for July 28, 2008 was published in the Pacifica Tribune on July 9 and July 16, 2008.

A copy of the computer print-out has been kept in the Finance Department at City Hall for public inspection and verification. This hearing has been scheduled to hear any protests from property owners as to charges on any specific parcels.

As has been done in the past, staff recommends that we direct the County Controller to assess these sewer service charges on the County tax rolls.

FISCAL IMPACT:

Sewer Fund revenue of \$11,400,000.

DOCUMENTS ATTACHED:

Proposed Resolution regarding sewer service charges.

COUNCIL ACTION REQUESTED:

Move to adopt the proposed "Resolution of the City Council of the City of Pacifica" accepting the report of Sewer Service Charges for Fiscal Year 2008-2009, and directing the filing of charges for collection by the County Controller."

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
July 28, 2008

Agenda Item No. 6

SUBJECT:

Biodiesel Lease Amendment and Deed Restriction

ORIGINATED BY:

City Manager

DISCUSSION:

On Jan. 14, 2008, the City entered into a lease agreement with Whole Energy Fuels Corporation ("Whole Energy") to lease a portion of City property adjacent to the Calera Wastewater Recycling Plant for the construction, operation and maintenance of a waste cooking oil recycling/biodiesel production facility.

The property is in a coastal zone, and required a Coastal Development Permit from the California Coastal Commission ("Commission"). Whole Energy applied for a CDP, and on July 11, the Commission issued the permit to Whole Energy, subject to special conditions. One of the Special Conditions required that the lease between the City and Whole Energy be amended to bind the parties to the Special Conditions and to record the lease restriction against the property so that the obligations continue so long as either the permit or the facility remain in existence. The Special Conditions also required that the Commission be indemnified for costs and attorneys' fees.

Under the proposed Lease Amendment and Deed Restriction, Whole Energy and its successors are bound by the Special Conditions. If the City terminates the lease, the City shall be bound by the conditions unless and until the permit is terminated. Whole Energy has agreed to indemnify the City.

FISCAL IMPACT:

None at this time

ATTACHMENTS:

Lease and deed restriction

COUNCIL ACTION REQUESTED:

Approve the Lease Amendment and Deed Restriction, direct the City Clerk to record the document, and authorize the City Manager to execute the Lease Amendment and Deed Restriction and to execute any documents necessary to implement it or the Special Conditions.

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508
Attn: Legal Division

AND TO:
City of Pacifica
170 Santa Maria Avenue
Pacifica, CA 94044
Attn: City Manager

AND TO:
Whole Energy Fuels Corporation
489 Corte Madera Ave.
Corte Madera, CA 94925
Attn: Martin Wahl

LEASE AND DEED RESTRICTION

WHEREAS, the City of Pacifica, a California municipal corporation ("Owner") is the record owner of the real property described in Exhibit A, attached hereto and incorporated herein by reference ("Property"); and

WHEREAS, the Owner and Whole Energy Fuels Corporation, a Washington corporation ("Tenant" or "Whole Energy") entered into a Ground Lease dated for references purposes as of January 14, 2008 ("Ground Lease") whereby Owner leased the Property to Whole Energy for the construction, operation and maintenance of a waste cooking oil recycling/biodiesel production facility ("Building"); and

WHEREAS, the California Coastal Commission ("Commission") is a public agency created and existing under the authority of section 30300 of the California Public Resources Code ("PRC"), a section of the California Coastal Act of 1976 (Division 20 of the PRC; the "Act"); and

WHEREAS, the Property is located within the coastal zone as defined in the Act (PRC § 30103); and

WHEREAS, pursuant to section 30600(a) of the PRC, Whole Energy applied to the Commission for a coastal development permit to undertake development, as defined in the Act (PRC § 30106), of the Building on the Property; and

WHEREAS, on July 11, 2008, the Commission conditionally approved coastal development permit number E-07-011 ("Permit"), subject to, among other conditions, the

conditions listed under the heading "Special Conditions" in the Notice of Intent to Issue Permit dated July 14, 2008, attached hereto as EXHIBIT B and incorporated herein by reference ("Special Conditions"), for the reasons stated in the "Findings and Declarations" adopted by the Commission in support of its action, which findings and declarations (along with any other documents that the Permit required to be submitted to the Commission and with which the Permit requires compliance) are available from the Commission upon request; and

WHEREAS, the Commission found that, but for the imposition of the Special Conditions, the proposed development could not be found consistent with the provisions of the Act and that a permit could therefore not have been granted; and

WHEREAS, Whole Energy has elected to comply with the Special Conditions, which require, among other things, execution and recordation of this Lease and Deed Restriction, so as to enable Whole Energy to undertake the development authorized by the Permit;

NOW, THEREFORE, in consideration of the issuance of the Permit to Whole Energy by the Commission, Whole Energy and Owner and its and their heirs, assigns, and successors-in-interest, hereby irrevocably covenant with the Commission that the Special Conditions (shown in Exhibit B hereto) shall at all times on and after the date on which this Lease and Deed Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use and enjoyment of the Property that are hereby attached to the deed to the Property as fully effective components thereof subject to the terms and conditions below.

1. DURATION; INDEMNITY. (a) This Lease and Deed Restriction shall remain in full force and effect and shall bind Whole Energy (or Owner, as provided in Section (b), below) and all their assigns or successors-in-interest during the period that either the development authorized by the Permit, or any part or modification thereof, or the Permit remains in existence on or with respect to, and thereby confers benefit upon, the Property. (b) In the event the Ground Lease between Whole Energy and Owner is terminated by Owner for any reason, this Lease and Deed Restriction shall bind Owner. Notwithstanding the foregoing, the parties acknowledge that Whole Energy's indemnity obligations to Owner under Section 8.08 of the Ground Lease shall commence on the Effective Date and will remain in full force and effect following the termination of this Lease and Deed Restriction and such indemnity obligations shall include Claims (as defined in Section 8.08 of the Ground Lease) brought at any time during or after the duration of this Lease and Deed Restriction arising (directly or indirectly) in connection with the Permit and/or this Lease and Deed Restriction. The parties further acknowledge that in the event the Ground Lease is terminated Owner may seek to amend and/or extinguish the Permit. (c) In the event of a termination or extinguishment of this Lease and Deed Restriction other than pursuant to a Commission-approved amendment to the Permit, the Special Conditions shall, notwithstanding any such termination or extinguishment, continue to restrict the use and enjoyment of the Property as they did prior to that termination or extinguishment and to bind Whole Energy (or Owner, if the

Ground Lease is terminated as contemplated by Section (b) above) and their successors-in-interest, so long as either or both of the conditions described in paragraph (a) continue to exist on or with respect to the Property.

2. TAXES AND ASSESSMENTS. Except as otherwise provided in Section 1 above, it is intended that this Lease and Deed Restriction is irrevocable and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the California Constitution; and b) section 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Lease and Deed Restriction shall be deemed to constitute a servitude upon and burden to the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

3. RIGHT OF ENTRY. Upon no less than seventy-two hours prior notice to Whole Energy and Owner the Commission or its agent may enter onto the Property at times acceptable to Whole Energy and Owner to ascertain whether the use restrictions set forth above are being observed.

4. REMEDIES. Any act, conveyance, contract, or authorization by Whole Energy and/or Owner which permit use of the Property in violation of this Lease and Deed Restriction will be deemed a breach hereof. The Commission, Whole Energy and Owner may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of this Lease and Deed Restriction. In the event of a breach, any forbearance on the part of either party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

5. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any reason becomes unenforceable, no other provision shall be affected or impaired.

Dated: _____, 2008
"Effective Date"

LANDLORD:
City of Pacifica, a California municipal corporation

By: _____
Print Name: _____
Its: _____

APPROVED AS TO FORM:

Cecilia Quick, City Attorney

ATTEST:

City Clerk

TENANT:

Dated: _____, 2008

Whole Energy Fuel Corporation, a
Washington corporation

By: _____
Print Name: _____
Its: _____

By: _____
Print Name: _____
Its: _____

**** NOTARY ACKNOWLEDGMENT ON THE NEXT PAGE ****

State of California

County of _____

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

State of California

County of _____

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

LEGAL DESCRIPTION

That certain parcel of land lying within the Rancho San Pedro land grant being a portion of the tract of land described in the deed to Bottoms on December 5, 1989, recorded as Document No. 89165299 of Official Records of the San Mateo County Recorder's Office, also known as that certain parcel of land described in the deed to City of Pacifica on February 23, 1996, recorded as Document No. 96-020713 of Official Records of the San Mateo County Recorder's Office, San Mateo County, California, also known as Parcel 1 of the Lot Line Adjustment, recorded on September 12, 2007 as Document No. 2007-136102 of Official Records of the San Mateo County Recorder's Office, San Mateo County, California, and being more particularly described as follows:

Commencing for a Point of Reference at the Northeast corner of the parcel described herein, said corner lying on the Westerly right-of-way line of Cabrillo Highway (State Hwy. 1) and being coincident with the northeast corner of the aforementioned Bottoms Tract (Doc. #89165299), from whence the Caltrans Control Monument "X-126R" (State Plane Coordinates X = 1,424,889.35' and Y = 412,850.33' CCS Zone 3) bears N06d36'54"W 306.00'; thence, from said **Point of Reference** along the westerly right-of-way line of Cabrillo Highway S10d55'07"E 101.40'; thence S31d07'49"W 304.41'; thence, departing said right-of-way N88d52'08"W 34.94' to the **True Point of Beginning**, thence from said **True Point of Beginning** N58d17'22"W 40.00', thence S31d42'38"W 100.00', thence S58d17'22"E 40.00', thence N31d42'38"E 100.00' to the **True Point of Beginning**.

END OF DESCRIPTION

EXHIBIT B

SPECIAL CONDITIONS

The special conditions set forth below are taken from pages 5-8 of "Final Adopted Findings: Coastal Development Permit Application" CDP Application No. E-07-011 prepared by the California Coastal Commission.

This permit is granted subject to the following special conditions:

1. Lease and Deed Restriction. PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall provide to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against its leasehold interest(s) in the property governed by this permit a lease restriction (in which any owner of the fee interest in such property shall join or to which it shall agree to be bound), in a form and content acceptable to the Executive Director (a) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the Property, subject to terms and conditions that restrict the use and enjoyment of the Property; and (b) imposing all of the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the Property. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the Property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the Property.

2. Assumption of Risk and Waiver of Liability. By acceptance of this permit, the applicant acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the project site may be subject to hazards from seismic events, liquefaction, storms, waves, floods and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; and (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.

3. Liability for Costs and Attorneys Fees: The applicant shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees – including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay – that the Coastal Commission incurs in connection with the defense of any action brought against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

4. Limits of Development. This permit authorizes the construction and operation of the Pacifica Biodiesel Processing Facility and associated infrastructure as described in the project description of this staff report, as clarified and modified by these conditions.

5. Final Plans. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director for review and approval final plans for all project components. The applicant shall undertake development in accordance with the approved plans and any changes shall be reported to the Executive Director. No material changes shall occur without a Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary. Changes to the project requiring review for amendment would include changes in the physical or operational design of the facility or delivery capacity increases beyond those shown on the final plans or in the project description.

6. Other Approvals. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director official documentation on letterhead showing that the project has obtained final approvals for project construction and operation from the City of Pacifica, the San Mateo County Environmental Health Division Hazardous Materials Program, the California Department of Fish and Game and the U.S. Fish and Wildlife Service, or official documentation showing that these approvals are not needed.

7. Construction Plan. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director for review and approval a Construction Plan. The Construction Plan shall include a schedule of all construction activities and identify the specific location of all construction, grading and staging areas in site plan view in the coastal zone. The Plan shall also identify the type and location of erosion control/water quality best management practices (BMPs) that will be implemented during construction to protect coastal water quality, including the following:

- Grading and land alteration outside of the approved construction zone is prohibited.

- Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction areas to prevent construction-related runoff and/or sediment from entering the wetlands, settlement ponds and/or Calera Creek.
- Equipment washing, refueling, and/or servicing shall not take place within the designated project area. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site.
- The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site when construction is completed).
- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday. A copy of the approved Construction Plan shall be kept at the construction job site at all times and all persons involved with the construction shall be briefed on its content and meaning prior to commencement of construction. The applicant shall notify the Executive Director at least three working days in advance of commencement of construction, and immediately upon completion of construction. The applicant shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No material changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

8. **Construction Hours.** All construction work shall occur only between the hours of 6 a.m. and 7 p.m. Monday through Saturday.

9. **Air emissions.** WITHIN 6 MONTHS OF BEGINNING OPERATION, the applicant shall provide for Executive Director review and approval a copy of the correspondence to the Bay Area Air Quality Management District containing results of the in-situ air emissions tests from the biodiesel facility assessing the efficiency of the soil scrubbing system in capturing operational air emissions. The applicant shall also provide notification of any remedial action required by the BAAQMD if emissions of regulated pollutants exceed regulatory standards.

Biological Protection:

10. At least five days before starting work at the project site, the applicant shall provide for Executive Director review and approval the name(s) of the proposed biologist(s) to be used on the project. The biologist(s) shall ensure that the applicant and its contractors fully comply with the conditions of this permit related to biological protection.

11. The biologist(s) approved by the Executive Director will be present at all times during construction activities to observe for the presence of sensitive species and relocate any animals that enter the project site to adjacent suitable habitat. The biologist(s) shall have the authority to halt construction when activities could result in harm to sensitive species or habitat. In the event a sensitive species is spotted within the boundaries of the construction site, the biologist(s) shall report the observance and any protective measures taken to appropriate personnel at the U.S. Fish and Wildlife Service and California Department of Fish and Game.

12. PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit a copy of all official project-related correspondence from California Department of Fish and Game and U.S. Fish and Wildlife Service that contains pertinent information, directives or mitigation measures related to biological protection, and resulting changes to the proposed project, including site design, operations or production rates.

Spill Prevention and Response:

13. The applicant and its contractors shall adhere to the measures in the project-specific Oil Spill Contingency Plan submitted on May 9, 2008. In the event of a hazardous materials spill, the applicant shall notify Ellen Faurot-Daniels at the Coastal Commission at 415/904-5285 or 415/201-5792 (pager) as well as appropriate personnel at the San Mateo County Hazardous Materials Program.

14. During construction and all project operations, the applicant shall have available at the site spill response equipment that can immediately respond to the maximum credible spill.

15. A vacuum truck shall either be on the project site or immediately deliverable for oil spill response during project operations.

16. Prior to commencement of construction activities, the applicant shall submit to the Executive Director for review and approval a revised Spill Response Plan that includes earthquakes, tsunamis and flooding as specific events triggering the Spill Response Plan. No construction activities shall begin until the applicant has received written notification from the Executive Director that the revised Spill Response Plan has been approved.

17. **Disposal of Glycerin.** By December 31st of each year, the applicant shall provide for Executive Director review and approval an annual report on the percentage of glycerin by-product that is sold and disposed of and

the location of the disposal, if any. If glycerin is disposed of within the coastal zone, the applicant shall apply for an amendment to this permit for the existing disposal and for any future disposal that may occur.

18. Public Review of Plans. Following submission to the Commission's Executive Director, the applicant shall provide for public review copies of the documents required to satisfy special conditions 1, 5, 6, 7, 9, 10, 12, 16 and 17 of this permit, when requested. The applicant shall also make available to the public any other project-related plans and/or documents that may affect the construction and operation of the proposed biodiesel facility.

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT

July 28, 2008

Agenda Item No. 7

SUBJECT:

Public Hearing: To consider Proposed Resolution of the City Council of the City of Pacifica Accepting the Report of Sewer Service Charges for Fiscal Year 2008-2009 and Directing the Filing of Charges for Collection by the County Controller.

ORIGINATED BY:

Finance Department

DISCUSSION AND RECOMMENDATION:

The sewer service charges for Fiscal Year 2008-2009 have been calculated in accordance with City Ordinance No. 606-C.S. A Notice of Public Hearing set for July 28, 2008 was published in the Pacifica Tribune on July 9 and July 16, 2008.

A copy of the computer print-out has been kept in the Finance Department at City Hall for public inspection and verification. This hearing has been scheduled to hear any protests from property owners as to charges on any specific parcels.

As has been done in the past, staff recommends that we direct the County Controller to assess these sewer service charges on the County tax rolls.

FISCAL IMPACT:

Sewer Fund revenue of \$11,400,000.

DOCUMENTS ATTACHED:

Proposed Resolution regarding sewer service charges.

COUNCIL ACTION REQUESTED:

Move to adopt the proposed "Resolution of the City Council of the City of Pacifica" accepting the report of Sewer Service Charges for Fiscal Year 2008-2009, and directing the filing of charges for collection by the County Controller."

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA
ACCEPTING THE REPORT OF SEWER SERVICE CHARGES FOR FISCAL
YEAR 2008-2009, AND DIRECTING THE FILING OF CHARGES FOR
COLLECTION BY THE COUNTY CONTROLLER

WHEREAS, pursuant to Section 6—6.502 of the Pacifica Municipal Code and Section 5473 of the California Health & Safety Code, the City has received a report of sewer charges for Fiscal Year 2008-09, computed in conformity with the City's schedule of sewer charges (which Report has been on file in the Office of the City Clerk and available for public inspection and is incorporated herein by reference); and

WHEREAS, on July 28, 2008, following the publication of notice as required by law, the City Council held a full and fair public hearing with respect to the Report, and at such hearing the City Council heard and considered all protests and objections to the Report; and

WHEREAS, the City Council desires to approve the Report and to submit the charges described therein to the San Mateo County Controller for collection on the 2008-09 tax roll.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby overrules all protests and objections to the Report and confirms and approves the Report as submitted, and

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed and authorized to transmit the Report to the County Controller and to file the necessary documents with the Controller to insure that the said fees will be included on the County Tax Roll for Tax Year 2008-09.

* * * * *

Passed and adopted at a meeting of the City Council of the City of Pacifica held on the 28th day of July, 2008, by the following vote:

AYES, Council Members:

NOES, Council Members:

ABSENT, Council Members:

ABSTAIN, Council Members:

James M. Vreeland, Jr. Mayor

APPROVED AS TO FORM:

ATTEST:

Cecilia M. Quick, City Attorney

Kathy O'Connell, City Clerk

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
July 28, 2008

Agenda Item No. 8

SUBJECT:

Comments on the Draft General Management Plan for the Golden Gate National Recreation Area

ORIGINATED BY:

Planning and Economic Development Department

DISCUSSION:

As Council is aware, the National Park Service (NPS) is preparing a General Management Plan (GMP) for the Golden Gate National Recreation Area (GGNRA), including GGNRA holdings within Pacifica. The City's Golden Gate National Recreation Area Liaison Committee (GLC) recently met to review recommendations and alternatives contained in the latest GMP Newsletter of Spring 2008. (The newsletter was previously distributed to Council.) The GLC has made several comments, contained in the attached draft letter. GLC comments include the need for more focus on San Mateo County lands, a change in the designation of some Pacifica lands to the "Scenic Corridor" designation, which could allow for more diverse recreational activities, greater connectivity between GGNRA and other public lands and public transportation, clarification of "hiking huts", and consideration of locating a visitor center in Pacifica.

The purpose of this agenda item is to allow Council to make its own comments on the GMP recommendations. Comments are due by August 1, 2008.

FISCAL IMPACT:

None.

ATTACHMENT:

1. Letter from the GGNRA Liaison Committee

COUNCIL ACTION REQUESTED:

Move that the City Council direct staff to prepare a letter for the Mayor's signature transmitting Council comments on the recommendations and alternatives in the GMP/EIS Newsletter 4/Spring 2008 to the National Park Service.



Scenic Pacifica

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

CITY HALL • 170 Santa Maria Avenue • Pacifica, CA 94044 • (650) 738-7341 • Fax (650) 359-5807

July 16, 2008

Mr. Brian O'Neill
Superintendent
Golden Gate National Recreation Area
Building 201, Fort Mason Center
San Francisco, CA 94103

Subject: Comments on the Draft General Management Plan/EIS Newsletter

Dear Superintendent O'Neill:

I am writing to provide comments on the General Management Plan/EIS Newsletter 4, dated Spring 2008. The members of the GGNRA Liaison Committee of the City of Pacifica (GGNRA LC) discussed this document at our monthly meeting on May 26, 2008. We would like to begin by thanking you and your staff for the production of a professional document that is well done with excellent graphics and summary material which make your recommendations easy to understand.

The GGNRA LC understood the GMP update to be premised on need to have a plan for the San Mateo properties within the GGNRA which became part of the park after the GMP of 1981 was written. Because of that, the committee felt there should be greater emphasis on this fact, with a commensurate orientation of the entire document toward the land in Pacifica and unincorporated San Mateo County which either currently are, or are being considered for inclusion in, the GGNRA.

Members also believe there should be greater opportunity in GGNRA lands within Pacifica to be in the "scenic corridor" designation. For example, we believe there should be more diverse opportunities for recreational activities and access at the Shelldance Nursery Area and Picardo Ranch, should it become part of the park.

The GGNRA LC believes there should be a commitment to maintain equestrian trails at Picardo Ranch, and there should also be a serious evaluation for the siting of a drive-through facility to park a truck and horse trailer somewhere in Pacifica.

On the subject of hiking huts, the committee suggests greater clarification on what is meant by hiking huts. As you know, there has been a concept paper circulated that advances the idea of facilities to provide overnight lodging, food, environmental

education and habitat restoration. This is not the same as “rustic overnight accommodations” and we believe the next iteration of the GMP update would be improved by an elaboration on what is meant by these various types of accommodations.

We recommend further exploration into the idea of connecting trails in Pacifica (including GGNRA property, San Pedro Valley County Park, and other parklands) to Rancho Corral de Tierra property and McNee Ranch State Park. These options should include using the proposed Bay Area Ridge Trail which we understand may traverse the Peninsula Watershed property managed by the San Francisco Public Utilities Commission.


In the same way that we feel the GMP should expand on trail connections for hiking, the committee believes there should be an examination of public transportation connections. For example, we like to think there will be great demand in the near future for hikers who might walk from the north or central part of Pacifica to destinations to the south to take a SAMTRANS bus back north at the end of their trek. Integrating these transportation concepts at this early stage will further the likelihood of them happening in the future.

The GGNRA LC feels strongly that the “multi-agency visitor information and orientation facility” needs to be in Pacifica. In this newsletter, it appears as if the GGNRA prefers for this visitors center to be located in Rancho Corral de Tierra. We agree that a smaller satellite center might be appropriate for the southern entrance to the park; however, we unanimously feel that Pacifica must be the location of a larger visitor center as it will have more visitation from trips originating to the north and the Pacifica has the business and commercial infrastructure to support high levels of visitation.

Last, we support the idea of creating more structures and programs for the youth. We know this is important to GGRNA as well, but suggest we explore opportunities for constructing facilities dedicated to youth programs, which will serve as possible stewardship and internship opportunities for students and young adults.

We thank you and your staff for your dedication and hard work. We continue to be grateful for all that you have done and continue to do for the advancement of park lands in and near Pacifica.

Sincerely


for Paul Jones
Co-Chair

cc: City Council
GGNRA Liaison Committee

National Park Service
General Management Planning Team – GGNRA
Denver Service Center
12795 West Alameda Parkway
Denver, CO 80225

CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT
July 28, 2008

Agenda Item No. 9

SUBJECT:

Update on Greenhouse Gas emissions inventory and local government Climate Action Plan (CAP).

ORIGINATED BY:

City Manager

DISCUSSION:

In January of 2008, the Council approved participation in the effort to develop a Greenhouse Gas (GHG) emissions inventory and development of a Climate Action Plan (CAP). The project is a partnership between the Joint Venture: Silicon Valley Network (JVSVN), the Bay Area Air Quality Management District (BAAQMD) and the International Council for Local Environmental Initiatives (ICLEI). C/CAG is also assisting cities by providing a \$6,500 grant upon completion of the project to off-set some of the costs of the inventory.

The City is working closely with ICLEI to compile the emissions information and develop a comprehensive inventory for City operations starting with the 2005 year. This information is being generated by City staff and where possible from PG&E. The staff is currently completing the first round of information gathering and ICLEI has started the process of calculating the GHG emissions from the material provided. The first material covers energy usage for City facilities including buildings, pump stations, streetlights and irrigation systems.

After completion of this stage of the project, staff will begin to compile information regarding employee commutes and City business related travel. This information will be used to develop additional emissions calculations with the end result being an inventory of the GHG impact for City operations.

At the same time that inventory work is being done for City operations, staff is working with a local group of citizens who have volunteered to develop an inventory for community GHG emissions. PG&E has provided the base information to the group and that will be used to develop calculations for community GHG emissions.

It is expected that all of the inventory work and emissions calculations will be complete by the end of December of this year. Once this work is finished, the City will begin working with ICLEI to develop a suggested Climate Action Plan. When work begins on this Plan in January 2009 the staff will return to the Council with recommendations on ways to involve the community in the development of the Plan.

With the CAP the City will be in a position to connect General Plan policies to help reduce GHG emissions and contribute to the reduction of those emissions. The City may also find itself ahead of what appears to be requirements for CAP's in the near future from the California Air Resources Board and action from the State Attorney General's Office. A completed Plan will also assist in obtaining grant funds to help in achieving the goals of the Plan.

FISCAL IMPACT:

None at this time

ATTACHMENTS:

None

COUNCIL ACTION REQUESTED:

This item is for information only but the Council may wish to ask questions regarding the GHG emissions inventory and local government Climate Action Plan (CAP).