MINUTES

City Council Regular Meeting 2212 Beach Boulevard Pacifica, CA 94044 May 24, 2010

Mayor Digre called the meeting to order at 6:00 p.m., stating that all councilmembers were present. 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: Fire Fighters. Local 2400: Teamsters Local 856 Battalion Chiefs: Pacifica Police Officers Association; Pacifica Police Supervisors Association; Police Management Teamsters Local 350.
- PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a): Conference with legal counsel pending litigation. <u>Emde v. City of Pacifica</u>, San Mateo County Superior Court Case No. CIV 494710.

Mayor Digre convened to Closed Session.

Mayor Digre reconvened the meeting to order at 7:05 p.m.

Present: Councilmembers: Lancelle, Vreeland, Nihart and Digre.

Excused: Councilmembers: DeJarnatt.

Staff Present: Steve Rhodes, City Manager; Cecilia Quick, City Attorney; Ann Ritzma,

Administrative Services Director; Michael Crabtree, Planning Director; Van Ocampo, Director of Public Works; Jim Saunders, Police Chief; Dave Rogers,

Associate Engineer; Kathy O'Connell, City Clerk.

Mayor Digre led the Salute to the Flag.

Commission Liaison: Planning Commissioners Leon and Evans.

Chamber Liaison: None.

CLOSED SESSION:

City Attorney Quick stated that the Council took a reportable action in Closed Session. She stated that Councilmembers Lancelle, Nihart, Digre and Vreeland voted to direct the City Attorney's office to respond to and defend the litigation in the matter of Emde v. City of Pacifica, San Mateo County Superior Court Case No. CIV 494710.

CONSENT CALENDAR:

Councilmember Vreeland moved approval of the Consent Calendar, as amended, as follows: Approval of disbursements dated 04/30/10 to 05/07/10 in the amount of \$374,353.32, regular and quick checks numbered 8838 to 8969, as set forth in Item #1; Approval of Minutes of regular City Council meeting of May 10, 2010, as set forth in Item #2; Authorization of Staff to Advertise for Sealed Bids to Purchase a New Generator and its Appurtenances for the Linda Mar Pump Station, as set forth in Item #3; Continuance of Local Emergency, as set forth in Item #4; Award of Contract for Waterproofing Associates for the Fairmont Park Recreation Center Roof Project

in the Amount of \$39,817.00 from the Roy Davies Fund (Fund 27), as set forth in Item #5; seconded by Councilmember Lancelle.

ROLL CALL VOTE:

Ayes: Councilmembers: Vreeland, Lancelle, Nihart and Digre.

Noes: Councilmembers: None.

Motion carried: 4-0.

SPECIAL PRESENTATION:

None.

PUBLIC HEARINGS:

6. Public Hearing to Consider Provisions and Rate of the Gas and Electric Utility Users' Tax (UUT).

Admin. Services Director Ritzma presented the staff report.

Mayor Digre opened the Public Hearing and, seeing no one, closed the Public Hearing.

7. Proposed Resolution Establishing the Appropriation Limit for Fiscal Year 2010-2011 Pursuant to Article XIIIB of the California State Constitution.

Admin. Services Director Ritzma presented the staff report.

Mayor Digre opened the Public Hearing and, seeing no one, closed the Public Hearing.

Councilmember Vreeland moved to approve the use of percentage change in California's Per Capita Personal Income Growth (-2.54%) and the County of San Mateo population growth (1.17%), and 2) adopt the resolution for the Appropriations Limit for fiscal year 2010-2011; seconded by Mayor pro Tem Nihart.

ROLL CALL VOTE:

Aves: Councilmembers: Vreeland, Lancelle, Nihart and Digre.

Noes: Councilmembers: None.

Motion passed: 4-0.

8. Resolution of the City Council of the City of Pacifica Adopting the 2010-2015 Capital Improvement Program of the City of Pacifica.

Public Works Dir. Ocampo stated that Ray Donquines, Associate Engineer, would present the staff report.

Assoc. Engineer Donquines presented the staff report.

Public Works Dir. Ocampo added that they had changes for the CIP to reflect the current status, mentioning the specific changes.

Councilmember Lancelle acknowledged that they were organized by fund numbers, then asked if she had missed the Palmetto undergrounding or if it was in another fund.

Mayor pro Tem Nihart stated that 919 was the Esplanade and after it was utility undergrounding project on hold, and she assumed that was the Palmetto undergrounding.

Assoc. Engineer Donquines responded affirmatively.

Councilmember Lancelle assumed that the undergrounding on hold that was mentioned was in fact the Palmetto undergrounding.

Public Works Dir. Ocampo stated that it was not referring to the Palmetto undergrounding. He stated that the project mentioned was specific for Esplanade.

Mayor pro Tem Nihart stated that was 919, but she asked about 920.

Councilmember Lancelle thought it was just the flip side.

Public Works Dir. Ocampo agreed that it was the flip side of the status for Esplanade. He stated that they would make sure it was added.

Councilmember Lancelle asked if it will be included in the report.

Public Works Dir. Ocampo stated that they would make the adjustment as long as the Council approved the motion with that added to it.

Councilmember Lancelle asked if the lower restrooms at Frontierland Park were completed.

Public Works Dir. Ocampo stated that they were not completed.

Councilmember Lancelle asked about the location of Old County Road parking.

Public Works Dir. Ocampo stated that it would be on the east side of Old County Road, across from the parking lot, as well as the clock tower.

Mayor Digre mentioned that she had talked with the City Manager earlier but asked about the fact that they were going to change 22-13.

City Manager Rhodes stated that it was on the second sheet.

Public Works Dir. Ocampo stated that he mentioned that one, adding that the correction was on page 22-14, the flip side of the project, where they changed the status from on hold to canceled.

Mayor pro Tem Nihart asked if they would add Palmetto undergrounding.

Public Works Dir. Ocampo responded affirmatively.

Mayor Digre opened the Public Hearing.

Bernie Sifry, 311 Seaside Drive, asked where the money came from for the Capital Improvement Program, General Fund or developers' fees and, if it was a fee, when did it become effective or would it be retroactive.

City Attorney Quick stated that Mr. Sifry has three minutes, and she suggested that they allow him to use his three minutes and, after that, they can respond.

Mr. Sifry stated that it was fine. He had his two questions, and he was listening to the answer.

Public Works Dir. Ocampo stated that, regarding the first question, different projects fall into different funds which get money from different sources. He explained that all projects in Fund 9 were funded through Measure A, which is from a .5% sales tax, projects in Fund 10 were funded through the gas tax, projects in Fund 12 were from developers' fees and the same with Fund 14. Projects in Fund 16 were through the MPDS fee, which were from real estate taxes.

Mr. Sifry asked if any would be retroactive or when would it become effective.

City Attorney Quick stated that Mr. Sifry's three minutes had expired. She then stated that this did not impose any fees at all or fund projects, merely reporting on proposed projects. She reiterated that it didn't create or impose any fees of any kind.

Mayor Digre stated that he could get a copy and look at it, which would be more explanatory.

City Manager Rhodes clarified that there were no projects in the program funded from the General Fund.

Mayor Digre closed the Public Hearing.

Mayor pro Tem Nihart stated that the R. Davies Trust Fund was also included in the report, pointing out that the money came from different sources.

Councilmember Lancelle moved to adopt the resolution next in order: a Resolution of the City Council of the City of Pacifica adopting the 2010-2015 Capital Improvement Program of the City of Pacifica, also approving the addition of the Palmetto undergrounding into the report under the appropriate fund, i.e., Fund 9; seconded by Councilmember Vreeland.

Councilmember Vreeland referred to a page regarding the additional police station parking, then asked whether the plant design wetland monitoring construction project on page 22-39 was 100% completed.

Public Works Dir. Ocampo stated that it was the ongoing mitigation work done on the wetlands by the police station.

Councilmember Vreeland asked if we were in compliance with all the permits regarding the Army Corp of Engineers.

Public Works Dir. Ocampo responded affirmatively.

Councilmember Vreeland stated that he was trying to make sure the City was in compliance.

Public Works Dir. Ocampo stated that they always budget enough to make sure they were in compliance.

Mayor Digre asked that they mark the portions that were revised so that they can shred the others.

ROLL CALL VOTE:

Aves: Councilmembers: Vreeland, Lancelle, Nihart and Digre.

Noes: Councilmembers: None.

Motion passed: 4-0.

COUNCIL COMMUNICATIONS:

Mayor pro Tem Nihart informed the Council that they accepted the new budget and the shares for the North County Fire JPA. She congratulated Kalimah Salahuddin for receiving the Mayor's Diversity Award for an outstanding speech. She also congratulated Kitty Mindel and Superintendent Susan Vickery for receiving honors from PCTV at the Evening of the Stars, as well as all of the stars who had received honors.

Councilmember Lancelle attended the Open Space Committee meeting, along with Mayor Digre who was the liaison, to listen to the discussion regarding the Plover protection issues at Pacifica State Beach. She also attended the City County Association of Governments (CCAG) as the City's representative, adding that she would be providing a written update of the meeting. She participated in the Bicycle Pedestrian Advisory Committee and went on the annual tour of the bike projects in San Mateo County, and got good ideas for Pacifica. She taped_hosted a show for Footprints of Pacifica about the acquisition of Mori Point. She also attended the Emergency Preparedness Commission meeting in Pacifica, and announced that there was another CERT training taking place. She stated that they all attended the Council of Cities meeting in Half Moon Bay, adding that they all paid for their own dinners and weren't getting a free ride. She congratulated the Pacifica Sports Club for a wonderful breakfast honoring youth athletes in our community, adding that she represented the Mayor. She reminded everyone that the Historical Society and the Little Brown Church Committee were having an ongoing rummage sale at the Linda Mar Shopping Center. She also mentioned Evening of the Stars which honored Jerry Crowe and Barbara Amberg from the library.

Mayor Digre stated that the International Whaling Commission was meeting on June 3, mentioning that there were plans to lift the ban on whaling for another 10-20 years. She stated that rallies across California were planned, with Pacifica chosen as one of the sites. She stated that she and Councilwoman Nadia Holober worked together notifying everyone they knew. They video-taped the event for PCT and it would be included in a presentation before the International Whaling Commission on June 3. She stated that she was on the Airport Noise Roundtable and she volunteered for the work plan. They were informing the larger board that they would be more proactive about what goes in and out of the airports. She stated that the Traffic Alliance was moving forward and Pacifica, Foster City, Brisbane and Half Moon Bay pointed out that they should be part of the discussion for transit funds along with the El Camino corridor. She stated that she and Mayor pro Tem Nihart attended the JPA ambulance meeting and the JPA fire meetings. She felt it was important to be there to ensure that Pacifica does not get short changed. She added that the Fire Chief referred to the JPA which allowed each city to have its own personality and she was attempting to ensure that Pacifica stays at the table. Meaning that they keep with the quarterly meetings. She encouraged all residents to look at what was going on in neighboring cities to share services. She thanked the Manager for enabling the firefighters to feel as though they were part of Pacifica and were heard. She met with youth groups who want to know how the Council wants to see the Youth Commission going, and she thought it was time to meet with them for a study session. She stated that, through the summer, Terra Nova and Oceana youth were going to meet and work on outreach to other youths in Pacifica who were not in those schools. She stated that the Watch Me Grow program was funded by First Five and was for any residents of any city who were concerned that a child was not progressing at a normal rate.

Councilmember Vreeland asked for an explanation on the study session she mentioned.

Mayor Digre reiterated that the Youth Commission was meeting to determine what they would like to see in a Youth Commission but they would like to hear from the Council. She felt the only way they can do that was at a study session.

Councilmember Vreeland thought they could have it at a Council meeting as a consideration item before they have a study session. He suggested they not set up another meeting just to do that but talk as a Council about the best way to move forward.

Mayor Digre asked for input from the rest of the Council.

City Attorney Quick explained that two people can discuss that, but beyond that, it gets into a non-agendized consideration item. She thought that, given the level of interest, they could request the City Manager to come back with a Discussion item on it.

Councilmember Vreeland agreed, adding that he was asking that they talk about it as a Council before scheduling it.

Mayor Digre stated that it was fine, adding that she was hoping to help them before they were all beyond school age. She thanked Mayor pro Tem Nihart for reminding her about an announcement to be made. She reported a notice of public information meeting regarding State Highway 1 Calera Parkway Project on Tuesday, June 22, at the Council Chambers.

Councilmember Vreeland clarified that it was a joint meeting between Caltrans, San Mateo County Transportation Authority and Pacifica.

ORAL COMMUNICATIONS

Mayor Digre opened Oral Communications.

Horace Hinshaw, Pacifica, thanked Councilmember Lancelle for attending the breakfast. He mentioned a venue that can bring revenue into our community, sports tourism, which was a big business, specifically mentioning tournament ball, surfers, bowlers, archers and even adult softball. He felt those would be a haven for tourism dollars. He mentioned the lack of quality sports fields and lack of help from hotels and restaurants which spelled disaster. He stated that the local sports groups felt they could host more tournaments if they had better fields because teams would rather play in our cool weather than 100-degree weather. He stated that the sports groups asked for rate breaks from hotels but the hotels were not interested. He felt they could get people to eat, sleep and spend time on our beaches if there was cooperation. He suggested that the City join with the local sports group to make it happen, adding that the Pacifica School District agreed to turn over an area at Oddstad School for a sports complex, but they needed help. He suggested that the City consider forming a Sports Council to work with the Council and the Chamber of Commerce.

Bernie Sifry, 311 Seaside Drive, stated that everyone got a recent letter from Recology on the new rates. He remembers during the agreement on the contract, which he was in favor of, that they wanted to retain the Council's right to a say in the rates. He asked if the new rates were approved by the Council.

Therese Dyer, 1408 Crespi Drive, stated that she was concerned about the pending lawsuit regarding the contract between the City and Recology, adding that she also attended the Council meeting where the Council approved Recology. She stated that Mr. Emde sent a letter to be read but it wasn't read so she doesn't know the contents. She stated that the Council was never transparent with the public regarding the rates and there were a lot of irate customers calling her to speak on their behalf. She felt they needed to go over that, then asked if the \$100,000 the City received went into the General Fund. She stated that we paid \$800,000 for the people in arrears of their garbage fees. She hoped it didn't continue. She asked about what action the City was going to take on residents who didn't pay their garbage fees. She thought that now that the rates were higher, the rate would be higher on those who couldn't afford the rates when they were lower. She stated that she wouldn't be present for Item #10, but noticed that they revised the ordinance for the sewer tax and she asked that they send her a copy.

Anita Rees, Pacifica, stated that she was with the Pacifica Resource Center. She reported that they had their first Surviving Hard Times Resource Fair and about 25 people stopped by to hear about the resources available to make ends meet. She mentioned having representatives from Mabu High Alliance who were present to talk about foreclosure prevention and loan modification, as well as the Salvation Army, etc. She stated that they were planning to have future resource fairs on a quarterly basis, and the next one was tentatively scheduled for August and she asked anyone interested to call the Resource Center.

Jeannette Larety, Pacific Manor, stated that she was moved by the card she got from Recology and had to come to the meeting and talk. She explained that, as a senior, she was paying \$14.43 per month for a 32-gallon garbage can. She stated that, with the new rates, she would be paying \$20 a month for a 20-gallon can. She stated that she was not eligible for the senior rate which was \$17.10 because of her income. She was over the amount for the senior rate and also had to be eligible for the PG&E discount. She felt it was unjust and felt the seniors needed a break. She understood that the rates would be going up again in March. She stated that they will now be paying the highest rates for garbage in San Mateo County.

Mayor Digre closed Oral Communications.

Councilmember Lancelle stated that she had heard the comment that we pay the highest rates in San Mateo County, and she asked the Admin. Services Director if she was able to answer that question.

Admin. Services Dir. Ritzma stated that she wasn't able to answer the question tonight.

Councilmember Lancelle felt they needed to find out if that was, indeed, the case. She hated to see that being spread around if it was not accurate.

Mayor pro Tem Nihart suggested that they agendize that again and share the information in the contract. She stated that she would leave that to the City Manager to sort out how we get that information out.

City Manager Rhodes suggested that they send the staff report with those areas highlighted to the people who have that question which showed the discussion that was part of the approval process.

CONSIDERATION

9. In-Lieu Park Dedication Fee Update.

Associate Engineer Dave Rogers presented the staff report.

Councilmember Vreeland mentioned that they talked about it in June, then asked confirmation that nothing had been changed since 1984.

Mr. Rogers stated that he was not correct. He stated that they recently updated Property #3 which was \$422, 535, taking out an older sale and replaced with a more recent sale.

Public Works Dir. Ocampo asked if his question was regarding the process in which they calculate the fee.

Councilmember Vreeland agreed that he was, asking when that was last modified.

Public Works Dir. Ocampo stated that they hadn't changed that.

Councilmember Vreeland stated that he was reading the staff report which said it was adopted in 1984. He then asked when the last time was that the Council amended the ordinance.

Public Works Dir. Ocampo stated that there has not been an amendment to the ordinance.

Councilmember Vreeland asked him to repeat his comment.

Public Works Dir. Ocampo stated that there had been no change in the ordinance since 1984 when it was originally adopted.

Councilmember Vreeland stated that, in 1984, Pacifica had a lot of undeveloped land and they were building schools and parks and hundreds of houses being developed in the 70s, 80s, and 60s when this was being done.

Public Works Dir. Ocampo stated that he could not answer that question because he wasn't here.

Councilmember Vreeland stated that he wasn't here either, but why he asked for this to be on the agenda and why it was important to talk about this as a Council was that the ordinance was based on a subdivision, not based on what was going on now. He stated that one developer was building a house several years ago in Vallemar and he paid \$2,000 and now the same developer was trying to develop something and the park fee was \$30,000 or \$40,000. He asked why that has happened.

Public Works Dir. Ocampo stated that the property values have risen and they gathered the data from the county on recent sales and used that for coming up with the fee. He also stated that, if Councilmember Vreeland was asking him if there was a house that was there and has paid into the fee, the answer was no.

Councilmember Vreeland asked if they were talking about undeveloped lots that were the only ones impacted by this fee.

Public Works Dir. Ocampo responded affirmatively, adding that it was only a lot that has never had a structure in it and has never paid into this fee.

Councilmember Vreeland felt this was an ordinance that has passed its effectiveness and was not treating people equitably as far as the impact on parks. He wasn't sure how the value of the property impacts the park in-lieu of fee. He thought the size of the house would affect how many people would need a park service.

Councilmember Lancelle asked if he had a question.

Councilmember Vreeland hoped they would discuss how they can modify this since it hasn't been modified since 1984.

Councilmember Lancelle asked which fund this went into.

Public Works Dir. Ocampo stated that it was Fund 26.

Councilmember Lancelle asked confirmation that Fund 26 was the parks, play fields, capital improvement fund.

Public Works Dir. Ocampo responded affirmatively.

Councilmember Lancelle asked if it went to acquire parks as well.

Public Works Dir. Ocampo stated that it can be used for acquisition of properties or it can be used for rehabilitation of existing parks which was primarily how the City used it. He stated that they also used it to levy for additional funds, explaining that if there were grants that required matching funds, they used this fund because it was a local fund.

Councilmember Lancelle stated that she did a quick mathematical calculation based on the properties in the formula in the staff report, and asked if her calculations were accurate.

Public Works Dir. Ocampo explained that the price was per acre.

Councilmember Lancelle explained her thinking to get the equivalent of what one house would require. She asked if she understood the formula correctly.

Public Works Dir. Ocampo responded affirmatively.

Councilmember Lancelle concluded that the approximate average fee, based on those numbers, for the price of an acre was in the neighborhood of \$5,000 that someone would pay to build a house. She was not saying whether it was too high, adding that it would go up if a person had a larger development. If a person was building 30 units, it would be multiplied by the 30 and would become \$150,000. She asked if that was a correct assumption.

Public Works Dir. Ocampo explained that the way you calculate for an in-fill lot was the same as the way you calculate for a subdivision, based on the code. He stated that Title 8 referred to Title

10 which had the formula. He reiterated that an in-fill lot was on Title 8 but they are then referred to Title 10 to calculate the fees.

Councilmember Lancelle asked if she was on the right track when she described how it was calculated.

Public Works Dir. Ocampo stated that she appeared to be on track, based on the calculations as he pictured in his mind.

Mayor Digre stated that it helped her in these situations to ask what the mission of the whole thing was, and she thought it was to have enough park and recreation area for the individuals in that community and she saw now that it helped to create matching funds.

Public Works Dir. Ocampo stated that the purpose of the fund was to create recreational facilities for the residents as the population grew.

Mayor pro Tem Nihart asked if they were required in the General Plan to have two acres per 100 dwelling units, giving the example of a building with 100 apartments which required two acres of open space.

Public Works Dir. Ocampo clarified that it was open space or park land.

Mayor pro Tem Nihart stated that, if you don't have that, you pay \$200 per acre from the formula.

Public Works Dir. Ocampo clarified that it was 200 acres per unit.

Mayor pro Tem Nihart asked, if she has one house on an acre, if she would pay one amount, the .02.

Public Works Dir. Ocampo stated that it would be two-hundreds of an acre per unit.

Mayor Digre commented that there weren't that many large properties left, and she mentioned sending it back to staff to look into making something more appropriate for a smaller single family versus subdivisions.

Mayor Digre opened public comments.

Jeffrey Keller, Pacifica, stated that he loved living in Pacifica. He applauded the Council for hitting on the issue in question because he agreed that what was left in Pacifica was single family resident lots. He felt that paying a tax of 2% for a single family resident seemed steep in his point of view. He felt that there weren't many people paying \$200,000 for a lot, and he thought there were a large number of people who paid a large amount of money for a lot and were now getting hit with a significant fee to develop the lot. He felt the City should be encouraging development because of a need for the tax revenue and putting people back to work. He felt there was a certain unfairness and a problem in this environment. He felt this was an opportunity to readjust to fit with the reality of today. He suggested having one set of fees for multiple units and for single family residences another set of fees that they can cap them or tie it to how many people were actually going to be using it.

Bob DeLouche, 189 Kent, thanked the Council for hearing this item. He stated that he has built many homes in Pacifica over the past 20-25 years and has paid his share of in-lieu park fees. He stated that, up until recently, he had never paid more than \$2,000 and recently he went to pick up a set of permits for a single family residence and was presented with a bill for \$45,000 with the explanation that this was the way the ordinance was written and how the formula was calculated. He felt something was wrong. He felt the formula was complicated, mentioning that Engineering told him it would take a week to work out the calculations for that fee, and actually took 10 days to be presented with that \$45,000 bill. He stated that he has done some homework and discovered that similar homes in Pedro Point had paid fees of \$8,000 and \$9,000, and another \$21,000. He stated that he has not paid the \$45,000 fee and was hoping that the Council would take some pity and review the situation and do what some of the other cities do, such as a flat fee, which he felt would be more equitable, possibly based on the number of bedrooms such as in Half Moon Bay. He also thought it would save staff time by going to a flat fee basis, adding that the impact changed based on the family unit.

Randy Berend, Pacifica, stated that he has a current project for an in-fill lot of approximately 2,500 square feet in the Edgemar district. He stated that they pay school district fees of about \$6,500, building permit fee of \$12,000 and then in Engineering there is a Highway 1 fee of almost \$2,000, Oceana mitigation fee of \$4,000 and then the in-lieu park fee which will be \$22,000, making a total of \$58,500, and he hasn't put a shovel in the ground. He felt the ordinance was to address subdivisions and determine what a developer should pay if they aren't building a park but had now morphed into single homes on in-fill lots. He felt Bob DeLouche had the right idea. He had paid approximately \$2,000 or \$2,000 for developing property and he felt this was penal. He hoped they could look at it and get it into something functional for both the City and the builders.

Dan Shugar, Pacifica, thanked the Council for making this an agenda item. He stated that he and his wife were building a single family home and were okay with paying the school fee of \$12,000 but they were now being asked to pay over \$40,000 for the in-lieu park fee. He did an analysis and explained that, if the house was built in Half Moon Bay, the fee was \$990 per bedroom and a four-bedroom house would be \$3,960. He stated that they were supportive of open land and parks and were happy to pay their share, but he felt there should be reasonable judgments made. He asked the Council to set an upper limit on the fee based on reasonable judgments of reasonable people. He stated that they were ready to build, and because they don't build in the winter, there was a short construction window. He mentioned that they had local contractors. He felt the \$45,000 fee was out of line with what was happening with all the adjacent jurisdictions. He suggested that they cap it and have staff come back with additional modifications. He felt Half Moon Bay's formula was fair. He stated that, if they based it on property values, the City should allow the homeowner to return with a reappraised value. However, his recommendation was the flat fee or a fee based on the number of bedrooms.

Fred Howard, 1230 Glacier, apologized to the contractors because, when they did that ordinance, no one knew that property values would be \$100,000 or \$200,000. He felt that \$45,000 was a lot of money. He stated that they did it for several reasons, which were valid. He stated that it wasn't just for multi-family developments but because the City couldn't afford to develop parks anymore and also needed the money to maintain and upgrade the parks because of outdated equipment. However, he didn't believe anyone should pay \$45,000 to build a single house. He didn't know what formula was correct. He again apologized because they didn't realize property would be that high and agreed that it needed to be changed.

David Blackman, Pacifica, stated that, while everyone was speaking about the fairness, he was going to speak about the legal issue. He recognized the City's need to expand parks and fields as new homes were built but then gave details of what would be a reasonably related fee. He mentioned some of the various requirements for the fees and how the City was in violation. He felt that staff and the council were trying to do the right thing for everyone but were lacking proper guidance from legal counsel. He made a suggestion regarding the timing of the fee.

Mayor Digre closed public comments.

Councilmember Vreeland referred to Mr. Blackman's comments regarding legal issues, and thought the City Attorney was probably not prepared to address his comments.

City Attorney Quick clarified that there were two provisions in the Municipal Code relating to park fees. One related to subdivisions which was the Quimby Act and state law says that there was a specific set of parameters if they were charging an in-lieu fee, which was not a developer fee under the AB1600 mitigation fee act, because there was a determination that the loss of park land was so irreparable that it couldn't be limited to the impact of an individual developer but needed a mechanism that would fund a replacement park or facility. She concluded that what he was referring to did not apply to park fees as imposed under the tentative map rules. The second regulation has to do with specific individual parcels, and the Municipal Code said that because of making sure there was adequate park land individual parcels would be calculated the same way as the tentative map parcels are, which was before AB1600 was created and therefore does not apply. She stated that, if the City decided to change it regarding individual parcels, they had more flexibility than under the tentative map regulation which was set by the Quimby Act which didn't apply to individual parcels.

Councilmember Vreeland asked about the timing of collection of the fee from the end of the process versus the beginning of the process.

City Attorney Quick stated that it would not apply to Quimby Act fees. She clarified that it only applied to AB1600 fees, and these were not AB1600 fees.

Councilmember Vreeland stated that he brought this up because, as mentioned by some of the speakers, the ordinance was outdated now. He felt the fee should be based on the impact of not having a park, not based on the value of the property. He stated that it should be based on the potential impact of the number of bedrooms. He would like to get the Council to agree to direct staff over the next meeting or two to return with a recommendation on how they can make this more equitable. He felt the per bedroom basis made sense to him similar to what Half Moon Bay was doing. He reiterated that he wasn't set on a specific fee but rather an equitable solution so everyone is treated fairly. He thanked staff and individuals for bringing it to his attention. He stated that he hadn't heard Fred Howard apologize publicly in a long time and he was impressed.

Mayor pro Tem Nihart asked again if they were giving an average of the numbers not the value of a given lot at a given time.

Public Works Dir. Ocampo stated that it included that as well. He stated that was the reason why some properties paid more than others because it depended on how much they paid and adjusted for the per acre price which was added to the sum which was divided by 6.

Mayor pro Tem Nihart agreed with Councilmember Vreeland. She appreciated the rationale which she felt made a lot of sense when it was being implemented. She referred to hillside lots

that were deep but only a portion was buildable. She felt this was hurtful to individuals. She stated that she would like to go one step further. Since there were houses in process of being built, she would like to suspend the collection of fees until they get this worked out. She added that she didn't know if they could do that.

City Attorney Quick acknowledged that it was a nice thought but reiterated that there were two municipal code provisions that talked about park fees, and she was assuming that they weren't talking about the subdivision map but rather park fees for individual lots. She stated that the municipal code for park fees for individual lots had specific language in it which stated that it must be paid prior to building permit issuance with no flexibility in that language.

Councilmember Vreeland stated that he had talked with the City Attorney about ways to work through this. He wasn't addressing the issues mentioned by David Blackman because they needed to study that in more detail. He suggested that they pay the fees and protest the park inlieu of fee which would then be set aside. Then, if they potentially change the ordinance, they would be covered by the new ordinance. He asked if that was a correct statement.

City Attorney Quick stated that she would have to research it further but they would reserve their right to a refund of the disputed fee. She stated that another option would be to direct staff to return with an amendment to the ordinance to change the timing of the collection of the fee. She didn't know how that affects anything in process now.

Mayor pro Tem Nihart felt that \$40,000 or \$45,000 on a modest project was a lot to put into the system to get it refunded. She realized that they needed to go through channels to make the change. She acknowledged that they needed to go through channels to make the change happen, and she was in favor of directing staff, but asked if there was a way to work around that.

City Attorney Quick felt that Councilmember Vreeland did an excellent job of summarizing that, stating that the only two scenarios would be to change the ordinance now as to the timing. The procedure was not difficult but she didn't know what implications there would be.

Mayor pro Tem Nihart asked if they could do that at this meeting.

City Attorney Quick stated that they could do nothing but direct staff. She reiterated that Option #1 would be to direct staff to come back and change the ordinance as to the timing of the payment of the fee and Option #2 could be to request the people who were contesting the fee to pay under protest and that would buy time to work out a possible scenario. She reiterated that the ordinance was specific that the fee had to be paid prior to the building permit.

Mayor pro Tem Nihart asked if it was possible to do that in a couple of weeks.

City Attorney Quick asked to which she was referring.

Mayor pro Tem Nihart explained that she was referring to changing the ordinance as to the timing so as to not hold people up.

City Attorney Quick stated that they could by giving direction to staff to return with that as a possible option. She explained that it was just changing the timing, which was different from changing the formula.

Public Works Dir. Ocampo stated that his understanding of Mayor pro Tem Nihart's intent was that she wanted to give the people the opportunity not to pay the fee in order for them to pull permit up to the time that the new ordinance was adopted. He felt that was saying that it was temporary in nature because they didn't want the project held up and not that they were trying to move the date when these fees were paid which were currently due prior to the issuance of the building permit.

Mayor pro Tem Nihart stated that it was her original intent but she was told she could not do that.

Councilmember Lancelle suggested that they amend the current ordinance to change the timing of the fee and begin developing a new ordinance. She felt they should have a discussion on the pros and cons of basing it on the number of bedrooms or other criteria to affect the relationship of the fee to park use or the need for parks in a rational way.

Councilmember Vreeland heard some positive consensus of looking for a way to make this work more efficiently and offered the suggestion of simply asking staff to come back with an ordinance in two weeks which changed the collection time of these fees.

Councilmember Lancelle agreed that he was speaking of amending the current ordinance.

Councilmember Vreeland reiterated that they would amend the current ordinance to state that these fees would be collected when they were getting the occupancy permit and they would be able to get the houses started and get people to work. He added that, when the house was built, they would get more property tax than they did with the fees. He felt they needed to change the equation on this and was glad that everyone was agreeing. He then asked the City Attorney if they could do that in four weeks.

City Attorney Quick stated that they would have the introduction and two readings of the ordinance. She stated that, because they were not changed the dollar amount of the fees but just the timing, they would not have to have a notice of public hearing. She added that she didn't know what the practical ramifications were but, from a drafting standpoint, it was not difficult.

Councilmember Vreeland stated that he was trying to simplify this and would direct staff to come back with the ordinance that changes that automatically in four weeks and then, at the first reading of the ordinance, they could have a discussion about how they set up the fee, such as number of bedrooms or square footage on that structure. He stated that they would fix the problem quickly so people would not have to put money into accounts under protest and assume they were going to get something. Then, they can deal with the larger policy issue over the next several meetings. He acknowledged that they couldn't vote on it, but it was his hope that it would be the direction they give to staff.

Mayor Digre asked staff if they were clear on what the Council was saying.

Public Works Dir. Ocampo responded affirmatively.

City Attorney Quick asked if there was a motion to direct staff and if Council was in concurrence.

Councilmember Vreeland moved that staff come back in two weeks to change the ordinance for the collection time of the park in-lieu fee to the end of the building process when they were getting the occupancy permit and at the same meeting have a Council discussion about changing the pricing to a more equitable sharing of what the potential impact would be on the structure being built.

City Manager Rhodes stated that they could do the timing but he understood from the City Attorney that the pricing would require a study and that would not be as quick a turnaround. He thought they could lay out some of the base parameters and go from there. He agreed that they could fix the timing right away to resolve that.

Councilmember Vreeland reiterated that what he wanted was a simple fix and then a thoughtful analysis on what other cities were doing to get input and possibly have the Planning Commission talk about it.

Mayor pro Tem Nihart seconded that with the understanding that they do the immediate thing as quickly as possible.

Councilmember Lancelle asked for confirmation that staff would return at the next meeting with some possible alternatives or bases for collecting the park in-lieu fee with a discussion and then a study would have to be done. She asked if they were directing them to do the study at this meeting.

City Manager Rhodes stated that they were not doing it at this meeting but would return and take it from the discussion of the options and would share what would have to be done to move that piece forward and they could then make the decision. All of that could be done at the next meeting when they were fixing the timing.

Councilmember Lancelle stated that many people were anxious to know how long the study would take, and she wondered how long it would take.

City Attorney Quick responded that it was not a question that they could answer at this meeting. They would have to see what the parameters and options were.

Councilmember Lancelle thought it would be done as promptly as they can.

Mayor Digre stated that she agreed that it should go back to staff to keep the mission to protect the community for parks.

ROLL CALL VOTE:

Aves: Councilmembers: Vreeland, Lancelle, Nihart and Digre.

Noes: Councilmembers: None.

Motion passed: 4-0.

10. Adoption of Ordinance entitled "An Ordinance of the City Council of the City of Pacifica Amending Sections 6-6.404 and 6-6.406 of Chapter 6, Title 6, (Sewer charges) of the Pacifica Municipal Code to Revise and Increase the City's Sewer Charges (Second Reading).

Admin. Services Dir. Ritzma presented the staff report.

Mayor Digre opened public comments and, seeing no one, closed public comments.

Mayor pro Tem Nihart moved to adopt the ordinance entitled An Ordinance of the City Council of the City of Pacifica Amending Section 6-6.404 and 6-6.406 of Chapter 6, Title 6 (Sewer charges) of the Pacifica Municipal Code to Revise and Increase the City's Sewer Charges; seconded by Councilmember Lancelle.

ROLL CALL VOTE:

Ayes: Councilmembers: Vreeland, Lancelle, Nihart and Digre.

Noes: Councilmembers: None.

Motion passed: 4-0.

11. Adoption of Ordinance entitled "An Ordinance of the City Council of the City of Pacifica Amending Chapter 4 of Title 9 of the Pacifica Municipal Code to Require a Site Development Permit for Single-Family Dwellings Over a Certain Size" (Second Reading).

City Clerk O'Connell presented the staff report.

Mayor Digre opened public comments and, seeing no one, closed public comments.

Councilmember Lancelle moved to adopt the attached resolution entitled a Resolution of the City Council of the City of Pacifica Adopting the Negative Declaration for the Proposed Ordinance requiring a site development permit for single family dwellings over a certain size; seconded by Councilmember Vreeland.

Mayor pro Tem Nihart apologized to the Council for using an apparently inflammatory word at the previous meeting when referencing changing the square footage before the vote. She thought nothing had changed in the ordinance and she was making sure that she would like to go to the neighborhood based approach which was why she continued to vote against the motion.

Councilmember Lancelle stated that they hadn't suddenly changed the number but had a lengthy discussion at a previous meeting.

Councilmember Vreeland stated that he had voted for this and against this, and he asked staff what it meant if they did a neighborhood based concept, wondering if it meant that Vallemar would have different guidelines from Manor, etc. He asked what that would mean and what it would cost.

Planning Director Crabtree stated that it could mean any number of things depending on the specific direction of Council. He stated that, in concept, it would mean that they might have different standards or even different guidelines for different neighborhoods depending on their situation. He would not even hesitate to suggest what that might cost.

Councilmember Vreeland thought it was a great concept but he struggled with how they do it, what it would cost, and how it was equitable depending on being in Manor or Vallemar, etc., and how the Planning Commission would do different neighborhood rules. He stated that personally, he was happier with the 3,000 feet suggested by the Planning Commission which was reflected in the notes. He would like to go back to what the Planning Commission went for but, short of that, he felt there were very few houses that would be impacted. He felt that in-fill lots had a responsibility to talk with the neighbors to find out how this new house would fit in and he felt

that was what this ordinance was doing which he felt was a simple solution for that small number of houses being impacted. He stated that was why he was supporting it in its current form.

Mayor pro Tem Nihart stated that she had a number of things she would be happy to share with Councilmember Vreeland, mentioning that Los Angeles was one example but she had several others of different ways that cities have done neighborhood-based ordinances. She didn't believe they were difficult to do or set up the parameters.

Mayor Digre reminded everyone that this was just the beginning.

Councilmember Vreeland thought that doing this action at this time did not preclude them from doing what Mayor pro Tem Nihart was mentioning. He thought that, if she wanted to take the responsibility of working with the Planning Commission, picking a neighborhood and trying it, he thought it was a great idea. With the present motion, they would get a solution that in-fill lots had to notify their neighbors which was the concept to which they were referring. He applauded her for her efforts, agreeing that it would be great, but he felt this was a good basis to start with.

ROLL CALL VOTE:

Ayes: Councilmembers: Vreeland, Lancelle and Digre.

Noes: Councilmembers: Nihart.

Motion passed: 3-1.

Councilmember Lancelle moved to adopt the ordinance entitled An Ordinance of the City Council of the City of Pacifica amending Chapter 4 of Title 9 of the Pacific Municipal Code to require a site development permit for Single-family dwellings over a certain size; seconded by Councilmember Vreeland.

ROLL CALL VOTE:

Ayes: Councilmembers: Vreeland, Lancelle and Digre.

Noes: Councilmembers: Nihart.

Motion passed: 3-1.

Mayor Digre adjourned the meeting at 9:05 p.m.

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell, City Clerk

Jue pligne Sue Digre, Mayor

APPROVED: As Amended; 6/14/10; 4-0 Councilmember Vreeland absent.