

## MINUTES

City Council Special Meeting  
2212 Beach Boulevard  
Pacifica, CA 94044

March 7, 2007

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

Present: Councilmembers: Digre, Lancelle, Hinton, Vreeland, and DeJarnatt.  
Excused: Councilmembers: None

Staff Present: Bill Norton, City Manager, Cecilia Quick, City Attorney; Maureen Lennon,  
Finance Director; Jim Saunders, Police Chief; Kathy O'Connell, City Clerk.

Councilmember Lancelle led the Salute to the Flag.

### CONSIDERATION:

#### **1. AB939 Diversion Requirements.**

Chris Porter, NCCWD, asked that they reverse the order of the agenda because it made more sense.

Finance Director Lennon stated that she preferred the present order because they would end up with the audit and that was going to take the most time in the end.

Councilmember Hinton stated that he would like to hear what Chris Porter had to say about her reasons.

Chris Porter stated that she preferred to speak about the audit first because that reflected on the rates and they kind of went together and AB939 was a separate category.

Councilmember Lancelle commented on the Finance Director's explanation that she chose this particular order.

Finance Director Lennon stated that AB939 was just for due diligence, and could be gotten through quickly and set aside, as well as the rate comparison survey. She stated that the audit would be taking the rest of the evening.

Mayor DeJarnatt thought it made sense but would go along with the Council.

The consensus of the Council was to follow the agenda as listed.

Finance Director Lennon asked if she could read the reports before discussion so that everyone knew what was going on.

Mayor DeJarnatt agreed, adding that they generally did that.

Finance Director Lennon presented the staff report.

Chris Porter stated that the last certified rate by the state was 45%, mentioning that the working number of 42% didn't have the sludge or corrections. She addressed information mentioned in the staff report, clarifying any discrepancies or misinterpretations, and mentioned some of the specifics that would help toward attaining the goal of 50%, as well as taking over the compilation of City documents weekly and monthly with the help of several staff members and reporting monthly to the City Manager.

Mayor DeJarnatt asked staff about Ms. Porter's comment that the City had been missing some records.

Finance Director Lennon stated that she was not sure to which records she was referring.

Ms. Porter stated that there was no documentation for the wood materials and grass recycling from the City, causing 3,000 tons of material being denied.

Finance Director Lennon responded that it was the role of the waste hauler and recycler to have a coordinator to work with the City to measure it and be sure it was handled properly.

Ms. Porter responded that Coastside had never had to gather documents from the City except for the last two years, which was why she was taking on that duty.

Mayor DeJarnatt opened public comments.

Councilmember Lancelle congratulated Ms. Reider on her recent award.

**Shelly Reider, 1075 Anza Drive**, stated that she has worked in the recycling field for 20 years and was dismayed by the lack of innovative programs in the City, which she felt were needed to meet the 50% diversion. She stated that we were about 15 years behind other cities, and rates went up yearly with no change in programs. She felt that the City should do better since we took pride in our concern for the environment.

**Lynn Adams, 601 Beaumont**, stated that 50% was not enough, mentioning that there were eight cities in San Mateo County above 60% with several at 70%. She felt they needed to do waste audits on residences, as well as businesses. She stated that Pacifica was an environmental City, and we needed to get all the resources we can reuse. She taught compost workshops and knew that the residents were into recycling, and to have the City not be at 50% was unacceptable. She stated that Ms. Porter had told her a year ago that she was the recycling coordinator, and asked what was now different and she questioned whether Ms. Porter could do both the coordinator and the General Manager. She mentioned that some individuals attempted to recycle by using bags because their bins were broken and the bags were not taken by the company.

**Larry Daugherty, 205-89<sup>th</sup> Street, Daly City**, stated that he was president of Teamsters Local 350, and was a garbage/recycling driver for four different companies for 18 years. He stated that this was the most disorganized recycling program he had ever seen. He questioned the safety for drivers who had to scavenge through garbage for recyclables, and he felt the City Manager should oversee the company and guarantee that they gave Pacifica the type of program they needed.

**Mary Brown, 152 Eureka Square**, responded to the comment about recycling bins being busted. She stated that she had the same problem, called Coastside and got a new set. She stated that you could also call Coastside to get a green waste bin. She felt people needed to take personal responsibility to help.

**Mary Ann Nihart, 146 Hilton Lane**, stated that she was originally going to listen only but needed to talk. She stated that she was a nurse practitioner and after hearing that the drivers were going through the garbage, she asked if anyone knew what was in garbage. She felt there was no recycling plan whatsoever, and for the rates being paid, there was no excuse.

Mayor DeJarnatt closed public comments.

Councilmember Digre asked if going after the back tonnage was worth the time as compared to just going forward.

Mayor DeJarnatt stated that this was for information only, and suggested they make this an agenda item to address this separately.

Finance Director Lennon commented that it was exactly what they should be doing. She stated this item was really just to let the Council know the status. The City staff was doing due diligence to be sure that the Council and community knew what was going on. She felt this jump started the activity and it was on everyone's radar now. She stated that they would be coming back on a quarterly basis to keep the Council informed of any progress being made.

Councilmember Hinton stated that he thought it was extremely important to look back and find out what they didn't get and why and attempt to correct it. He stated that it was difficult for an outside agency to monitor, and he felt the City should cooperate with Coastside and make sure the figures were correct and Coastside should make every effort to retrieve the information. He felt it was a mutual responsibility.

Councilmember Lancelle stated that the key was to not take a personal approach. While she liked Ms. Porter, she felt they should start forward movement on recycling. She felt it was important for Coastside and the City to take it upon themselves to inform themselves and come up to 2007 levels. She felt there was some resistance to change. She felt this was overdue and was pleased that they were addressing it. She felt they should move forward with energy to make changes and get beyond 50%.

Mayor pro Tem Vreeland agreed that this item needed to come back as a Council agenda. He expected staff to work with Coastside on a detailed plan with time frames, goals and objectives. He felt it was disappointing that we weren't there seven years after the deadline. He hoped Coastside would be more active in developing a recycling program, specifically with green waste with more participation. He was hopeful that Coastside and the City would work together to reach the goals.

Mayor DeJarnatt mentioned that this item was not the major reason for the meeting, adding that they did agree that recycling was something they needed to focus on closely.

## **2. San Mateo and San Francisco Counties Solid Waste Comparison.**

Finance Director Lennon presented the staff report.

Councilmember Hinton asked the Finance Director to read the last two items on the commercial chart.

Finance Director Lennon read the items again, giving him the specifics.

Ms. Porter commented that Coastside had not requested a rate increase for the last 18 months, but had handled any unexpected increases through reserves and profit funds. She mentioned that they couldn't compare rates against other cities without comparing programs offered and franchise fees paid by the cities, mentioning some of the fees paid by Coastside. She went into some detail on what Coastside paid in fees and received in fees, as well as services provided.

Mayor DeJarnatt opened public comments.

**Marie Martin, 8 Yellowstone**, stated that, while the audit was going on, she hoped it could include researching and auditing rates charged for dumpster boxes. On comparing the rates with neighboring cities, there was a huge discrepancy. She mentioned getting various responses from Coastside when she asked for an explanation, and then stated that she didn't understand why the City had an exclusive agreement with a garbage company that didn't have its own garbage site and felt we needed to get bids from others to make it more competitive.

Mayor DeJarnatt stated that, in fairness, he should mention that most cities take their debris to Ox Mountain.

**Fred Howard, 1230 Glacier**, stated that, in comparing cities, there were things other garbage companies did that Coastside didn't do. He stated that the first mistake the City made was giving them a 20-year exclusive contract.

Mayor DeJarnatt closed the public comments.

Councilmember Hinton stated that they touched on the matter of dumps, and he stated that they were closely controlled and could not be opened up anywhere. He reiterated the comment by Mayor DeJarnatt that most cities took their trash to Ox Mountain, a certified dump. He added that the County controlled the rates at Ox Mountain. He then mentioned that they had increased the rate to support child care. He also commented that Coastside had a program where residents can take furniture or any large item to get rid of it. Mr. Hinton referred to the 20-year franchise agreement, explaining that you couldn't expect a company to invest the amount of money necessary to maintain a facility without some assurance of income.

Councilmember Lancelle asked if the tipping fees at Ox Mountain were the same for all haulers in the County.

Ms. Porter stated that they were not the same, mentioning that deals were struck with some cities that were using Allied Waste. She added that she was working with seven other cities and they had approached the dumpsite regarding the fees and hoped to get a reduced rate also.

Councilmember Lancelle stated that someone had told her the rates were set by the County Board of Supervisors.

Ms. Porter stated that they were set by the Board of Supervisors, but a side deal was made. She stated that they were told the rates were based on operational costs, and she wondered how they could afford to give a lesser rate to someone. She stated that they were presenting five different points to the County.

Councilmember Lancelle suggested that Ms. Porter call upon the Council if they could assist her with that matter. She also commented on low-income senior rates, stating that she thought the City had utility user tax discounts for low-income seniors.

Finance Director Lennon stated that they had an exemption with a list.

Councilmember Lancelle reiterated that they had a list of seniors who qualified for a lower cost, and she hoped that the City would be able to help them with that.

Ms. Porter stated that the Council's direction was always that they had the discounted rates at age 65, and they could do a change in policy during rate review.

Councilmember Lancelle thought it would be a good idea. She then mentioned two City-wide cleanup days listed, and thought they didn't really have two.

Ms. Porter stated that they had the recycling yard. She referred to the person who wondered how they got things to them if they didn't have a truck, and stated that they only had to call the office.

Councilmember Lancelle stated that she would like them to look at the annual cleanup event, even though it was a major undertaking.

Ms. Porter asked if she was talking about putting a debris box in different neighborhoods.

Councilmember Lancelle stated that was her fall back position. She would like to see how other cities did it, and determine what would be the most effective to get rid of stuff.

Ms. Porter suggested that the two of them could work on the plan.

Councilmember Lancelle thought it should be a plan on which they all agreed, as well as having the community participate.

Mayor pro Tem Vreeland asked the City Manager what the franchise rate was, asking if he had said it was 8%.

City Manager Norton responded that their profit rate was 8%, but the franchise rate was 11%.

Mayor pro Tem Vreeland asked what the industry standard was for the profit rate.

City Manager Norton stated that it was around 7% or 8%.

Mayor pro Tem Vreeland stated that he wanted to understand the magnitude and asked what the difference was between 7% and 8% in dollar values.

Finance Director Lennon stated that it was hard to say unless you knew what the expenditures and revenues were. She added that she had heard of profit margins as high as 15%, and 8% was probably on the low side.

Mayor pro Tem Vreeland asked if they thought rates should be higher. He mentioned that when he was first on the Council he hadn't voted for this agreement, adding that Councilmember Hinton had. He was troubled because Pacifica had the highest rate with the lowest recycling rates, which he didn't think was reflective of the community. He felt it was incumbent on the

Council to work with the company to make it mirror what was required, and be more progressive and cost effective.

Councilmember Hinton stated that he wasn't suggesting they shouldn't have an annual clean up, but he thought it would be inconvenient for people to have to hold things for an annual clean up. He also mentioned that there were two other Councilmembers who also voted for the extension. He asked Ms. Porter what a truck cost.

Ms. Porter stated that it was \$240,000.

Councilmember Hinton asked her how many trucks they had in Pacifica.

Ms. Porter stated that they had 14 or 15 trucks.

Councilmember Hinton stated that it was a pretty big investment for a one year contract, and he didn't know of anyone who would be willing to buy them for only one to five years. He also thought the recycling yard was a good thing.

Mayor DeJarnatt stated that this was informational only and thought they would be coming back to it in the future.

### **3. Coastside Scavenger – Five Year Review.**

Finance Director Lennon stated that she misspoke when she stated that she had heard of a 15% profit margin, but she actually meant franchise fees.

Finance Director Lennon presented the staff report.

Mayor DeJarnatt asked for information about the auditors, Hilton, Farnkopf & Hobson.

Finance Director Lennon stated that they solicited the audit with five companies through an RFP and received three responses, with Hilton's bid being within the price range of Coastside's budget. Mr. Hilton had been in waste management for many years, and was considered to be knowledgeable in waste hauling and the top expert in the state.

Mayor DeJarnatt was aware of that but wanted everyone to hear it. He commented that he wished this wasn't happening. He asked the City Attorney if the 380,000 cubic yards dumped at Picardo Ranch would be considered an illegal act.

City Attorney Quick responded affirmatively, explaining that there was a regulatory scheme governing the disposal of this type of waste and there was no evidence that Coastside complied with that scheme in the discharge of this waste.

Mayor DeJarnatt added that it appeared to be 21,000 tons.

Councilmember Hinton asked the Finance Director how they accounted for the discrepancy in the proper rate and the rate actually charged and where the error was made.

Finance Director Lennon stated that it was an administrative error, explaining that the audit was given to the Finance Department on May 1 and, at that point, a rate review audit would be done to

be sure the rates were correct but that was not done. She stated that she would take responsibility for the 2004-05 year, adding that the oversight was by the administration.

Councilmember Hinton asked if anyone looked at the rate proposal to determine whether it was appropriate.

Finance Director Lennon stated that she didn't know if the previous Finance Director looked at it with Ms. Porter before he decided to approve it and bring it to the Council.

Councilmember Hinton asked if there was anything in the Five-Year Audit which created a premise for the discrepancy and asked where they made a mistake.

Finance Director Lennon asked who he thought was making the mistake.

Councilmember Hinton responded that it would be whoever figured out the rates.

Finance Director Lennon stated that it would have been Coastside presenting their budget and rate request to staff, but at that point the rate review didn't happen.

Councilmember Hinton asked if they made a mistake in the amount of money spent or collected, stating that it had to work out because, if they had expenses and revenues, they had to know the difference.

Finance Director Lennon stated that the mistake was the findings of the audit. She stated that the difference was \$634,200, and they were talking about two issues, the rate charged for green waste and diverted to Picardo Ranch and the amount charged to the Pacifica ratepayers rather than Seacoast, an affiliate company, with a few minor items such as depreciation on an automobile.

Councilmember Hinton stated that the auto was disallowed.

Finance Director Lennon stated that all of it had been disallowed.

Councilmember Hinton stated that the auto was quickly disallowed.

City Manager Norton thought that Councilmember Hinton was actually questioning why City staff didn't notice the discrepancies in previous years. He stated that there really needed to be an audit when a rate review was done, because staff didn't have the time or expertise to work on it.

Mayor pro Tem Vreeland asked the City Manager or Finance Director from where the rate request would originate.

Finance Director Lennon stated that it would come from Coastside.

Mayor pro Tem Vreeland stated that he was asking to clarify that the initial request started with the company.

City Manager Norton stated that the City could initiate a rate review without a request from the company, mentioning that the City Attorney had indicated that they could review the rates on an annual basis even without a rate increase request.

Mayor pro Tem Vreeland stated that he was glad staff saw that flexibility, but was disappointed that it wasn't being done because Council only had the opportunity to react to information provided by staff. He thought they should hear from Ms. Porter before they discuss further.

City Attorney Quick clarified that she thought the agreement allowed the City to initiate its rate review but she wouldn't look into it with that thought without direction from Council.

Councilmember Hinton asked what someone did wrong when they calculated the rates.

Finance Director Lennon stated that the rate was calculated on a formula which came from Coastside when they brought the rate request, and was based on revenues including commodity sales and expenditures, as well as their 8% profit margin. If the numbers were positive, they should reduce rates, and if negative, they should increase the rates. She asked Ms. Porter if that was the formula used.

Councilmember Hinton asked what they did wrong in the components used to develop the rates.

Finance Director Lennon stated that the auditor found they were overcharging for expenditures they shouldn't have charged, resulting in a rate increase.

Mayor DeJarnatt thought the largest portion of the \$600,000 plus was attributed to the cubic yards dumped at Picardo Ranch.

Finance Director Lennon responded affirmatively.

Chris Porter asked the Council to follow along with the packet she gave them. She then explained how they calculated the charges connected with Seacoast.

Mayor DeJarnatt asked what Seacoast had to do with Coastside.

Ms. Porter stated that this was the \$246,000 they were discussing.

Mayor DeJarnatt asked if this was the subsidiary in the mid-Peninsula.

Ms. Porter responded affirmatively. She then continued discussing the division split that they would be using in 2007-08. She explained the various figures in the relationship with Mr. Picardo. She then mentioned staffing at Coastside and concerns about salary. She asserted that they were not shorting or overcharging the customers, with only the owner of the company being shorted. She felt it was important that the Council understand where she was coming from because there was a picture being painted that they were shorting the customers, but the costs were absorbed.

Councilmember Digre asked where the employee wages were listed in the budget and when was the last wage increase.

Ms. Porter stated that management had not had a wage increase in 18 months, and the last increase for the men was in December 2006.

Mayor pro Tem Vreeland asked about the reference to green waste being reviewed by the Finance Director and City Manager and what she was saying they told her.



Ms. Porter stated that City Manager Norton told her she should have gotten a letter from staff, but she stated that they never did that. When she explained it to the former Finance Director, he told her it was a savings to the customers.

Mayor pro Tem Vreeland asked if she was saying that several years ago she told staff she was taking waste to Picardo Ranch instead of Ox Mountain and charging only half, and City staff okayed that.

Ms. Porter stated that the Finance Director asked her what she was going to do, and she explained that they were going to bring green waste to the ranch to compost and give compost back to the citizens, which was also done at Ox Mountain, etc.

Mayor pro Tem Vreeland asked if someone on City staff told her it was okay to take waste to a ranch in Park Pacifica instead of a permitted solid waste landfill.

Ms. Porter stated that it was because it was zoned agricultural.

Mayor pro Tem Vreeland asked if our zoning allowed for mass composting operations within the City limits.

City Manager Norton stated that you couldn't do it today and probably couldn't do it then, but he explained that she should have gotten written documentation from appropriate agencies to allow it and written approval from City staff. He added that there was no documentation of how much had been taken to the ranch which was why the auditors disallowed it.

Mayor pro Tem Vreeland asked clarification of whether it impacted the potential rates, and also impacted the diversion rates, and if they had gotten credit for it.

City Manager Norton stated that he didn't know how it was figured then, but it would help us today.

Mayor pro Tem Vreeland asked about the latest on the issue of a bond.

Mayor DeJarnatt commented that they probably didn't want to go there.

City Manager Norton stated that they were working with Coastside on that issue now. He stated that it was probably taken care of but it was not on the agenda at this meeting.

Mayor DeJarnatt asked Ms. Porter if she was saying the former Finance Director said it was okay to bring the stuff to Picardo Ranch.

Ms. Porter stated that they went over the budgets page by page. She wished she would have gotten something but it wasn't the practice.

Mayor DeJarnatt asked if she had any documentation about what and how much went there per month.

Ms. Porter stated that it was all green waste.

Mayor DeJarnatt turned to the City Attorney, asking whether she knew where he was going.

City Attorney Quick stated that as the Council and auditor pointed out, there was no documentation to support that it was green waste as opposed to prohibited material, and what the volume was or what advantage it was to the ratepayer. She had telephoned former Finance Director Jerry Connor, who was retired, and he said he would never have approved the diversion of green waste, had no recollection of doing so and was never directed by any former City Manager to do so.

Ms. Porter stated that they could still absorb the cost in return to owner.

Councilmember Digre asked, if the green waste to Picardo Ranch was submitted as part of recycling, where the report was indicating that the Board had accepted the green waste.

City Manager Norton stated that was the problem, because there was no written record and it was disallowed by the auditor.

Mayor DeJarnatt stated that they didn't get credit for that either.

Councilmember Hinton asked whether the disallowance had impacted the owner rather than the ratepayers.

City Manager Norton thought the point being made by the General Manager was that, if disallowed, it should be absorbed by the owner of the company. He stated that in this case, that period had passed, and they would be looking forward to rate setting in the future.

Councilmember Hinton asked clarification that Coastside had not asked for a rate increase in two years.

City Manager Norton stated that they had asked for one the past fall, but took it back. They had actually had no rate increase in 18 months.

Councilmember Hinton asked if that was sufficient to compensate for the cost incurred.

City Manager Norton stated that it could but they needed to audit those years and see.

Finance Director Lennon stated that she could answer it. She stated that, if they had asked for a rate increase in those two years, it would have been an additional \$175,818, which brought the overcharge down but they didn't audit those years and it could have required a rate decrease.

Councilmember Hinton asked if that could be accommodated through future rate increases.

Finance Director Lennon stated that, if the Council decided to go that way, the \$634,000 could be put into the bank to the ratepayers to defer any increases until that amount was used up.

Councilmember Hinton stated that, if they didn't ask for a rate increase, the people were saving whatever they didn't ask for and that could be credited toward the amount.

Finance Director Lennon responded affirmatively.

Ms. Porter stated that, if they took the money out of the return to owner, there was no money owed to anyone.

Mayor DeJarnatt understood what she was saying, but stated that he wouldn't answer her at this point.

Mayor DeJarnatt opened public comments.

**Jim Furgas, 295 – 89<sup>th</sup> Street**, stated that he was with Teamsters Local 350, and he informed the Council that the teamsters viewed this as a scandal. They were asking that the City find the company in default and kick them out. Based on the audit report from a reputable firm, he felt that what Coastside had done was criminal. He added that they had trouble with the company since they were organized last year, including unfair labor practice charges and the firing of longtime employees supporting the formation of a union. He suggested that they terminate the company and file an RFP.

**Duane Beeson, 1404 Franklin Street**, stated that he represented the Teamsters Locals which represent the employees. He was asked to briefly explain that the problems with Coastside were going to be augmented by the problems they were going to have in trying to represent their workers. He was going to file charges as mentioned by Mr. Furgas with the National Labor Relations Board. He suggested that the Council or a staff member be involved and attend negotiation meetings to give up to date information to people responsible for making sure garbage is picked up.

**Fred Howard, 1230 Glacier**, stated that the garbage company had always had a short term contract. He stated that they were supposed to do something specific in that 15-year contract. He hoped they could find out what it was, because he was sure they hadn't done it, and the long contract was one of the reasons that they hadn't done it. He commented that their record keeping was not up-to-date, and he personally got notices regarding late payments, which were inaccurate. He felt they needed a more efficient operation in the City. He felt they should hire a recycling person to operate it and the City should not have to be responsible for it. He stated that there had always been an audit before a rate increase until the last few years.

**Jane During, Pacific Manor**, stated that she went to other cities and took care of people's homes and pets, and observed that the other cities' rates were lower than Pacifica. She felt something needed to be done about that. She was grateful to the current City Manager for doing the audit, because she had learned a lot. She felt our rates needed to be lowered, and definitely not increased, until this was taken care of.

**Robert Morales, 295 – 89<sup>th</sup> Street, Daly City**, stated that he was with Teamsters Local 350, and he felt Pacifica had a scandal. He addressed all the daily problems that the union was having with the company concerning the workers, mentioning them in detail. He had been told by Ms. Porter that he could only talk to their lawyer in Oakland. He mentioned that the previous City Manager told them he would help them, but he left without telling them anything. He asked that they put this garbage company in place. He stated that Chris Porter didn't run the company but rather the Operations Manager who was doing a bad job. He felt Ms. Porter had no power, even though she was the General Manager. He asked the Council and the City Manager to take action.

**Richard Zuromski, 1226 Glacier**, stated that he was new to Pacifica, and noticed the difference in his dealings with the utility companies compared to others. He mentioned being surprised when he was told he had to buy his can, told it was the wrong size, charged for an extra bag, and told the can was too heavy. While Chris Porter took care of it, he didn't believe he should have to go through that. He stated that, in all the other cities, the bill was half the cost but he received twice the service. He felt the excessive rates needed to be discontinued. He addressed the

potential fines facing the city. He also stated that recycling bins were larger and free in all other cities where he resided. He felt this was our chance to fix the problem, even though we had a long term contract. He stated that he would be happy to volunteer his time on any committees to solve the problems rather than just complain about them.

**Pete Pereira, 16 Ortega Ct.**, stated that he didn't want to beat up on Coastside. He mentioned that his senior rates in San Bruno and Turlock homes were higher than his senior rate in Pacifica. He thought it was the best recycling of all and they did a lot of things right.

Mayor DeJarnatt closed public comments.

Councilmember Hinton mentioned Ms. Porter's reference to the differences in services and franchises between cities and scavenger companies, and he mentioned the consideration of a total compensation package when establishing rates. He asked if Daly City billed.

Ms. Porter stated that they received a 10% franchise fee and did all the billing, mailing and collecting.

Councilmember Hinton asked about other cities in the Peninsula that she mentioned did similar things.

Ms. Porter stated that Los Altos received a 10% franchise fee and they paid the dump fee.

Councilmember Hinton asked if other cities absorbed some of the cost normally attributed to a scavenger company.

Ms. Porter stated that most cities didn't have a separate charge for AB939 but paid it through the franchise fee.

Councilmember Hinton commented that the cost to Coastside was somewhat different because other cities in the County participated more fully than Pacifica. He stated that it had to be determined and evaluated when comparing the rates.

Councilmember Digre asked if they were allowed to say anything about fair labor practices.

City Attorney Quick stated that they were not, explaining that the U. S. Supreme Court was extremely clear about the fact that cities could not get involved in private company's labor negotiations and that, despite the moving testimony, the Council's hands were tied in that area.

Mayor pro Tem Vreeland commented that it was a shame some speakers had left, because that was the reason they had not returned their phone calls. He asked Ms. Porter about her comment that the waste was taken to Mr. Picardo's ranch and it didn't exist now.

Ms. Porter stated that it was all composted.

Mayor pro Tem Vreeland stated that they had no documentation so the amount could have been more or less than reported.

Ms. Porter agreed that there was no documentation.

Mayor pro Tem Vreeland added that the material could actually not have existed.

Ms. Porter agreed since she had no documentation.

Holly Pranger stated that this was not a deposition, and it was an inappropriate arena for that question. She stated that they would be happy to address the questions through Council, but they knew what was behind his question. She stated that the composting really did happen.

Mayor pro Tem Vreeland stated that his only purpose was to clarify that there was a lack of documentation.

Ms. Pranger stated that Ms. Porter already mentioned the fact that she had adhered to City practices and discussed the line by line budget. She acknowledged that it was unfortunate that neither side produced documentation but it was the accepted practice.

City Attorney Quick also pointed out that this was not a deposition, and the rules for depositions had no bearing, and, if Mayor pro Tem Vreeland had a question of something that was in the public document, on the agenda and properly noticed and discussed in the staff report, he was welcome to ask the question.

Ms. Pranger agreed that he could ask his questions, and she also offered to talk to Council about it in another time frame. She stated that Ms. Porter told him that the green waste was composted, and his comment that there could possibly not be any compost begged the idea that she was lying to them.

Mayor pro Tem Vreeland stated that he didn't ask that question, and he was only asking about the documentation. He stated that they couldn't take any action, however, they had a request for Council action.

City Attorney Quick stated that it was a special meeting, noticed and agendized for the Council to take action, so they can take action.

Mayor pro Tem Vreeland stated that there had been a lot of discussion and it was late. He felt that, given the open and fair discussion and what was brought up, he thought the only thing they could and should do was what staff was asking.

Mayor pro Tem Vreeland moved to direct staff to develop and implement strategies for ensuring Coastside's compliance with the franchise agreement and to address rate relief for the ratepayers, including, but not limited to, exploring the option of a City-initiated rate review. Staff also recommends that the City Council direct staff to notify the appropriate regulatory agencies, such as but not limited to the CIWMB and other appropriate state entities staff feels appropriate, of the material that was delivered to the Picardo Ranch; seconded by Councilmember Lancelle.

Mayor pro Tem Vreeland added that he felt the most troubling thing was that it was inappropriate to have disposed of waste in non-permanent facilities. He felt the audit was well-done and they needed to forward it to the appropriate agencies.

Councilmember Lancelle wanted to follow up with the recommendations regarding recycling because that concerned her. She agreed that an audit before any rate increase was appropriate. She also suggested that the City look into the formation of a recycling committee to include the hiring of a recycling coordinator in the contract agreement to enliven recycling efforts.

Mayor pro Tem Vreeland asked if she wanted that to be part of the motion, adding that the recycling item would be back in a month.

Finance Director Lennon asked if she was asking that the recycling coordinator be on the City's payroll or part of the franchise agreement with Coastsides.

Councilmember Lancelle stated that she would like to discuss that when it came back to the Council. She stated that they needed to look at the finances to find out why they couldn't get "more bang for our buck" and how they could recoup the additional monies.

Councilmember Hinton stated that he thought the scavenger company had demonstrated a willingness to work with the City and develop the programs necessary. He mentioned the efforts made by Coastsides after AB939 passed. He felt that Coastsides had demonstrated a good faith effort to work with the City. He mentioned that he has known Mr. Picardo for many years, and that didn't prejudice him but established an opinion to him of his credibility. He also knew Ms. Porter for almost as long and he had never found her to be false. He believed the composting was done in good faith and he felt blowing the whistle and costing the company money was inappropriate. He didn't feel it was the City's position to call in outside agencies to be punitive against a local franchisee. He felt they should work with the company to accomplish what was needed. He acknowledged that there had been omissions on both sides and he wasn't able to support part of the motion, although he didn't have a problem with the motion to have City staff work with Coastsides to develop a program and return back to the Council.

Councilmember Digre stated that they needed to be more business like, and she thought they should review all policies regarding audits and contracts as necessary, with everything clear, in addition to a process written into the contract to be sure both parts were being carried out.

Mayor DeJarnatt stated that they could not pass a resolution on something that was not on the agenda, which would be in violation of the Brown Act.

Councilmember Digre asked if they could get it into this contract.

Mayor DeJarnatt stated that they could bring it back at a later date, but they could not make a motion to address any other contract.

Councilmember Digre clarified that she was concerned about City practices, not specific franchises.

Mayor DeJarnatt stated that it didn't matter because it was the same thing.

Councilmember Digre then asked that it be put on a future agenda. She also asked if she needed to have two other votes to do that.

Mayor DeJarnatt stated that it depended on what she was asking.

Councilmember Digre explained that she was asking that they agendaize a discussion to make sure that they were acting as a 21<sup>st</sup> century business with clear contracts, job descriptions and self-evaluations.

Mayor DeJarnatt stated that he could not respond to that at this point. He asked her if she had any other comments to make.

Councilmember Digre mentioned commissions, and she thought a small committee was needed, such as the WIFI committee which had made a great achievement.

Mayor pro Tem Vreeland clarified that the resolution was really asking what Councilmember Hinton was asking, which was direct staff to work with Coastside to address the shortfalls and, if alleged wrongdoing was brought to the City's attention, an appropriate step was to direct staff to notify appropriate agencies, which he didn't feel was a punitive step. He disagreed with Councilmember Hinton's interpretation.

Councilmember Lancelle supported Councilmember Digre's recommendation to staff and would like being informed about how they handled contracts. She added that she also wanted to find out more about the tipping fees.

Mayor DeJarnatt thought it would be part of the process, because it was broadly written.

Councilmember Hinton stated that they would probably have to deal with the County regarding Councilmember Lancelle's last comment. He then mentioned that there was an audit before the rates were set, although it apparently wasn't required in the past few years. He assumed the audit was done when the rates were set and they should be more specific in the future. He didn't feel that it was the Council's place to notify other agencies about what was going on in Pacifica.

Mayor DeJarnatt felt it was not only necessary but an obligation to notify the California Integrated Waste Management Board, as well as any other organizations. He asked that they vote.

**ROLL CALL VOTE:**

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

Noes: Councilmembers: Hinton.

**Motion passed: 4-1.**

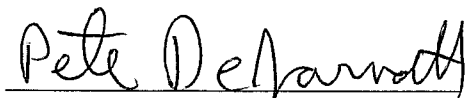
Mayor DeJarnatt adjourned the meeting at 9:35 p.m.

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell, City Clerk

APPROVED: 5-0; 3/26/07

  
Pete DeJarnatt, Mayor