

MINUTES

City Council Regular Meeting
2212 Beach Boulevard
Pacifica, CA 94044

July 26, 2010

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

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

Staff Present: Steve Rhodes, City Manager; Cecilia Quick, City Attorney; Michael Crabtree, Planning Director; Lee Diaz, Assoc. Planner; Sandra McClellan, Assist. Finance Director; Dave Rogers, Assoc. Civil Engineer; Jim Saunders, Police Chief; Kathy O'Connell, City Clerk.

Mayor pro Tem Nihart led the Salute to the Flag.

Commission Liaison: Planning Commissioners Clifford and Evans.
Chamber Liaison: None.

CLOSED SESSION:

City Attorney Quick stated that there was no Closed Session held this evening.

CONSENT CALENDAR:

Councilmember DeJarnatt moved approval of the Consent Calendar, as amended, as follows: Approval of disbursements dated 06/30/10 to 07/16/10 in the amount of \$650,647.17, regular and quick checks numbered 9702 to 9704, 9718 to 9724, 9739 and 9742 to 9867; and disbursements dated 07/01/10 in the amount of \$2,418,211.87, regular and quick checks numbered 81900, 81902 to 81903, 9705 to 9717, 9725 to 9738, 9740 to 9741 and 9868, as set forth in Item #1; Approval of Minutes of Regular City Council Meeting of July 12, 2010, as set forth in Item #2; Adoption of Resolution by City Council Authorizing Staff to Apply for a Grant from the Wildlife Conservation Board for a Condition Assessment of the Pacifica Municipal Pier, as set forth in Item #3; Adoption of Notice of Completion for the Sanitary Sewer Mainline Replacement Between Talbot Avenue and Moana Way Project, as set forth in Item #4; Authorize the City Manager to Sole Source to Thermal Process Systems (TPS) the Purchase of Equipments and Instrumentation Services for \$217,588 for the ATAD Modification Project – Phase 2, as set forth in Item #5; Adoption of Notice of Completion for the Fairmont Park Recreation Center Roof Project, as set forth in Item #6; Cancellation of August 23, 2010 City Council Meeting, as set forth in Item #7; Continuance of Local Emergency, as set forth in Item #8; seconded by Mayor pro Tem Nihart.

Councilmember Vreeland referred to the Roll Call in the minutes on page 1, stating that Mayor pro Tem Nihart was not listed as excused. On page 3, when he stated that he hoped they "... would go a little bit further on study sessions ...", he requested that the following clarification on his thinking be added "... by allowing all projects to have a study session without paying a fee." On page 6, when he stated "... was going to set a few things straight ..." he requested that his comment be clarified by saying "... was going to clarify a few issues ..."

Mayor pro Tem Nihart asked if she needed to redo her second because of having to recuse herself from the minutes.

City Attorney Quick stated that the Council should vote again on that issue.

Mayor pro Tem Nihart stated that they hadn't voted yet.

City Attorney Quick then stated that she didn't have to redo the second but should ask the City Clerk to reflect that she was not voting on the minutes.

Mayor pro Tem Nihart agreed to that.

ROLL CALL VOTE:

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

Noes: Councilmembers: None.

Motion carried: 5-0.

Councilmember Lancelle apologized for being a few minutes late.

Mayor Digre stated that she had a comment regarding Consideration, referring to the fact that Items 10, 11, 12 and 13 were in code language and she thought they were trying to get away from that. She stated that Item 10 was regarding building regulations affected by the geographical and weather conditions of Pacifica or letters regarding emergencies; Item 11 was amendments to all City Councilmembers to serve as liaison of emergency prepared commission and they were asking someone to be an official liaison this evening.

Councilmember Lancelle understood that it wasn't clear. She began to explain that they had actually been appointing a member.

City Attorney Quick stated that, since that item was on the agenda, the discussion should wait until the item gets called.

Mayor Digre asked if she had confused the public.

City Attorney Quick explained that the subject matter was to amend the ordinance to allow a Council liaison.

Mayor Digre reiterated that she wanted to clarify the subject matter.

City Attorney Quick understood, reiterating that they should hold off on the discussion of what it does or doesn't accomplish until the item was called.

Mayor Digre stated that the last two were explanatory, #12 doing with the changes to the density transfer ordinance and #13 was clear.

SPECIAL PRESENTATION:

Anna Boothe, Pacifica, stated that she and Kathleen Manning were present from POPS to thank the Council for their support of the pier for the last ten years, explaining that a small group was worried that the pier would fall, but she felt they had a program with grants to help them feel secure about the stability of the pier. She stated that the pier survey which was presented to the

Council showed that \$6 million a year was spent on the pier and ancillary businesses, mentioning a few of them. She explained that they didn't have the money for the extensive repairs and were getting it from grants, mentioning a few of them. She then stated that Kathleen Manning would read the cover letter sent to the City Manager which would explain the history and conduct of the survey.

Kathleen Manning, Pacifica, read the letter, which gave some specific data gathered from the survey.

Anna Boothe highlighted some of the information, such as repairs being done every two years, specifics on visitors to the pier. She then stated that they have been in existence for ten years, and would be having their party at the pier on the Sunday after the FogFest. She stated that they would like to have a free event indoors for their members, which was a \$25 lifetime fee. She added that, if everyone gave \$25, they would have the money to fix the pier. She then stated that she was ready to answer any questions.

Mayor pro Tem Nihart thanked them for all their work. She stated that she had a question on the survey, specifically if they had gotten any demographic data with it.

Ms. Boothe asked what she meant.

Mayor pro Tem Nihart asked if they got male/female, general income, etc.

Ms. Boothe stated that they had not, explaining that they wanted to reach everyone they saw on weekends for one specific month.

Mayor pro Tem Nihart explained that she was not asking about changing the randomness but just asking if they had collected that data while they were asking random people.

Ms. Boothe stated that she could tell them how many women/men were asked.

Mayor pro Tem Nihart asked if they got age ranges as well.

Ms. Boothe stated that she would have to do that for her, but they spoke to about five men for every woman and most were 40-60 years. She didn't feel that had any bearing on the money but promised to send her the information.

Councilmember Lancelle thanked Ms. Boothe for the work and support for the pier.

Ms. Boothe commented that everyone got into it because they wanted to keep fishing there.

Mayor Digre added that the pier was free international advertising for Pacifica.

PUBLIC HEARINGS:

9. Public Hearing to Consider Resolution of the City Council of the City of Pacifica Accepting the Report of Sewer Charges for Fiscal Year 2010-2011 and Directing the Filing of Charges for Collection by the County Controller.

Assist. Finance Dir. McClellan presented the staff report.

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

Councilmember DeJarnatt moved to adopt the proposed Resolution of the City Council of the City of Pacifica Accepting the Report of Sewer Service Charges for Fiscal Year 2010-2011, and Directing the Filing of Charges for Collection by the County Controller;" seconded by Councilmember Lancelle.

ROLL CALL VOTE:

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

Noes: Councilmembers: None.

Motion passed: 5-0.

COUNCIL COMMUNICATIONS:

Councilmember Lancelle attended the Bicycle Pedestrian Advisory Committee of San Mateo County which was preparing for upcoming projects. The Emergency Preparedness Commission in Pacifica was canceled due to lack of a quorum. She attended the Planning Commission study session on current housing ordinances. She attended the Chamber eggs and issues meeting and heard a presentation on the charrette process for the midcoast trail project. She also attended the Pacifica Democrats meeting and commended Mayor pro Tem Nihart and the City Manager for doing an excellent job. She mentioned receiving an e-mail from George Dujarian of the GGNRA regarding a scheduled burn on Millagra Ridge because he wanted it announced so no one would worry if they saw fire trucks up there.

Mayor pro Tem Nihart stated that she missed everyone. She then referred to her presentation, stating that she and the City Manager were willing to present the five-year financial plan to any group. She also suggested that everyone stay tuned to things happening in the state because there was a budget struggle going on that may significantly impact Pacifica. She mentioned that they would be having a meeting of the Palmetto business association which was being organized.

Councilmember DeJarnatt stated that he had met and talked with the new County Library JPA director and found it very encouraging. He was a lot more hopeful now. He congratulated the St. Andrew's Presbyterian congregation which just celebrated their 100th anniversary in Pacifica, mentioning the dignitaries in attendance.

Councilmember Vreeland also thanked the City Manager and Mayor pro Tem Nihart for doing a wonderful job at the meeting on Saturday, by answering a lot of difficult questions while laying out the five-year financial plan. He then mentioned an e-mail they received from Charles Parker regarding a crosswalk at Linda Mar Blvd. and Solano Drive, where some work had been done by North Coast and now parts of the crosswalk were missing. He asked the City Manager if they could take a look at fixing that.

City Manager Rhodes thought they already had a work order and had begun working on part of it.

Councilmember Vreeland stated that he was responding to the note he got, and he appreciated that they were already on top of it.

Mayor Digre stated that she also attended St. Andrew's 100th year celebration, adding that she thought she knew a lot about the Little Brown Church history but had learned some new things from the pastor. She stated that Congresswoman Speier was so impressed that she promised to

help the Little Brown Church earn another \$270,000. Assemblyman Jerry Hill also pledged to do that. She stated that the local TV station held a special media presentation for opening up the media lab, adding that the youth were invited to use it for their publicity on anti-tobacco and anti-drugs. She added that our freedom depended on public TV, and she felt calling Comcast to express gratitude was important. She also met with a Pacifican who worked for the Traffic Alliance, stating that they were looking at transportation in Pacifica in a serious way. She stated that the FogFest was coming, mentioning that the Fandango was back and would be used at the Sanchez Adobe and be the kickoff for the FogFest. She also referred to transportation, mentioning "fun destinations" which would help us get to interesting activities on the bus, and mentioning several specific events.

Councilmember Lancelle mentioned the Chamber's networking lunch scheduled for the upcoming Wednesday. She encouraged everyone to attend and listen to PB&R Director Perez who would be the speaker.

ORAL COMMUNICATIONS

Mayor Digre opened Oral Communications.

Marc Hershman, District Director for Assemblyman Jerry Hill, was present to invite the Council, staff and community to have java with Jerry on Saturday from 8-10 am at Mozzetti's Bakery and discuss any issues of state concern. He stated that they would have staff if anyone needs help with any state agency.

Mayor Digre thanked him for the personal invitation, adding that Mozzetti's normal crowd was excited to be so honored.

Bill Michaelis, 338 Reichling Avenue, present as Pacificans Care board member, stated that on August 7, they would have their first annual Citywide Summer Sweep. He thanked the community for their support for this citywide garage sale to benefit Senior Services, Resource Center, Youth Service Bureau and Childcare Services. He explained that it was a locals helping locals event, and they hoped that people would also spend money in the general business community. They were proud to have to close the registration because they have 50 plus sites all over the City. They were also advertising on Craig's List and hoped to be getting people from "over the hill." He explained that there would be flyers, as well as a spreadsheet in next week's *Tribune*. He mentioned all the various locations to get hard copies of the information as well as on line.

Dyer Crouch, Pacifica Manor, stated that he was being asked about the dog park, and he wanted to bring up some concerns about the location. He acknowledged that people who live and work in the area were not wild about the location, but felt they needed to speak up themselves. He was assured that the runoff would not be an issue, but after looking at the negative declaration for the site, he concluded that while the park would "install a problem," it could work with a filtration system. He felt that there was a potential for runoff which would cause problems because of parasites in the feces, mentioning that the San Pedro Creek was already stressed and polluted, as well as the steelhead and other wildlife that could be negatively affected and the potential health issues for humans further down at the beach. He would like to see the dog park but he felt it was very important that they don't endanger the quality of the neighborhood, the health of the creek and wildlife, and not create potential financial problems for the City if the filtration becomes problematic, and especially not cause health concerns for the public at the beach. He asked that the City Council proceed cautiously and do what was best for everyone.

Earl Anecston, Pacifica, wanted to address the fireworks on the 4th. He felt there were some M80s that were a little loud, causing figurines to fall off his shelves. He was okay with firecrackers, but he felt that when it shakes the wall, it was a little too much.

Mayor Digre thanked him and expressed sympathy for losing his figurines.

Tod Schlesinger, Linda Mar, referred to Mr. Crouch's comment about "parasites," stating that they were here a long time and no matter what we do, there will still be parasites in Pacifica. He then referred to the upcoming election, stating that all three incumbents took out their papers. He pointed out that the term limits issue was also on the ballot, and he was astounded that the three up for reelection would give it another go around. He calculated that the average time each has served was ten years. He mentioned that one incumbent didn't understand what was going on and he recommended that person not run and walk away with head held high, and another person who can't make decisions and can't pull the trigger and wants more study sessions. He felt that the people on the Council should know what they want and what to do. He states that there was a third member with small children and he points out that when he was approached years ago, he didn't run and wouldn't run until his children were older. He felt the present Council has failed miserably, with the proof being that the City was facing bankruptcy. He felt that was on their resume, adding that he was capable of making decisions but no one calls him up and ask him what to do. He concluded by saying that they will need luck and suggested that they not run.

Clorinda Campagna, 1 Gypsy Hill Road, stated that they have all heard about the Little Brown Church, mentioning that many did not know where it was before. She stated that the Historical Society was working hard to restore it and invited everyone to the 100th birthday celebration of the building on July 31. She invited everyone to come and see the progress made with the use of past donations. She also mentioned that the upcoming castle tours, August 7 and 8 and August 14 and 15 will benefit both the church and the Oceanshore Railroad. She stated that the tours were fun, mentioning the cost and where to order tickets.

Kathleen Manning, Pacifica, stated that she was from the Historical Society and thanked St. Andrews for inviting them to their party. She stated that they were filled and energized by the encouragement from Assemblyman Hill and Congresswoman Speier. She referred to the Historical Society's party on Saturday, stating that it was free. She also commented on the castle tour fundraiser, adding that it was worth the money with people even coming back again. She stated that she would be happy to help anyone who calls her. She stated that she had spent an evening at the castle with Ghost Explorers from San Jose, taping, etc., and who would be making a report on their results.

Mayor Digre asked clarification that the taping was about ghosts.

Ms. Manning stated that it was, adding that they were looking for ghosts for seven hours.

Mayor Digre closed Oral Communications.

CONSIDERATION

10. Introduction of Ordinance of Amendments to the Pacifica Municipal Code Relating to Chapter 1, Building Code, Title 8, Building Regulations and Schedule Public Hearing.

Associate Planner Diaz presented the staff report.

Mayor pro Tem Nihart commented that the structure of the Commissions was within the departments they oversee and this would apply to emergency preparedness.

Associate Planner Diaz stated that this was a different ordinance.

Councilmember Lancelle stated that this was the one before it.

City Attorney Quick stated that there were two ordinances before the Council, and Item #10 should be the amendments to the building code and Item #11 should be the amendment for emergency preparedness.

Mayor pro Tem Nihart agreed, stating that she was asking a question about the amendments to the building code that was the grievance procedure. She stated that it just happens to relate to going to the emergency preparedness commission. She asked clarification of the process, i.e., the building code officer goes out to review the building, etc., and then it would go before the emergency preparedness commission as part of the appeals process.

City Attorney Quick stated that this didn't change the current process. It just changed the location of the code section.

Mayor pro Tem Nihart asked confirmation that they were moving the section.

City Attorney Quick explained that the building official does the initial inspection and issues the initial order, and certain orders are appeal-able at present to the emergency preparedness commission. She stated that the problem they had during a crisis was that the building code kept cross referencing different sections of the municipal code and it took time to figure out the process during a time when things were happening. This puts it in the same place but doesn't change the process itself.

Mayor pro Tem Nihart understood, adding that seeing it all together, she had the public asking her if this was a new process, which was why she was asking the question.

City Attorney Quick acknowledged that it was a sensible question and reiterated that it was merely moving it to a different place so it was easier to find.

Associate Planner Diaz added that it just clarifies it.

Mayor pro Tem Nihart thanked them, adding that it appeared to have been a difficult question to ask.

Councilmember Lancelle apologized for interrupting her.

There were no public comments.

Councilmember DeJarnatt moved that the City Council read the attached ordinance entitled "An Ordinance of the City Council of the City of Pacifica, California, Amending Section 8-1.01 of Chapter 1 of Title 8 of the Pacifica Municipal Code, and Adding Sections 8-1.18 through 8-1.23 to Chapter 1, Adding Section 8-2.02 of Chapter 2, Adding Section 8-3.06 of Chapter 3, Adding 8-

4.05 and 8-4.06 of Chapter 4, and Repealing and Amending Sections 8-5.04 and 8-5.05 of Chapter 5 of Title 8 of the Pacifica Municipal Code” by title only and waive reading beyond the title; move introduction of the ordinance; direct staff to schedule a public hearing on September 13, 2010; seconded by Mayor pro Tem Nihart.

Councilmember Lancelle reiterated that it was reflecting our current practices.

Mayor pro Tem Nihart expressed her appreciation of the work that went into it. She felt it was readable and flowed easily despite the confusion in asking the question. She agreed that it made a lot more sense and clearer for the public.

ROLL CALL VOTE:

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

Noes: Councilmembers: None.

Motion passed: 5-0.

11. Introduction of Ordinance Amending Section 2-2.801 of Article I (Emergency Preparedness Commission) of Chapter 2 of Title 2 of the Pacifica Municipal Code (Established: Membership).

Police Chief Saunders presented the staff report.

There were no public comments.

Councilmember Lancelle stated that there were two parallel tracks, informal but also a formal process when the Council makes its committee assignments because the Emergency Preparedness and Safety Commission has always been on the list. She thought they were now codifying what was a formal procedure for appointing someone. She thought, while other Councilmembers were welcome, one person was assigned to the Commission.

Mayor pro Tem Nihart commented that she thought Councilmember Lancelle had that assignment, and she appreciated Councilmember Lancelle’s efforts. She was glad they had a formal process and putting it in the resolution.

Councilmember DeJarnatt asked if he was correct in assuming that Councilmember Lancelle wanted to continue in that position.

Councilmember Lancelle stated that she did, adding that she felt the Chief, staff and citizens on that committee did an extraordinary job and she thanked them for that.

Chief Saunders acknowledged that it was a very active commission.

Councilmember Lancelle felt it was an honor to be on it and work with such great people.

Chief Saunders added that the topic was extremely important, especially where Pacifica was.

Mayor pro Tem Nihart asked if it had always been a Commission or was this changing it to a commission.

Chief Saunders stated that it was a Commission.

Mayor pro Tem Nihart move to introduce an ordinance entitled “An Ordinance of the City Council of the City of Pacifica Amending Section 2-2.801 of Article 8 (Emergency Preparedness Commission) of Chapter 2 of Title 2 of the Pacifica Municipal Code (Established: Membership) be read by title only and that further reading be waived and move introduction of the ordinance; seconded by Councilmember DeJarnatt.

ROLL CALL VOTE:

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

Motion passed: 5-0.

12. Consideration of Possible Changes to the Density Transfer Ordinance.

Planning Director Crabtree presented the staff report.

Planning Commission Chair Clifford thanked Mayor Digre for bringing this item on the agenda. He appreciated that they were now talking about it. He read the official purpose of the ordinance in question, then explained that making the change made sense so that all special areas in open space residential properties would be equally treated under this ordinance and be included. He stated that by removing four words, “in the Coastal Zone,” all special areas would be treated the same. He mentioned that this ordinance had only been used twice, and stated that, while the actual impact of the change would be small, he felt it was important for the wording of the ordinance to reflect the purpose of the ordinance. He added that any project for a property can be brought forward and, if merited, approved because of other mechanisms available such as a change in the General Plan.

Mayor pro Tem Nihart referred to the General Plan update, and asked what the time frame was for this issue being covered by the General Plan update.

Planning Director Crabtree stated that the General Plan update at present was not going to specifically address this issue or result in ordinance change, but some recommendations from the General Plan update could have an impact on this or other ordinances of the City.

Mayor pro Tem Nihart then referred to the August 11 decision, before she was on Council, and asked if there was some connection because the Council chose to wait for the General Plan update at that time.

Planning Director Crabtree explained that staff was going to return to Council with an explanation of how they would handle the density transfer ordinance change as part of the General Plan update, but they never talked to the consultant about making the change.

Mayor pro Tem Nihart asked about the section he was talking about.

Planning Director Crabtree stated that it was possible that the alternative section phase of the General Plan update could be completed within 6-9 months and could shed additional light on the process being discussed at this time.

Mayor Digre opened public comments.

Dyer Crouch, Pacifica, thanked the Council for opening this for consideration. He felt a lot of work had been put in by the Open Space Committee. He was glad the General Plan update meetings were mentioned. He attended one of those and saw Open Space was held in high value by Pacifica residents and he felt that was reflected in the recommendation. He felt it was aligning more closely with the ordinance's intent. He hoped it would go forward as recommended.

Noel Blincoe, Pacifica, stated that he was on the Open Space Committee and they had spent a lot of time working on the density transfer because of its importance. He referred to having to overturn an attempt by past Councilmembers in 1993-94 to amend the Open Space area in upper Manor. He felt that, at that time, it was a clear statement from the public about the importance of open space. He referred to Mr. Crouch's comment that open space was the highlight in the General Plan forum. He felt that waiting to work it through the General Plan update could take quite a while, pointing out that it was already three years. He urged the Council to move on this.

Joanne Arnos, Pacifica, stated that she was on the Open Space Committee and agreed with everything that has been said about the ordinance. She felt it was extremely important, adding that their philosophy was that open space really makes the City. She felt we should do everything possible to make land transfer equitable, which was what they would be asking by changing the ordinance. She felt it was important to get this done now, commenting that they were working on it prior to the General Plan and then it got rolled into the General Plan. She reiterated that they felt it was important for the City to change this now. She didn't think this was as relative to the other ordinances that may come up in the General Plan.

Tod Schlesinger, Linda Mar, stated that, even though he knows this will pass, he has to play Devil's Advocate. He stated that we already had a Hillside Preservation Ordinance. He made a comment that Rick Lee and Dave Blackman weren't present because they were working in Half Moon Bay. He stated that the Council had already run all the builders out of town and he felt they were being redundant and felt they should wait for the General Plan outreach to reach the decision. He asked if it was a political ploy, mentioning that Tom Clifford seemed very supportive of this and had urged at more than one meeting that this be put on the agenda and Mr. Clifford pulled papers to run for Council. He felt, if it was a ploy to get votes, it wasn't okay, adding that Mr. Clifford was a general contractor and he didn't get it. He felt that there was enough protection in Pacifica, and the City needed money but this was putting a road block in the way of development. He added that the damage was done and it didn't matter if all five resigned tonight. He suggested that they be accountable for their actions, which he felt was a huge problem. He felt this was a smokescreen to further some political agenda which was already firmly in place in Pacifica since the Friends of Pacifica got in power.

Chuck Evans, Pacifica, stated that he was on the Open Space Committee when this came before it, and he agreed to the idea. Now, he was currently on the Planning Commission and still agreed. He urged them to consider the change to the density transfer ordinance for all of Pacifica, not just the Coastal Zone. He felt the protection was needed for all of Pacifica, and he thanked the Council for their consideration.

Clorinda Campagna, 1 Gypsy Hill, stated that she didn't know this was on the agenda, and she missed the Open Space Committee meeting. She thought she had been one of the members who abstained from voting. She acknowledged that some of the regulations were helpful. She stated that they had marked all the places that could be a receiver site and wondered if that would be helpful to the public to know what they were talking about, and what lands would be affected.

Mayor Digre closed public comments.

Councilmember DeJarnatt was comfortable with it because it was a minimal change and he didn't think it would have a large impact and was consistent with the intent.

Mayor pro Tem Nihart didn't disagree. She appreciated the work when citizens come forward, but she asked that Council consider one thing as they go forward with this as they think about direction given to staff. She stated that she had one priority. She loves Pacifica and loves the hills, but her one priority was righting the City's financial ship. If anything in connection with staff time would be redundant or cost additional money at this time, she requested that they be very cautious about doing it. She stated that they looked simple, but you have to have public hearings, notify the property owners with mailings which take staff time. She asked confirmation from Planning Commissioner Clifford that only one actually went forward as a true density transfer and ultimately was not allowed.

Planning Commissioner Clifford stated that it happened so long ago that he didn't recall the history.

Planning Director Crabtree stated that the transfer did occur.

Mayor pro Tem Nihart asked confirmation that there has only been one since the ordinance was written.

Planning Director Crabtree stated that there was only one from one site to a different site. The other was an intra-site process.

Mayor pro Tem Nihart reiterated that she wanted them to consider redundancy and financial cost to the City.

Mayor Digre asked if the Planning Director wanted to comment on the cost and time to put this in effect.

Planning Director Crabtree responded that, assuming that there would be no environmental review and the properties would be exempt from CEQA, and staff preliminarily believes it would be exempt from CEQA, the primary cost would be associated with staff time, identifying the properties, cost in preparing the mailing, and at least three public hearings, two with the Planning Commission and one with the Council. However, he didn't have a figure, although he didn't think it would amount to thousands of dollars.

Mayor Digre asked how long the ordinance for the Coastal Zone has been in effect.

Planning Director Crabtree asked for clarification.

Mayor pro Tem Nihart commented that she referred to the density transfer.

Planning Director Crabtree stated that it was adopted in 1989.

Councilmember Lancelle was concerned about the issues raised by Mayor pro Tem Nihart. She was sympathetic to the cost. She came to the meeting thinking that this would not have a huge impact because nothing much was transferred in the past, and she thought everyone in Pacifica valued the open hillsides and coast. She appreciated that this change would make the density transfer throughout the City which she thought was a good thing.

Planning Commissioner Clifford stated that when this was sent to the General Plan it was sent as a special item that was going to cost additional money, he thought over \$5,000, because it wasn't part of the original contract with them. He felt that it would be cheaper for the City to handle it than to allow the General Plan people to do that.

Councilmember Lancelle thanked him for the clarification. She appreciated it since she was making a point about cost. She didn't feel that there was an urgency about it, and regardless of the extra cost, if they didn't do it in the General Plan, it would be a staff time issue. She felt it was just one more thing on their plate, and at this point, she was leaning towards postponing it. She apologized to everyone who has worked on it so far, adding that she wasn't sure she wasn't the person Tod Schlesinger said doesn't make up their minds since she wasn't sure which person she was.

Mayor pro Tem Nihart asked the City Manager if he wanted to comment regarding the \$5,000 figure.

City Manager Rhodes explained that it was an estimate from the consultant regarding what they would have negotiated in the future regarding the actual cost and he didn't think it was fair to say that would be the cost. It could be more or less, but the City would have to negotiate if the contractor did it for the City.

Mayor pro Tem Nihart felt it was important, but her issue was about the cost, as well as the cost of staff time and the message it sends to staff and she felt it was bigger than \$5,000. She stated that this item was to give staff direction, and since they haven't determined how it would be addressed in the General Plan, that would be her direction as long as they were looking at 6-9 months when that would be addressed.

City Manager Rhodes deferred to the Planning Director.

Planning Director Crabtree stated that the next phase of the General Plan which has started is the alternatives and it was anticipated that the results would be possible different ways for the City to approach its land use designations. They thought there might be recommendations coming out of that which may include doing something like this or changing the land use designations.

Mayor Digre stated that she hasn't picked up any feeling from staff that this would affect them, adding that it has been through Open Space and Planning, and she felt it was clear as a bell. She was at meetings where they went over maps. They also have all these public commissions and expect people to step forward to volunteer and would like to think they give them respect for the time they gave. While they weren't staff, she feels that they appear to be saying "thanks but no thanks." She also felt, if we don't do it, we open ourselves to the opposite side of complaints about why they didn't do it when they had all this research from citizens. She compared it to the Finance Committee or Economic Development Committee, saying it was like telling them that we don't have the money or we might overwork staff. She felt this has been vetted many times and she can't see stopping it.

Commissioner DeJarnatt stated that he was still comfortable with it, not getting the sense that it will cost a lot of money. While it will cost staff time, he was still comfortable, and thought it was a good idea. He had no problem with it.

Councilmember Lancelle asked staff if the Open Space Committee and Planning Commission had done quite a bit of work regarding the parcels that would be impacted.

Planning Director Crabtree didn't think that the Planning Commission had done a lot of work in specifically identifying the sites. He agreed that, with a direction to move forward, staff would provide that information to the Planning Commission. He added that the Open Space Committee had done quite a bit of work, preparing maps, identifying receiver and transfer sites, and spent a lot of time and done research.

Councilmember Lancelle felt it was helpful to know that so much work was already done by the Committee. She felt that would be helpful.

Councilmember Vreeland asked if the property owner could go to a map and know if his property would be impacted.

Planning Director Crabtree stated that they haven't broken it down that way, which was one of the steps they would have to take to prepare a map showing the specific sites impacted. He clarified that Open Space had a map where they had identified which were sender and receiver sites and which were both. They needed to use that research and identify which sites would no longer be able to receive density based on this change. They would then send notices to all the property owners of a hearing by the Planning Commission to consider a resolution of intention to amend the ordinance. They would then have a map showing all the potentially affected properties from the work done by the Open Space Committee.

Councilmember Vreeland asked, when they get information from the consultant on the General Plan, whether that would provide information that would be helpful in clarifying the issues associated with this. He got the feeling that we would have to do this twice.

Planning Director Crabtree stated that it was always possible to amend an ordinance because they weren't limited on the number of times it can be amended. He was conjecturing because he has no idea on recommendations that may come from the consultants, mentioning some possibilities. He stated that they could go forward with this amendment and later return recommending other amendments.

Councilmember Vreeland asked if there were any current projects that might be impacted by this ordinance.

Planning Director Crabtree responded that there none.

Councilmember Vreeland referred to Planning Commissioner Clifford mentioning that, if this was changed, you could always have a General Plan amendment and he asked if that was correct.

Planning Director Crabtree responded affirmatively.

Councilmember Vreeland asked whether, if it stays as is, every site and project stood on its own and any issues would be part of Planning Commission and City Council discussions on that project.

Planning Director Crabtree agreed, adding that the decisionmakers had discretion, with the transfer having to meet certain criteria and the Planning Commission must approve it and City Council has appeal authority.

Councilmember Vreeland thought it kind of limited discussion of the possibilities of some of the projects on how they can work.

Planning Director Crabtree asked what he meant by limiting the discussion.

Councilmember Vreeland meant limiting the flexibility of staff.

Planning Director Crabtree stated that it would rule out the possibility of a density transfer for these sites.

Councilmember Vreeland added that each site would stand on its own, referring to the fact that it has only applied to one site in 25 years.

Planning Director Crabtree clarified that it was actually two, but only one in the traditional way.

Mayor pro Tem Nihart stated that almost everything was dated 2007/2008, and she read through the minutes of August 11, 2008 where they made a decision that the density transfer ordinance would be included in the General Plan update and the report would make recommendations about the density transfer and other options would be negotiated with the consultant. She asked what has changed since that decision was made.

Planning Director Crabtree thought the main change was the pace of the General Plan which was moving more slowly than anticipated.

Mayor pro Tem Nihart asked if it was moving more slowly because of financial concerns for the City.

Planning Director Crabtree responded affirmatively.

Mayor Digre reiterated that it was moving more slowly because of financial concerns but the General Plan was huge. This was vetted, simple without the complexity of a total General Plan.

Councilmember Vreeland understood the intent and passion and was appreciative of the work that everyone put into this. He would like to see what the map looks like before telling staff to go off and do this, stating that if they changed now, a property owner would not be able to go to staff and ask if his property fell in that change.

Planning Director Crabtree stated that they could identify it, but they didn't have an actual map right now. He reiterated that it was easy to identify, and he could tell a property owner in less than five minutes if his property was affected by this.

Councilmember Vreeland stated that he did not have a map that could be attached to the staff report to show the council where the properties would be.

Planning Director Crabtree stated that he did not.

Councilmember Vreeland asked if it was a difficult thing to do.

Planning Director Crabtree stated that it would take some time, which was why they were coming to the Council for direction rather than just doing it.

Councilmember Vreeland felt he was comfortable having more information to make the decision, but he didn't know what properties were impacted. He thought that piece of information was important before making the decision.

City Manager Rhodes stated that it was the cost they were talking about if they were going to proceed. He stated that they have moved along far enough that there should no longer be an objection to moving the process on and making the decision through the process. He reiterated that the point they were trying to make was that to take the next steps and generate that information, you might as well go through the hearing process and make the decision based on the entire process.

Councilmember Vreeland asked if that was as opposed to having information before Council that would inform the public regarding the affected parcels before they make a decision about moving forward to the next step.

City Manager Rhodes stated that was what the process would do, allowing the people to see it, comment on it in hearings and bring it forward before they make the decision. He felt, if they try his suggestion, they would frustrate everyone because they would come forward with a map that no one has had an opportunity to give input on. He was concerned that they were going to do a hybrid of something that won't work well as a hybrid.

Councilmember Vreeland acknowledged that was why he was the City Manager. He was merely asking the questions, and if staff doesn't feel that was an appropriate option, then they should not consider it.

City Manager Rhodes stated that was the reason he was explaining it.

Mayor Digre was confused, thinking that they had moved from cost to individual property owners and the community at large. She asked for an explanation on the hybrid example.

City Manager Rhodes thought the issue was cost to bring this forward. He was stating that what Councilmember Vreeland was asking to be done was the majority of the cost of moving it forward. If they were going to expend the cost to do that, they were then moving into the process and the objections to moving the process forward were gone and they should move it forward in the proper sequence, which was create the map, hold the hearings on the map, then bring it to a final decision of whether you do or do not want to do it. He reiterated that to produce the map which was the cost and bring it forward to Council without the rest of the process would cause confusion and dissatisfaction. He called it a hybrid because they were picking up the cost of doing the process without doing the process.

Mayor pro Tem Nihart thought it was clear to her.

Mayor Digre asked why that wasn't in the staff report.

Councilmember Lancelle asked the City Manager for further clarification on what the proper sequence was in the General Plan process.

City Manager Rhodes stated that the sequence would be the same, but it was a matter of when they would do it. He thought the discussion was whether to do it separately from the General Plan.

Councilmember Lancelle agreed that it was one of the perspectives.

City Manager Rhodes stated that, once you move forward, the process was the same whether incorporated in the General Plan or done now. It becomes a matter of when you are doing it, now or with the General Plan, but essentially the same sequence.

Councilmember Lancelle asked if they did it outside the General Plan process, then the General Plan process would review it or possibly alter it.

Planning Director Crabtree thought the General Plan process was only going to produce recommendations for the Council, with the Council what goes into the General Plan and what actions they take based on the General Plan. He agreed with the City Manager that the technical aspects of changing the ordinance were the same, whether they wait for the General Plan or now. He stated that it was possible, as pointed out by Mayor pro Tem Nihart, that the General Plan may produce additional information and insight and they may want to do something different than what was being discussed now or add to it, but he could not predict what the process would produce.

Councilmember Lancelle liked the General Plan process, as did those who spoke this evening. She liked that it involved the public in a more informal way where there was commentary, shared input, collaborative activity, whereas the hearing process was very different and limited to the kind of collaboration that the General Plan process provides. She was certain that the community would be supported by much of what was recommended by the Open Space Committee based on what was said at the earlier General Plan meetings. She liked that process which would drive her decision. While she feels like saying to go forward, she liked the deliberative process that was more open and gave the public an opportunity to discuss as in the General Plan process.

Mayor pro Tem Nihart asked if they were having more meetings on the General Plan.

Planning Director Crabtree didn't think there were any meetings planned that would discuss this particular issue, although they would be having more General Plan meetings.

Mayor pro Tem Nihart asked, if they have this as part of the General Plan process, whether they could roll some of the staff time into that process, and it was not necessarily an add on.

Planning Director Crabtree hesitated to confuse matters further. He stated that the General Plan process was not going to change a single ordinance of the City. He stated that they could go to the consultant and ask that he change the ordinance but he didn't recommend that because he didn't think it was a good way to spend the City's money. While they can do ordinance changes, they were presently not under contract to do that, which was why they said they would negotiate the items and come back to the Council. They were talking about waiting for the process to possibly give them more information, not having the process do this ordinance.

Mayor pro Tem Nihart agreed that it wasn't going to do the ordinance, but asked if it was possible in identifying a map or anything related to that.

Planning Director Crabtree agreed that it was possible. He stated that there were going to be maps produced, which was a major product of the process. He thought it might be easier to produce based on the technical ability that the consultants have by pushing a few buttons and come up with all the properties affected.

Mayor pro Tem Nihart thought they had a map used in the Open Space Committee which did pieces of it but they haven't identified the actual properties.

Planning Director Crabtree stated that it did identify properties but it included all properties affected by the density transfer ordinance, including sender, receiver and sometimes both sites, and they cannot use that map for this purpose. He stated that they can use it for help but they need to produce a map pointing out the specific properties impacted by the ordinance change.

Mayor pro Tem Digre stated that she didn't want to belabor it but she wanted to be sure that they understood the scope of the work for staff.

Councilmember Lancelle appreciated the clarification. She stated that the information the consultant gathered from the meetings would inform the direction if tasked with this or contracted to do the work.

Planning Director Crabtree felt that, whether the City contracted them to do this or not, what they did would help us to decide what to do on a number of issues, including this one. He clarified that there will be further public meetings regarding the General Plan, with maps, opportunities for input, etc. He was trying to point out that the free flowing forums that they had would not be repeated around this issue.

Councilmember Lancelle reiterated that the General Plan process would give them more information.

Mayor Digre stated that she had not heard anything that takes her beyond the \$5,000 and getting it done. She felt there was a lot of public input already and she didn't know what they were looking forward to. She assumed that the General Plan can amend it if they go forward.

Planning Director Crabtree stated that it was possible, when they do more of the General Plan work, there may be recommendations for further amendments to the ordinance, based on what the Council sees.

Mayor Digre added that it was open and always room for change.

Councilmember Lancelle asked if there were public hearings held at the Planning Commission level, as well as Open Space Committee.

Planning Director Crabtree explained that there were hearings where the public spoke, but they were not public hearings because they haven't initiated a process. They would only hold a public hearing if they initiate the process, clarifying that there were meetings held that were open to the public by both the Planning Commission and the Open Space Committee.

Councilmember Lancelle asked if there was notification.

Planning Director Crabtree stated that there was the agenda, but they did not send notification to property owners, which was definitely what they would do if they move forward with the process.

Mayor pro Tem Nihart moved to support what the Council decided to do on August 11, 2008 and ask staff to continue to bring that back as part of the General Plan process; seconded by Councilmember Lancelle.

ROLL CALL VOTE:

Ayes: Councilmembers: Lancelle, Nihart & Vreeland

Noes: Councilmembers: DeJarnatt & Digre

Motion passed: 3-2.

13. Designation of Signatories to the Written Argument in Favor of The Transient Occupancy Tax (TOT) Measure.

City Clerk O'Connell presented the staff report.

There were no public comments.

Councilmember DeJarnatt thought the only thing they were talking about was the TOT tax, adding that he did not want to weigh in on the term limits measure. He was going to be gone by August 12, and he didn't mind signing it before he leaves. He was fine with either two or everyone signing.

Councilmember Lancelle referred to the options for signers, stating that she would like to leave it open to allow people who participated on this process to sign it as well.

City Attorney Quick stated that the majority of the Council had to agree to that.

Councilmember Lancelle asked if they could leave it open and not specifically mention the individuals.

City Attorney Quick stated that they have to say specifically who would sign. She stated that, to have members of the public sign in addition to Councilmembers, the majority of the Council needs to approve the individuals to co-sign, or the Council can designate a subcommittee to make the selection.

Councilmember Lancelle asked if they were limited to five.

City Attorney Quick responded that five did have to sign.

Councilmember Lancelle thought there were more than five on Measure D, but then thought there were 5 and 5. She didn't remember having to decide at a Council meeting who would sign it.

City Attorney Quick stated that she didn't have that information and could not respond to that, but she had the elections code with her which did limit it to five signatories.

Councilmember Lancelle asked if it says that the Council had to decide who they were.

City Attorney Quick stated that it did not, but it was a Brown Act problem. If the Council was going to select who the people are going to be, the Council means three unless they delegate the responsibility to a subcommittee in which case the Brown Act does not come into play.

Mayor Digre asked how many comments in the brochure for the item were allowed.

Commissioner DeJarnatt stated that it was 300 words.

Mayor Digre asked how many arguments, pro and con.

City Attorney Quick stated that it was one argument in favor, one rebuttal each, with no more than five for either and the primary should also sign the rebuttal.

Councilmember DeJarnatt stated that he was fine with appointing a subcommittee to pick the signatories or all of the Council signing.

Mayor pro Tem Nihart was concerned about the appearance of backing away from this. She stated that the Council put it on and supported it and she was concerned about it.

Councilmember Vreeland appreciated her concerns, adding that on listening to the options presented by the City Attorney, they could look at it as the Council not supporting or as the Council and a broader based community support. He mentioned that the consensus of the group was that this was a good idea. He referred to the financial plan process, stating that other signatories showed that other people supported it who weren't tied to the Council. He asked the City Attorney if the subcommittee could be appointed and the three additional individuals could be added as the argument was being drafted.

City Attorney Quick explained that they had a subcommittee of two who were authorized to draft the argument. One scenario available was to expand that subcommittee's authority to designate three members of the public, not elected officials, who can sign along with the two subcommittee members.

Councilmember DeJarnatt stated that it was fine with him.

Mayor pro Tem Nihart stated that someone from the Financing City Services Committee wanted to talk but they had closed public comments and they missed that opportunity.

Councilmember Lancelle asked if the Mayor was able to allow someone to speak.

City Attorney Quick stated that it was agendaized and they were still discussing it. If the majority of the Council wishes to reopen the public opportunity, the Council may take that advantage.

Mayor Digre acknowledged that a majority of the Council agreed to reopen it.

Councilmember Vreeland was fine with Omar speaking, but he felt the City Council should be very cautious about setting precedents about that.

Omar Saleh, stated that he was a member of the Finance Committee and they all worked very hard and diligently to come up with those proposals. He thought the TOT tax was one of the most harmless taxes they came up with and he would like to see all five Councilmembers sign it and put the weight of the Council behind it. He agreed that the Finance Committee did have notables on it but not as notable as the City Council. He felt it should be the five Councilmembers signing the measure.

Councilmember Lancelle thought that the public knows that the Council supports the report from the Financing City Services committee and they stood behind it. She would be surprised if there was any doubt in the public's mind about the Council's commitment to the success of Pacifica and implementation of the entire plan. She thought it was important for the public to know there are other citizens who volunteered as part of the committee and they also supported it and stands

behind it. She felt that there was a possibility that the election would be extremely contentious and the Council may not come out unscathed. She felt the tax measure was too important for the community to put all their money on the City Council. She would rather spread out the support to members of the community, because they need the entire community to support this measure.

Councilmember DeJarnatt asked if they could propose a motion to give the subcommittee the power to select others or have all five councilmembers sign it.

City Attorney Quick felt they needed to make that decision.

Councilmember DeJarnatt didn't know who the individuals will be.

City Attorney Quick felt that, if all five Councilmembers sign it, they should make that decision now. If they want to delegate it to a subcommittee that should be a separate motion and have the subcommittee choose the three individuals. She did not think it should be all five or three members of the community.

Councilmember DeJarnatt suggested that they have a motion to have all five sign it and see what happens.

Councilmember DeJarnatt moved that all five Councilmembers sign the document; seconded by Councilmember Vreeland.

Mayor pro Tem Nihart was concerned about this because it was a different process than what they had done in the past, such as Measure D. She asked that they clarify this process and make sure they are doing it the way they should. She agreed with both sides of the issue.

Councilmember DeJarnatt stated that they have to pick one side, and he didn't care what they did.

ROLL CALL VOTE:

Ayes: Councilmembers: Vreeland, DeJarnatt, Nihart & Digre.

Noes: Councilmembers Lancelle

Motion passed: 4-1.

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

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell, City Clerk

APPROVED: 8/9/10; 3-0 Councilmembers Lancelle and Vreeland absent.



Sue Digre, Mayor