

MINUTES

City Council Regular Meeting
2212 Beach Boulevard
Pacifica, CA 94044

September 27, 2010

Mayor Digre called the meeting to order at 5:30 p.m., stating that all councilmembers were present. City Attorney Quick announced the business to be discussed:

1. PURSUANT TO GOVERNMENT CODE SECTION 54957.6: Conference with labor negotiator. Agency negotiator: Ann Ritzma. Employee organization: Fire Fighters Local 2400; Teamsters Local 856 Battalion Chiefs; Pacifica Police Officers Association; Pacifica Supervisors Association; Police Management Teamsters Local 350.
2. PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a): Conference with legal counsel, pending litigation. In the matter of City of Pacifica, California Regional Water Quality Control Board, San Francisco Bay Region Complaint No. R2-2009-0075; and Our Children's Earth v. City of Pacifica, U.S. District Court, Case No. CV-08-5201 EMC.
3. PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b): Conference with Legal counsel, pending litigation. Emde v. City of Pacifica, San Mateo County Superior Court Case #CIV494710.
4. PURSUANT TO GOVERNMENT CODE SECTION 54956.9(c): Conference with legal counsel, initiation of litigation. One potential claim.

Mayor Digre convened to Closed Session.

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

CLOSED SESSION:

City Attorney Quick stated that, in the matter of Emde v. City of Pacifica, the Council had spent \$56,000 to date to defend this action. She reported that the court granted the City's demur which was a motion to dismiss the complaint, and Mr. Emde had now refiled a first amended complaint. Staff has requested authorization to defend this amended complaint, and Council has granted the authorization. She thought it would cost anywhere from \$35,000 to \$60,000 to defend this revised complaint.

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

Staff Present: Ann Ritzma, Acting City Manager; Cecilia Quick, City Attorney; Van Ocampo, Deputy Director Public Works/City Engineer; Christine Horrisberger, Assistant Planner; Jim Saunders, Police Chief; Frank Panacci, Deputy Fire Chief; Kathy O'Connell, City Clerk.

Councilmember Lancelle led the Salute to the Flag.

Commission Liaison: Planning Commissioner Clifford.

Chamber Liaison: None.

CONSENT CALENDAR:

Councilmember Lancelle stated that she had a correction to the minutes on page 14, specifically that reference to “the San Mateo Mental Health Department” should be “the San Mateo Environmental Health Department.”

Mayor Digre stated that she had some clarifications to the minutes which she had given to the City Clerk, wanting to change “she” in several situation to specifically mention the person’s name, as well as several clarifications. She asked what the City Clerk would do about that.

City Clerk O’Connell stated that she had the information in her office.

Mayor pro Tem Nihart moved approval of the Consent Calendar, as amended, as follows: Approval of disbursements dated 09/02/10 to 09/02/10 in the amount of \$10,992.43, regular and quick checks numbered 10503 to 10507; and disbursements dated 09/01/10 in the amount of \$593,443.23, regular and quick checks numbered 10480 to 10502 and 10508 to 10614, as set forth in Item #1; Approval of Minutes of regular City Council meeting of September 13, 2010, as set forth in Item #2; Approval of Contract in the amount of \$356,777 with San Mateo County Office of Education for the Purpose of Providing State Preschool Classes for Fiscal Year 2010-2011, as set forth in Item #3; Approval of Response to 2009-2010 San Mateo County Grand Jury Request Reference “Sex Offender Law Enforcement in San Mateo County”, as set forth in Item #4.

Admin. Services Director Ritzma stated that the request for public comment was for a consent item.

Mayor Digre opened public comments and asked if Mr. Sifrey wanted to comment on Items 3 and 4 during Oral Communications.

City Attorney Quick explained that, if there was a comment on a consent item, it needed to be heard before the vote was taken.

Bernie Sifrey, Pacifica, asked, on Item 3, if any Councilmembers needed to recuse themselves on any issue, such as the preschool program, because it was money that flowed from the state, through the county, through the City to the preschool program. While he didn’t want to embarrass anyone, he asked if that member should recuse him or herself.

City Attorney Quick explained that the Political Reform Act regulations on recusal only come into play if a Councilmember was receiving income or if their decision affects a source of income such as if a Councilmember was a teacher in one of the programs. She was not aware of any such circumstance in this situation.

Mr. Sifrey stated that he wasn’t trying to embarrass anyone but he knew that one Councilmember was getting money through another foundation at one time. On Item #4, he thought it would be a good idea to open it up off the consent calendar so the public knows what the response was and what the grand jury’s request for information was.

Mayor Digre stated that Item #3 had to do with the approval of a contract which was a procedural item at this time each year, and on Item #4, the grand jury did talk about specific items on a

regular basis, this time being about sex offender law enforcement in San Mateo County and the proposed action was approval of response to the grand jury report and authorizing the Mayor to sign the letter. She added that all the cities were dealing with it and were uniform in how they were all dealing with it. She asked the City Attorney for direction.

City Attorney Quick stated that it was a public document and was available for review by any member of the public. She suggested that the City post it on the website.

Mayor Digre thought it was already there. She stated that they were all concerned about sex offenders. She stated that she read it carefully, adding that countywide, there were procedures in place to protect children. She acknowledged that no one was satisfied with the amount of scrutiny, but they would be on it, and the Grand Jury was making sure that they were tight on the subject. She asked if the Council was comfortable with all that.

Councilmember Lancelle stated that she was concerned that Mr. Sifrey may be referring to her work with the Pacifica Collaborative, stating that the Collaborative receives no money from this program at all.

Mayor Digre closed public comments.

Councilmember DeJarnatt seconded the motion, and requested that the record show that he will abstain from voting on the minutes from Items 10 through 14 because he had to leave after the Dog Park issue.

Councilmember Vreeland stated that he would like to recuse himself from the minutes.

ROLL CALL VOTE:

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

Noes: Councilmembers: None.

Motion carried: 5-0.

SPECIAL PRESENTATION:

Mayor Digre read the proclamation for Fire Prevention Month for the month of October.

Frank Panacci, Deputy Fire Chief, thanked the Mayor and Council for their support. He reported that they would be having Fire Service Day on Saturday, October 2, at Station 72 next to the flea market with different events and refreshments.

Mayor Digre stated that it was a great day for educating all ages of the community.

Frank Panacci agreed, adding that the staff went the extra mile to make it fun for the children.

Mayor Digre asked what time it would be starting.

Frank Panacci stated that it would be from 10:00 to about 3:00. He added that they would have the Disaster Preparedness Chief there as well who was also involved with the CERT program.

Councilmember Lancelle stated that she wanted to make sure everyone knew that it would be at the Linda Mar Station.

Frank Panacci stated that they usually had it next to the flea market to get a lot of foot traffic and touch a lot of people. He stated that just getting the public to check their smoke detector was a big factor.

Mayor pro Tem Nihart commented on the smoke detectors, underscoring exactly what this month was all about. She mentioned that her neighbor died in a fire that could have possibly been better if there were better smoke alarms. She added that she had just replaced three of hers and encouraged the public to do the same.

Mayor Digre then presented the proclamation to him. She then introduced the Mazzetti family and asked them to report on what they accomplished for our neighbors involved in the San Bruno/Glenview fire.

Julie Mazzetti of Mazzetti's Bakery, thanked the Council for having them. She also thanked everyone who supported the San Bruno Fire Relief Benefit which took place on Sunday, September 19. She stated that, in less than six days, Pacifica showed that we were the City with a heart, and she thanked all the various businesses from, not only Pacifica, but all the cities from San Francisco to as far south as San Mateo and San Carlos. She stated that it was a great success, raising \$28,923.

Councilmember DeJarnatt thanked them for what they have done, adding that he was proud and appreciative. He asked if there was a P.O. Box for the public to send a check if interested.

Ms. Mazzetti stated that they were making checks out to "City of San Bruno/Glenview Fire Benefit," mailed to P. O. Box 1067 in Pacifica. They will be deposited to the bank account for the Glenview fire. She stated that they were also selling wristbands.

Mayor Digre thanked them, mentioning that they spent a lot of time during a long night working on the benefit.

Ms. Mazzetti stated that they did it with love in their hearts, but couldn't have done it without all of the community.

Mayor Digre mentioned that one family that had lost everything were in Pacifica and were pleased to be enveloped with that warmth.

Frank Panacci stated that he gave the wrong date for the Fire Service Day, correcting it to October 9.

PUBLIC HEARINGS:

- 5. Appeal of Planning Commission Approval of the Installation of a New Wireless Communications Facility Including a Monopole with Three Antennas and Related Equipment Cabinets at 4700 Fassler Avenue, Pacifica (APN 022-150-370).**

Assistant Planner Horrisberger presented the staff report.

Councilmember Lancelle asked confirmation that the continuance was requested because of additional information needing to be gathered by staff.

Assistant Planner Horrisberger responded affirmatively.

Mayor Digre reiterated that they would postpone the item.

City Attorney Quick recommended that the mayor open the public hearing first.

Mayor Digre opened the Public Hearing.

Assistant Planner Horrisberger clarified that the speaker was the applicant.

Greg Garazzi of Zon Architects, representing T-Mobile. He thanked City staff for the great job they have been doing, adding that he was just making himself available for any questions now and would be back on October 11 with a full presentation as Council goes through the appellants' issues. He invited the Council to view the exact location of the facility.

Councilmember Vreeland moved that the City Council **CONTINUE** the Appeal of the Planning Commission's approval of installation of a new wireless communication facility including a monopole and three antennas and related equipment cabinets at 4700 Fassler to the October 11, 2010 City Council meeting with the public hearing open; 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 DeJarnatt issued his congratulations and appreciation to the Fog Fest Committee, adding that he thought there were more people in attendance than he has ever seen before.

Mayor pro Tem Nihart seconded the comment about the Fog Fest, thanking them for an excellent 25th anniversary celebration. She agreed that it was full and busy on both days. She stated that she and Councilmember Lancelle attended the legislative committee for CCAG, staying for the presentation by the Legislative Analyst's office in Sacramento. She stated that Mac Taylor provided a gruesome update of the financial situation for the state, mentioning that we were down about one-fifth of the income in the state. She stated that the state was preparing for the fact that we will not be out of this until at least 2015, anticipating a \$20 billion deficit each year. She stated that Pacifica's Economic Development Committee was working hard and continuing to meet. She stated that the Palmetto Business Association was going full throttle with new members and were working to place all the amenities before the undergrounding starts in 2012.

Councilmember Lancelle thought Mayor pro Tem Nihart did a good job reporting on the CCAG meeting. She thanked everyone from the Fog Fest.

Mayor Digre mentioned that the Economic Development Committee will meet at the Police Station at 6:00 p.m, on Tuesday, October 12. She stated that the agenda was on the City's website which included "branding."

Mayor pro Tem Nihart added that there would be a "branding" presentation at that meeting.

Mayor Digre thanked the Chamber and Historical Association, mentioning that the Fog Fest's Fandango on Friday night was a great delight. She mentioned Candidates' Night, specifically that the Chamber was hosting an informational meeting on Candidates' Night in connection with the School Board, Water Board, and City Council elections. She mentioned POPS was having their annual event on October 3 on the pier. She thanked the Manor businesses and residences for being alert and encouraging "spiffing up" the area.

Mayor pro Tem Nihart stated that she had spoken with Linda Krolik from Hillsborough and reported that they were moving ahead with the Council of Cities donating for the San Bruno fire victims.

ORAL COMMUNICATIONS

Mayor Digre opened Oral Communications.

Jan Kamman, Pacifica, stated that she was a commissioner on the Commission of the Status of Women. She was present to talk about their 27th annual San Mateo County Women's Hall of Fame and Young Women of Excellence awards on March 24, 2011. She stated that it gave them time to think about a woman who should be honored for her contributions in the county and take the steps to nominate her. Eligible women needed to live, work or attend school in San Mateo County, be at least 18 years of age and at least a junior or senior in high school, to be eligible, mentioning how to get the application.

Mayor Digre clarified that there were two awards, one for young women and a second one for women at large.

Ms. Kamman responded affirmatively.

Tom Ball, Pacifica, stated that he was present to talk about the San Mateo County Library Annual Report of Service for 2009/2010. He then gave a brief report about the services provided, such as the digital storytelling project. He stated that the libraries were being used more than ever. He expressed appreciation for the partnership with the City, the County Library, Pacifica Library Foundation and the Friends of the Library, adding that they were confident that their findings will help to show the way forward to a better library future for our City. He thanked those organizations and the Council for their continued support to make it possible for them to realize their goal.

Anna Boothe, Pacifica, of POPS, invited the Council and the audience to their 10th anniversary party at the pier on Sunday, which will include a barbecue and music. She stated that they also encouraged candidates for various political offices to stop by and give a few words. She thanked the City for supporting them, briefly mentioning getting over a million dollars in grants. She also mentioned that people spend \$6 million to see the pier, most of them coming from Sacramento, Stockton, etc.

Theresa Dyer, 1408 Crespi Drive, stated that she was coming on a private matter, but thought it might be of interest to the public. She stated that she had a catastrophe with a leak on her roof which cost \$15,000 to repair. She reported that she had to deal with War-Tek, as well as roofers and her insurance company. She explained the process she followed and the fact that when the City's building inspector inspected the finished roof, he questioned why the complete area of the leak was not repaired. While the City's inspector spoke to her insurance agent, he would not put anything in writing and her insurance company would not go after the apparent fraud unless they

have the inspector's statement in writing. She asked about the requirements for needing a permit, stating that she has already gone through City channels, etc., and has not gotten any answers. She was present now asking for an answer from one of the Councilmembers.

Anita Rees, Pacifica, stated that she was present to give an update on the Pacifica Resource Center. She stated that they have seen an increase in the need for safety net services, specifically mentioning that in August 2009 they helped 281 individuals with food assistance and this August they helped 627, which was a 223% increase, and in July 2009 they helped 133 and in July 2010 they helped 660, which was a 496% increase. She felt that a lot of it was in connection with the downturn in the economy, plus having more capacity to serve people by adding more food programs. She mentioned that they couldn't do that without the support of the community and volunteers, so they had a volunteer appreciation event for about 50 this past summer. She mentioned a few other programs they are planning and suggested that anyone interested in becoming a volunteer contact them at the Resource Center.

Tom Clifford, Linda Mar, thanked the Chamber of Commerce for bringing the Fandango back, adding that he had a wonderful time. He also thanked the fog Fest for a great 25th anniversary.

Mayor Digre closed Oral Communications.

CONSIDERATION

6. Approve Settlement Agreement and Release with AIMCO Esplanade Avenue Apartments, LLC re: 380 Esplanade Avenue.

City Attorney Quick presented the staff report.

There were no public comments.

Mayor pro Tem Nihart asked what Fund 10 was.

Admin. Services Dir. Ritzma stated that they were taking it out of a reserve fund which was part of the drainage project, which was the most logical place until they can find additional funding for the projects that will be coming with the additional pipe work.

Mayor pro Tem Nihart clarified that she asked to make sure it was accounted for, and people know where things were coming from. She appreciated staff work on this project, including Public Works, adding that the pipe needed to be moved, and the opportunity was there with CAL EMA and the storm and she thought it was a perfect opportunity to have it funded.

Councilmember DeJarnatt agreed with Mayor pro Tem Nihart's comments.

Councilmember DeJarnatt moved to approve the terms of the settlement and authorize the City Manager to execute the final agreement subject to modifications approved by the City Attorney and consistent with the principle terms set forth in the staff report and authorize additional budget authority for the expenditure of \$400,000 from Fund 10 reserve to AIMCO per the terms of the final agreement; seconded by Mayor pro Tem Nihart.

Councilmember Vreeland asked to be reminded of when they spoke about this in Closed Session, adding that they talked about it numerous times.

City Attorney Quick stated that this dispute between the parties has been ongoing since March.

Councilmember Vreeland stated that he wanted to be sure that the public knows that this was a lot of money, but they have had a lot of discussions to get to this point. He asked a question regarding Item G, specifically why they were going to release AIMCO from obligations for the ramp.

City Attorney Quick explained that they were only going to be released from landscaping and upgrading the ramp. The idea for that was that there was another property owner responsible for it, and they had a choice as to which property owner they wanted to go against. AIMCO wanted to be released from it because they felt the other property owner had a stronger impact and had done more work and created more damage than AIMCO had. She also added that the City would be using the ramp for its own pipe project, and the City may damage the ramp more and have our own obligation to restore it. She thought this was important to AIMCO in order to move this agreement forward, and, because we had another kitty to draw from and the City might be damaging the site in the future, it seemed a reasonable request.

Councilmember Vreeland asked if the other party was the other apartment owner.

City Attorney Quick responded affirmatively.

Councilmember Vreeland asked if that would ultimately be an access point for the beach in that area.

City Attorney Quick thought that the Council would need to give them direction on that in the future, adding that it was shaping up that way at present, especially since there was already a temporary revetment placed there for the work being done and, as part of the pipe relocation project, that may end up being bolstered.

Councilmember Vreeland was making sure that the City did not lose the longer term goal of what they were trying to do with that area. He asked if the drainage they were taking it from was City owned property in front of the Chit Chat Café which they had purchased.

City Attorney Quick responded affirmatively.

Councilmember Vreeland asked, if we hadn't purchased the property, whether we might not even have this option because there could have been another apartment building there.

City Attorney Quick responded affirmatively, adding that in 1996 there was a major failure at 380 Esplanade with significantly more damage than what was there today. She stated that it took until 2003 to negotiate that settlement, at which time former Public Works Director Scott Holmes looked for other opportunities and there was no where to reroute the drainage. At that time, the discussion was whether to rebuild on site or relocate, and there was no out point. However, because the Council purchased that piece of property at the 400 block, it was a different dialogue this time.

Councilmember Vreeland stated that he was glad they moved forward with that, adding that most of it came from the state, but it was a smart idea to buy it and avoid issues such as in other areas. He thanked staff for all their work.

City Attorney Quick stated that this reminded her to mention that Van Ocampo has been keeping the Coastal Conservancy in the loop on this and informed them on what was going on and what the plans were. They haven't had any concerns expressed so far.

Councilmember Vreeland concluded that it would be great to keep them involved since they were one of the groups they asked to get the funding to purchase the property. He thanked staff for keeping those lines of communication open.

ROLL CALL VOTE:

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

Noes: Councilmembers: None.

Motion passed: 5-0.

Mayor pro Tem Nihart asked that they adjourn the meeting in the name of Sharon Osborne who was a long time member of the Fog Fest Committee and who passed away quite suddenly before the Fog Fest. She explained that she was one of the members who brought the committee into saving the Fog Fest as it was today. She stated that they had dedicated this 25th annual Fog Fest to her.

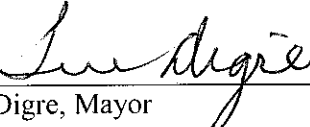
Mayor Digre thanked her and adjourned the meeting at 8:00 p.m.

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell, City Clerk

APPROVED: 10/11/10; 4-0 Councilmember Vreeland absent.



Sue Digre, Mayor