#### **MINUTES**

City Council Regular Meeting 2212 Beach Boulevard Pacifica, CA 94044

April 25, 2011

Mayor Nihart called the meeting to order at 5:15 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: Miscellaneous Teamsters Local 856; Management Teamsters Local 350; WasteWater Teamsters Local 856.
- 2. PURSUANT TO GOVERNMRNT CODE SECTION 94956(a). Conferences with legal counsel, pending litigation. In the matter of City of Pacifica, California Regional Water quality Control Board, San Francisco Bay Regions Complaint No. R2-2009-0075; and Our Children's Earth v. City of Pacifica, US District Court, Case No. CV-08-5201 EMC.

Mayor Nihart convened to Closed Session.

Mayor Nihart reconvened the meeting at 7:10 p.m.

Present: Councilmembers:

Stone, Digre, Vreeland and Nihart.

Excused:

Councilmembers:

DeJarnatt

Staff Present: Steve Rhodes, City Manager; Cecilia Quick, City Attorney; Ann Ritzma, Administrative Services Director; , Van Ocampo, Deputy Director of Public Works; , Fernando Realyvasquez, Police Captain; Mike Perez, Director of

PB&R; Kathy O'Connell, Deputy City Clerk.

Councilmember Stone led the Salute to the Flag.

Commission Liaison:

Planning Commissioner Evans, as well as August Murphy and Patty

Sambrillo.

Chamber Liaison:

None.

### **CLOSED SESSION:**

City Attorney Quick stated that the Council took no reportable action in Closed Session.

# **CONSENT CALENDAR:**

Councilmember Vreeland moved approval of the Consent Calendar, as amended, as follows: Approval of disbursements dated 03/16/11 to 03/28/11 in the amount of \$647,660.01; regular and quick checks numbered 81924, 81933, 81939 and 12985 to 13150, disbursements dated 04/13/11 to 04/22/11 in the amount of \$438,025.21, regular and quick checks numbered 13151 through 13296, as set forth in Item #1; Approval of Minutes of regular City Council meeting of April 11, 2011, minutes of continued Public Hearing of April 12, 2011, as set forth in Item #2; Adoption of a Resolution Requesting the California Department of Transportation (Caltrans) to Designate Palmetto Avenue as a Business Route for State Highway 1, as set forth in Item #3; Approval of

Resolution Authorizing Continued Participation in the City/County Association of Governments of San Mateo County (C/CAG) and Approval of the Joint Powers Agreement, as set forth in Item #4; Adoption of an Ordinance entitled An Ordinance of the City Council of the City of Pacifica Amending Title 5 ("Public Welfare, Morals and Conduct") of the Pacifica Municipal Code by Deleting Chapter 5.28 ("Loud or Unruly Parties") and Adopting a New Chapter 5.28 ("Loud or Unruly Gatherings and Social Host Liability"), Second Reading, as set forth in Item #5; Approval of Amendment No. 2 to the Agreement between the City of Pacifica and Cotton Shires and Associates in Connection with 400 Esplanade Drain, Authorize the City Manager to Execute the Amendment No. 2 and Approve Additional Budget Authority for \$18,000 from the Disaster Account Fund, 38.860000.52800.0212.000, 85% of Which to be Reimbursed by the California Emergency Management Agency (CalEMA), as set forth in Item #6; seconded by Councilmember Stone.

Councilmember Vreeland stated that he would be abstaining from voting on the minutes.

### **ROLL CALL VOTE:**

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

Noes: Councilmembers: None.

Motion carried: 4-0.

## **SPECIAL PRESENTATIONS:**

Mayor Nihart introduced San Bruno Vice Mayor Michael Salazar who was present with San Bruno's Finance Director, Ed Suan on behalf of San Bruno residents to express their gratitude for the help provided by Pacifica to their city during the Glenview explosion and fire and gave a brief report on their recovery process up to the present. He then presented a proclamation from the City of San Bruno officially thanking Pacifica for its assistance.

Mayor Nihart stated that they extended everyone their good wishes, adding that it involved some Pacificans who worked in Pacifica but either lived in that area or had family there. She acknowledged that Mazzetti's Bakery was very instrumental in fundraising. She commented that the mutual aid between cities was very important.

Mayor Nihart read a proclamation acknowledging May as Elder and Dependent Adult Abuse Awareness Month.

**Helen Karr, Pacifica,** accepted the proclamation on behalf of seniors and their families in Pacifica and the San Mateo County Long Term Care Ombudsman Board.

**Noel Blincoe** stated that the Annual Open Space Preservation Award was granted in recognition of individuals or organizations that have made an outstanding contribution toward the preservation of open space in Pacifica, adding that Mike Vasey, this year's recipient, was outstanding.

Mayor Nihart read and presented the Open Space Award to Mike Vasey.

**Mike Vasey** stated that he was deeply honored by the award. He thanked several individuals who were instrumental in many of the wonderful projects for open space. He briefly mentioned why it was so important to preserve open space and pointed out some of the specific species that benefit from this open space along with everyone in our community.

Noel Blincoe asked if individuals could come up and comment on the award.

Mayor Nihart stated that they could speak after Councilmembers spoke.

Councilmember Vreeland personally thanked Mike Vasey, stating that one of the first groups he was involved with was the Pacifica Land Trust where they inspired him and he thanked him for his help and everything he has done.

Councilmember Digre stated that she gave a tour for three individuals who commented on all the things he mentioned and she was thankful to him for having done so much for the community. She mentioned his expertise in eco-tourism and she hoped the Chamber of Commerce, and the City Council would set up a meeting with the Planning Commission to hear more about that.

Mayor Nihart stated that it was an award that was well deserved because of everything he has done for the community. She referred to the comment about eco-tourism, and thought the Economic Development Committee should also be talking to him. She stated that her knowledge of him was through his efforts to save Mori Point. She appreciated how much he has done.

**Ron Maykel, Pacifica**, stated that he has worked with Mike Vasey and he felt that he and the City were privileged to have someone of Mike Vasey's stature in town.

Lynn Adams, Pacifica, stated that she has had the pleasure of working with him on the Pedro Point Headlands, adding that he brings laughter to every moment along with science which makes it easy to believe what he says. She stated that, because of his work for Earth Day, she would like to award him the Star of the Sea Award from the Pacifica Beach Coalition.

Mayor Nihart stated that she had one more presentation, which was officially presented on the 18<sup>th</sup> for the 100<sup>th</sup> show for Footprints. She stated that, if you have not seen this particular episode of Footprints, it was a delight. She then read the proclamation for Footprints' 100<sup>th</sup> show.

Kathleen Manning stated that they were thrilled. She stated that, while they work to preserve the Little Brown Church, they acknowledged that it was also important to preserve the history of Pacifica which this program does. She added that they have a Wikki page on Pacifica in which anyone can participate. She then introduced individuals who worked directly with the show.

Erika Ridgling thanked Channel 26 for hosting them, as well as Kathleen Manning, for giving her the chance to do something she had always wanted to do.

Councilmember Digre thanked the Historical Society for taking care of our history.

### **PUBLIC HEARINGS:**

None.

### **COUNCIL COMMUNICATIONS:**

Councilmember Digre stated that on the next day the ladies from the <u>VFW and American Legion</u> were again hosting the veterans from the clinics in San Francisco and Palo Alto at the pier followed by lunch. She then mentioned the budget meeting coming up the following Wednesday.

Councilmember Stone attended the showing of the  $100^{th}$  episode of Footprints. He thanked PB&R for a great Easter Egg Hunt. He stated that, on Earth Day, he rode with Lynn Adams to visit all the various spots where the volunteers were working. He also attended the annual Senior Volunteers Dinner, adding that it was worthwhile to take the time to show appreciation to the volunteers. He stated that he would be holding his next "coffee" on June 4 for individuals to talk to him about any topics such as the budget.

Councilmember Vreeland referred to the water recycling project and asked the City Manager if they would be checking their work to make sure the City was happy when they leave the site.

City Manager Rhodes responded affirmatively.

Councilmember Vreeland stated that he asked because he had some concerns about heavy equipment on the coastal trail, mentioning that there was some patchwork as well as filling in a v-ditch on the side of the road. He wanted to be sure they checked before they move on to make sure the City's assets were protected. He referred to San Bruno's information and mentioned that there was a pipeline leak in Half Moon Bay that shut down Highway 92. He was heartened to hear from San Bruno about how mutual aid worked, adding that we had some local examples to refresh our memories. He thanked the community for their support which they showed to him over the last few months, as well as Council's patience. He stated that he had been dealing with some medical issues, but everything was fine now. He was glad to be back. He was now looking forward to moving forward with budget discussions as a community.

Mayor Nihart welcomed Councilmember Vreeland back. She then mentioned that she was at Earth Day and was impressed with what Lynn Adams does. She then wanted to bring up a couple of things, specifically that she did the Mayor's Walk which was productive. She then mentioned the budget and that, when referring to keeping essential services and getting rid of everything else, what was "essential" to one person was not necessarily the same to another. She gave an example of participating on Meals on Wheels and all the other services offered to seniors, which she felt were lifeline services for the individuals involved. She also reminded everyone about the budget session.

### **ORAL COMMUNICATIONS**

Mayor Nihart opened oral communications.

Shirlee Gibbs, Brighton Road, was present to speak about the Pacifica Community Museum Event Center (Little Brown Church). She explained that their vision for the building has not diminished and they were dedicated to reaching their goals, but they have been unable to secure grant funding due to the economic situation and were relying on volunteer help. They scheduled a volunteer work day on April 30, and were specifically in need of individuals with drywall experience, as well as general jobs. She reported on past and future fundraising activities, and concluded by stating that they welcomed suggestions, etc.

Margaret Goodale, Pacifica, commented on the glorious day on Easter Sunday, and the fact that it followed Earth Day, and reported that it was sad to see that someone dumped garbage on Fairway Drive. She hoped that Public Works would take care of it before it gets into the creek, adding that it was the same place where someone dumped fireplace ashes, about the time the frogs were coming out to mate last fall. She hoped there was some way to impress on people the importance of all the work that was done on Earth Day and continuously by volunteers.

Ron Maykel, 896 Rockaway Beach Avenue, welcomed Councilmember Vreeland back. He appreciated his comments on the mess on the coastal trail and he hoped there will be some cleanup. He thanked City Manager Rhodes for getting Go Native Nursery to complete the deferred maintenance in the Calera Creek area around the waste water treatment plant and the snake ponds. He commented on all the wildlife using the area now, adding that it looked beautiful. He mentioned that he used the opportunity of Earth Day to clean out all the trash in the area as well.

Lynn Adams, Pacifica, thanked the Council for their help with Earth Day, as well as the City for the support from all the departments. She stated that Earth Day was amazing, exceeding all expectations. She stated that it was a pleasure to show several Councilmembers as well as Supervisor Tissier and Mike Cooney from the County parks around the City, mentioning that they saw clean streets and busy volunteers. She suggested people look around and notice if any litter was recently placed or if the streets were still clean. She mentioned that Supervisor Tissier was so impressed. She then honored the City with the Star of the Sea Award and asked them to deliver it to Lizzy Claycomb for her. She thanked everyone, including businesses that supported them.

Jim Connors, Pacifica, stated that he was struck by Councilmember Vreeland's comments about the gas leak in Half Moon Bay and its effect on Highway 92. He then read a letter that he was sending to the *Pacifica Tribune* regarding Oddstad's residents receiving a letter from PG&E advising them about being within 2,000 feet of a natural gas transmission line. He gave the link on the internet which shows the route, adding that Park Pacifica residents should be forward thinking and proactive regarding what is going on with the line.

Mayor Nihart asked if the City Manager wanted to comment on it, adding that there was a June 30 meeting.

City Manager Rhodes stated that meeting didn't directly impact this, and added that they had been working with PG&E to get a community meeting for the affected residents. He stated that there was an anomaly in their mapping system, explaining that it was not a transmission line, although their mapping system showed it. He stated that it was actually a local distribution line, but they were still working toward a community meeting later in May, hopefully to be held at St. Peter's. He stated that the line was built in the 1970s, and was not in the same class as the one in San Bruno. He reiterated that they were in contact and were working to get a meeting organized.

City Attorney Quick explained that they can ask for a brief report from staff and ask a few questions but she would caution against having three Councilmembers comment, adding that so far they only have one.

Councilmember Stone stated that they had a meeting set up and PG&E postponed it since by <u>PG&E standards the pipes were not at risk</u> or as great a risk because of the size and year it was built, adding that they were aware of it and were looking to getting a community meeting as soon as PG&E was available.

Jim Connors thanked them for their attention to that matter.

Bernie Sifry, Pacifica, stated that you don't realize your value until you are missed when you are absent. He stated that people were so concerned about Councilmember Vreeland's absence that they bombarded others with questions. He stated that he understood that the Mayor did speak to him, and he was glad to see him well and present and involved. He was also disappointed that

another Councilmember was not present, stating that he made a statement on the budget before the Council went into negotiations regarding the vote telling them that the people wanted cuts. He stated that he didn't know where the councilmember got that idea unless he did a poll as they turned in their ballots and said to do cuts. He felt there was another alternative which was spend the money smartly, then we'll trust you. He stated that this was his message from people who had contacted him, basically saying to spend it smartly and the people will respond to it.

Therese Dyer, 1408 Crespi Drive, stated that she listened to a lot of proclamations tonight, and concluded that Pacifica was based on a lot of volunteerism and they need to be rewarded. She also thanked the Council for taking into consideration the cuts they were looking at, although she felt it was a little late now. She added that the Council needed to take some cuts, because she felt that they were not even part time employees and they didn't deserve benefits. She then mentioned that this was her third time requesting information on the 13 absences of Councilmember Vreeland without getting a response, and questioned what good it was for the yellow cards to tell them they could ask for additional information. She stated that, if there is no ordinance in place, she wanted to put one in place for disciplinary action for all elected officials and city employees that are negligent and cost the taxpayer money in this city. She commented that, after listening to Shirlee Gibbs, she didn't think Shirlee has ever gotten a proclamation for all her work with the Historical Society and she deserves one. She thought all the wasted money could be going to that historical site. She hoped they would take that into consideration.

Anita Rees, Pacifica Resource Center, was present to remind the City Council and the community that they were providing safety nets for 40 years for Pacificans who were struggling to make ends meet, and working hard to meet the growing need. She mentioned expanded their services to include free tax preparation services, adding that they ended with over \$60,000 in refunds coming back into the community. She stated that they would continue to provide free tax services throughout the year. She mentioned the Inclement Weather program which concluded on April 15, stating that they had provided 120 motel vouchers through that program for homeless people in Pacifica, a 600% increase from the previous winter. Even though that program has ended, they were still providing the homeless with assistance because their goal was to help the homeless get into permanent housing. They would be doing outreach for food programs at the Resource Center during May.

Clorinda Campagna, 1 Gypsy Hill Road, thanked all the volunteers who have contributed in any way. She stated that Ace Hardware on Pedro Point was the newest business to participate. She stated that the dollars that people give mean a lot and add up. She stated that there would be an article in the paper listing all the businesses that participate. She stated that they will be having some fundraisers again. She thanked everyone who was donating money.

Mayor Nihart stated that she wanted to close the meeting in memory of Dorothy Edminster.

Mayor Nihart closed Oral Communications.

### CONSIDERATION

7. Recommendations for Western Snowy Plover Protection at Pacifica State Beach – Symbolic Fencing and Events.

PB&R Director Perez presented the staff report.

Councilmember Vreeland thanked him for the report which he felt was very well done. He referred to the map showing the two fences with one going toward the north lot, and he asked if these were two alternatives.

PB&R Director Perez stated that they were two alternatives, adding that more fencing would cost more money. He then explained the reason for adding the extra fencing.

Councilmember Vreeland asked if the process would require the City to get a coastal development permit from the Coastal Commission.

PB&R Director Perez responded affirmatively, clarifying that it was for the science plan, as well as the fencing and signage plans.

Councilmember Vreeland assumed that they would weigh in on the signs and fence location.

PB&R Director Perez stated the he also assumed that they would.

City Manager Rhodes reminded them that, before they do that, they would be going to the U.S. Fish and Wildlife.

Councilmember Vreeland stated that his next question was to ask about that, and he asked if their input would be part of this process.

City Manager Rhodes clarified that it was stated in the staff report because it was the direction of the Council at the last meeting to seek input from U.S. Fish and Wildlife before going to the Coastal Commission.

Councilmember Vreeland agreed with the steps and was asking to remind the public about how they got to this point. He was curious about their response regarding the fence at Crespi. He asked if the staff report included the cost for the signage and installation.

PB&R Director Perez responded affirmatively.

Councilmember Digre stated that she would wait for public input for some of her questions, but did ask if he had said there was no fencing north and south.

PB&R Director Perez stated that they were talking about the west side of the dune, and in lieu of symbolic fencing on the west side, there would be signage placed 150 feet apart.

Councilmember Digre thought that they had asked to know what the cost would be for a flexible fence.

PB&R Director Perez stated that the direction was to consider the possibility of a symbolic fence.

Councilmember Digre asked if the main reason for not doing that was cost.

PB&R Director Perez agreed that cost was part of it, as well as maintenance and safety and the consensus was that signage would be better than symbolic fencing.

Mayor Nihart asked if symbolic fencing was basically signage.

PB&R Director Perez explained that actual symbolic fencing would be imagining a post with an eyehole at the top with a wire and usually there was a small sign on that fence.

Mayor Nihart opened public comments.

**Noel Blincoe, Pacifica**, thanked the Council for their vote in November for the shared use of a popular beach, meeting the environmental consideration for snowy plover protection. Supporters present at that time were excited because they were moving forward with the recommendations, however, things have changed with the new set of recommendations. He pointed out how staff had changed the original directions from Council, and then stated that they were not competent to make these decisions and asked Council to reject their proposals and contact U.S. Fish and Wildlife to get their expertise on symbolic fencing.

**Clark Natwick, Pacifica**, showed a copy of a proclamation passed by the City Council 13 years ago. He added his voice to Noel Blincoe's recommendation and his evaluation of the competency of the staff in some of their recommendations, giving one small example. He also felt that the U.S. Fish and Wildlife should be brought in as soon as possible to protect the snowy ployer.

Margaret Goodale, Pacifica, stated that they were lucky not to hear her angry version of this but rather the sympathetic version. She commented that someone with an aching tooth would probably not go to the podiatrist and snake oil would not be their first choice. She pointed out the decision made previously by Council and asked that they reject this inadequate recommendation from staff. She asked that they get U.S. Fish and Wildlife input now before any more staff time and money are wasted on foolish and expensive planning, adding that they may even have money if it is done right. She asked that they do it right once and not waste any more time or money.

Edwin Geer, Pacifica, stated that the western snowy plovers have no protection for their habitat and for their survival. He felt City staff has omitted significant factors that Council adopted in November. He felt that this report was inadequate and he asked that they set this recommendation aside and forward the November action to the U.S. Fish and Wildlife for expert advice and adopt what will help plovers now and they will figure out the funding later, adding that there were federal, state and private grant money available.

Ron Maykel, Rockaway Beach, reiterated what has been said previously. He felt it would be prudent for the City to utilize the Fish and Wildlife Service as much as possible.

Greg Cochran, Pacifica PB&R Commissioner, welcomed Councilmember Vreeland back and congratulated all the volunteers on Earth Day, mentioning that Supervisor Tissier wished other cities could match even half of what Pacifica did to clean up the beaches. He also felt that the snowy plover should be protected. He asked that they look at the 1 or 2 functions that may take place at this world class surfing beach in a year. He felt they had made some concessions and felt they could work together with the snowy plover on one or two occasions, not nearly the impact that 4<sup>th</sup> of July has. He appreciated what staff has done as well as the work done by the snowy plover advocates. He felt they could work together on this.

**Dyer Crouch, Pacifica**, welcomed Councilmember Vreeland and thanked the Council for addressing this issue. He also felt strongly about this going to Fish and Wildlife. He also was concerned about the budget and, at this point, they can take what they have done so far and send to Fish and Wildlife Service who will work for free, otherwise, he felt that they would have to continue to pay staff. He mentioned that Pacifica was notified by an environmental attorney that they were in violation of the endangered species act which involved serious fines. He thought it

could turn into Pacifica's "Sharp Park" with an environmental lawsuit. He mentioned that we haven't been able to work with grants, mentioning that someone from Ocean Shore had money but he could not give them any information about what they could do because this was still in process. He asked that they please keep going forward. He felt the next step was to go to Fish and Wildlife Service because it was time for expert opinion and input at no cost.

Victor Carmichael, Pacifica, stated that they can have many people coming up to make a case but, if they don't have the votes, it was a waste of time. In November they had the articulate spokespeople and they had the votes to revise what was unacceptable in two areas. However, staff defied Council and came back ignoring both areas. He felt they needed to do this properly and go back to the expertise of the Fish and Wildlife to take a look at it before it was approved. He also felt they needed to be creative about financing because there were a lot of problems at all levels of government in terms of money.

Bill Collins, Pacifica, stated that when he addressed Council last year, he suggested that they get input from Fish and Wildlife and work with staff as it develops the report rather than a sequential process which eats up a lot of time. Although they could not get back the lost time, he urged the Council to direct staff to ask the feds because there was no one present who was an expert on the plovers. He asked that they not adopt anything they may not need. He felt that there may be good things in the report and maybe some things they don't need. He felt they should do only what was necessary. He felt it was time to bring in the feds which they had been hearing for some time and get the birds the protection they need.

Mary Keitelman, Pacifica, thanked them for the opportunity to speak. She had no prepared comments but was surprised at the staff report. She felt it changed the 5-0 unanimous agreement made by Council in November, adding that they didn't have any scientists on staff. She requested that Fish and Wildlife be asked to advise as they go forward rather than after the fact with a plan without any input from a scientist or a plover expert. She was definitely surprised at the lack of symbolic fencing which she knew was agreed upon. She reiterated that they should follow the agreed-upon agenda in November.

August Murphy, Pacifica PB&R Commissioner, stated that he had served for nine months on the subcommittee regarding the snowy plover. He was surprised at the ongoing comments to stop everything and go to the feds. He stated that the subcommittee looked at what was being done in Half Moon Bay and San Francisco, and consulted with people, and they agreed on 90% of the items in the report. He didn't want to see that they wasted all that time. He felt there were some things they can do, such as signage and fences in certain places. They can then consult with the feds and tweak their plan after that input. He felt they needed to do something and couldn't wait for something else.

Julie Lancelle, Pacifica, thanked the members of the snowy plover committee for having worked a long time on these issues. She referred to her request that the Council create the snowy plover committee out of concern for the wellbeing of the plovers. She stated that there had been conflict within the committee and she felt that has come out but her feelings were that the plovers have no protection while humans are disagreeing among themselves about what was in the plovers' best interest. She encouraged the Council to move ahead with the recommendations as they are and begin the process. She didn't think they should bend to threats. She stated that the program as it stands provides the opportunity to inform the public about the plovers and the fencing will help. She was concerned about the idea of having fencing to the west. She referred to bringing in Fish and Wildlife, and stated that she had an opportunity to see a protected habitat in Newport Beach which had an 8-foot chain link fence surrounding an area that looked desolate and she found it an

unattractive solution. She thought it may have been approved by Fish and Wildlife Service as a solution, but she felt we could do better in Pacifica. She felt this was a start. She referred to a suggestion that the challenge of having a western fence was the tides. She mentioned the possibility of creating something unique that would designate the area but could be washed away.

Lynn Adams, Pacifica, stated that any successful snowy plover program will have the will of the people behind it, and she didn't think the will of the people would want to defer to any federal force. She stated that they could have GGNRA come in and say no dogs in various places and she knew that Pacificans would not follow what they say and there will be intentional law breaking. She had faith in Pacifica and Pacificans in coming up with a solution. She didn't think we needed to defer our voice and judgment to an outside force, but rather we needed to keep control for ourselves. She agreed with Julie Lancelle that she would like to see some kind of indication on the west side because people come from out of town and they don't know about the area. While we have signs planned, she thought the symbolic fencing was a good idea for people who didn't understand. She thought the question was how far out to have the fence, not whether or not to have it. She agreed with protection for the snowy plover, agreed with education and agreed with making the decision tonight.

Leo Leon, Pacifica, stated that he hadn't planned to speak. He had come into the situation at the end of the process, and had not participated in the deep work done already. He did know that extension was a permanent condition. He hiked on the beach regularly and he was familiar with creature habits and how they relate with no protection. He mentioned that Wikkipedia reported that one million people visit Pacifica state beach every year. He wasn't worried about Pacifica visitors, but he was worried about the other visitors who don't live in Pacifica. He felt it was frustrating knowing what was said and intended, where the right thing was being done for the environment, planning and the plover, and he didn't know what happened between then and now. He also didn't know why they didn't already have some feedback coming from Fish and Wildlife. His opinion was that they merely spun their wheels since November. He suggested that they put emotions aside and keep the best interest of the parties. Because they are endangered and under the auspices of federal regulation, they are the ones who have the plan for the recovery of the plover and he sees the nexus of getting Fish and Wildlife involved.

Mayor Nihart closed public comments.

Mayor Nihart clarified that, whatever they do, funding doesn't exist for it right now. She was one of the members who voted in November. She didn't have any different idea than bringing the plan forward to Fish and Wildlife, with two previous years of disagreement and no education to the public. She was in agreement with the speakers that it was merely dunes to the public and, until they get signage up and do something, that condition remains. She felt beginning was better than continuing to look for the perfect solution.

Councilmember Stone realized there was grant money out there, but he asked if it would come back to Council after it was passed for a decision on whether to fund it at this time.

City Manager Rhodes acknowledged that we didn't have funds to do this, so he wasn't sure what they would bring back. Staff believed that they could find grant money to help the City to do this but he didn't believe the City had the funds.

Councilmember Stone asked if they had an idea on the maintenance costs.

PB&R Director Perez stated that he didn't have an estimate on the cost of maintenance fees. He stated that he would defer to Public Works for preventative maintenance, but the initial cost of putting it up would be significant.

Councilmember Stone asked how close the signs were to the dunes.

PB&R Director Perez stated that the dunes would move and the picture wasn't taken recently, so there were placed at the base where the dunes in the picture were, but they were inserted by the engineer with this picture but the placement would be different now.

Councilmember Stone asked if they would see the signs before they enter the trails.

PB&R Director Perez responded affirmatively.

Coouncilmember Digre stated that she reread the minutes and she got more confused. Based on her memory, she thought they did want additional data in order to make decisions as to whether or not they had the money and she was expecting more data and more meat as to what was meant by habitation protection. She read from the minutes in November, and concluded that it seemed that they were asking that it go to the Fish and Wildlife Service before it came back to them. She concluded, based on her notes, that it was not quite clear, and while they asked staff if they were clear on what the Council was directing them to do, they probably should ask staff to repeat what they think they heard. She then stated that she felt they should move forward, but on moving forward she would like them to include the possibility of a flexible fence on the ocean side with a guess of how long it will be. She gave her thoughts on the direction taken by many groups in this country, especially Pacificans, to protect the environment in general, and specifically the snowy plover and what it means to protect the habitat of an endangered small creature. She mentioned it as being a contribution to Pacifica's economy, but also mentioned that we didn't want to exclude surfing while protecting the plover. She felt we needed more information, but we could still move forward and still do what we need to get an answer back from the two agencies.

Councilmember Vreeland thanked everyone for sharing their thoughts on the process over the past few years, and also thanked staff for their report. He added that as someone who studied beaches in college and got a master's degree, he felt he had some knowledge on how coastal systems worked. He felt it was a dynamic system and the process was also dynamic, mentioning some of the specific steps. He commented on those in the public who expressed frustration on the direction as stated in the staff report then gave his thoughts about the process to this point, agreeing with the Mayor on the fact that he also felt this was the direction they expected with their decision in November. He felt that they were moving forward and felt those who were saying otherwise were not making an accurate statement. He reiterated that the City made their proposal for the fencing, then the scientific agencies will review it and make recommendations and then it would come back to the Council before the coastal development application. He asked the City Manager if it would need to go to the Planning Commission.

City Manager Rhodes stated that it would not go to the Planning Commission.

Councilmember Vreeland reiterated the process of submitting their approved plan to Fish and Wildlife for comments, and based on that information, they would put together an application for a Coastal Commission hearing at a future date.

City Manager Rhodes stated that their direction in November was that they would return to Council before they go to the Coastal Commission.

Councilmember Vreeland agreed, reiterating that he stated that they would go to Fish and Wildlife for scientific comment, back to the Council for a discussion on what Fish and Wildlife Service said and talk about what their application would be as submitted to the Coastal Commission. He asked if there would be another public hearing at the Coastal Commission.

City Manager Rhodes responded affirmatively.

Councilmember Vreeland thanked staff for the work they did. He was sorry that some felt frustrated with the process as they perceived it. He was bothered that people said the City's staff was incompetent. He personally felt staff was wonderful and had done a tremendous job and they were trying to work through the issue with a very dynamic system, mentioning all the various types of individuals to consider, such as surfers, hikers, etc. He felt they needed to be sure they can manage all the uses so the resources are protected for everyone. He again thanked staff for the report and thanked the City Manager for clarifying the process on moving forward.

Mayor Nihart stated that the recommendations from the Council were as she expected, and the additional recommendations were what she thought they were asking and were no surprise to her. She knew that they would ask for Fish and Wildlife's input at this point. She agreed with everything Councilmember Vreeland said. She felt he summarized it very nicely. She reiterated that Pacifica did have a lot of visitors to that beach, and while people locally know we have snowy plovers, she had no faith that without signage anyone wouldn't hike across the dunes, and she felt that made sense to get started. She appreciated that they didn't hear from the dog people but she thought they assumed they were included. She was frustrated and wanted to get going. She felt the recommendations were the way she would go and she was fine with the recommendations as they stand.

Councilmember Digre stated that she was still not clear because they were talking about a shared use and she thought the topic was protection of the snowy plover. She asked what she was voting on, stating that they were dismissing the possibility of a symbolic fence toward the ocean. She asked about vehicles and the possibility of carrying things to the area rather than driving over. She stated that they didn't even mention emergency vehicles this time. She was not sure what they achieved since November, adding that she was not calling staff inept. She was at a bit of a loss. She read the report and she felt as though she was on another planet. She asked that they take a few minutes to tell her what Council was saying they are doing when they vote.

Councilmember Stone thought that the issue of the plover habitat was education so that people know it is there and walking through it will disturb the habitat. He thought the education part that can start immediately was a great thing. His hesitation was in wanting to know the cost that was on an ongoing basis. He knew there were a lot of things from grants, but asked what would happen when it has to be maintained because they knew the financial situation would not be getting better anytime soon. He had a hard time supporting something that needs to be maintained in the future without knowing what the dollar amount was. He would like the number but it didn't seem like they did know.

Mayor Nihart stated that they were not talking about building it tonight but talking about getting a plan in place.

City Manager Rhodes responded that she was correct.

Mayor Nihart stated that they didn't have a funding source and had no idea where the funding would come from. She also hoped that, in the funding process, Councilmember Stone's question would be addressed.

Councilmember Stone referred to the questions about whether it was the right material, and he thought approving the plan was not just about funding but about whether it was the right material. He didn't feel those questions have been answered.

Mayor Nihart thought they were good questions but she asked if we were locked into any kind of specific fence. She referred to Councilmember Digre's issues, and thought they were approving the limitations in place for setting up for other events as well as the alternatives such as a symbolic fence versus a flexible fence, and they were talking about a symbolic fence and asked for more information. She added that part of that had to do with the CEQA process and part to do with the Fish and Wildlife piece. She thought it was in there, and that would be what she would be approving.

Councilmember Digre stated that she was going to vote to move forward because Fish and Wildlife would be looking for it, but she was reading that the symbolic fence was from the dunes and was not more flexible to where the plover might be. The other one was for the 50 feet for the vehicles, then she referred to the map.

City Manager Rhodes stated that she was not correct.

Councilmember Digre asked to know why.

Councilmember Vreeland stated that the way the staff report was written states that it was 50 feet from the designated area, which theoretically could be where the actual signs are, not 50 feet from the fence but 50 feet from the designated habitat area. He explained how they would be measuring it.

Councilmember Digre assumed that they didn't know what the designated area was.

Councilmember Vreeland stated that what he was approving was the concept that they ask Fish and Wildlife, even though he had some concerns over it but they felt they needed that in order to have more public understanding of the issue. He stated that the fence would control the access off the bike path through the dunes system which accomplishes two things, reducing erosion in the dune area and reducing people using the informal trail system that comes off the bike path and goes through the dunes. They were keeping pedestrians, bike riders and skateboarders on the coastal trail and that was what he was approving. He had a hard time thinking that a hard structure, even a symbolic fence, was an appropriate concept for the coastal zone. The concept they embarked on with the beach restoration project and the creek mouth was something called managed coastal retreat, pulling stuff off the beach and dealing with the potential impact of global warming. He wasn't sure why they were proposing putting another hard structure in that system, unless a scientist says that was the best way. He referred to the comments that no one was an expert, and this was the City's proposal to get input from a federal regulatory agency which they would incorporate into an application to the Coastal Commission for a coastal development permit. He asked the City Manger if he was missing any part of that process.

City Manager Rhodes thought he was correctly stating the staff recommendation.

Councilmember Digre stated that she would vote for it but she would appreciate sitting down with him and having a discussion because there were some things she didn't understand or why they hadn't done it in November.

Councilmember Vreeland approved additional recommendations to the Western Snowy Plover Protection Plan at Pacifica State Beach as previously adopted by Council and directed staff to consult U.S. Fish and Wildlife; seconded by Councilmember Digre.

Mayor Nihart stated that they were simply looking at guidelines for the management of the beach. They have some suggestions which were always the intent to put before Fish and Wildlife and they have not approved building anything at this time. She asked if she was correct.

City Manager Rhodes responded affirmatively.

Councilmember Stone was going to say the same thing, adding that he knew they had a chance to talk about funding and costs and materials once they have the dialogue going.

City Manager Rhodes stated that they would go into more detail after the consultation with Fish and Wildlife because things can change based on that.

Councilmember Stone understood that they could throw the whole thing out, but he was attempting to make sure that they weren't putting anything together that they couldn't maintain.

City Manager Rhodes stated that they would return to Council before they go to the Coastal Commission and lay it all out because they have to be more precise when they go to the Coastal Commission.

Councilmember Digre stated that in the packet it stated that staff would also seek input from U.S. Fish and Wildlife on potential funding sources. She stated that she was expecting more from Fish and Wildlife, adding that she thought they would be asked to look at it and appraise it. She asked if she was wrong.

City Manager Rhodes stated that she was correct, adding that the statement said that they would also seek input on financing. At the last meeting in November, Council directed that, when the plan was finished, they go to U.S. Fish and Wildlife, and they stated that in the beginning of the staff report.

Mayor Nihart stated that they had a motion and second and asked them to vote.

## **ROLL CALL VOTE:**

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

Noes: Councilmembers: None

Motion carried: 4-0.

## 8. Garbage Rate Protest Process.

Admin. Services Dir. Ritzma presented the staff report.

Mayor Nihart opened public comments.

Leo Leon, Pacifica, stated that he was speaking for Tom Clifford who was in the hospital and asked him to say a few words which he also shared. He was in favor of the process. He felt the issue was the negotiation process and whether or not we can negotiate a different rate hike percentage. He felt the concern from others was whether when we enter into fair negotiations, we work on a negotiation where both parties give a little and, in this case, we took the maximum percentage. He thought we were in the company with Hillsborough and Atherton as far as the highest rates on the peninsula and he would like to be somewhere else between there and our coastal cities to the south on the rates being paid. He noticed in his own habits that they have gotten so good at recycling that the garbage is nil, two weeks out of four, and he wondered if there was a way to negotiate what people use or need versus the blanket rates.

Mayor Nihart closed public comments.

Councilmember Digre thought the people would speak out and they would listen.

Councilmember Stone moved that the City Council adopt a resolution of the City of Pacifica Establishing Procedures for the Conduct of Protest Hearings for New or Increased Solid Waste Collection Services Fees and Charges; seconded by Councilmember Vreeland.

### **ROLL CALL VOTE:**

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

Noes: Councilmembers: None

Motion carried: 4-0.

Mayor Nihart adjourned the meeting at 9:40 p.m., stating that Dorothy Edminster was a fine Councilwoman, Mayor and incredible leader who has given much and would definitely be missed but stated that this ended a long time of suffering and was a blessing in many ways and they would keep her and her family in their hearts.

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell, Deputy City Clerk

APPROVED: As Amended 5-0; 5/9/11

Mary Ann Mhart, Mayok