



**CITY OF PACIFICA
CITY COUNCIL MINUTES**

**Council Chambers
2212 Beach Blvd
Pacifica, CA 94044**

Mayor Sue Digre
Mayor Pro Tem Mike O'Neill
Councilmember Karen Ervin
Councilmember Mary Ann Nihart
Councilmember John Keener

**June 27, 2016 (MONDAY)
www.cityofpacifica.org**

Mayor Sue Digre called the meeting to order on June 27, 2016 at 7:00 PM

CLOSED SESSION - NONE.

7:00 PM OPEN SESSION

Call to Order

Mayor Digre called the meeting to order at 7:00 p.m.

Attendee Name	Title	Status	Arrived
Sue Digre	Mayor	Present	
Mike O'Neill	Mayor Pro Tem	Excused	
Karen Ervin	Councilmember	Excused	
Mary Ann Nihart	Councilmember	Present	
John Keener	Councilmember	Present	

Staff Present: Lorie Tinfow, City Manager; Matthew Visick, Asst. City Attorney; Lorenzo Hines, Asst. City Manager; Van Ocampo, Public Works Director; Tina Wehrmeister, Planning Director; Dan Steidle, Police Chief; PB&R Dir. Michael Perez; Anne Stedler, EDC Mgr.; Kathy O'Connell, City Clerk.

Salute to the Flag led by Mayor Digre

Closed Session Report

None

SPECIAL PRESENTATIONS

PROCLAMATION - EMPLOYEE RECOGNITION FOR EL NINO STORM RELATED EMERGENCY

Mayor Digre asked for the heads of the various departments to get the proclamations for employees who worked long hours during the recent El Nino storm. Each department head then read their names and passed out their individual proclamations.

Mayor Digre then read the proclamation they each received.

Councilmember Nihart thanked them for what they did, adding that they couldn't have a better staff.

They then all posed for a group picture.

PROCLAMATION - PARKS, BEACHES, AND RECREATION MONTH

Mayor Digre invited PB&R Dir. Perez to come forward and she then read the proclamation honoring Parks, Beaches and Recreation Month.

PB&R Dir. Perez accepted the proclamation and then asked the public to join them in the various activities planned for the summer. He then recognized Commissioners Cindy Abbott and Michael Mau and also recognized all the employees who were present, as well as Parks Supt. Aaron Clark. He reported on several of the specific events scheduled during the summer.

Mayor Digre thanked him, the employees and volunteers, as well as the agencies who help provide all the events. She then asked those present to come up for a group picture.

CONSENT CALENDAR

Mayor Digre stated that they were pulling #8 for another date and #6 for corrections. She asked that they vote without those two items.

Councilmember Keener asked why they were withdrawing #8, the resolution establishing various Public Works departments.

City Manager Tinfow stated that it was a suggestion by the Mayor to bring it back at a future meeting.

Mayor Digre stated that, for something that they had already discussed, she would want to have the right to be present.

Councilmember Keener referred to #7, State Coastal Conservancy Grant Fund, and he asked if there was a modification to the contract.

Public Works Dir. Ocampo stated that there were, but they were minor.

City Manager Tinfow asked if they want to request public comment on the Consent Calendar before they take action.

There were no public comments.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Ann Nihart, Councilmember
SECONDER:	John Keener, Councilmember
AYES:	Digre, Nihart, Keener
EXCUSED:	O'Neill, Ervin

1. Approval of Disbursements for 06/08/16 through 06/14/16
PROPOSED ACTION: Move to approve attached list of disbursements for 06/08/16

through 06/14/16.

2. Approval of Minutes
PROPOSED ACTION: Move to approve the minutes of the regular City Council meeting held on June 13, 2016.

3. Proclamation Confirming Existence of Local Emergency of the Pacifica Coastline from Westline Drive to the End of Beach Boulevard.
PROPOSED ACTION: Accept current photos as of June 21, 2016 (Attachment 2) and move to continue proclamation confirming the existence of local emergency.

4. Approval Contract Renewal with the Davey Tree Expert Company for Tree Maintenance and Emergency Tree Maintenance Services
PROPOSED ACTION: Approve the Renewal of Agreement Between the City of Pacifica and Davey Tree Expert Company for Tree Maintenance and Emergency Tree Maintenance Services for Fiscal Year 2016-17 (Attachment 1); and authorize the City Manager to execute the agreement.

5. Supply and Install New Stainless Steel Fuel Tanks at Linda Mar & Sharp Park Lift Stations
PROPOSED ACTION: Approve the Agreement between the City of Pacifica and Service Station Testing for the supply and installation of two new fuel tanks for the Calera Creek Water Recycling Plant; and authorize the City Manager to execute the agreement.

6. Proposed Resolution Establishing the Appropriation Limit for Fiscal Year 2016-2017 Pursuant to Article XIII B of the California State Constitution.
PROPOSED ACTION: 1) Move to approve the use of percentage change in California's Per Capita Personal Income growth (5.37%) and the County of San Mateo population growth (0.91%) and, 2) adopt the Resolution for the Appropriations Limit for fiscal year 2016-2017.

Asst. City Manager Hines presented staff report.

Councilmember Keener moved to approve the proposed Resolution establishing the Appropriations Limit for fiscal year 2016-2017 pursuant to Article XIII B of the California State Constitution; seconded by Councilmember Nihart.

7. A Resolution Approving Agreement Between the City and State Coastal Conservancy for Grant Funds for Preparation of Final Design Plans, Permit Applications and Environmental Documents for Public Access Trail Improvements Along 400 Esplanade Avenue.
PROPOSED ACTION: Adopt a Resolution of the City Council of the City of Pacifica Approving Agreement Between the City of Pacifica and State Coastal Conservancy for Grant Funds (Attachment 1) for preparation of final design plans, permit applications and environmental documents for public access trail improvements along 400 Esplanade Avenue; and authorize the City Manager to execute all documents associated with this grant.

8. Resolution Establishing Various Public Works Department Positions Authorized in the Adopted 2016-17 Operating Budget
PROPOSED ACTION: Move to adopt a resolution establishing various positions and salary ranges related to the reorganization of the Public Works Department authorized in the 2016-17 Operating Budget that was adopted on June 13, 2016.

9. Resolution of the City Council of the City of Pacifica Accepting the Report of Sewer Service Charges for Fiscal Year 2016-2017 and Directing the Filing of Charges for Collection by the County Controller.
PROPOSED ACTION: Move to adopt the "Resolution of the City Council of the City of Pacifica accepting the report of Sewer Service Charges for Fiscal Year 2016-2017, and directing the filing of charges for collection by the County Controller.

ORAL COMMUNICATIONS

Pam Raymond, Pacifica, stated that she has lived on Beach Blvd. for two decades and has seen many changes, such as many visitors. She stated that she used to be able to walk from the end of Beach Blvd. to Mori Point and not see a single person, but not the case now as we have become a popular destination for locals and tourists. She also noticed the sea wall holding Beach Blvd., but this was the first year she has heard the sea wall audibly failing. She stated that, in not taking the opportunity to ask for federal assistance to build a real sea wall to preserve the area for continued public access, we are not only missing an opportunity but being irresponsible. She asked that this be on the agenda so the Council can address this important topic.

Kelly Bogdanov, Pacifica, stated that she lived in West Sharp Park. She referred to Great Britain voting to leave the European Union with negative reactions to that vote, and stated that it was a blunt reminder that we live in an uncertain world. She stated that this brings back memories of the financial crisis in 2008 and 2009 which was difficult for Pacifica's finances. She stated that we don't know when the next crisis will hit or another recession at all levels of government and she felt there was a sense of urgency in requesting federal funds to replace the sea wall on the north side of Beach Blvd. She stated that the US and California economies are still growing, even with their shortcomings, and she urged the Council to strike while the iron was hot and request federal funds soon while we still have positive economic growth, as well as state funds and grants to build the sea wall. She thought elected officials and the Army Corp of Engineers were interested in talking to Pacifica about building the new sea wall to replace the present poorly constructed wall. She stated that the promenade along Beach Blvd. was the embodiment of the California Coastal Act, maximizing access to the coast for everyone, including the disabled, etc. and we can be very proud of it. She stated that we need to protect the promenade and adjacent underground utilities with a new properly constructed sea wall. She stated that it takes local leadership in the Council to get the ball rolling. She asked that they begin the process by adding the sea wall replacement on an upcoming agenda.

Tom Richardson, Pacifica, voiced his admiration and respect for Council's service to our community. He thought every Pacifican should attend the meetings to observe their dedication and hard work. He stated that he was adding his voice to the growing chorus requesting that they focus on the issue of replacing the retaining wall north of the pier with a real engineered

sea wall. He urged them to replace and move forward with requesting federal and state monies. He stated that this was a legacy issue.

Mike Bell, Pacifica, stated that a growing group of citizens have been asking that the problem of the failing wall on Beach Blvd. be put on the agenda to develop an action plan. He stated that he discovered that the wall had a catastrophic failure just two months after it was completed 30 years ago. He stated that the latest major repair cost more than the original \$2 million for the entire wall. He stated that he was aware of at least six catastrophic failures and smaller repairs almost every year of its existence. He asked for public records of all the repairs over the last 30 years, where they occurred and how much they cost Pacifica. He thought it was reasonable to assume they have probably paid for the wall many times and will continue to do so, while endangering the public, until the fundamental problem is addressed. He stated that the wall design was incorrect from the start, adding that what was protecting West Sharp Park from the pounding surf was a retaining wall, not a sea wall, and it was a thin crust of concrete plates stacked on top of each other and held into place by thin metal strips tied back into the sand. He stated that was an adequate solution to hold back sand, but had no ability to deflect the power of waves. He stated that would require a real sea wall, describing the requirements for such a wall to deflect the waves back into the ocean. He compared the current wall to egg shells trying to withstand the power of crashing waves, and it will continue to fail and remain a high risk public hazard. He referred to Jackie Speier who wrote memos urging the Army Corp of Engineers to come up with a solution for the problems of the wall in front of the golf course and the need to protect existing infrastructure, etc. She would support Pacifica's request to build a new sea wall along the promenade north of the pier. He stated that the city needs to formally apply for this federal assistance as every passing day was wasting time and political currency. He asked, if we are not using the proper protocol, that they let us know how to get this placed on the agenda.

Brent Ritz, Pacifica, referred to the news about changing markets. He mentioned several specific funds, and stated that the markets are fragile. He stated that, if there was money to be obtained, he would do it now. He referred to S&P 500 declines and he thought there would be a second one and it would be a recession. He stated that, at this time, capital markets are still free to obtain capital and he would suggest they go ahead and do it. He stated that he knew the government moves in a methodical and interesting manner but he urged that they pursue it as quickly as possible because of the time involved.

Dan Stegink, Pacifica, stated that he agreed with Mike Bell that the city needs to apply for federal assistance to replace the sea wall. He referred to a quote of \$8 million to replace the pier and some quotes on sea wall replacement were \$20 million. He questioned the fact that the south end of the sea wall was less vulnerable, but when walking by the sea wall by Council chambers, there was a rusty hole of white cutting boards stacked on each other, and you can see where the sea wall was failing, mentioning that Pacifica was famous for whales and Beach Blvd. collapsing. He suggested that, if they want public trust in the \$35 million library bond, they have to do something about the sea wall.

John Raymond, Pacifica, stated that he lives on Beach Blvd., and he was present in support of what all the prior speakers have said about the sea wall. He agreed that it should be replaced, as this wonderful neighborhood was worth saving. He stated that the alternative of doing nothing was the present sea wall was going to fall down and the street will fall and they will have an area of no public access with all private property and with boulders. He thought the promenade was a beautiful place used by a lot of people and he asked Council to seek federal funds and get the sea wall replaced.

Mayor Digre stated that she had learned to go looking for help when an El Nino or something else happens and they have been in contact with federal and state.

City Manager Tinfow stated that she will be happy to address it under staff communications and provide Council and update.

COUNCIL COMMUNICATIONS

Councilmember Nihart wanted to be sure everyone knew about the second Goal Setting meeting on July 9. She hoped they have public participation. She asked when they are bringing the replacement issue forward which was different from repairing. She attended the final meeting of ABAG which has moved to merge. It will be a slow, bleeding transition, but they voted to protect the employees of ABAG. She mentioned that San Mateo County was looking at spending \$10 million on affordable housing, but they have not voted to do it yet. It was putting forward a multi-tier affordable housing priority package. She stated that the water committee for CCAG was on hold this month, but they met with Hillary Papindeck, who was doing the vulnerability assessment, and there was some FEMA money to potentially complete the data for Pacifica about sand management, adding that some of the data in the literal cell was controversial and interpreted differently and was absent for Pacifica. She felt that drawing conclusions from that for Pacifica has been a challenge and fixing the incomplete data would be useful for looking at our beaches and coastal erosion. She hoped they will be going forward with that, adding that the City Manager may have more information. She hoped everyone has a safe and sane 4th of July. She suggested they enjoy the public events at Frontierland and keep the fireworks to what was legal in Pacifica. She thanked PB&R because they make that celebration happen.

Councilmember Keener stated that he attended the emergency preparedness meeting. They were preparing a presentation to City Council and noting that the period for comments on the San Mateo County Hazard Mitigation Plan was closing in two days. He attended the congestion management, environmental quality committee of CCAG, stating that they prepared a draft of the San Mateo County wide transportation plan and the public will have an opportunity to comment on it in late summer or early fall. He attended the Peninsula Clean Energy board meeting. They approved loans and provisionally approved a choice among three electricity suppliers. He stated that the actual choice will happen the coming Wednesday in a two-hour window during which the bids are stable and they have to make their choice in that window, after which they will pick the supplier. He stated that they will have agreements with the two "losers" in case the winner can't fulfill the contract or go with them in the second phase this October with the final phase in the following October.

Mayor Digre stated that the airport noise situation study continues, adding that they are making progress. She stated that the two technical groups from the San Francisco Airport Noise Commission met on the 22nd, and they were moving forward. She was happy to say that the San Francisco Airport Roundtable noise group was able to talk about the Oakland flights and San Jose flights. She stated that the newly formed committee was for the south county and were not talking about the Oakland flights. She stated that the residents have been helping her to stay on top of everything. She stated that they are moving forward. They had hoped to be further along but were on a positive trend. She stated that the meeting scheduled earlier was cancelled because the work on the 22nd was comprehensive and they wanted staff to work on it to create a package, adding that the South committee was not as far along and they need more

time. She stated that the new date would obviously be in July. She wished Councilmember Keener a happy birthday.

STAFF COMMUNICATIONS

City Manager Tinfow stated that they were actively pursuing grants for repairs to all of the damaged sites. She mentioned the Esplanade area which sustained damage, and the replacement and fix of the Milagra outfall pipe and the sea wall repairs for Beach Blvd. She stated that they have entered discussions with the Army Corp of Engineers on the idea of replacing the northern section of the sea wall. She stated that Brian Perkins from Jackie Speier's office has been pivotal in keeping us on the radar and getting attention from them and meeting with staff. She stated that they have submitted letters of interest as instructed to do for one of their programs. She commented that they move very slowly and they were waiting to hear back from them. She stated that she would like to bring a complete update at the next meeting on all the grant status, as they have been making progress. She referred to the Goal Setting, adding that it will be held at the Police Station as usual with breakfast at 9:00 and starting at 9:30 and they would love to have the public attend. She stated that they presented the Council the city's new website, and it went live on this day. She stated that it still needs massaging, but it was a tremendous improvement compared to the previous website. She encouraged Council and the public to check out the new look for Pacifica.

Mayor Digre reiterated that they were immediately in touch with both federal and state on local possibilities.

PUBLIC HEARINGS

CONSIDERATION

10. Certification of Signatures of an Initiative Petition; Adoption of Resolution Calling and Giving Notice for Holding a General Municipal Election on Tuesday, November 8, 2016, Requesting Consolidation of the General Municipal Election with the Statewide General Election, and Submitting to the Voters an Ordinance Proposed by Initiative Petition to Amend Ordinance No. 391-C.S. to Authorize a Future Rezone of the Quarry Which Could Include Residential Development, Under Certain Conditions; Direction to Staff to Prepare and Release an Impact Study Including a Fiscal Analysis and Analysis of Potential Land Use Impacts.

PROPOSED ACTION: Adopt the attached Resolution; and Direct staff to prepare and release an Impact Study of the "Pacifica Initiative Amending Ordinance No. 391-C.S. to Authorize a Future Rezone of the Quarry Which Could Include Residential Development, Under Certain Conditions" including a fiscal analysis and analysis of potential land use impacts.

City Clerk O'Connell stated that she and Asst. City Attorney Visick will double team the report. She then began the presentation of the staff report.

Asst. City Attorney Visick then added to the staff report.

City Clerk O'Connell completed the staff report.

Councilmember Nihart wanted to "boil it down" into something that makes sense. She concluded that they have two decisions, accept it at this meeting as is, i.e., approve the plan, or

put it on the ballot. She added that they weren't completely stupid and she thought they would go to the ballot as this was an involved piece of property. She asked, if they go to the ballot, how much of 30 days is left.

Asst. City Attorney Visick asked if she was talking about the preparation of the 9212 report.

Councilmember Nihart responded affirmatively.

Asst. City Attorney Visick stated that, as a practical matter, if the Council was not going to adopt it, they can put it on the ballot at this meeting and order that staff prepare an impact report or ask for a 9212 report and in a meeting within 30 days it will come back to them with a 9212 report and then put it on the ballot.

Councilmember Nihart asked if he was saying in 28 days.

Asst. City Attorney Visick stated that staff has 30 days to prepare it, which gives them 20-21 days to pull together a very complicated report.

Councilmember Nihart stated that was what she was trying to get at. She stated that the 9212 was ostensibly under those conditions to help Council decide whether they want to put it on the ballot or adopt it.

Asst. City Attorney Visick thought that was probably not an issue.

Councilmember Nihart thought probably not but she was guessing as she didn't know that. She was curious about the impact study. She asked if there was a way that it could be earlier for the public and as comprehensive following the same guidelines of the 9212.

Asst. City Attorney Visick stated that he would defer some of the questions to the Planning Director who has been part of the process, but he senses that, working within the 30 day window didn't allow staff to create a very informative public informational document that would give voters information about the effects of the measure. He added that it was a very tight timeframe.

City Manager Tinfow agreed with that. She stated that the portion of the report taking the most time was analyzing the fiscal impacts. Within a 30-day timeframe, they could get a simple analysis on estimated tax revenue and estimated cost to provide services. She stated that, in preparing for this item, staff anticipated that the Council and the public may want an analysis of market feasibility of what was being proposed, as well as effects on existing businesses in town. She stated that the market feasibility study was almost impossible to complete at that level of analysis in 30 days.

Councilmember Nihart asked if it could be done before the end of August. She stated that people want to digest things before they vote on them.

City Manager Tinfow stated that they have spoken to the consultants who would help them with this, and early September is tight, adding that they can promise to work as hard as they can and get it to them and the public as quickly as possible.

Councilmember Nihart stated that they did this before, and it was through the city attorney. She asked if the city attorney used a consultant in the past.

Asst. City Attorney Visick responded that he could not say for certain, but he has looked at the 9212 report and his impression was that it had a fair amount of time invested in it, and it was not prepared in house.

Councilmember Keener stated that his reading of 9212 doesn't indicate that the 9212 report was specifically for City Council. He thought it was for everybody. He asked if they could point out specific language that says it was aimed at City Council.

Asst. City Attorney Visick stated that he was not suggesting that it was only for the Council, but becomes a public document to which everyone has access. He stated that, if the Council investigated the impacts of this measure in the context of a 9212 report, it would allow them another 30 days to figure out whether or not to adopt it or put it on the ballot. He reiterated that the 9212 report was implicit in the way the statute was created and that it was designed to give the Council information when it was making that decision. He stated that it also becomes a public informational document. He added that there was probably only one result, that the Council was likely to put this on the ballot and, if so, the 9212 report didn't provide any information that was going to be useful in making their decision. Its real impact was providing the public with information when they go to vote in November, thus, there was no reason to force themselves to provide the report in 30 days. He stated that they can do it as an impact study and get a more robust document.

Councilmember Keener thought there may be reasons to get a 9212 report other than informing Council. He thought the list of items the report may discuss includes anything on the initiative.

Asst. City Attorney Visick agreed, adding that he wasn't suggesting that the 9212 was only for Council but was a resource for the public. He stated that there was no limit to the number of things that the impact study could study. He stated that the difference between the two approaches was that one has a time limitation and one does not.

Councilmember Keener thought there were a few other differences and they will get to them.

Councilmember Nihart understood that they could do the same report as they would do for a 9212 but in more depth if they gave them more time.

Asst. City Attorney Visick responded affirmatively.

Mayor Digre opened public comments.

Stan Zeavin, Pacifica, stated that he was reading remarks from Dinah Verby. She urged Council to direct staff and City Attorney to prepare an election report regarding the quarry ballot measure pursuant to election code section 9212. She stated that the report was imperative to inform the public about the true impacts of the quarry ballot initiative and clarify the many questions the confusing ballot language has generated. She stated that the 9212 was done for the last quarry initiative in 2006 and there was no reason to not do it for the current one. She disagreed with staff's recommendation that 9212 report was not warranted, stating that the recommendation was inappropriately based on staff's own interest rather than the interest of the public and electorate. She stated that the alternative impact report suggested by staff was inadequate as it will not be done in time for the printing of the primary ballot arguments due on August 19. She also took issue with the fact that only one draft resolution has been presented to the City Council for action at this meeting, the one preferred by staff, rather than the alternative favored by the public, which includes the 9212 election report. She stated that

Council was elected to represent the electorate, and asked that they do what the constituents were asking and disregard the staff recommendation and vote to have a 9212 report prepared. She also requested that the Council set a reasonable deadline for submission of questions by the public to be answered in the 9212 report and allow the public to submit the questions via email to the city. He strongly supported what Dinah Verby said, adding that he was asking one question. He stated that the ballot measure does not cap the gross square footage of the residential units but does allow up to four stories in height. He asked if the city could limit the total gross square footage of residential space if the developer proposes very large residential units, as the size of the bungalows above. He asked that, for any questions not asked, they have time to submit them.

Paul Heule, Pacifica, stated that he was the developer for the quarry team. He stated that he has an analogy to share. He stated that they all have red blood cells that are needed for their body to survive. He didn't believe anyone was made to just produce red blood cells. He then stated that his company needs to produce a profit, but he didn't think that was what his company stands for or the mission of his company. His mission was not to maximize the profit, and with this particular project, he took it on because he believed that they can really present a very nice option and restore a piece of coast that was torn up and beat up by prior owners. He hoped their team gets the opportunity to create and restore some of the wetlands that were there before and that the acreage restored to where the public has an opportunity to enjoy that. He hoped they would all keep in mind that there needs to be some development for them to do that. He thanked the city for the time and consideration, hoping that his company gets the opportunity to become a good corporate citizen through ownership of the quarry and properties they hope to construct.

Margaret Goodale, Pacifica, stated that she believes that Council supports an informed electorate and, if willing, they need information about the project to include on the ballot. She stated that the staff was very hard working and trustworthy and they can get the information and answer questions in time for the ballot arguments to be submitted so the public can vote from a position of clarity to know what they were voting on. They need to meet a deadline allowing the electorate to get the answers needed to vote smartly. She asked if the measure rezones the quarry to allow 206 residential units without prior environmental or planning review; does the measure approve a project plan or just the 206 residential units; could the 206 residential units be built without building the hotel and bungalows and commercial area; does the measure have any guarantees that the hotel and commercial development will be planned and implemented; does the measure have a traffic plan; in what ways will the measure amend the 1983 ordinance; will the measure eliminate the requirement for a public vote for future residential projects in the quarry as long as certain conditions are met. She stated that there are many more questions. She asked that they direct staff to have answers for them in time for those answers to be put on the ballot and arguments going out to all voters.

Brent Ritz, Pacifica, stated that he thought Council had bad decisions 1 or 2. He thought they have a couple of issues. He thought they were just changing zoning with a tentative tract map issues at some point and the EIR will be addressed then. He thought there will be a number of hurdles to be met before they get down the road and he sees the fears and apprehensions and ignorance in regard to the project and he would like to see some answers. He thought the first concern was traffic mitigation, then environmental impact. He was for the development, and asked if how it is handled and how it will look will be addressed now or later. He stated that the schools were impacted and he asked how that will get addressed, adding that he didn't have the slightest idea. He advocated that a positional rebase could put an impact report in for staff and

would be adequate. He thought these would be brought up before a final map or a wide report gets done. He thought this was just a zoning issue.

Celeste Langille, Pacifica, urged Council to direct staff and City Attorney to prepare the 9212 election code report. She thought it was about timing and informing the voters to have printed information in the primary ballot arguments with a due date of August 19. She felt it was crucial, and she acknowledged that it was a lot to ask for staff. She felt it was important and urged preparing a 9212 report. She stated that it offers the same information, delineated in the code that was mentioned in the impact report. She stated that it was an important parcel, and on reading the ballot initiative, it was rezoned for residential but this was an 8-page specific plan and it does tie the city down to the plan as proposed. She stated that the caps on commercial zoning were interesting to her with square footage cap but no cap in residential. She asked what that means to Pacifica, adding that we don't know. She felt it was crucial that the city owns the creek parcel and was not represented as part of this, but we have a say in what happens here as well as the creek and surrounding areas, and the trail that the public uses. She suggested that they set a reasonable deadline for submission of questions by the public.

Nancy Morrison, Pacifica, reiterated that a report that is delivered after August 19 deadline for the ballot proposals was useless and a waste of time and money. She felt that the public had a right to the information and needs to be presented in a timely fashion. She felt the proposed ballot language was confusing. She mentioned that, in 1983, the voters passed the measure to adopt that there would be the public's right to vote on residential in the quarry. Commercial was always an option, but this was not where the money was made. She stated that the ability to vote on residential was important to the voters, and this ballot language would not give the voters any idea that the actual issue regarding residential was whether 206 family units should be authorized. She stated that the proposed wording says it could include residential development and she thought that language should be clear but this was very hard to understand. She felt Council should not approve the ballot language as it doesn't make it clear that the measure they were voting on was approving as many as 206 residential units.

Peter Loeb, Pacifica, stated that, because the site plan map was part of the initiative and part of the measure, they will be voting on whether to amend the existing ordinance to include the site plan. He thought it was unusual. He stated that, if the measure passes, they will amend the existing ordinance and incorporate into that ordinance Exhibit A, the site plan and land use plan that was part of the initiative and would become part of the existing ordinance along with that site plan. He stated that the voters will be voting on the site plan, which he felt needs to be made clear prior to the deadline for ballot arguments and that was his concern. He reiterated that they will be writing a ballot argument with no authority to address any of these questions, and voting on a land use plan that has not undergone any environmental review, not through any city planning process, not approved by any agencies that must review it and without any public process. He felt this was an end run around CEQA, with no analysis of impacts on a major species habitat, no analysis of traffic impacts, feasibility of any of this, no analysis of the ridgetop 2,500 square foot bungalows or parking requirements or infrastructure needs. He stated that people will be voting on a site plan that has had no review. If they approve it, it was an end run around the entire process. He felt they need an in depth analysis of the legal consequences of passing this measure and answers to a lot of questions that have been raised. He stated that it was too big and important an issue to let slide without the city doing its due diligence to inform the voters, and they need it sooner rather than later.

Laurie Goldberg, Pacifica, stated that we live in Pacifica, not Michigan. She stated that what really bothers her was that someone on the open space committee said that the Council was

going to put this on the ballot the way it is. She hoped it was not true as she wants to have a public say. She mentioned attending a meeting at Nick's where the developer was supposed to be, but he wasn't. She stated that some guy who works for the developer told her that it was going to be 206 apartments. She stated that they need to know what was going on, such as the rezoning, whether houses or apartments and their size, traffic studies, parking allowances and where they will park. She stated that she was told that the setback was 300 feet and she asked why it was 100 feet now. She stated that the developer can change the parcels, sell parcels to other developers, etc. She stated that we need to know the truth, adding that she didn't like being lied to. She stated that they need a 9212 report because the developer compared his plan to Peebles, saying it was better. She stated that Pacificans don't want to be tricked or lied to and don't want people to prosper on us for their greed. She stated that she also heard that they need to build the residential first because they need the money to do the rest of the plans. She asked if they just do the residential and nothing else or get the residential and sell the property. She felt it was too serious for Pacifica to let it go as is.

Dan Stegink, Pacifica, stated that the most important thing about the 9212 was "clear eyed and impartial." He stated that they want the public to be clear eyed about what they are voting. He stated that he has read it many times and it wasn't clearly written with a clause that any conflicting documents, whether unconstitutional or invalid, were thrown out and everything else stands as is. He concluded that it would be inconvenient for the City Attorney to produce a 9212 within 30 days, but it would be less convenient for them to produce it the next Tuesday. He stated that, in 2006, the 9212 was produced seven days later. He thought the idea that 28 calendar days was an impossible task has been proven wrong. He stated that a market feasibility study was not a necessary part of the 9212. He stated that they were putting a surf shop next to a surf shop in Pedro Point, a national Chinese chain within 3/4 miles of two privately owned Chinese restaurants, a Mexican national restaurant chain within 300 yards of a privately owned Mexican restaurant. He stated that some questions to be asked was, what happens to the zoning if the developer goes bankrupt the day before this passes, the bank subdivides it, and the zoning stands as residential. They were here for the residential, adding that there was legal ambiguity in 5b of the ballot initiative to permit no more than 206 units of multifamily housing within that area. He stated that multifamily housing was a legally ambiguous term and he thought the City Attorney has to determine what that means, such as one apartment unit of family housing or one apartment building. He stated that there was no requirement that any apartment buildings are created, simply saying no more than 181 residential apartment units.

Eddie Hovermale, Pacifica, stated that she had some questions. If there was a 9212 done, what can the Council do. Does it go on the ballot as far as the measure to be voted on in November or do they have a chance to say they don't want this? She stated that, if they don't do the 9212, she guarantees that very few people will watch this. She agrees that, when she gets her ballot in the mail, she reads the synopsis. She stated that, if they don't do the 9212, people will not know what it was, and it was already very confusing. She stated that, if the plan was close to what it was now, it was a beautiful plan, but it was not clear. She encouraged them to do the 9212.

Karen Rosenstein, Pacifica, stated that she was present to ask Council to do either reports, although she prefers the 9212. She stated that the ballot measure as submitted is not easy to understand. She was also dismayed to read that the entire initiative will not be printed in the voters' information pamphlet. She knew some have access to the internet and can look everything up but not everyone does. She believes that all voters should have access to the information regarding the issues before them when voting, particularly on something as

important as this piece of property. She would like Council to amend that part of the staff report and have the entire initiative printed in the voter pamphlet. She also wondered since they require City Council candidates to help pay for the cost of printing the voter pamphlet why weren't they asking the developer who was submitting the initiative being asked to contribute to the cost of printing the voter pamphlet. She referred to the staff report, and saw release dates for that report, ranging from a vague early September, considering it was Labor Day weekend or as late as September 30. She stated that absentee ballots go out less than two weeks later, and she asked Council to set an actual date for the release of this report to help citizens to understand and have time to look over the information. She supports and hopes all the questions have been answered. She has more and would love to be able to submit them in email as she will walk out of this meeting and think of five more. She closed with a quote by Rachel Carson.

Mayor Digre closed public comments.

Councilmember Nihart concluded that the 9212 was not printed in the ballot statement.

Asst. City Attorney Visick responded affirmatively.

Councilmember Nihart thought the ballot arguments would be based on the 9212.

Asst. City Attorney Visick stated that they could be.

Councilmember Nihart thought that was something that no one took into account in this assessment. She rankles when they start off with accusing staff of things, stating that she didn't hear anyone think about the ballot arguments in the discussion about this and she didn't. She only looked up the deadlines. She felt it was clear they need information, and she was hoping for more information and a better report. She stated that she reread what was put together previously. She thought they could come up with some compromise dates. She asked if that made sense.

City Manager Tinfow agreed, and added that, if the Mayor was calling for a break, it gives them a chance to compare notes and be better able to respond.

Mayor Digre called a brief break and then resumed the meeting.

Councilmember Keener referred to the resolution to put the initiative on the ballot, and read that it said that "the full measure would not be printed in the voter information pamphlet." He was dumbfounded and asked if it was legal.

Asst. City Attorney Visick stated that it was legal and was also fairly normal procedure. He stated that it was driven by cost as it was expensive to print the words in a size most people cannot read. It was often done because the presumption was that people are not reading the language at the time when they were voting in the booth and were more likely to read things along the lines of ballot arguments or the City Attorney's impartial analysis of it. He stated that it can be inserted but it has a substantial cost. He stated that the ballot language was not particularly clear in this case and it was worth taking that into account.

Councilmember Keener stated that he has seen state ballot initiatives in their entirety in the voter information pamphlet that were much longer than this. He thought it was unconscionable

that it would not be printed. He asked how much it would cost to print it in the voter information pamphlet. He stated that then Pacificans were dependent on getting it from the City's website.

City Manager Tinfow stated that the Cit Clerk checked on that and it would add 20% to the cost, and staff report stated that the amount would be \$7,000 and an additional 20% of that \$7,000 or \$1,400 as an estimate.

Councilmember Keener didn't think it was a lot of money.

Asst. City Attorney Visick stated that it was allowable to print it in the ballot pamphlet.

Councilmember Nihart stated that the actual ballot statement, the vote, was what was in there, and not the whole resolution. She stated that it was the same on the voting form.

Asst. City Attorney Visick stated that the language in Section 1 of the resolution is the yes or no boxes and that language would be on the ballot as would the ballot arguments be included in the pamphlet. As the resolution is currently worded, the ballot pamphlet would not include the full language of the proposed initiative but it could be included.

Councilmember Keener asked if he meant the voter information pamphlet, not the ballot pamphlet.

Councilmember Nihart stated that she was clarifying that.

Asst. City Attorney Visick agreed that the ballot would only include the information in the box under section 1.

Councilmember Keener thought a 9212 report was a very good idea and probably the main reason was that it has a date certain when it has to be done, which was 30 days from now. He stated that will be done before they put it on the ballot and it will be done before the for and against sides have to submit their ballot arguments due on August 19. He realized that staff was stretched, adding that they were stretched before this came up and they will just have to deal with it if this 9212 report passes. He added that another issue with it was that he would personally like to see questions from Council and the public accepted for this 9212 report like the report generated in 2006. He thought a limit on how long they would be accepted, he was thinking through next Wednesday.

Councilmember Nihart stated that she wrote down the 6th and 14 days later is the 20th, and it gives them time to publish it before the 25th.

Councilmember Keener stated that 30 days will be the 27th.

Councilmember Nihart asked if they were having another Council meeting.

Councilmember Keener stated that they had a Council meeting in early August.. He read from the 9212 that the report shall be presented to the legislative body within 30 days after election official certifies the legislative body. He stated it just has to be presented to Council by the 27th and they can put it on the ballot on August 8.

Asst. City Attorney Visick stated that, in order for it to be presented to them in 30 days, they would have to be available for it to be presented to them and they would have to have a meeting.

Councilmember Nihart stated that they would have to have it on the 25th or 27th.

City Manager Tinfow stated that they will be required to take action that night.

Councilmember Keener stated that, at that time, they will put it on the ballot, with language that the complete initiative will be printed in the voter information pamphlet.

City Manager Tinfow stated that before the Council takes further action on that, she would like to make a couple of comments. She highlighted that the August 19 date was not on their radar screen. They were trying to err on the side of getting the community as much information as possible. She understood that it was important to the community. She stated that, if Council wants to give them that direction, they will do their very best to bring back the best report they can in that short amount of time. Regarding the questions from the public, they would like to set up an email address that they all go to one place so they don't get lost, and take a step of responding to them as in an FAQ and cluster them together. She stated that, if they try to respond to every question, that would be a gargantuan task. She asked for the flexibility to manage it that way. She thought the following Wednesday was fine and they will get started on the report as soon as possible with the highest priority. If they all have equal authority, they can tell them that also.

Mayor Digre stated that her point about the parallel was that she thought this should be on the top 2. She stated that this was directed by the initiative language.

Asst. City Attorney Visick appreciated what was said about the unexpected wrinkle about the ballot arguments and he didn't think it was on anyone's radar when they came to the meeting. He stated that their intent was to create a robust information document. He stated that, to that end, there will be some part of the report driven by questions from the Council and the public and will be staff's best attempts to address more typical issues having to do with an initiative. He gave one example from page 2 of staff report. He stated that this will be a bit of a sprint, especially for the questions from Council and the public in practical terms. They were talking about two weeks to address all that and fitting in as many analyses about the issues as possible within the week prior to the questions coming in. As it was going to be a best effort, he referred to the City Manager's questions and asked which issues on the bulleted list that they care most about. He stated that all they will have when they leave the meeting is the direction from Council about their priorities.

Councilmember Nihart stated that, because it came up, and they haven't said it from the dais, the ballot itself is what people gathered signatures on and they don't get to change that.

Asst. City Attorney Visick responded that she was correct.

Councilmember Nihart stated that what it means in very plain language was her priority as she didn't know what the ballot argument means. She stated that it has these nuances that are written in legalese instead of for the public to understand. She stated her number 1 was what it does and doesn't do, very clearly spelled out.

Councilmember Keener agreed with that. He stated that his questions are mainly with respect to the legalese and legal arguments underneath them. He thought the effects on general and specific plans are also of importance. He stated that the impacts on infrastructure, such as transportation, schools, etc., and they know there is going to be impacts but he thought the answers to questions about that will be speculative, just opinions, because we don't have any studies yet. He stated that the legal questions relate to how the initiative is worded. They were counting on the Asst. City Attorney to sort through all this and give them some simplified version of it. He also thought of the effects on the General Plan, but also the effects of the General Plan and zoning regulations on the development. He stated those regulations were also fixed and they should be able to furnish some answers on those matters.

Asst. City Attorney Visick stated that they will do their best to answer all the questions about what the legal effect is. He stated that it will be an easier environment in which to unpack the initiative than the 500 words they were allowed under the election code to do the ballot summary and title, which was a very truncated discussion.

Councilmember Keener thought the ballot summary was fair and even handed, but it does not communicate as well as you might if you had more space.

Mayor Digre thought too much jargon was confusing and she would like to get to the meat of the matter, as what a yes means or what it could also mean if that was pertinent or what could it not mean. She stated that the box with yes or no was to authorize a future rezone which could include residential development and they already have ambiguities.

Councilmember Keener referred to the special email address, and he asked if they could establish that now, such as quarryquestions@pacifica.org or whatever it was.

City Manager Tinfow stated that she would check with her IT staff and see if she can get an answer.

Mayor Digre also had a question that she already asked but she wants to make sure it is clear. She asked if the HPD overlay that was in 1983 was not tampered with at all.

Asst. City Attorney Visick stated that she was correct, adding that he can find a page number to point her to after a moment. He stated it was in the packet on page 137, the last sentence of A.

City Manager Tinfow stated that staff said they can take Councilmember Keener's suggestion, quarryquestions@ci.pacifica.ca.us. [<mailto:quarryquestions@ci.pacifica.ca.us.>](mailto:quarryquestions@ci.pacifica.ca.us)

Mayor Digre confirmed that questions was with an s.

City Manager Tinfow confirmed that it was plural. They will take the questions as suggested by July 6 if that was the Council's ultimate decision.

Mayor Digre thought they had agreed to the ultimate decision. She asked if they needed a vote or motion.

Asst. City Attorney Visick stated that they do and he would do his best to articulate that motion as he understands it. The Council is approving by a motion tonight to be entered in the minutes. There will not be a resolution the following that staff shall prepare an elections code section

9212 report that addresses the issues that are identified in the staff report for a Section 9212 report and, in addition, addresses questions that staff received from the Council and the public by July 6, at the email address the City Manager just identified and brings that back by the July 25 Council meeting at which the Council will consider again whether or not to adopt or place this measure on the ballot.

Mayor Digre asked if she needs to beg that they keep it clear.

Asst. City Attorney Visick stated that she does not.

Councilmember Nihart stated that was exactly the motion she was going to make except she was going to make it a little clearer.

Councilmember Keener stated that he would like to have that refer not to the staff report so much as to the 9212 language itself because that was all inclusive. He stated that they have indicated what they think are the main points that they see, but there will be questions submitted by the public that have a far different focus and interest than what they have. He thought that saying they will focus on the issues raised in the 9212 statute itself was better than saying he will focus on the issues raised in the staff report.

Councilmember Nihart stated that was going to be her clarification, that it just say the requirements of the 9212 plus the addition of the questions that the public and Council submit, which would be simpler and more straightforward for the report part.

Asst. City Attorney Visick stated that it was all right and he stated he will take one more shot at it to be clear in the minutes. Council is adopting, by minute order, a motion to direct staff to prepare a 9212 report that will address all the issues discussed in Section 9212 of the elections code and in addition, address the questions that are raised by Council and member of the public by July 6 at the email address pointed out by the City Manager and bring that back at the July 25 meeting.

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	John Keener, Councilmember
SECONDER:	Mary Ann Nihart, Councilmember
AYES:	Digre, Nihart, Keener
EXCUSED:	O'Neill, Ervin

ADJOURN

Mayor Digre adjourned the meeting at 9:40 p.m.

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell,
City Clerk

APPROVED: 3-0; Abstained O'Neill and Ervin

Sue Digre, Mayor