



**CITY OF PACIFICA
CITY COUNCIL MINUTES**

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

Mayor Mike O'Neill
Mayor Pro Tem John Keener
Councilmember Sue Digre
Councilmember Sue Vaterlaus
Councilmember Deirdre Martin

**June 26, 2017 (MONDAY)
www.cityofpacifica.org**

Mayor Mike O'Neill called the meeting to order on June 26, 2017 at 7:05 PM

6:00 PM - CLOSED SESSION.

Mayor O'Neill called the meeting to order at 6:00 p.m., stating that all councilmembers were present and announced that the Council would meet in Closed Session. City Attorney Kenyon announced the business to be discussed.

PURSUANT TO GOVERNMENT CODE SECTION 54956.8 Conference with Real Property Negotiators. Property: 2212 Beach Blvd., Pacifica, CA Agency Negotiator: Keith Breskin, Interim City Manager; Michelle Kenyon, City Attorney; Tina Wehrmeister, Planning Director. Negotiating Parties: City of Pacifica and Friend Development Group LLC, a Delaware Limited Liability Company. Under Negotiation: Instruction to Negotiators Regarding Price and Terms of Payment.

7:00 PM OPEN SESSION

Call to Order

Mayor O'Neill reconvened the meeting at 7:05 p.m.

Attendee Name	Title	Status	Arrived
Mike O'Neill	Mayor	Present	
John Keener	Mayor Pro Tem	Present	
Sue Digre	Councilmember	Present	
Sue Vaterlaus	Councilmember	Present	
Deirdre Martin	Councilmember	Present	

Staff Present: Keith Breskin, Interim City Manager; Michelle Kenyon, City Attorney; Lorenzo Hines, Asst. City Manager; Van Ocampo, Public Works Director; Tina Wehrmeister, Planning Director; Christian Murdock, Assoc. Planner; Dan Steidle, Police Chief; Mike Perez, PB&R Director; Vivian Perenodono, Financial Svcs. Mgr; Ray Donguines, Asst. Civil Engr.; Ryan Marquez, Assoc. Engr.; Luis Sun, Deputy Dir. Of WWTP; Ed Vandehey, MIS Mgr.; Kathy O'Connell, City Clerk.

Salute to the Flag led by Mayor Pro Tem Keener

Closed Session Report

City Attorney Kenyon stated there was no reportable action.

SPECIAL PRESENTATIONS

Proclamation - Parks, Beaches & Recreation Month

Mayor O'Neill read a proclamation for Parks, Beaches & Recreation Month.

PB&R Dir. Perez invited the community to join them in July and the entire summer for many recreational opportunities. He referred specifically to the 4th of July 5-mile rocket run and the Frontierland Park celebration, several rummage sales, etc. He encouraged participation in as many activities as possible, stating that they felt it made life better for the community.

Councilmember Martin congratulated them. She also felt parks made life better and she thanked him for the 4th of July event invitation. She stated that it was her favorite event and she was going to miss it for the first time, but encouraged everyone to go and enjoy it.

Councilmember Vaterlaus stated that her kids did a lot of the activities and classes and worked for PB&R. She thanked them for all they do, adding that she will also be gone on the 4th.

Councilmember Digre thanked PB&R for all the things they do. She also felt the 4th of July events were fun. She thanked staff who ran the booths and activities. She pointed out that they had free fishing on the pier because it was a state pier.

Mayor O'Neill agreed, stating that his degree in college was recreation and he worked with the handicapped for ten years. He stated that he will be at Frontierland Park and probably work in a fireworks booth for his son's boy scout troop.

PB&R Dir. Perez mentioned that Public Works Department was in charge of upkeep of all the parks, beaches and trails and did a great job. He stated that the PB&R staff depend on them.

CONSENT CALENDAR

Councilmember Martin referred to Item #3, and explained for the benefit of the community that, in order to apply for county projects under the Bicycle and Pedestrian Advisory Committee, the city needs to have a committee and this seemed to be the logical choice and she supported that.

Mayor pro Tem Keener stated that he had a couple of questions for Item #5. He asked if the amount authorized for the Crespi Sanitary Sewer Main Repair Project will come from their recent bond offering.

PW Dir. Ocampo stated that it was not as the bond was for the EQ basin and this was a separate ongoing capital project.

Mayor pro Tem Keener asked where the pipe went from and to.

PW Dir. Ocampo explained that it was coming from the south side of the property line where Taco Bell was and goes to the northern most bathroom inside the Pacifica State Beach lot.

Mayor pro Tem Keener concluded it was a little pipe.

PW Dir. Ocampo stated that it was a 12-inch pipe and was a gravity line, but it was a main.

Mayor pro Tem Keener asked what it feeds back to.

PW Dir. Ocampo stated that it feeds back to the pump station and they can pump it.

Mayor pro Tem Keener commented on the cost of over \$1 million to install the pipe to the bathroom, asking why.

PW Dir. Ocampo explained that it was the complexity of the depth and the fact that they were boring and it reduces the amount of inconvenience and disturbance to those using the state beach. He stated it was also a safety issue because the less trenching you do, the less risk there is for a popular place.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Deirdre Martin, Councilmember
SECONDER:	Sue Vaterlaus, Councilmember
AYES:	Keener, Digre, Vaterlaus, Martin
RECUSED:	O'Neill

1. Approval of Disbursements for 05/16/17 through 05/31/17.
PROPOSED ACTION: Move to approve attached list of disbursements for 05/16/17 through 05/31/17.
2. Approval of Minutes
PROPOSED ACTION: Move to approve the minutes of the regular meeting held on June 12, 2017
3. Resolution of the City Council of the City of Pacifica Designating the Parks, Beaches, & Recreation Commission as the Local Bicycle and Pedestrian Advisory Committee
PROPOSED ACTION: Move to adopt the resolution next in order, A Resolution of the City Council of the City of Pacifica Designating the Parks, Beaches, & Recreation Commission as the City Bicycle and Pedestrian Committee
4. Resolution to Accept a Grant from the California Department of Alcoholic Beverage Control
PROPOSED ACTION: Move to Adopt a Resolution Accepting a Grant from the California Department of Alcoholic Beverage Control
5. Award of Construction Contract to JDB & Sons Constructions, Inc., Approval of the Temporary Construction Easement Agreement and Permanent Utility Easement Agreement with Michael Joseph Wiechers Property Owner of 5200 Coast Highway, and Approval of First Amendment to the Consultant Service Agreement with Freyer & Laureta, Inc. for the Crespi Sanitary Sewer Main Repair Project
PROPOSED ACTION: Move to authorize: 1) award of Construction Contract to JDB & Sons Construction, Inc. (Attachment 1) for the Crespi Sanitary Sewer Main Repair Project; 2) approve the Temporary Construction Easement Agreement and Permanent Utility Easement Agreement with Michael Joseph Wiechers, property owner of 5200

Coast Highway (Attachment 2 & 3); 3) approve the First Amendment to the Consultant Services Agreement between the City of Pacifica and Freyer & Laureta, Inc. in the amount of \$23,700 to provide engineering services during the construction phase of the Crespi Sanitary Sewer Main Repair Project (Attachment 4); 4) authorize the City Manager to execute all documents associated with the project; and 5) approve budget authority in the amount of \$1,160,000 from Fund 34.

6. Adoption of an Ordinance Amending Title 9, Chapter 5 – Growth Management Ordinance of the Pacifica Municipal Code (TA-107-17) to Extend it for Five Years - Second Reading
PROPOSED ACTION: Move to adopt the ordinance entitled “An Ordinance of the City Council of the City of Pacifica Amending Chapter 5 of Title 9 of the Pacifica Municipal Code to Extend the Growth Management Ordinance (TA-107-17).”
7. Proposed Resolution Establishing the Appropriation Limit for Fiscal Year 2017-2018 Pursuant to Article XIII B of the California State Constitution and Accept Independent Accountant's Report on 2016-2017 Appropriations Limit and Memorandum on Internal Control and Required Communications Letter
PROPOSED ACTION: (1) Move to approve the use of percentage change in California Per Capita Personal Income Growth (3.69%) and the County of San Mateo Population Growth (0.56%) (2) Adopt the Resolution for the Appropriations Limit for Fiscal Year 2017-2018 and (3) Accept the Independent Accountant's Report on 2016-2017 Appropriations Limit Increment and the Memorandum on Internal Control and Required Communications Letter

ORAL COMMUNICATIONS

Tygarjas Bigstyck, Pacifica, stated that it was an honor to attend the groundbreaking streetscape project on Saturday and see so many state representatives, including Jackie Speier. He then referred to dignitaries pointing out the importance of contacting Midpen Housing about affordable housing projects for Pacifica, and he mentioned it now because that was also important to many in Pacifica besides him.

Monica Olsen, Pacifica, stated that, as a longtime homeowner and member of Fair Rents for Pacifica, she was speaking on the proposed ordinance to stabilize rents. She stated that her group worked on formulating the ordinance after meeting with people in danger of being evicted. She felt it was heartbreaking to see the children listening as their parents told them about their pending eviction.

Mayor O'Neill questioned whether she was speaking on Item #11, and asked the City Attorney for her opinion.

City Attorney Kenyon asked if she was speaking in relationship to Item #11.

Ms. Olsen said she was not.

Mayor O'Neill stated that she was speaking on support of a rent control ordinance, not specifically that discussion.

City Attorney Kenyon didn't think it was directly related to Item #11, but if it were addressing Item #11 and if she could not wait until Item #11 was heard, she could speak now on Item #11.

Mayor O'Neill understood the clarification and asked the City Clerk to restore her time.

Ms. Olsen clarified that the ordinance does not cover individual homes or duplexes but only apartments built before 1995. She stated that she feels heartbroken when she hears about rentals. She stated that it was meant to help a small group who are renting and was so necessary because they were the working people in our town and the children were impacted. She stated that it would not cost the city anything and she wished they could convince people of that fact. She stated that people need to be informed about how modest the proposal was for rent stabilization.

Delia McGrath, Pacifica, stated that she was wearing the T-shirt for Fair Rents for Pacifica. She stated that she has been a member of this group for several years. They were beginning a grassroots effort to convince Pacificans to vote yes on the measure on the ballot on November 7. She thanked the City Attorney for doing a great job in writing the ordinance, then read it. She hoped voters reflect on the question as volunteers go out into the community to explain this. She felt, if they understand it, they will definitely vote yes on it.

Therese Dyer, Pacifica, stated she was addressing the lack of transparency which she felt gets worse every time she requests things from public records. She stated that one councilmember specifically said the people of Pacifica were owed explanations and he will hold public forums on the city's budget so we all know where the money is going, but she stated that she was still waiting for the public forums. She stated that, under the certificates of participation, the Board of Directors were the councilmembers and they met in conjunction with the City Council meetings and were not separate. She stated that the public has no oversight on what they are doing and she felt a lot of them didn't know what they were doing. She stated that, while she didn't know who does the firing, a couple of people need to be fired. She stated that she went to city hall and requested city codes. She stated that you cannot run a city without those codes, but she was told they didn't have the staff time. She asserted that she was paying for their employment and, if Council doesn't take action, someone needs to. She hasn't received them yet, but she stated that she will. She also requested the agendas for their combination meetings regarding the certificates of participation, which were six, but she got resolutions instead and had to resubmit the requests, mentioning the specific dates. She added that they couldn't find the agendas for one meeting, December 9, 2002, and she felt that was of concern. She stated that the City Attorney should be fired for not fully investigating Councilmember Digre because the City Attorney sent it to the district attorney which she felt was wrong. She stated that she has additional information which she can't reveal, but if the City Attorney cannot do her job, she felt she needs to go.

COUNCIL COMMUNICATIONS

Councilmember Martin stated that the Bicycle and Pedestrian Advisory Committee had a presentation from SM County Safe Routes to School program which she thought was interesting. She stated that there will be a draft call coming up for safe routes to school in conjunction with Green Streets Infrastructure pilot program, an effort for safe route to school but save the flow of water into the ocean and bay. She stated that there will be more to come. She then mentioned that the Emergency Preparedness and Safety Commission certification class was full for August, and encouraged those who signed up to come otherwise they are depriving others on the waiting list. She stated that one member worked on the Fireworks Task Force

and was promoting fireworks safety. She stated that the “nail them” app was to report illegal fireworks from your phone. She stated that the Library Advisory Committee met and was working for ways to narrow down all the options. She asked that the public take the survey which is on the city’s website. She stated that the meetings were open to the public and they welcomed feedback. She referred to the September 16 Beach Coalition Coastal Cleanup Day, and they were also working on selecting the Earth Day for 2018, with a meeting scheduled for July 11. She stated that there was a well attended sea level rise forum with a lot of myths dispelled. She added that it was great to see and hear city representation. She mentioned that San Mateo County was working to set up a shrinking shoreline presentation.

Councilmember Vaterlaus thought the best event she attended was the groundbreaking of Palmetto Avenue, well attended by the public and four councilmembers, adding that after 18 years they were finally moving forward to get this project off the ground. She felt it will revitalize Palmetto into a well-awaited vibrant downtown. She thanked Congresswoman Jackie Speier, Supervisor Don Horsley and Assemblyman Jerry Hill for attending. She also thanked Samantha Houser and the Economics Development Committee for sponsoring and organizing the event. She sent an email to Bijan, the head of Caltrans, regarding the Highway 1 issue and the slide. She stated that, while Caltrans did a temporary fix, she looked at the hill that may slide again, asked when permanent repairs will be done because of the danger of another slide on the highway. She also mentioned that those to the south have only one way in and out and when it happened, people needed to travel over two hours to get out of town. She felt it was important to send him something as she looks at it many times a day and worries that it could happen again. She also mentioned the high weeds on the highway and concern about fire danger. She stated that they have addressed that and are cutting the weeds, but she didn’t get a response on the slide issue. She attended the sea level rise meeting, and she thought the best thing she heard was a quote from Gary Griggs at UC Santa Cruz, an expert on sea level rise, who says Pacifica does not have a sea level rise problem, but a coastal erosion problem. He stated that, at a maximum, the sea level rise was 3 mm a year, which equates to about 1/8 inch. He was saying that, at the maximum, it could be 13 inches in 100 years. She also went to Kevin Mullins’ birthday. The water committee had a presentation on sea level rise around the bay and the flooding of creeks and flood insurance and that was quite interesting, adding that Pacifica also has flood insurance issues. She attended the Library Committee meeting and they discussed the previously held open houses. The cops and kids event was well attended with lots of displays. She stated that she ate tons at the Chamber’s Taste of Pacifica event which had 23 local restaurants participating. She mentioned that she put a letter in each councilmember’s chair from Chuck Gust regarding the problems with trash and parking in Rockaway. She also heard many complain about the trash on Roberts Road, adding that she didn’t know how to stress to the public that they need to pick up their own trash as someone cannot be behind them every minute picking up trash.

Councilmember Digre attended the Colma Creek quarterly meeting, with a lot of statistics. She stated that it was good to attend as we have creeks and we can learn how erosion happens on the banks and how to fix them. She also attended the Economic Development Committee which covered just about everything, and they did a great job of setting up the ribbon cutting on Palmetto. She stated that there will be a more in depth ribbon cutting in November. She attended Taste of Pacifica and thought it was a good way to learn all the “eateries” which gave you a chance to try things you wouldn’t necessarily pay money for. She stated that their first City Manager, Carl Baldwin, and his wife will be moving and she thought there was a proclamation for that. He was honored the previous Sunday. The OSPAC meeting was moving along with trails. She stated we always wanted to know how our environmental assets could be economic issues and that was moving forward, and it ties in with the San Mateo

County/Pacifica/Half Moon Bay unincorporated area, because of the future commemoration of the Ohlone and Portola event in 2019, adding that they will be working on that. She attended the sea level rise and she agreed erosion was a big thing which we have to face. She attended the meeting in San Mateo County regarding senior and disabled transportation, adding that you can make comments on their website. She attended the 100th anniversary of Mary Harris, a longtime Pacifica School District kindergarten teacher, as well as an artist. She was speaking on her art which was on display at Sanchez. She commented that she was a tough lady and they had a great time, adding that the city gave a proclamation. She stated that the SFO Roundtable has established the legislative subcommittee and she was working on that with plans for the subcommittee and July agenda, mentioning the need for input for their endeavors across the United States with input needed from residents from all the cities.

Mayor pro Tem Keener attended the CCAG congestion management and environmental quality committee meeting, chaired by Mayor O'Neill. He referred to the ride share apps. He stated that CCAG is going to provide \$2 off on trips on some ride share apps initiating or ending in San Mateo County, commenting on how to get information.

Mayor O'Neill stated that there were two apps, one used for traffic congestion and the other for a carpool app, and they need to be sure they use the correct one. He stated that Councilmember Digre was on the board of commute.org and he asked if there was contact information as they will be handling rebates for San Mateo County residents.

Councilmember Digre stated that CEO John Ford would.

Mayor O'Neill asked if she has any contact information.

Councilmember Digre stated that it was easy to get in touch.

Mayor O'Neill asked if she had a phone number.

Councilmember Digre stated that she could only give him commute.org and John Ford's name.

Mayor O'Neill stated that they were also coming out with grants for storm water management and safe route to schools. He stated that they made recommendations on that committee to go to the full CCAG board. He attended the North County Fire District board meeting. He also attended the Economic Development Committee meeting and he thanked them for putting together the Palmetto groundbreaking ceremony on Saturday which went very well. He was lucky to attend and be MC for a couple of Eagle Scout ceremonies where several individuals became Eagle Scouts. He stated that the Beautification Committee was going to use one of their projects, a greenhouse behind the Linda Mar Fire Station.

STAFF COMMUNICATIONS

Interim City Manager Breskin stated that the Library Advisory Committee was encouraging input on Pacifica library opportunities, in person at the library booth at the 4th of July celebration at Frontierland Park and an online survey. He stated that they can click on to the Pacifica website, cityofpacific.org, City Hall Listens button.

Mayor O'Neill referred to a brief discussion they had about the Pacifica agenda, asking that they put the page number where each item starts.

Interim City Manager Breskin stated that they will do that.

CONSIDERATION

8. Adoption of the Fiscal Year 2017-2018 Annual Operating and Capital Budget
PROPOSED ACTION: Move to adopt a resolution adopting the 2017-2018 Annual Operating and Capital Budget presented to Council with a General Fund appropriation of \$31,129,000 and an All Funds appropriation of \$83,580,000.

Asst. City Mgr. Hines stated that he was with Financial Services Mgr. Vivian Perenodono, and they worked together to pull the budget together, and he then presented the staff report.

Mayor O'Neill asked clarification on what was the adopted budget, amended budget and proposed budget.

Asst. City Mgr. Hines stated that the adopted budget was what they adopted in June 2016 effective July 1, 2016. When they returned to Council in February with the mid-year adjustment, they made tweaks and changes to revenues and expenses and that was the amended budget. He stated that they will see a similar pattern when they bring it back in February.

Mayor O'Neill commended city staff on the fact that they had a surplus of \$418,000 in the budget.

Asst. City Mgr. Hines stated that was the projected surplus. He stated that, when the year is over and he and Fin. Svs. Mgr. Perenodono are able to close everything down, and they hear a large scream from City Hall, they know they achieved that surplus.

Mayor O'Neill asked if it will be a high scream because its good or low scream.

Asst. City Mgr. Hines stated they were optimistic and it will be a high scream.

Mayor O'Neill concluded that there was a projected budget surplus of \$400,000.

Asst. City Mgr. Hines responded affirmatively, then continued with the staff report.

Mayor O'Neill referred to Council adopting a reserve policy of 10% of the city budget, and he asked how that was standing now.

Asst. City Mgr. Hines stated that they have a number of reserves, and the reserve policy is in play but they have not enacted it yet, waiting for the General Fund balance to get to a certain point. He thought it was at that point, but they haven't had a chance to enact it yet. He stated that, on packet page 177, under the General Fund, there was a line that says reserved General Fund, a new policy for 2013-14, clarifying that they haven't moved any funds into that reserve yet. He stated that they will probable come back to them later this year to do that. He then continued with the staff report.

Mayor O'Neill referred to paying back the money into the Enterprise Fund, over the next three years to make it whole with interest and asked if that was perfectly legal.

Asst. City Mgr. Hines responded affirmatively.

Mayor O'Neill also clarified that it was done because the previous Councils issued a pension obligation bond and front loaded it, and the principal payments were big in the beginning and then they went smaller. Rather than cut services such as police, fire, etc., they borrowed from the Enterprise Fund to even out the cash flow and they were now making the repayment period that the previous Council promised the people for the Enterprise Fund. He reiterated that it was done for a specific purpose, they reached that purpose and now they were on the other side of the hill. He asked confirmation.

Asst. City Mgr. Hines responded affirmatively, then concluded the staff report, adding that he was ready for any questions as well as Public Works staff who were present to answer any questions about the capital budget.

Mayor O'Neill referred to a speaker stating that there were no public hearings for the budget, but he thought he attended four or five public meetings.

Interim City Manager Breskin thought there were four study sessions in April and May that were publicly noticed.

Mayor O'Neill stated that Council has looked at the numbers in the previous four publicly noticed meetings and sessions, contrary to what was said at the podium, and they did have transparency on the budget.

Interim City Manager Breskin agreed with that 100%.

Mayor O'Neill asked the City Attorney if they met all the legal requirements needed.

City Attorney Kenyon responded affirmatively.

Asst. City Mgr. Hines added that these documents were also posted online at the city's website.

Mayor O'Neill commented that anyone who wanted to see them could see them 24/7 on the city's website.

Asst. City Mgr. Hines responded affirmatively.

Mayor O'Neill concluded that they had four public hearings, this public hearing, in addition to being published on the web, and they met all the legal requirements.

City Attorney Kenyon agreed, adding that, for the record, they have some fiscal declarations in the resolutions so they are asking for a unanimous vote of the council on the resolution.

There were no public comments.

Mayor pro Tem Keener stated that it relates to the resolution they are being asked to pass unanimously. He stated that the reason they have to pass it unanimously was because it includes a statement of fiscal emergency. He concluded that they have that statement because it was related to the excise tax on marijuana which must go to the ballot for approval this fall. He stated that normally, it would be a simple majority, 50% plus 1, to pass the excise tax, but since this fall is not a regular election, a 2/3 majority is required. He stated that, if they declare a fiscal emergency, the 2/3 requirement is waived and back to a simple majority to pass the

excise tax on the marijuana. He reiterated that to declare a fiscal emergency requires a unanimous vote from the Council, as mentioned by the City Attorney. He stated that he would quote Councilmember Digre who has been on the Council for more than 14 years and she says they have always had a fiscal emergency. He agreed. He stated that, on packet page 154, there were a bunch of whereases that go into great detail about the fiscal emergency. He gave the example of the frequency and amount of emergency repairs to infrastructure has been increasing throughout the community, the emergency repair to the sea wall, delayed maintenance and investment in important infrastructure over the past years has resulted in costly, unplanned fixes. He stated that was the reason for the declaration of fiscal emergency and it was up to the Council to pass or not pass it.

Councilmember Digre stated that she had asked questions about the estimated revenue and the Asst. City Manager reminded her that he was very conservative so hopefully things will be even better. She commented that the whole world went into an economic downturn and even though past Councils had voted in several developments, none of them happened. They were approved, but the money ran out. She stated that Pacifica needs revenue and we constantly have an economic issue.

Councilmember Martin stated that, initially, she was concerned that this was being sprung on her as a member of the community and she thought the community would feel that way as well. She had questions and hoped she could elaborate on some of them. She mentioned that, in people's homes, when encountering budgetary constraints, they do things like pack a lunch. She felt Pacifica has been "packing our lunch" for a number of years, such as Roberts Road where a citizen organized her own cleanup and the Beach Coalition does it. She complimented the police for patrolling the area more, but she felt it was up to the citizens to do those things to cut costs without having extra staff in Public Works. She felt that some pressures we face on a yearly basis, such as the bargaining units, was very costly and it starts again in January. She mentioned socializing the issues in Pacifica, such as the PERS retirement costs that will increase, flat growth expected so very little tax revenues. She stated that it was alarming and we have to continue "packing our lunch" for the foreseeable future. She stated that they are asking employees to share in the increased cost of retirement. She mentioned that the city investigates options to decrease energy expenses, such as the climate action plan. She thanked the finance team who were always seeking lower interest rates on our debt and making economic development a priority for the city, referring to the groundbreaking on Palmetto. She referred to mention of the city not having a reserve, and those are things that needed to be explained better, and she thought it was necessary to say these things out loud to the public. She stated that they did have four detailed study sessions, although there was only one she could attend. She encouraged the public to come next year if they felt left out. She felt we were in a state of emergency and she appreciates the thoughtfulness behind this.

Mayor O'Neill agreed that they were in a crisis. He stated that the revenue per resident was down. He stated that, at one point, the payroll account had \$240,000 and the payroll was \$440,000. He felt they were very close to the vest and staff has done a great job in getting them to where they were today and might have a reserve.

Mayor pro Tem Keener moved to adopt a resolution adopting the 2017-2018 Annual Operating and Capital Budget presented to Council with a General Fund appropriation of \$31,129,000 and an All Funds appropriation of \$83,580,000; seconded by Councilmember Martin.

Asst. City Mgr. Hines stated that he would like to thank a few people. He stated that it was a hard budget and tested a lot of bonds, but they got through it. He thanked Police Chief Dan Steidle, Planning Director Tina Wehrmeister, Public Works Director Van Ocampo, Public Works Deputy Director Wastewater Treatment Plant Luis Sun, Public Works Deputy Director Field Services and Engineering Evan Albert, City Clerk Kathy O'Connell, Parks, Beaches and Recreation Director Michael Perez, City Attorney Michelle Kenyon, Deputy Fire Chief Shane Lauderdale, Financial Services Manager Vivian Perenodono, and the rest of the finance staff. He thanked Interim City Manager Keith Breskin for his continued support.

Mayor O'Neill called a five-minute break then resumed the meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Keener, Mayor Pro Tem
SECONDER:	Deirdre Martin, Councilmember
AYES:	O'Neill, Keener, Digre, Vaterlaus, Martin

PUBLIC HEARINGS

9. Introduction of an Ordinance Amending Title 4 of the Pacifica Municipal Code Establishing Regulations Related to Marijuana Public Safety Licenses; Introduction of an Ordinance Amending Title 9 of the Pacifica Municipal Code Establishing Regulations Related to Marijuana Operations and Related Activities and Amending the Zoning Maps by Establishing Marijuana Overlay Districts; and Consideration of a Resolution of the City Council of the City of Pacifica Ordering the Submission of a Marijuana Tax Measure to the Voters at the Election to be Held on November 7, 2017. The Planning Commission Recommended Adoption of the Ordinance Amending Title 9 and Modifying the Zoning Map by a Vote of 5-1 on June 5, 2017.

PROPOSED ACTION:

1. Move to waive the first reading and introduce an ordinance of the City Council adding Chapter 16 to Title 4 of the Pacifica Municipal Code by establishing regulations related to marijuana public safety licenses.
2. Move to waive the first reading and introduce an ordinance of the City Council amending Title 9, Chapter 4 of the Zoning Code by establishing regulations related to marijuana operations and amending the zoning maps by establishing Marijuana Overlay Districts.
3. Move to approve, by at least a 2/3 vote, a resolution of the City Council ordering submission to the qualified electors of the City a measure to establish a tax on marijuana operations, at the consolidated municipal, school and special district election to be held on Tuesday, November 7, 2017.

Police Chief Steidle presented the staff report.

Mayor O'Neill clarified that mention of a joint study session was between Planning and City.

Police Chief Steidle continued the staff report.

Mayor O'Neill asked if he was willing to take questions during his presentation.

Police Chief Steidle stated that he had planned to ask for questions between the different ordinances but if they have a pressing question, they were free to ask.

Mayor O'Neill referred to the procedure if there was a change of ownership of the dispensary, and asked if it was correct that they would have to go through the whole relicensing procedure again.

Police Chief Steidle stated that he was correct, as the marijuana public safety licenses were not transferable.

Mayor O'Neill asked if it was a corporation, such as companies who build the corporation and then sell stock of the corporation. He asked if there is a requirement that it was a natural person to be an owner or do they need to put something such as the corporation owns the license and a change in ownership of the corporation would require a background license. He stated that it was a requirement for the alcohol beverage control.

Police Chief Steidle stated he would defer to the City Attorney but he thought it would have to be a whole new process.

City Attorney Kenyon asked him to repeat his comment.

Police Chief Steidle asked if it would have to be a whole new process if the corporation changed ownership.

City Attorney Kenyon responded affirmatively.

Mayor O'Neill asked if ABC Corporation was the owner of the dispensary and the license, but Mike O'Neill now owns it and he decides he wants to retire and he wants to sell it to John Keener and he sells his shares of stock of ABC Corporation to John Keener, there has not been a transfer of ownership because it was still ABC Corporation, but John is the new owner. He stated that was what they do to avoid Prop. 13. He didn't see if there were any provisions for that and he questioned whether they needed something to regulate that. He was looking down the road at the five-year moratorium that individuals can own it, but in the future, Safeway could sell them.

City Attorney Kenyon stated that there are no provisions that address the particular issue to which he is asking. She stated that, if the Council desires, they can look into that, but those provisions are not included in this ordinance that she was aware of.

Police Chief Steidle stated that he was not aware of that either. He stated that our definition of owner was the person or entity in whom is vested interest entitled to the marijuana operation.

Mayor O'Neill asked confirmation that it doesn't deal with the transfer of the ownership of the corporation who is the licensee.

Police Chief Steidle responded affirmatively.

Mayor O'Neill stated that, with alcohol, if you sell stock of the corporation, you have to be reinvestigated. He felt that was something they should put in this resolution if there is change of control of the corporation or owner.

City Attorney Kenyon stated that another option was that, if a corporation moves forward with a license and then goes through the permitting process, it would be much easier for them to impose conditions on the permit without having to revise the ordinance at this time.

Mayor O'Neill asked if that would be legally enforceable.

City Attorney Kenyon responded affirmatively, clarifying that it would be as a permit condition, not as a license. She stated that the difference is that violating a permit condition would require the permit holder to go through a revocation proceeding if they wanted to revoke. If it were a condition of a license, that license would be automatically revoked. She stated that, if a majority of the Council wishes them to address it as part of the public safety license, she can work on drafting some language during the discussion and, by the end of the discussion, she can propose some language to the Council.

Mayor O'Neill asked for comments from Council.

Councilmember Vaterlaus thought during the permitting process was fine.

Councilmember Digre asked if the permitting process would give the best local control compared to the licensing.

City Attorney Kenyon thought the only difference between imposing it as a condition of approval in the license ordinance is that the amount of time it would take to revoke the permit would be much longer than the time to revoke a license.

Councilmember Digre concluded that going through the license would be an automatic.

City Attorney Kenyon asked for clarification.

Councilmember Digre stated that the reason for taking longer for the permit would be that it would be more automatic if they went through the license.

City Attorney Kenyon responded affirmatively.

Mayor O'Neill concluded that they can revoke a license quicker than they can shut down a permit.

City Attorney Kenyon responded affirmatively.

Mayor O'Neill stated that she was arguing that they should make it as a condition of the permit which would take longer.

City Attorney Kenyon stated that she was saying it was an option if Council didn't want to address revising the ordinance.

Mayor O'Neill asked, since they were business entities that will have a value of some sort in an estate, if a living trust could be an owner and license, he thought the successor trustee should go through the same licensing process again.

Mayor pro Tem Keener stated he would like to see some language to that effect in the ordinance to ensure that an individual is responsible for what goes on at that premises.

City Attorney Kenyon stated she needed clarification and asked if he was interested in having the owner only being an individual or are they looking at having the owner be an individual or corporation but, if a majority of the shares of the corporation are transferred, that owner would

have to resubmit for a new license.

Mayor pro Tem Keener wasn't sure.

Mayor O'Neill stated that, when it gets down to the tacks, it is a business and in a business you sometimes want limited partnership, a corporation for income tax purposes as well as liability issues, and he wouldn't be against a corporation and limited partnership to own it, but if control of that legal entity is changed, then can you have some license saying licensed by an actual individual.

City Attorney Kenyon stated, based on what she has heard, she will try to draft some language that addresses transfer when the person who has title to the license as an entity, with a majority change in ownership or any change in ownership. She stated that, if it is a majority change in ownership and you sell 25% of the entity, there is no repercussion, but if you sell 51% there is. She felt Council should have that discussion also.

Police Chief Steidle stated that the expert consultant, Mr. McPherson, may have information to shed on this topic.

David McPherson, HTL Company, stated that for clarification, the way corporations and sole ownership are, if it was a corporation and someone owns 5% or more of the stock, and they change hands, it could be a trigger as far as someone coming off the board or any member. He stated that there is a board of directors through the by-laws and more than 50% of the by-laws of that corporation change, it would trigger a 51% plus of that. If an individual and it is 20% of any one individual who is considered an owner by state law or a local law, or an invested interest, with direct control, oversight of day to day operations or, by definition of state law an owner, and if anyone is added or removed from that and changes the structure component significantly, such as in a corporation, that would be the triggering points for the 51%. If it was individual who aggregate and 4 or 5 own 20% or more and that would consider a significant change in ownership for individuals or an LLC component or partnership.

Mayor O'Neill concluded that they were not reinventing the wheel.

Mr. McPherson stated that they were not, and they can work with the City Attorney on the language. He stated that there was good language in the state portion which they can copy and paste but personalize it specifically to their concerns. It was a good starting point.

Assoc. Planner Murdock stated that, in the Planning Department's zoning regulations ordinance, it was their intention to try to avoid an after market for these permits. He stated that the after market in other types of licenses can cause adverse, unexpected impacts on the way the businesses are operated, the way properties are held long term and that was one of the key intentions of the non-transferability component of the zoning regulation ordinance and he thought that carried forward into the thinking on the public safety license as well. He hoped they could draft any amendments with that in mind.

Mayor O'Neill stated that his concern was that the fact that the legal owner would still be ABC Corporation and ownership of the corporation transfers but the name on the license, the lease and everything else is still ABC.

Assoc. Planner Murdock understood. He stated that staff did not have any objection to an entity owning a permit or a license, but making sure the beneficial owner of that went through the

proper reviews and not allowing that beneficial owner to transfer ownership because you create the after market that presents other problems.

Councilmember Martin agreed about the after market stuff and she encouraged that they take note of that as well. She agreed with the mayor.

City Attorney Kenyon stated that, if the Council was desirous of having the permit expire upon a transfer, they could easily insert language into Section 4-16.06 in Subsection A, reading the current language. She suggested that they add language stating "or upon transfer of at least 51% of ownership or title in any entity issued a public safety license. She stated that was rough and she will work with HDL to come up with more pristine language.

Mayor O'Neill apologized for springing this on them now, adding that he forgot to call them earlier. He asked if the Council agrees.

Mayor pro Tem Keener liked that.

Assoc. Planner Murdock asked the City Attorney if there was a way to draft it as 51% of the original permittees' ownership so there is not structured transfers to evade the 51%.

Police Chief Steidle continued the staff report.

Councilmember Martin stated that this sounds like a heavy burden, but the goal is that these businesses are building a relationship with their law enforcement and a police officer would feel comfortable enough to walk into one of the businesses and the proprietor would be responsive to the officer. She felt it was all about building relationships and coming up with common grounds so that the city helps them and they can protect the community while running their businesses. She thanked him for putting this together and it will help everyone.

Police Chief Steidle thanked her and agreed with how she phrased it. He felt, if the ordinance is passed, it was a legal business and they are treated like any other business. He agreed that they will have some more regulation than most businesses as they were dealing with marijuana or cannabis . He stated that there was also different regulations when selling alcohol or any special business. He stated that his staff has every intent in trying to help them be successful, adding that it doesn't do them, the city or the police any good if the business fails and they will strive for an open relationship.

Mayor O'Neill asked if he said keeping copies of the camera DVD was 30 days.

Police Chief Steidle responded affirmatively.

Mayor O'Neill asked if that was long enough or should it be 60 or 90 days.

Police Chief Steidle stated that they thought 30 days would be enough.

Mayor O'Neill stated that he was concerned as they were getting instances of vandalism, etc., and maybe one of the cameras on the outside would catch.

Police Chief Steidle stated that the purpose of the camera was to protect the business, community, customers, and he assumed if they were looking at it for a crime that has occurred, 30 days would probably be sufficient.

Assoc. Planner Murdock continued presentation of the staff report, with the assistance of Planning Director Wehrmeister and Commissioner Clifford to answer any questions.

Councilmember Digre thought it would be a good time to explain why they have the 200-foot buffer for the childcare.

Assoc. Planner Murdock asked if Commissioner Clifford would like to comment.

Commissioner Clifford stated that the reason for day care centers was that the small children were supervised all of the time, and they didn't view it as having any impact on them to have a marijuana dispensary within 200 feet of them. They were more concerned about the K-12 where there was a likelihood of children walking by them if they were too close.

Assoc. Planner Murdock continued the staff report.

Mayor pro Tem Keener stated that, on looking at the map on packet page 336, it shows Sharp Park as being within 200-foot buffer of the daycare center and extends to Montecito.

Assoc. Planner Murdock confirmed that he was referring to the map on packet page 336.

Mayor pro Tem Keener responded affirmatively.

Assoc. Planner Murdock thanked him for the opportunity to explain, and stated that the map he referenced included the C1, C2 and C3 zoned locations but also included, for reference, the former 600-foot buffer around all three use categories, K-12, daycare and youth centers and does not reflect the reduced 200-foot buffer. He stated that the map where he can see the reduced 200-foot buffer and the dramatic change along the central Palmetto corridor was on packet page 301. He explained that the Planning Commission asked staff to pursue additional locations for marijuana overlay districts as they were persuaded by public comment that the restrictive nature of the buffers on top of limited commercial property in the city combined with property owner reluctance by many property owners to lease to these types of businesses, they needed to include as many potential locations as possible for marijuana operations or, through attrition, it was difficult to open any type of business, let alone one with so many location restrictions and they needed to start with the greatest possible number of places. He then continued with the staff report.

Mayor O'Neill referred to the Rockaway Beach overlay, and asked if Sea Bowl was not included in the overlay.

Assoc. Planner Murdock stated that it was not proposed for inclusion.

Mayor O'Neill assumed that, even it was zoned as C1 or C2, they were not having any overlay like all the businesses along Highway 1.

Assoc. Planner Murdock responded affirmatively. He added that, in making the recommendation, he struggled with including every possible parcel and include what he considered cohesive, coherent orientations to enable easier enforcement and administration. He stated that, if it was the Council's will, they could look for more of the individual isolated parcels. They tried to avoid that with the exception of the Sharp Park neighborhood where there was no large shopping center or large district configuration. He then continued with the staff

report.

Mayor O'Neill referred to Pedro Point, and stated that he read that, in the corner across from ACE hardware someone has proposed building some commercial building.

Assoc. Planner Murdock stated that they have an application for the vacant parcel immediately south of the Devil Slide Tap Room.

Mayor O'Neill asked how that would be handled. He asked if they would not be allowed to sell marijuana or be grandfathered in because they were next door to one or will it be a conditional use permit if they are not in the overlay zone.

Assoc. Planner Murdock stated that, assuming the project moves forward, approved and constructed, it would be eligible to apply for a marijuana use permit as any other business location within the overlay zone. He stated that the only limitation would be if there were already two within the overlay zoning district as they would not be eligible to apply unless one of those use permits or public safety licenses were revoked, cancelled, expired, etc.

Mayor O'Neill stated that, assuming the green was the overlay zone, that section of the empty lot was not green.

Assoc. Planner Murdock stated that it was proposed for inclusion.

Mayor O'Neill stated that he wasn't talking about the one at the corner.

Planning Director Wehrmeister stated that the one at the corner appears to be a lot, but it was excess Caltrans right-of-way which was why it was not showing up as real property and mapped.

Mayor O'Neill understood and thanked her.

Assoc. Planner Murdock apologized for the confusion. He concluded his portion of the staff report and was happy to field any other questions.

Mayor pro Tem Keener referred to the map on page 301 and the circle drawn around the Sanchez Art Center, and he asked why it was.

Assoc. Planner Murdock stated that, in the attempt to come up with new zoning locations, they started off with a very conservative reading of what constitutes a school, daycare center and youth center. He stated to ensure they didn't include any place ineligible, he mapped the Sanchez Art Center because it has a fair amount of youth programs throughout the year but the decision was to insure they didn't put it in a place being classified as a youth center.

Mayor pro Tem Keener stated that the only youth programs were the soccer games.

Councilmember Digre stated that it has many programs for children.

Mayor O'Neill asked if it was within 600 feet of Alma Heights.

Assoc. Planner Murdock thought it was just outside of the 600 feet, but he stated that the end result was that there was no eligible commercial land area within the buffer.

Councilmember Digre asked if there was any runoff issues from any of the uses, such as around creeks or oceans.

Assoc. Planner Murdock did not think there will be any, as they were not proposing outdoor commercial cultivation on a large scale and any runoff from residential properties with outdoor cultivation would be the same as someone with a vegetable garden. He stated that they didn't include any additional specific regulations related to that.

Asst. City Mgr. Hines continued the staff report.

City Attorney Kenyon referred to his mention of the revenue from the business licenses, and clarified that they believed the \$500 fee was lower than what they were expecting.

Asst. City Mgr. Hines continued the staff report.

Councilmember Vaterlaus stated that they all seemed low to her considering the income she thought each would generate. She thought they could be increased next year.

Councilmember Martin thought they seemed high when she looked at the public safety and license processing fee, but when looking at the inclusive package, she felt it was a good price. She thought, if there was an opportunity to lower the \$1000 application fee after they get rolling and decide it wasn't costing that much, they could revisit that. She stated that they will be getting taxes from the administrative fees, and she thought it was lower and they will have a lot of administration and it made sense that it might need to be adjusted.

Mayor pro Tem Keener asked if there was something that indicates the fees should reflect the amount of effort put in by staff.

Asst. City Mgr. Hines stated that the \$500 represents about 2 1/2 hours of their normal hourly rate. He stated that, in addition, he has to figure out how to handle a business that is cash based and come up with additional security measures in a very frail City Hall to protect the cash and his staff at the same time. He decided to start with \$500 and work with Police Chief Steidle to put the proper measures in place. He agreed with the City Attorney that it may be low.

Councilmember Martin stated, for clarification, that they have to deal with cash and she asked him to elaborate on that so everyone understands it.

Asst. City Mgr. Hines stated that, because of federal law, the banks cannot do business with these entities which are governed by federal law, as from the federal perspective it was still illegal. The banks don't want to get caught between the feds and these businesses. He stated that he will have to figure it out, mentioning a number of cities are also wrestling with that situation of how to collect the money in cash. He stated that there was an excise tax coming up later to talk about, and he has to determine if that is going to be in cash. He stated that the price was at the midpoint of their business licensing scale, and he will return and let Council know if it was adequate.

Councilmember Martin thanked him, adding that she wanted to clarify for the community why they were dealing in cash.

Councilmember Digre stated that they want to recover staff's cost, and she asked what they

were talking about when they say low. She stated that she has read that everyone was worried about the cash issue for safety and accuracy. She wanted to be sure we were covering our costs.

Asst. City Mgr. Hines assured her that they will, which was why they will have an annual or semi-annual review.

Councilmember Digre thought semi might feel more comfortable.

Asst. City Mgr. Hines agreed with her, then concluded the fiscal section of the staff report.

Police Chief Steidle reminded Council that, at the meetings on this subject, the topic has come up about the current marijuana dispensaries operating, and speakers have mentioned grandfathering them or giving them preferential treatment during the application process. He stated that staff considered this and had a great respect for small businesses in the community, but he then mentioned that the conundrum they wrestled with in coming up with the recommendation to not grandfather the existing business or have a provision for that in the ordinance because the present businesses were operating unlawfully. He stated that they didn't have an application process for them because they were unlawful. He stated that he has fielded at least two dozen phone calls from perspective business owners and they say they will wait to do it legally and the right way. He acknowledged that the present operators may be good owners and may end up with licenses. He stated that they wrestle with what they tell the people who were waiting for years to open businesses but are going about it the right way. He asked if they tell them that they will limit the number of licenses available to them and give preferential treatment to those operating illegally. He then reported on the proposed recommended actions.

Mayor O'Neill stated that he had a pre-briefing with staff about the ordinance and mentioned a couple of things he wanted to add to it, mentioning them.

Interim City Manager Breskin thought the Planning Director and Police Chief could speak to those directly.

Planning Director Wehrmeister stated that she had some language prepared regarding the posting of application notice if it was the will of the Council to add that to the zoning ordinance.

Mayor O'Neill referred to alcohol beverage control posting, and he thought they could post notice of when the marijuana business will be in that location.

Mayor pro Tem Keener stated it sounded good to him.

Councilmember Martin thought she had an issue with the social host ordinance.

Mayor O'Neill stated that, in Colorado, overdoses for kids went up 150%, mentioning repercussions to the parents because they didn't secure the marijuana.

Councilmember Martin asked if they got the marijuana from their house.

Mayor O'Neill agreed, adding that they parents didn't adequately protect them.

Councilmember Martin asked, if that was a separate ordinance, that they not talk about it at this

time.

Mayor O'Neill stated that he asked staff when they met, and they were hearing about it.

Police Chief Steidle stated that the social host ordinance did not have to be attached to this ordinance, but could be attached in the area of the municipal code where the alcohol social host ordinance was. He stated that there were a few moving parts where they will have to spend time discussing with legal. He asked if it was a strict liability social host ordinance where the child gets a hold of an edible or another product, and if assumed that the parents should have known and get fined for it, or do they have to show negligence.

Chief Steidle stated those were the moving parts they have to look at, but he thought it was something they can do. He stated that the problems with the edibles were not with the packaging or point of sale but irresponsible adults who purchase them legally and do not keep them under lock and key and away from the kids, then they end up with a high school student on the way to the hospital with an overdose. He stated that the answer was that it can be done, but there were moving parts and they will find an acceptable place to attach it and they will try to come up with something they can legally enforce.

Mayor O'Neill stated that he liked the definitely probably.

Councilmember Martin liked the idea of the social host ordinance, but stated that they talked about edibles in the study session. She questioned if there was a way to spearhead and be a leader in making sure there is no packaging or marketing toward children as for alcohol and cigarettes. She didn't know if they could do that without restricting the use of edibles for recreational use off the bat, but she knew it was being studied now in other states as well as California's state level. She thought it would be nice to draw a line in the sand and be a leader to ensure that children are protected. She stated that San Francisco has put a band on flavored vaping because it was very attractive to children. She stated that we were doing so much with zoning to protect the children and it made sense that they would try to not rush into allowing recreational use of edibles. She mentioned that she has seen medical gummies, and thought that those pictures would be more appealing to a child. She stated that it was not mentioned now, but they had study sessions and it was glazed over. She asked if anyone had input on that.

Police Chair Steidle stated that he could probably give her more information if Mr. McPherson could come up as he has great knowledge about that. He stated that they didn't put anything in because they thought the way the state will regulate packaging was going to be sufficient. He stated that they talked with the Planning Commission and staff about recreational and non-recreational, but the opinion was that the problem with edibles and the children wasn't at the point of sale but after it was purchased lawfully and is in the home.

Mr. McPherson concurred with Police Chief Steidle. He thought the most critical and sensitive area at the state level learned from the Police Chief Association and Health Department and other states was that the packaging, representation and access to edibles. He stated that some places are looking at the dispensaries providing a safe precaution brochure as an outreach in education to ensure that they are not laying around and they secure them in a home. He stated that everything they addressed would be stringent by the state regulations.

Councilmember Martin thought it was not the actual strength of the packaging but the marketing. She stated that, if kids want to get into packaging, he will. She felt that the fact of

talking about marijuana should have been done and over with years ago, but now that they are making decisions on it, she felt they needed more protection around children.

Mayor O'Neill referred to his concern about the social host ordinance, and he asked if staff was researching that and would bring it back at a later date or have they blown it off.

Police Chief Steidle stated that they will bring it back at a later date and it will be something with teeth in it that they can enforce and not what just looks good on paper. They want to have something they can enforce and they will address all the moving parts regarding liability, etc. He didn't think it has to be attached to this ordinance, although they can amend it to do that. He thought there were other places in the municipal code where he thought it would be appropriate.

Mayor O'Neill referred to restricted hours, and he asked if he missed where they can't sell past 10 pm or something like that.

Assoc. Planner Murdock stated that it was in there if he bears with him until he finds the packet page.

Mayor O'Neill acknowledged that he might have missed it.

Assoc. Planner Murdock stated that it was packet page 288, and it restricts retailers to operating hours of 7 am through 10 pm. He stated that the Planning Commission can further restrict the hours through the marijuana use permit as a condition of approval.

Mayor O'Neill asked if Council was comfortable with that time.

Councilmember Digre stated that, if she understood correctly, he was referring to something else as they have two tracks. She stated that she hadn't heard about the children in Colorado, but she had heard that DUIs were doubled due to marijuana. She asked if he was talking about secondary smoke type things and edibles in the home.

Mayor O'Neill stated that he was talking about the statistics from Colorado where overdoses by kids was up 150% to visits to emergency rooms due to marijuana and he was looking for a method that would hold parents responsible for it. He thought, unless things have changed, when he was on a school board doing expulsion or suspension, marijuana was a "shall expel" and they would know the student had it, and the parents could be held responsible if they have an ordinance to that effect.

Police Chief Steidle responded affirmatively.

Councilmember Digre stated that she was trying to stress that they have two things, one being packaging and marketing and the other irresponsible usage affecting children, regarding putting statements such as social ordinances.

Police Chief Steidle believed that, unless there was further restrictions the Council wanted on this ordinance about the packaging, based on the state law as it exists, the packaging, not marketing toward children, and safe of the packaging would be sufficient.

Councilmember Digre stated that she was okay with that, but she was concerned about the responsible usage after it leaves. She asked what the wording was about that he was going to work on.

Police Chief Steidle stated that it was in terms of the social host portion, and he will work with the city attorney.

Councilmember Digre stated that they would be covering the usage afterwards.

Police Chief Steidle responded affirmatively.

Mayor O'Neill stated that it will come back to them.

Councilmember Digre stated she was siding with the mayor.

Councilmember Vaterlaus believes they need the social host ordinance, but she thought they could wait as it wasn't taking effect until 2018 and thought it gives them more time to develop the ordinance in the way most suitable for the community.

Mayor O'Neill stated that he had mentioned it in his one-on-one with staff and he wanted to put it out to get a sense of whether there was agreement with the Council.

Mayor O'Neill opened the public hearing.

Holly Smallie, Pacifica, stated that she was a behavior analyst. She likes data and thought making data-based decisions was important. She stated that, to understand the overlays, she walked or drove all the locations, and she identified at least 200 possible retail spaces. She reached 100 of the property owners, and they were all no, giving some of the reasons, and the remainder weren't available for rent. She stated that she was 102 feet away from an infant toddler center. She understood the differences from those compared to the older youth centers and schools. She also stated that, in the shopping centers approved, there were businesses that catered strictly to youth and teens, giving an example. She stated that they didn't mean to do something illegal. She explained the procedure and stated that there was no ban and it defaulted to a state ban. She stated that, if they were in Half Moon Bay, they would have been illegal but in Pacifica it wasn't clear. She stated that they weren't asking to be grandfathered in, but they have done everything to follow state draft of what was expected and they want to have a chance as a local small business.

Jeff Azzopardi, Pacifica, stated he was a 47-year-resident of Pacifica. He was born and raised in Pacifica, as well as raising his own. The mailer sparked him to speak for the first time. He referred to the possibility of marijuana being allowed to be sold at the Park Mall. He didn't know how much time they spent near that mall. He mentioned that there was a school, two churches, a library, a boys and girl's club and, in the summer, there are kids nonstop in the mall where there was a karate school and a children's dance school. He didn't feel that it was an area that should allow this type of business. He understood that the state passed it and people voted in favor of it, and he respects it. He understands that Pacifica is in a tax crisis, but the Park Mall area is 98% residential with a sliver of a commercial building and not an area for this type of business. He referred to the Planning Commissioner's concern when they went from a 600 to 200-foot buffer and they were not as concerned about children in daycare but were concerned about students walking by. He referred to reducing some areas to a 200-foot buffer to allow the greatest amount of places, and he thought sometimes you over reach and he felt they were doing it with some of the districts. He thought Kimco's decision was pushing the city to go further than they should. He recommended that they spend some time at the Park Mall, and maybe they will realize this isn't a location. He understood the concerns about tax revenue

going elsewhere. He has seen Pacificans vote down enough things but he felt this was not the place or time for this.

Cheryl King, Pacifica, referred to the difficulty of renting anything for any business. She mentioned that she had a ballet studio years ago in the present Sanchez Art Center. She stated that the problem was that the school district superintendent decided that the Sanchez School had too much asbestos and kicked her ballet studio and a tap studio out. She mentioned all the events in Pacifica which her studio was involved in over the years, and stated that she checked with all the places mentioned now for medical marijuana and no one would rent to her. She divested herself of all her equipment and eventually was asked to return to the Sanchez Art Center but she had nothing left.

Ian Butler, Pacifica, thanked everyone for all the work put into it, stating that the ordinance was improved over the initial one. He was disappointed that on-site consumption was not in it, but he thought they might be able to address in the future, at least for medical marijuana patients. He stated that the biggest issues he has are with the present dispensaries and how they will be treated. He understands not wanting to grandfather them in automatically, but in the discussion about the local background check and running illegal marijuana activities, he questioned if that included running a dispensary in Pacifica and would eliminate them from having a permit. He thought it would be wrong. As stated earlier, it was a complex issue, comparable to gay marriages, where you are early adopters that are in conflict with some laws. He stated that, even after it is enacted, we will be against federal law. He felt ruling out present dispensaries based on the fact that they exist would be a disservice and injustice. He guaranteed that the Pacificans who voted for this ordinance would think it was wrong, as they were thinking of the places that exist and wanted them to be legal and those using medical marijuana have relationships with them, mentioning that one didn't even have on-site sales. He thought grandfathering may be too strong, but he hoped they give them a fair shake, based on their merits of how well they have been doing it and he hoped we look at it honestly. He looked forward to it coming to fruition and he will do his part to help the ballot pass in November.

Rick Zipkin, Pacifica, endorsed medical marijuana as the right to use marijuana for personal recreational use but added that he lives around the corner from the Park Mall and felt it was the wrong location for a marijuana business and related activities. He read the Commission agendas concerning marijuana and related activities for the Park Mall location, and he was confused about this. He felt the stores will cause too much unwanted traffic, congestion and activity to a quiet area. Because it is residential, such stores could be too tempting to people, especially the younger ones and leading to crime and/or vandalism. He mentioned that there have been too many break-ins in Pacifica recently. He thought it was logical that, even if it started out as a medical facility, it could sell marijuana for recreational use, even smoke or eat marijuana on the premises and leave the store stoned, which could create worse problems, such as accidents. He referred to personal cultivation which might lead to vandalism, stealing, etc. He stated that, as a youngster, he smoked grass and acted crazy sometimes. He wasn't saying that the worst would happen, but he felt there were too many red flags and, even with the best of intentions, he would hate to see it happen. He stated that the mall was quiet and safe and, he felt there were too many possible threats if these activities were placed in the Park Mall. He asked that they reject the mall for these activities. He was mostly objecting to the where. He thanked them for the opportunity to express his opinions.

Tony, Pacifica, stated that the ordinances were not ready for approval because of lack of fair, comprehensive neighborhood and business outreach. He stated that it will impact all residents and businesses. He felt notices to speak for three minutes at meetings were not a substitute for

meetings convened in the impacted neighborhoods to allow for important questions to be asked and answered. He thought outdoor cultivation was a significant safety concern for children. He stated that the Police Chief recommended to prohibit outdoor cultivation due to the easy access it allows children to climb fences and remove plants. He referred to Denver planters using violence to repel thieves and resulted in the shooting of two 15-year-olds by a property owner, with one boy dying and the other paralyzed. He stated that Planning Commission chose to ignore the Police Chief's recommendation and examples of dangers with this type of cultivation. He stated that when marijuana was legalized in Colorado in 2012, Denver public schools were overwhelmed with the number of students in possession of and under the influence of marijuana products, especially edibles. He would like to hear from the Pacifica school board and administrators on their concerns about the proposed ordinance. He also mentioned having no data on property value impacts in cities where rezoning was conducted to accommodate marijuana sales. He asked if the Fire Chief had any safety concerns regarding high intensity grow light installation and usage in homes. He felt, since the police are charged with enforcing this ordinance and all other enforcement matters, that maybe the police department should compose and present quarterly reports regarding all ordinance violations in all marijuana related criminal activity which will allow transparency and accountability of ordinance compliance and may be indicators for additional action such as ordinance modification, etc., and will not take place and he felt it would cause the city to question continuing this risky business venture.

Debbi Schwab, Pacifica, stated that her 16-year-old daughter wrote an email to the Council, and she briefly let them know what she said which was sharing the effect of the local medical dispensaries on the community and on her mother's painful medical condition in going from overuse of narcotics with ongoing seizures to finally being on medical marijuana. She then concluded that now she can function because her pain is controlled by non-narcotics.

Mary Bier, Pacifica, stated that she was the director of the Pacifica Prevention Partnership, and she was representing the youth of Pacifica. She wanted to talk about the strength of marijuana and what kids are getting. She stated that they know the THC component in marijuana was between 30 and 35%. She stated that, with edibles and extracts, it can be up to 90% THC, and youths who get a hold of this product, they experience intense anxiety and fear of dying. She stated that, by increasing access points in the community, they increase the access to the products. She stated that, while it might not happen at the point of sale, it will happen because there will be more products available. She stated she didn't receive the mailer sent out, but she felt it was important for residents to understand what was going on. She was happy to hear about a social host ordinance and she encouraged Council and the police department to use the Pacifica Prevention Partnership as a resource. She stated that they have examples from other coalitions across the nation who are working on the different kinds of policies and she will gladly meet with them to bring examples of the social host ordinance. She asked that they take their time as this will change our entire community. She stated that someone has to be talking about them all the time. She would like to build relationships with the people coming into the community to support their business but also the safety of the children.

Brett Chapman, Pacifica, stated that he is the managing director of Surefire Collective, a local medical marijuana dispensary. He already submitted a letter on his concerns about buffer zones, and he was going to address the Council about working with the currently existing medical cannabis dispensaries to ensure their continued operation. He stated that Surefire and others opened when Pacifica did not have any existing rules about the operation of medical marijuana dispensaries. He stated that the existing businesses bring valuable operational experience and have established a track record of providing service to the community. He stated that Surefire and other local dispensaries collected signatures in support of augmenting

buffer zones to sensitive uses and having the city work with the current dispensaries to allow them to stay in the city. He stated that, in four days, they collected 400 signatures in town, reflecting local support as well as those who visit the city. As a long term resident, he was aware of the city's financial issues, and he stated that small businesses who employ local residents are part of the solution to creating additional funds to complete local city projects. He stated that a lot of the discussion seems to be a bit abstract, and he would like to invite each Councilmember to visit their dispensary. He was happy to arrange a mutually convenient time for a group or individual tour. He hoped they follow up to see how the businesses they are proposing to regulate are actually operating.

Stephen Austin, Pacifica, was speaking in support of the existing marijuana dispensaries in outreach and education in pain management. He stated that they make it easier to get off prescription medication and their presence was better than the situation before they arrived.

Burke Hansen, Pacifica, stated he was a land use attorney with Hallenan and Hallenan. He stated that when legislature passed the medical act in 2015 and voters approved the recreational act last year, the purpose was to bring existing operators out of the shadows and into a regulatory framework. He stated that any operator with experience has been out of compliance with the law at some point. He strongly encouraged them to provide preference to the existing operators who were presently serving patients in the community. He stated that the people want cannabis to be regulated like alcohol. He encouraged them to allow for some type of transfer of the license as they can with alcohol, subject to review by appropriate authorities.

Tygarjas Bigstyk, Pacifica, felt this was the quintessential object lesson in cost benefit analysis. As he listened to the speakers, he wondered if any of the sites will be open to rental. He questioned what was fairness. He stated that, if they have businesses operating without any incidents, they are bringing money and people into our city which was a positive thing for the city. He asked if an action was illegal when there was no law in place, and if they took the initiative and be innovative in their approach toward such a situation, should they be punished. He mentioned the discussion of the processing of the money, and mentioned having a conversation with a friend and they discussed the idea of a credit union to circumvent the federal situation and he asked if there were credit unions that might work out.

Nina Parks, Pacifica, stated that she was a delivery service operator and co-founder of Supranova Women, a woman of color and cannabis organization, concerned with equity. She referred to the governor's amendments with an approval for store front and non-store front dispensaries. She stated that the non-store front dispensary would be delivery only. She wanted them to think about people who are adverse to walk-in dispensaries and allowing it to exist as a non-store front dispensary which was more discrete than a walk-in. She was concerned with the criminal background check, mentioning that the state was putting provisions together to demonstrate rehabilitation and, if the City Council adopts similar things because of it being unjust to restrict the sales or distribution of cannabis for people who have been arrested for the sale and distribution of cannabis, questioning who was the criminal and who was the business person. She stated that it was something to think about in terms of people of color. She felt they have been disproportionately locked up for the sale and distribution of cannabis. She thought the city could consider a more diverse ownership and what those rehabilitation requirements look like around a background check. She thought it may be in alignment with state requirements. She stated that there was a state group working on potential banking solutions and Pacifica could look into that.

Karina Cardenas, Pacifica, stated that she is the owner and operator of West Manor Wellness.

She was initially the co-founder of Rockaway's dispensary and she parted ways and became an independent entrepreneur. In looking for an adequate location, she found someone who read her business plan and believed in it. She stated there were many locations the city included in the green overlay zone that will not happen. She stated that, in five years, they will allow larger corporations to join the industry. She stated that, if Kimco allows someone to move in, it will be a large corporation, which she felt was not fair to those who have been activists in the community and in the industry for so long. She stated that she identifies with it and it makes her a successful individual. She was proud of that and has been building a lasting relationship with lots of people in the community for over three years. She stated that she takes this serious with the end goal to let Pacifica benefit from who she is. She wants to be able to at least apply for a conditional use permit for West Manor Wellness.

Derek St. Pierre, Pacifica, wanted to address the practical realities of the legislation in front of them. He stated that, as proposed, was a de facto ban on any type of dispensary in Pacifica. He stated that, based on the current marijuana overlay maps, perhaps one present dispensary may qualify to be in a permitted location. He asked City Council to refer this back to Planning who have done a lot of research and he believes that the resolution before them was much better and reflects all the work in Planning, but he didn't think they were done. He felt a couple of things need to be considered, whether C1 commercial districts should be included in the potential overlay map, reading from the municipal code on C1 requirements, and he questioned why Council was considering C1 as potential locations and would address concerns brought up by several prior speakers. He stated that material has not been presented to the Council by Planning. He stated that the substantial issue raised in Planning on buffer zones and acknowledged was the buffer zones associated with daycare facilities. He stated that the Commission requested that Planning generate 50-foot, 100-foot and 200-foot buffer zones, and Planning only generated one of the three alternatives and he felt an additional study was needed on the other two. He felt there was a serious lack of availability of any actual rental space in Pacifica for the types of businesses discussing. He suggested that the City Manager who generated the fiscal analysis in his report of generating \$420,000 annually from the institutions. He stated that, if there is no dispensary, there is no money coming in. He stated that the fiscal analysis in the report wasn't reflective of the rentable locations and potential income that could come into the city.

Michael Mark, Pacifica, stated he has been volunteering his services for labor by cleaning Pacifica and supporting his community. He stated that he started on NextDoor offering free anything to ten people in Pacifica and he helped build fences for days mowing lawns, etc. He was now helping Pacifica Resource Center and Linda Mar Safeway. He stated that he was sending a video to Council on his 1000 hours of volunteer service. Through this, he has created the Pacifica Cannabis Coalition which is a Facebook community group helps him every Sunday, cleaning Roberts Road to the skatepark twice, Pacifica State Beach, Linda Mar Beach and Mussell Rock. He became homeless and one of his Cannabis Coalition member took him in, who was a strong advocate and entrepreneur with a dog business and one of the people he helped. He recently moved in with another member who was also someone he helped. He mentioned that he was helping them prepare their dogs for the 4th of July to mellow out because of cannabis. He stated he has 30 members in the coalition and growing. He stated that Surefire Collective has come to his rescue and provided him with sponsorship to continue cleaning Pacifica. He stated that the buffer zones were overly restrictive and would infringe on his project to help support his business. He stated that, if they need help making Palmetto into the downtown they want, cleaning trash such as IBL where trash was awful, and he mentioned other locations where he can perform cleaning service for free. He stated, if they want to have someone educate and stand behind those littering trash, he offered his coalition's services to

keep Pacifica safe and clean.

Stephen Souza, Pacifica, stated he was a volunteer at Surefire Collective. They provide his affordable medicine and income to provide his shelter and gives him the flexibility to go to school full time at Skyline and CSM College. He stated that they have gotten involved in the community and plan on getting more involved, working with people like the previous speaker to keep Pacifica clean. He stated that Roberts Road was a major issue every day. He was excited to be a part of the potential benefits the city will get from the marijuana businesses. He stated that, with all the restricted overlays, he didn't think it was fair. He gets the grandfather theme but he thought it would be cheaper for the city if they grandfathered in as many as possible.

Richard Zuromski, Pacifica, stated that he submitted written comments, and had a chance to get to the meeting to be able to speak in person on behalf of families with children and were not present because they were out of school, and all those affected were not present because they didn't get notice because of being out of town on vacation. He asked that they wait to give the people most affected which are the children. He stated that he has been coaching Little League and soccer in Pacifica for several years. He has young children entering junior high school and they are the impressionable children who will be affected by the recreational use of marijuana. He stated that the medical marijuana was already here, and there were a lot of good things being said about it. He was talking about edibles, etc. which they are going to try and protect their children from. He mentioned that, at the previous Council meeting, they voted to spend money to have the ABC have an alcohol prevention program in the city. He stated that they see smoking prevention programs in the city. He stated there will be marijuana prevention programs in the city eventually and he questioned why they are rushing it. He didn't see any reason to bring this to the forefront in Pacifica and affect children. He stated that adults can make a choice but children can't without guidance. He would like to see Council create a 1000-foot buffer from schools, such as Ortega near the Park Mall as they all play there and walk to the Park Mall after the game to get their food. He stated that, if they can't do 1000-foot buffer at this meeting, they should wait until September when he thought they will have a much different audience. He stated that the email he sent he also mailed to every sports player that he coaches and every parent and they all agreed with his statement.

Brendan Hallinan, Pacifica, referred to the scarcity of available locations for medical cannabis dispensaries and he proposed that the marijuana zoning regulations be amended to allow an applicant demonstrate that the parcel with medical cannabis use does not have the anticipated negative impact on the sensitive use facility. He was referring to youth centers and daycare centers, not schools, because the spacing requirements are mandated by state law for schools. He stated that, with a physical or natural barrier which creates an added buffer between the facility and the sensitive use or other mitigating circumstances, he recommended that the Planning Commission should be allowed to use their professional discretion in approving a location, despite it being located within an 200 or 600-foot radius of the sensitive use. He stated that, with the existing dispensaries, the Planning Commission should look at the actual record of positive and negative impacts on the neighborhood in making their determination and use the existing evidence and community feedback along with their expertise to determine if these locations are appropriate for these uses. He thanked them for their leadership and effort on this challenging issue.

Mayor O'Neill closed the public hearing.

Mayor O'Neill recalled previously that, if they don't pass an emergency ordinance, it was

Armageddon. He asked what would happen if they didn't pass this now or was defeated in November.

Police Chief Steidle understood that, as far as the medical marijuana dispensary would be a state and local license but the city would lose control over recreational dispensaries.

City Attorney Kenyon stated that, regarding whether the Council needs to adopt the public safety license ordinance or the zoning regulation ordinance at this meeting, it was not mandated. But, the Council will need to adopt something before January 1, 2018 or as mentioned by the Chief, the city would lose local control over recreational facilities. She stated that, in terms of what could be brought back prior to January 1 or adopted prior to January 1, 2018, there were less comprehensive regulations that could be considered by Council. She stated that what needs to be adopted or the next meeting or two would be the resolution that would place the excise tax on the ballot for November.

Mayor O'Neill concluded that, if they do not pass some sort of ordinance prior to January 1, the city would lose the right to regulate recreational marijuana.

City Attorney Kenyon responded affirmatively, clarifying that if they don't adopt an ordinance in some form, they would lose some local control over recreational marijuana.

Mayor O'Neill stated that was an argument of why they should move forward with some sort of ordinance. He asked confirmation that, to put it on the ballot, it has to be done by the first part of August.

City Attorney Kenyon responded affirmatively.

City Clerk O'Connell stated that the deadline would be August 11 to submit the resolution to the county.

Mayor O'Neill stated that, if they want to put this to a vote of the people who will decide on the decision, that needs to be done within a month. He asked how they could do regulation after January 1, 2018. He asked if they lose it and they can't do anything. He asked if they could impose an excise tax after January 1.

City Attorney Kenyon stated that they can always impose an excise tax, but it would have to be at the November 2018 election so it would be over a year from now. She stated that, if those businesses were to begin operations, they would not be collecting any operation tax on that.

Mayor O'Neill concluded that, by not adopting something before January 1, the city loses the ability to regulate recreational marijuana, as well as generating any revenue which could be used to enforce any issues that might come up with marijuana. He asked, if this passes and is effective and voted on by the people, whether they can amend it if they find out that Park Mall becomes a marijuana magnet.

City Attorney Kenyon responded affirmatively. She stated that they can make amendments to both of the ordinances at any time, either before January 1 or after January 1.

Planning Director Wehrmeister clarified that the voters will be voting on the excise tax, not the zoning regulations. The discretion would remain with the Council to amend those two ordinances as needed in the future.

Mayor O'Neill asked Police Chief Steidle if he had the ability to keep track of the calls and type of calls at each location for the marijuana dispensaries.

Police Chief Steidle responded affirmatively.

Mayor O'Neill stated that, if there were a lot of fights or disturbances, they would be able to keep track of that and they could provide them with an annual report if they need to change an ordinance to combat that. He stated that, if they pass the tax before January 1, they would have the revenue to help enforce that.

Police Chief Steidle responded affirmatively.

Mayor O'Neill stated that, if they want to put the tax on the ballot, waiting to September is not an option, but they could wait to do the ordinance prior to September 1, but they would lose the revenue from the excise tax.

City Attorney Kenyon stated that they would not as long as they put the excise tax on the ballot by August 11, that tax will go into place January 18, assuming it was approved by the voters.

Mayor O'Neill stated that, if they don't put that on the ballot, they will not have the revenue until November 2018.

City Attorney Kenyon stated that it would be January 2019.

Councilmember Vaterlaus stated that they have had many meetings about this. She stated that to say they didn't have enough meetings and the kids are out of school was not a valid argument. She stated that they have had lots of meetings and the regulations have been circulating for six months. She stated that, as far as kids going into a dispensary, she wanted to visit a dispensary herself and she went to a dispensary and they wouldn't let her in. She stated that she was on City Council and she wanted to go in, but they said no because she didn't have a card and couldn't go in, and would need ID, a card and a letter. She was 63 and not a child, and clearly, they are not going to let children go into dispensaries. She didn't see a problem with daycare as she didn't see three-year-olds walking across the street and going to a dispensary either. She stated that grandfathering was her biggest problem, going back and forth on whether the existing dispensaries should remain in business. She felt it was hard as they have already established businesses, have locations, leases and improvements. She also agrees that there are people who waited to do this properly. She stated that we have six dispensaries and asked if they became businesses because they knew they were going to pass this. She asked if that was the correct way to go about it. She thought maybe everyone should have to go in together and determine whose the best. She stated that you could have a dispensary now and have a horrible felony and they don't know that but they will later. She stated that those were important items. She stated that she didn't see any problems in the neighborhoods with existing dispensaries. She asked the Police Chief if he had calls on them and he said no. As there aren't calls on them now, she didn't think there would be many calls later. She stated that she sees a lot of "not in my backyard." She stated that it is just like affordable housing, where they want affordable housing but not next to them. She felt that was an issue with certain people.

Mayor pro Tem Keener asked Police Chief Steidle if an individual who applies for a license will be penalized for running a dispensary in Pacifica prior to it becoming legal.

Police Chief Steidle thanked him for the question. He was looking for the appropriate time to interject on the speaker's concern. He stated that the answer was no. They were looking at the criminal history, but there are things that won't show up on a criminal history, such as something local in another jurisdiction. He stated that, in the proposed municipal code, they were looking to see if the applicant has not been convicted, cited, fined or penalized by the state, city, county or any enjoined by any court of law in the five years immediately preceding the application for a marijuana public safety license or marijuana public safety renewal license for any unauthorized marijuana activities. He stated that, to date, they were not taking action against the existing dispensaries, therefore, in Pacifica, there have been no sanctions or cited and have not been fined. He stated that, the fact that they are currently open, he has no legal authority to hold that against them in the current code form.

Assoc. Planner Murdock added that there was no prejudice against existing operators, but no preferential treatment either. He stated that those who are in locations that are eligible are permitted to apply and will be evaluated as any other applicant would, adding that there are several of them in locations that due to state or city buffers, would not be eligible for licenses and there was not a lot they could do to accommodate them within the framework of the law.

Mayor pro Tem Keener stated that another concern he had was mentioned by several speakers which was that the overlays result in a de facto ban on marijuana dispensaries because there are so few potential places to lease, mentioning the woman who had the ballet studio and couldn't find a place to lease. He thought they will have to see. He asked if the ordinance was not dependent on passage of the excise tax.

Police Chief Steidle stated that the ordinance was dependent on passage of the excise tax. He stated that, on looking at the public safety portion, packet page 255, section 23, it said that the ordinance shall only become effective on the date of certification of election results if Pacifica voters do pass a measure on November 7, 2017 imposing an excise tax on marijuana operations within the city.

Assoc. Planner Murdock stated that a similar provision was on page 300 of the packet for the zoning regulations with an additional qualifier that, for areas within the coastal zone, the ordinance shall not become effective until the Coastal Commission certified an amendment to the city's local coastal program.

Mayor O'Neill stated that it was 10:45 p.m. and the City Council has a policy to end the meeting at 11 p.m. unless they vote to continue beyond 11 p.m. He asked Council if they want to go to 12 a.m.

Mayor pro Tem Keener asked what else they have.

Mayor O'Neill stated that they have the referendum.

Mayor pro Tem Keener asked if that was all.

City Clerk O'Connell stated that they also had the PB&R annual report.

Mayor O'Neill stated that they will be voting to continue this item and end the Council meeting at midnight regardless of their vote on this.

Councilmember Martin suggested that they make it to 12:30 to be safe.

Mayor pro Tem Keener moved that Council stay in session until 12:30 a.m.; seconded by Councilmember Digre.

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Mayor pro Tem Keener stated that the ordinances they were considering were completely dependent on passage of the excise tax. He stated that, if that does not pass by the voters in November, then they have to hustle to retain local control.

City Attorney Kenyon agreed, adding that they will most likely adopt an urgency ordinance.

Mayor pro Tem Keener stated that, because of the lack of places to rent or lease for dispensaries, they will have to see if they get any applicants and revisit this next year if they don't and consider more relaxed boundaries at that time.

Councilmember Martin stated that her thoughts were disjointed. She referred to the Park Mall, and concluded that, because of the way it was zoned, two spaces could open up there.

Police Chief Steidle responded affirmatively.

Councilmember Martin asked if there was a way to amend the ordinance to allow only one in that area.

Assoc. Planner Murdock stated that they could. He referred to Article 17.5 of the zoning regulations, one of the two new sections they were proposing to add to zoning, which contains the numerical limitations within each overlay zoning district. He stated that there was a table and they would include in the motion to approve to amend the ordinance to allow for only one within the Park Mall overlay district.

Councilmember Martin stated that she suggested that as Park Mall is actually a mall. It was her neighborhood and she wasn't opposed to anything opening up there. She stated that you have to be 21 to get into these shops and you don't have to be 21 to go into Sun Valley Market, just have to have a fake ID or get someone to buy you alcohol. She stated that the Park Mall is trashed with litter of little alcohol bottles, so she felt that was more of an issue to be dealing with. She didn't think a 17-year-old would be able to get in. She also went to a shop and the first question they asked was where her card was. She stated that she was there to see the owner, and found it very procedural. She stated that you couldn't even identify that it was a marijuana shop. She stated that, if you go to the Park Mall, there is a little mall area. You won't open a yoga studio next to a yoga studio. She acknowledged that there were two surf shops within a couple of feet of each other at Pedro Point, but they serve different customer bases. She proposed they amend the zone at Park Mall to only allow one. She did not intend to put in more restrictions, but to allow the business to be able to thrive. She stated that it wasn't a walkable thing and it didn't make sense to her. She mentioned talking about the safe check, asking what the program was called.

Police Chief Steidle stated that it was Livescan.

Councilmember Martin stated that, in regard to comments on that by Ian Butler and Mayor pro Tem Keener, just making sure that the existing retailers have a fair shot and no bias because

they are operating now. She acknowledged that the Police Chief stated it won't happen. She also had a concern for minor convictions and, while it was outlined in the municipal code, she wanted to be sure there was also common sense consideration from the Chief's perspective on what really is a bad thing that someone did versus what isn't bad. She asked if they will consider that.

Police Chief Steidle agreed, adding that they will weigh the different type of offenses. They were looking for something that could adversely affect the community by the nature of the type of business it is. He stated that they are talking about serious or violent felonies and they are outlined in the penal code and referred to by the penal code in the ordinance, mentioning some specifics, such as drug trafficking.

Councilmember Martin stated that you wouldn't want those people working for you anyway. She referred to one comment that they take into consideration rehab requirements. She stated that she didn't know why anyone in rehab would want to work at this type of establishment but that was the reason they are paying for the safety and police. She was mindful of people trying to rehab. She referred to packaging which hasn't been brought up, but the social host ordinance will be the best shot at that. She felt there was a sense of urgency for this. She didn't think it has been rushed. She stated that they have spent the better part of six months by the Police Chief and the Planning Commission. She thanked everyone who put their heart and soul into this. She asked if anyone agreed with her in amending the zone at the Park Mall.

Mayor O'Neill stated that he had no problem with that.

Councilmember Vaterlaus thought there was a limited number anyway and she thought they should let it play out and see what happens. She stated if there were too many businesses that are the same, one could go out of business.

Councilmember Martin stated that, statistically speaking, it was 40-60% fail in the first two years. She felt it was too small of a space and wasn't walkable. You are walking in a circle if you go in there.

Councilmember Vaterlaus stated that they also have outside business.

Councilmember Martin agreed, but on a rainy day you are inside, adding that she goes there quite often.

Mayor O'Neill stated that she asked a question and wants a sense of Council's thoughts. He stated that he didn't have a problem cutting it down to one at the Park Mall.

Mayor pro Tem Keener agreed with Councilmember Vaterlaus that they should let it play out.

Councilmember Digre stated that she had some questions and she wasn't ready to answer that question, adding that she didn't think she had to answer it now.

Mayor O'Neill stated that he wanted to get one thing done and move on.

Councilmember Digre asked staff if they were aware of the cooking class and bicyclists who use one corner regarding children. She asked if any input from the community stirred in their minds something that they should be looking at that they haven't looked at.

Police Chief Steidle stated that he wasn't sure he understood the first question.

Councilmember Digre stated that it was mentioned that there was a cooking class for children in the Park Mall area and she asked if staff was aware of the fact that there was a class with youngsters and, based on conversations regarding assisted living, there were a lot of bicyclists using the area, asking if there was a bicycle ramp.

Mayor O'Neill stated that they tore it out because it was illegal.

Councilmember Digre asked if staff was aware of those children activities.

Assoc. Planner Murdock responded that the youth cooking class as described was not known to him when evaluating potential locations. He offered that the definition relied upon in state law for youth center defines it as any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to private youth membership organizations or clubs, social services, teenage club facilities, video arcades or similar amusement park facilities. He stated, with the little he knows about it, it didn't seem to fall within that definition, particularly the primarily used criteria.

Planning Director Wehrmeister added that they didn't do a comprehensive survey of every business in town that could cater to youth, the Planning Commission did consider expanding what would be considered a sensitive use such as martial arts studios, where children would go. She stated that it would be very difficult to find them all, because they don't need use permits, but if they did that they would have no place for these businesses to go as there were such businesses that cater to youth and families throughout the community.

Assoc. Planner Murdock added that the Planning Commission strived to accommodate or provide for review of those types of uses but deferred to staff's recommendation to not institute a strict buffer. He stated that, in packet page 296, they had staff develop a finding for consideration of the marijuana use permits. He stated one finding read that the proposed location of the marijuana operation is not likely to have a potentially adverse effect on the health, peace or safety of persons due to the marijuana operations' proposed proximity to premises frequented by children, mentioning several examples. He stated that, while there was not a strict buffer, there was an avenue through which the Planning Commission can consider those types of impacts in a very site specific manner. He stated that, when staff is able to pinpoint a specific site, do research, etc., they will allow it to be aired out in a public setting.

Councilmember Digre thanked staff for extremely hard work. She stated that, while it may seem to be rushed, but for her as a Councilmember, she has been listening, reading, etc., and dealing with the marijuana, sitting with staff and attended the Commission's in depth work. She liked how the report was put together. She referred to mention of having the Pacifica Partnership involved and perhaps they should be more clear about having them involved, mentioning some specifics. She felt they have a wealth of information and have done a lot on marijuana and she asked that they create a statement to get them involved with at least the social host ordinance.

Police Chief Steidle stated that they are one step ahead of her. He stated that he and his staff meet with Mary Bier every so often, discussing that they know these businesses will likely be allowed in Pacifica and how they will move forward with public education, etc., such as discussions they have had regarding keeping alcohol out of the hands of youth. He stated that she has his commitment to work closely with the partnership, as they have a lot of information and resources.

Councilmember Digre thought that was good to hear, adding that they are always happy to see a police officer at the meetings as they are dealing with youth. She agreed they didn't want to give preferential and no prejudice which she felt was important. She stated that they want to serve and respect all residents and they want to be careful that those who know the rules and regulations, etc., and put themselves in a position to move forward. She felt grandfathering was hard, but their main objective was to provide for all residents in the safest way. She was pleased how things are going.

Mayor O'Neill stated that the question was whether she wants to cut back the number of dispensaries from 2 to 1 in Park Mall.

Councilmember Digre thought the hard work put into studying the overlays and they can always return to things to evaluate and she would prefer to stay with the overlays as they are.

Mayor O'Neill stated that, if there is an issue in the Park Mall, he would find it hard to decide which of the two you close because of issues.

Councilmember Digre asked if he was saying there were already two places there.

Mayor O'Neill stated that she was agreeing to have two in the Park Mall.

Councilmember Digre stated that she was going for the two in each of the overlays.

Mayor O'Neill agreed, which also means two in Park Mall, and she said they can always go back and revisit it. He had a problem with allowing two now, and if there is a problem, they will have close the two businesses and kick them both out of Park Mall or decide between 1 and 2. He was trying to understand what she means by revisiting.

Councilmember Digre asked staff for help. She thought they had that in their ordinance that anything going awry.

Mayor O'Neill stated that it was for operations but not for number of establishments. If both businesses have a problem with their licenses, how do they decide which one to close or do they close them both.

Police Chief Steidle stated that if they were violating their conditions to operate or conditions of the license, they could suspend and revoke both of them.

Mayor pro Tem Keener commented that Eureka Square was not in an overlay zone.

Councilmember Martin thought it was because there was a gun shop there.

Assoc. Planner Murdock stated that it was regrettable, but the configuration of that parcel or shopping center proper would not be within the 600 foot buffer from Oceana High School, but the way the parcel is configured, there is a narrow strip running north along Oceana and, based on the definition of state law that they replicated in the ordinance as far as measuring from parcel line to parcel line, Eureka Square is within the 600-foot buffer. He thought the Police Chief could elaborate but he had public safety concerns about the number of children who frequent that area.

Mayor pro Tem Keener stated that it doesn't show up on the map on page 301 as being included in the buffer zone for Oceana.

Assoc. Planner Murdock agreed but added that it was when they get to a finer level of detail which shows it is less than 600-feet, parcel line to parcel line. He specifically tracked it because they wanted to consider its inclusion if looking to reduce the buffer.

Councilmember Martin asked if that thin piece of parcel was outside of the buffer zone.

Assoc. Planner Murdock stated that a portion of that thin section of the parcel was within the 600-foot buffer from Oceana and part of the contiguous Eureka Square shopping center.

Councilmember Martin asked if the definition was anything that was part of the contiguous area.

Assoc. Planner Murdock reiterated that it was parcel to parcel.

Mayor O'Neill asked how far the Park Mall was from Ortega.

Assoc. Planner Murdock stated that he would try to approximate it for him.

Mayor O'Neill stated that there was one piece of Ortega that goes all the way to Alicante.

Assoc. Planner Murdock asked him to repeat that.

Mayor O'Neill reiterated that there was one part of Ortega School that goes all the way to Alicante and it leads directly to the baseball field in the back. He thought it could almost be 600 feet as the crow flies.

Assoc. Planner Murdock stated that he was not familiar with the portion he was describing, but he stated that it was around 800 feet from the edge of the school parcel to the Park Mall shopping center.

Mayor O'Neill stated that there was the main school building with a ball field in the back. He stated it had a dragon slide there. He stated that from that baseball park, there was a walkway that goes between two houses, and was part of the Ortega School site.

Assoc. Planner Murdock saw that, and stated that it was still more than 600 feet away.

Councilmember Martin assumed the 600-foot buffer was state law and anything within that now the city has no control over and it was at a state level and anyone operating now knows that. She stated that they could potentially visit a grandfathering thing, but she didn't think that was being talked about at this time or considered.

Assoc. Planner Murdock thought it may be a little bit difficult to conceive without seeing it clearly written down, but in the presentation, he alluded to distinctions in state law for the buffers for medical marijuana operations and non-medical marijuana operations. Under state law in the business and professions code, it was written that local agencies may adopt a different buffer for the distance from daycare centers, youth centers and K-12 schools, which he said was interpreted to mean a greater or lesser buffer, just different. He stated that the ordinance the city has exercises that discretion for daycare centers, and the health and safety code, another state law, for medical marijuana operations strictly indicates that it shall not be less than 600 feet and local agencies may adopt a greater buffer for the distance from K-12 schools. He

stated that, unless they change the regime established in the draft ordinance, and have different permits for medical and non-medical, which has not been proposed thus far, they would not be able to go less than 600-feet from L-12 schools.

Councilmember Martin understood, adding that was what the Planning Commission recommended. She concluded that the rezoning for Park Mall was off the table.

Mayor O'Neill stated that he was looking at that one piece at Ortega that juts out, and he asked if it was possible for them to look at it again to be sure it was not 600 feet.

Assoc. Planner Murdock stated that he would be more than happy to do that and bring back the distance.

Mayor O'Neill stated that he could email it. He just thought that, if there is a piece of Eureka Square shopping center that stretches out toward Oceana, he thought that one walkway on Alicante would be real close to the 600.

Assoc. Planner Murdock stated that he has been known to make a mistake once in his life and this might be the second time.

Mayor O'Neill understood, stating that his wife never lets him forget it.

Mayor pro Tem Keener stated that Assoc. Planner Murdock addressed the question he had about the recreational marijuana and the buffer zones. He concluded that for recreational marijuana, the buffer zones can be modified by the city.

Assoc. Planner Murdock responded affirmatively. He then offered for consideration that the primary buffer challenge for existing dispensaries that the West Manor is implicated with the 600-foot K-12 buffer and there was not much to do except change the permit regime to create separate permits for medical and non-medical. He stated that the primary factor for those on Palmetto was the daycare buffer. He stated that Council does retain that discretion but, to allow all of them to be eligible to apply, they would need to reduce the buffer from daycares to somewhere around 80 feet or less, and that would have an impact citywide. They haven't evaluated what that would look like anyplace other than the central Palmetto area.

Mayor pro Tem Keener asked if the location at 35 West Manor fell within the 600-foot boundary buffer zone around.

Assoc. Planner Murdock stated that, for Ocean Shore Elementary School, it does. He stated that, if Council was considering reducing the daycare buffer to accommodate the existing dispensaries on Palmetto, they would also need to account for an increased number of dispensary retail operation use permits within that overlay zone. Currently it was restricted to two and with three existing dispensaries, but not all of them would be eligible to receive a permit without changing that as well.

Mayor pro Tem Keener stated that he was not contemplating that but was vaguely thinking ahead toward the next year if they find that potential dispensary owners have real difficulties in finding a place to lease with their present system of buffers around schools. He wanted to know what options they have.

Councilmember Martin suspected that everyone who was going to apply would also apply for

recreational. In that regard, she concluded that they could make the buffer zone anything.

Assoc. Planner Murdock stated that they could potentially, but he added that they may not be eligible to obtain one license or the other, probably the medical from the state.

Councilmember Martin referred to the example at West Manor, stating that was within the buffer zone by just a few feet.

Assoc. Planner Murdock stated that it was probably about 10 or 15 feet.

Councilmember Martin stated that she wasn't a Planning Commissioner and hasn't studied like the Commission has, but she asked Councilmember Vaterlaus who was a planning commissioner. She asked what the difference was in five feet or ten feet in terms of children walking by that place anyway regardless if it was five feet or ten feet, and she would opt on the side of allowing it there on that strip because she didn't think five or ten feet would stop anyone from doing what they are going to do anyway. She wasn't proposing any change, but just food for thought. She asked, if it ever came back to Planning, whether they could have an appeal on that area if someone were to apply.

Assoc. Planner Murdock stated that there would be nothing to appeal as it would be either lawful or unlawful with respect to the buffer. He stated that, earlier in the process, in a study session they held with City Council and Planning Commission, they floated the ideas of different medical and non-medical types of permits. Staff's preference and recommendation, which has been supported thus far, was that there was no functional difference between a medical and non-medical dispensary at the store front level. He stated that, to make the ordinance more efficient to administer, as well as to keep a meaningful limit on the number of retail operations, making them combined with the city's permit was the best way to ensure the fullest access to the full range of medical and non-medical products which seems to be the intent of the Council. To knowingly change the regulations to allow them to get a city permit but not be able to obtain a medical permit, they would be permitting a number of non-medical dispensaries without fulfilling the market need for medical products as well. Staff tried to keep them consistent to ensure that both products could be sold through a single location.

Councilmember Martin stated that all her questions have been answered and she was going to go with Planning's recommendation.

Mayor O'Neill asked if state law allows, or would they have to specifically not allow mobile marijuana like a food truck.

Police Chief Steidle stated that he will have to draw the line there.

Mayor O'Neill stated that he didn't want them. He wasn't talking about delivery, but with a mobile marijuana, they pull up and dispense at a beach.

Mayor pro Tem Keener stated they could sell out of their trunk.

Police Chief Steidle was not aware of any provisions in the state law for mobile marijuana.

Mayor O'Neill stated he was looking to disallow it.

Police Chief Steidle stated that, in the regulatory theme they presented in both of the

ordinances, there were no provisions for mobile.

Mayor O'Neill stated that they could be cited or arrested for.

Police Chief Steidle responded affirmatively.

Mayor O'Neill asked if they noted the 51% ownership change posting and they will get back to them about a social host ordinance for marijuana.

Police Chief Steidle responded affirmatively.

Planning Director Wehrmeister stated that she was able to pull up google earth and the distance from that walkway mentioned to the Park Mall, presuming where the parcel line is on the Park Mall, was not precise but was about 900 feet, give or take 20 feet.

Mayor O'Neill thanked her for the information.

Mayor pro Tem Keener referred to the buffer zones, and stated that when he briefed him, he stated that they can't just change one buffer zone but have to make a general statement about buffer zones throughout the city. He asked if that was correct.

Assoc. Planner Murdock stated that, from the ease of administration, that would be staff's preference. He didn't know if they evaluated the legal question of whether they could segregate a buffer between different specific uses or daycare centers or schools. He stated that it becomes that much more difficult from a technical standpoint in attempting to map it and keep tabs on it.

Mayor O'Neill thought it sounded as they were ready for someone to make a motion.

Councilmember Vaterlaus stated that Denver has one dispensary for every 1,500 people and the number 6, which some people objected to was very small in comparison to other cities.

Councilmember Martin stated that she will make the motion.

Mayor pro Tem Keener asked if they have to make them separately.

City Attorney Kenyon stated that she thought they should.

Councilmember Martin stated that it would then be No. 1.

City Attorney Kenyon responded affirmatively, adding that it would be to move to waive the first reading and introduce an ordinance as amended, and that amendment is to Section 4-16.06, adding Chapter 16 to Title 4 of the Pacifica Municipal Code by establishing regulations related to marijuana public safety licenses.

Councilmember Martin moved to waive the first reading and introduce an ordinance of the City Council as stated by the City Attorney; seconded by Mayor pro Tem Keener.

City Attorney Kenyon asked if there were any amendments to the second motion.

Planning Director Wehrmeister stated that she was prepared with the amendment, move to

waive the first reading and introduce an ordinance of the City Council amending Title 9, Chapter 4 of the Zoning Code with the following amendment to Section 9-4.4804, pertaining to marijuana use permit general provisions, subsection A2 which is the marijuana use permit, adding a section that states, upon notification of the Director of Planning, a qualified applicant shall place a legible and visible sign, not less than 2 sq. feet on the front of the subject premises, indicating that a marijuana use permit has been filed and how to contact the Planning Department to obtain more information.

Councilmember Martin asked if that also said operations and amending the zoning, etc.

Planning Director Wehrmeister responded affirmatively.

Councilmember Martin stated that was her motion; seconded by Councilmember Vaterlaus.

5-0

Councilmember Martin assumed they do not need a 2/3 vote now.

City Attorney Kenyon stated that they do need a 2/3 vote to place a general tax on the ballot, apart from the fiscal emergency.

Councilmember Martin thought they didn't need a 2/3 vote because they were in fiscal emergency.

Councilmember Vaterlaus stated that was the people voting, not the Council.

Councilmember Martin moved to approve, by at least a 2/3 vote, a resolution of the City Council ordering submission to the qualified electors of the City a measure to establish a tax on marijuana operations, at the consolidated municipal, school and special district election to be held on Tuesday, November 7, 2017; seconded by Digre.

5-0

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Deirdre Martin, Councilmember
SECONDER:	John Keener, Mayor Pro Tem
AYES:	O'Neill, Keener, Digre, Vaterlaus, Martin

CONSIDERATION

- 10. Parks, Beaches and Recreation Commission Annual Report to City Council**
PROPOSED ACTION: None - Information only

PB&R Dir. Perez produced PB&R Commission members who will present the staff report.

PB&R Commission Chair Mau began presentation of the PB&R Report.

PB&R Chair pro Tem Bier continued the PB&R Report.

PB&R Commissioner Abbott continued the PB&R Report.

PB&R Chair Mau completed the PB&R Report and opened it up to questions.

Councilmember Digre appreciated their presence and their presentation. She stated that their work was so diverse and comprehensive and they provided a lot of the city. Stated that, the seniors aren't just getting a good meal but have company which they appreciate as they get older. She was happy that the youth are doing fine. She encouraged them to bring the youth to a City Council meeting.

Councilmember Martin stated that about a year ago she was participating in the report. She didn't think Kevin Kellogg's name was in the Tribune listed as a commissioner.

Councilmember Vaterlaus stated that they do more things than she ever expected and she thanked them for all their hard work.

Mayor pro Tem Keener stated the same from him.

Mayor O'Neill also thanked them, stating that he served on a couple of commissions.

There were no public comments.

RESULT: NO VOTE REQUIRED
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11. Accept the County Certification that the Referendum Petition Against Ordinance No. 814 Contains the Requisite Number of Valid Signatures

PROPOSED ACTION: Accept the County certification that the referendum petition against Ordinance No. 814 contains the requisite number of valid signatures and direct staff to prepare documents to introduce an Ordinance repealing and rescinding Ordinance No. 814.

City Clerk O'Connell presented the staff report.

There were no public comments.

Mayor pro Tem Keener moved that City Council rescind Ordinance No. 814.

City Attorney Kenyon stated that they would need to bring back an ordinance rescinding Ordinance No. 814. She stated that they want to accept the County certification and direct staff to bring back an ordinance rescinding Ordinance No. 814.

Mayor pro Tem Keener stated so moved; seconded by Commissioner Vaterlaus.

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	John Keener, Mayor Pro Tem
SECONDER:	Sue Vaterlaus, Councilmember
AYES:	O'Neill, Keener, Digre, Vaterlaus, Martin

ADJOURN

Mayor O'Neill adjourned the meeting at 11:48 p.m.

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell, City Clerk

APPROVED: 4-0; 7/10/17 Mayor O'Neill absent.

John Keener, Mayor Pro Tem