



**CITY OF PACIFICA
CITY COUNCIL AGENDA**

Zoom Meeting: <https://zoom.us/j/99091160676>
Dial-in: 1-669-900-6833 | WebinarID: 990 9116 0676
Alt 1: <https://www.cityofpacifica.org/LiveStream>
Alt 2: Cable Channel 26

Mayor Mary Bier
Mayor Pro Tem Tygarjas Bigstyk
Councilmember Mike O'Neill
Councilmember Sue Vaterlaus
Councilmember Sue Beckmeyer

February 14, 2022 (MONDAY)
www.cityofpacifica.org

CORONAVIRUS DISEASE (COVID-19) NOTICE

THIS MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF GOVERNMENT CODE SECTION 54953 (AS AMENDED BY AB 361) WHICH AUTHORIZES TELECONFERENCED MEETINGS UNDER THE BROWN ACT DURING CERTAIN PROCLAIMED STATES OF EMERGENCY. THE GOVERNOR OF CALIFORNIA PROCLAIMED A STATE OF EMERGENCY RELATED TO COVID-19 ON MARCH 4, 2020. THIS TELECONFERENCED MEETING IS NECESSARY SO THAT THE CITY CAN CONDUCT ESSENTIAL BUSINESS AND IS PERMITTED UNDER GOVERNMENT CODE SECTION 54953 IN ORDER TO PROTECT PUBLIC HEALTH AND SAFETY OF ATTENDEES.

Consistent with Government Code Section 54953, this City Council Meeting will be held via teleconference only and will not be physically open to the public. City Councilmembers and staff will teleconference into the meeting by audio and/or video. The meeting will be conducted via Zoom.

Below is information on how the public may observe and participate in the meeting.

To Observe the Meeting:

- To access the meeting by computer / smartphone, go to:
<https://zoom.us/j/99091160676>
- To dial-in via phone:
Dial: 1-669-900-6833 And enter Webinar ID: 990 9116 0676

To Participate in the Meeting by Providing Public Comment:

- **During the Meeting:** Live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the “raise hand” feature (for those joining by phone, press *9 to “raise hand”) during the public comment period for the agenda item you wish to address. The City Clerk will call on people to speak by name provided or last 4 digits of phone number for dial-in attendees. Please clearly state your full name for the record at the start of your public comment.
- **Before the Meeting:** Written public comments for the record may be submitted in advance by 12:00 p.m. on the meeting date by email to: publiccomment@pacifica.gov and will be made part of the written record but will not be read verbally at the meeting. Written public comments submitted by email should adhere to the following:
 - Clearly indicate the **Agenda Item No.** or specify “**Oral Communications**” in the

Subject Line for items not on the agenda

- Include the submitter's **full name**

Written public comments received by 12:00 p.m. on the meeting date will be provided in their entirety to the City Council prior to the meeting and will be made part of the written record but will not be read verbally at the meeting. Written public comments will be posted to the City's website for review prior to the meeting.

Alternative Ways to Watch the Meeting:

The primary method for observing and participating in the meeting is via the zoom link or phone number listed above, however, there are alternative ways to watch the meeting:

- Watch on TV on local cable channel 26
- Watch a Live Stream of the meeting by following <https://www.cityofpacifica.org/LiveStream> or www.pacificcoast.tv

Note: The methods of observing the meeting or providing public comments may be altered or the meeting may be cancelled, if needed. You may check on the status of the meeting by visiting the City's website at www.cityofpacifica.org for any updates or changes, should they occur.

7:00 PM OPEN SESSION

Call to Order

Roll Call

Reading of Land Acknowledgment

The City of Pacifica acknowledges that we occupy the unceded ancestral homeland of the Ramaytush Ohlone peoples, who are the original inhabitants of the San Francisco Peninsula. We honor the Ramaytush Ohlone peoples for their enduring commitment to Mother Earth. As the Indigenous protectors of this land and in accordance with their traditions, the Ramaytush Ohlone have never ceded, lost, nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. We affirm their sovereign rights as First Peoples and wish to pay our respects to the ancestors, elders, and relatives of the Ramaytush Ohlone peoples.

Salute to the Flag led by Councilmember O'Neill

SPECIAL PRESENTATIONS

A. Proclamation – Pacifica Sports Hall of Fame Week and 2022 Inductees

CONSENT CALENDAR

Persons wishing to address the Council on any Consent Calendar item may do so at this time. Each speaker will be allotted three minutes.

Items on the consent calendar will be adopted by one motion unless a Councilmember requests, before the vote on the motion, to have an item discussed. Time limit on comments is three minutes or less.

1. Approval of Disbursements for 12/16/21 through 12/31/21.
PROPOSED ACTION: Move to approve attached lists of disbursements for 12/16/21 through 12/31/21.
2. Approval of Minutes
PROPOSED ACTION: Move to approve the minutes of the regular City Council Meeting held on January 24, 2022.
3. Continuation of Proclamation of Local Emergency of the Pacifica Coastline from Westline Drive to the End of Beach Boulevard.
PROPOSED ACTION: Accept report and make a determination that conditions of local emergency continue to exist within the Pacifica Coastline from Westline Drive to the end of Beach Boulevard.
4. Continuation of Proclamation of Local Emergency at the Anza Pump Station.
PROPOSED ACTION: Accept Report and Make a Determination that Conditions of Local Emergency Continue to Exist at the Anza Pump Station at the Pacifica State Beach.
5. Continuation of Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus ("COVID-19").
PROPOSED ACTION: Accept report and make a determination that conditions of local emergency continue to exist regarding Novel (new) Coronavirus ("COVID-19").
6. Consideration of a Resolution Making Findings as Required by AB 361 to Continue to Permit the City Council and the City's Committees and Commissions to Conduct Teleconferenced Meetings Due to Health and Safety Concerns Relating to COVID-19
PROPOSED ACTION: Move to adopt a Resolution making findings pursuant to AB 361 to authorize the City Council and the City's Committees and Commissions to continue to conduct teleconferenced meetings due to health and safety concerns relating to COVID-19.
7. 2021 Mandated Fire and Life Safety Inspections Compliance Report
PROPOSED ACTION: Receive 2021 mandated fire and life safety inspections compliance report and move to adopt resolution acknowledging receipt of the North County Fire Authority's mandated fire and life safety inspections performed within the City of Pacifica pursuant to Sections 13146.2 and 13146.3 of the Health and Safety Code.
8. Reclassify Child Care Technician to Recreation Specialist in the Parks, Beaches, and Recreation Department and update the related job description.
PROPOSED ACTION: Move to reclassify Child Care Technician position to Recreation Specialist within the Parks, Beaches and Recreation Department and adopt a Resolution approving updated Recreation Specialist job description.

9. Approval of Purchase Agreement with Polydyne Inc., via sole source, for the supply of Clarifloc WE-2123, the cationic polymer used at the Calera Creek Water Recycling Plant for wastewater treatment.
PROPOSED ACTION: Move to Approve the Purchase Agreement between the City of Pacifica and Polydyne Inc., via Sole Source, for the supply of Clarifloc WE-2123, Cationic Polymer used at the Calera Creek Water Recycling Plant for Wastewater Treatment in the Amount Not to Exceed \$85,000 from February 2022 to June 2022; and Authorize the City Manager Execute all Necessary Documents.
10. Authorize Agreement with Creative Digital Agency for Marketing Services
PROPOSED ACTION: Authorize City Manager to Execute a Professional Services Agreement with Creative Digital Agency for Economic Development Marketing Services

PUBLIC HEARINGS

11. Redistricting - Public Hearing #2 to Receive Input Regarding Proposed Draft District Map, Composition of Council District Boundaries, and Communities of Interest.
PROPOSED ACTION: Receive report, conduct the second public hearing in the redistricting process, and:
(A) Consider and discuss the draft Council District Map published as Map 505b and other draft map submitted by member of the public;
(B) Receive public input on composition of Council District boundaries, communities of interest, and draft maps;
(C) Provide direction on any revisions to draft maps; and
(D) Confirm the date of the third public hearing in the redistricting process.
12. Resolution to Update the Park Development Impact Fee and Ordinance Establishing Updated Impact Fees and Quimby Act Dedication Requirements and In Lieu Fees
PROPOSED ACTION: Move to:
1. Adopt resolution to update the Park Development Impact Fee within the City of Pacifica; and
2. Move to Introduce by title only and waive first reading of an "Ordinance of the City Council of the City of Pacifica, California repealing Chapter 19 of the Pacifica Municipal Code and replacing it with Chapter 19 (Park Facilities Impact Fee); repealing Section 10-1.803 (Park Land Dedication) of the Pacifica Municipal Code and replacing it with Section 10-1.803 (Park Land Dedication) to establish updated Impact Fees and Quimby Act dedication requirements and in lieu fees imposed on New Development in the City of Pacifica"; and finding the Ordinance exempt under the California Environmental Quality Act ("CEQA").

ORAL COMMUNICATIONS

This portion of the Agenda is available for the public to address the City Council on any issue that is not on the Agenda. Any person wishing to address the Council shall be recognized by the Mayor during Oral Communications, provided, however, that during the Oral Communications portion of the agenda, only items not on the agenda for that meeting may be addressed. All remarks shall be addressed to the Council as a body and not to any member thereof. Councilmembers shall not enter into debate with speakers

under Oral Communications. A maximum time of three minutes will be allowed for any speaker. Pursuant to Pacifica Municipal Code Title 2, Chapter 1, Section 2-1.118 any person making impertinent, slanderous, or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the presiding officer and, if such conduct continues, may, at the direction of the presiding officer, be ordered barred from further audience before the Council during the meeting.

COUNCIL COMMUNICATIONS

The purpose of Council Communications is for Councilmembers to inform each other of items of potential interest to other Councilmembers, such as interagency meetings.

STAFF COMMUNICATIONS

The purpose of Staff Communications is for the City Manager to offer announcements as appropriate.

CONSIDERATION

13. Extension of Public Comment Period on the Draft Environmental Impact Report for the General Plan Update and Sharp Park Specific Plan.
PROPOSED ACTION: Extend the public comment period on the Draft Environmental Impact Report for the General Plan Update and Sharp Park Specific Plan by 15 days beyond the current 45 day comment period.

14. Introduction of an Ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica
PROPOSED ACTION: Move to waive the first reading of and introduce by title an ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica.

15. Vision 2025 & Beyond – Fiscal Sustainability Analysis, Potential Revenue Options, and Ballot Measure Analysis & Communications Services
PROPOSED ACTION: Receive, discuss, and provide direction to the City Manager on the updated 10 Year Financial Forecast and Options to Maintain the Current Level of City Services.

ADJOURN

NOTICE: If you challenge a city's zoning, planning or other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Judicial review of any city administrative decision may be had only if a petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of the final decision

The City of Pacifica will provide assistance for disabled citizens upon at least 24 hours advance notice to the City Manager's Office (650) 738-7301, or send request via email to: scoffey@pacifica.gov if you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to the disabled.

The Pacifica Municipal Code is available on line at the City's website (www.cityofpacifica.org/municode);

HOW TO OBTAIN CITY COUNCIL AGENDAS

Posted agendas:

Agendas are posted no later than Friday prior to the City Council meeting date, at the entrance to the City Hall location at the Pacifica Community Center, 540 Crespi Drive.

View on the Internet:

Follow the link to Council agenda, at www.cityofpacifica.org

E-mail subscription:

Send a request to Sarah Coffey, at scoffey@pacifica.gov

City Clerk's Office/City Manager's Office

City Hall, 540 Crespi Drive

Council meetings:

Agendas are available at the City Council meeting

HOW TO REACH YOUR GOVERNMENT OFFICIALS

- Governor Gavin Newsom, State Capitol Building, Sacramento CA 95814 (916) 445-2841
- State Senator Josh Becker, 1528 So. El Camino Real, Suite 303, San Mateo CA 94402 (650) 212-3313
- Assembly Member Kevin Mullin, 1528 South El Camino Real, Suite 302 San Mateo, CA 94402 (650) 349-2200
- Congresswoman Jackie Speier, 155 Bovet Road, Suite 780, San Mateo CA 94402 (650) 342-0300
- Senator Alex Padilla, B03 Russell Senate Office Building, Washington DC 20510 (202) 224-3553
- Senator Dianne Feinstein, #1 Post Street, Suite 2450, San Francisco CA 94104 (415) 393-0707
- President Joseph R. Biden, 1600 Pennsylvania Ave. NW, Washington DC 20500

CITY COUNCIL

- Mayor Mary Bier, mbier@pacifica.gov
- Mayor pro Tem Tygarjas Bigstycck, tbigstycck@pacifica.gov
- Councilmember Mike O'Neill, mo'neill@pacifica.gov
- Councilmember Sue Vaterlaus, svaterlaus@pacifica.gov
- Councilmember Sue Beckmeyer, sbeckmeyer@pacifica.gov



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Approval of Disbursements for 12/16/21 through 12/31/21.

RECOMMENDED ACTION:

Move to approve attached lists of disbursements for 12/16/21 through 12/31/21.

STAFF CONTACT:

Yulia Carter, Chief Financial Sustainability Officer
(650) 738-7402
ycarter@pacifica.gov

BACKGROUND/DISCUSSION:

Staff has submitted the following disbursements for Council approval:

- Disbursements dated 12/16/21 through 12/31/21 in the amount of \$1,018,107.96 as written on regular checks numbered 58574-58719 (Attachment 1). These disbursements are for Fiscal Year 2021-2022.

FISCAL IMPACT:

These disbursements are within budgeted appropriations.

ORIGINATED BY:

Finance Department

ATTACHMENT LIST:

FY 2021-2022 Disbursements 58574-58719 -12-16 to 12-31 (PDF)

REPORT PARAMETERS

ORGANIZATION : 001
 BANK : 1
 PRINT BY : CHECK #
 SORT OPTION : CHECK #
 PRINT DETAILS : N
 ORG NAME FOR EXTRACT FILE : PACIFICA

CITY OF PACIFICA
 CHECK REGISTER
 CHECK RANGE: 58574 - 58719

BANK	CHECK #	CHECK AMT	CHECK DATE	VENDOR #	ADDRS #	VENDOR NAME	TYPE	CHECK STATUS
1	58574	\$1972.27	12/22/21	00009	8	AT&T	S	OUTSTANDING
1	58575	\$183.81	12/22/21	00045	2	ALBERTSONS / SAFEWAY	S	OUTSTANDING
1	58576	\$887.28	12/22/21	04980	1	AMAZON.COM SALES, INC.	S	OUTSTANDING
1	58577	\$287.66	12/22/21	00056	0	ARAMARK	S	OUTSTANDING
1	58578	\$399.26	12/22/21	00009	0	AT&T	S	OUTSTANDING
1	58579	\$317.50	12/22/21	00009	2	AT&T MOBILITY	S	OUTSTANDING
1	58580	\$21837.80	12/22/21	02502	0	BURKE WILLIAMS AND SORENSEN LLP	S	OUTSTANDING
1	58581	\$170.00	12/22/21	00014	5	CALIFORNIA STATE OF	S	OUTSTANDING
1	58582	\$8652.00	12/22/21	03814	1	CAPPSTONE, INC.	S	OUTSTANDING
1	58583	\$302.86	12/22/21	00510	1	CINTAS	S	OUTSTANDING
1	58584	\$879.36	12/22/21	00510	0	CINTAS CORPORATION #464	S	OUTSTANDING
1	58585	\$124.74	12/22/21	02822	0	CITY AUTO SUPPLY	S	OUTSTANDING
1	58586	\$61.87	12/22/21	02168	1	COMCAST	S	OUTSTANDING
1	58587	\$14916.23	12/22/21	03787	0	CONTRACT SWEEPING SERVICES	S	OUTSTANDING
1	58588	\$200.00	12/22/21	00022	50	COUNTY OF SAN MATEO	S	OUTSTANDING
1	58589	\$440.00	12/22/21	00024	2	CRITICAL REACH	S	OUTSTANDING
1	58590	\$124086.45	12/22/21	00611	2	CSG CONSULTANTS, INC.	S	OUTSTANDING
1	58591	\$9900.00	12/22/21	05141	1	DAVEY RESOURCE GROUP, INC.	S	OUTSTANDING
1	58592	\$12615.00	12/22/21	00645	1	DAVEY TREE EXPERT COMPANY	S	OUTSTANDING
1	58593	\$3600.00	12/22/21	02201	0	DISCOUNT PLUMBING, INC.	S	OUTSTANDING
1	58594	\$781.77	12/22/21	04354	0	DOOLEY ENTERPRISES, INC.	S	OUTSTANDING
1	58595	\$339.78	12/22/21	02477	0	FASTENAL COMPANY	S	OUTSTANDING
1	58596	\$31.00	12/22/21	03047	0	FASTRAK VIOLATION PROCESSING DEPARTMENT	S	OUTSTANDING
1	58597	\$4833.69	12/22/21	02767	0	FLYERS ENERGY, LLC	S	OUTSTANDING
1	58598	\$8966.25	12/22/21	05269	0	GOOD CITY COMPANY	S	OUTSTANDING
1	58599	\$110.00	12/22/21	00924	0	HILL SCOTT	S	OUTSTANDING
1	58600	\$11051.33	12/22/21	05427	0	JARL MEAGHER	S	OUTSTANDING
1	58601	\$720.79	12/22/21	01027	0	K 119 OF CALIFORNIA	S	OUTSTANDING
1	58602	\$1000.00	12/22/21	05425	0	LAWRENCE FRYE	S	OUTSTANDING
1	58603	\$156.02	12/22/21	01090	1	LIFELOC TECHNOLOGIES	S	OUTSTANDING
1	58604	\$1610.46	12/22/21	01095	0	LINDA MAR HARDWARE	S	OUTSTANDING
1	58605	\$67102.30	12/22/21	05366	0	MARTIN CASTILLO DBA	S	OUTSTANDING
1	58606	\$211.72	12/22/21	00002	55	MARTINEZ YANO, ELIZABETH (PETTY CASH)	S	OUTSTANDING
1	58607	\$22949.75	12/22/21	03955	0	MOFFATT & NICHOL	S	OUTSTANDING
1	58608	\$788.00	12/22/21	00001	258	MURDOCK, CHRISTIAN	S	OUTSTANDING
1	58609	\$8965.44	12/22/21	01206	0	NORTH COAST COUNTY WATER DIST.	S	OUTSTANDING
1	58610	\$57.43	12/22/21	01217	0	OFFICE DEPOT	S	OUTSTANDING
1	58611	\$1708.10	12/22/21	01249	0	PACIFICA CHAMBER OF COMMERCE	S	OUTSTANDING
1	58612	\$4035.44	12/22/21	01297	0	PARS	S	OUTSTANDING
1	58613	\$1000.00	12/22/21	05428	0	PAT MARQUES	S	OUTSTANDING
1	58614	\$12088.00	12/22/21	01300	0	PEPPER BROS BUILDING MAINTENANCE	S	OUTSTANDING
1	58615	\$3960.55	12/22/21	04651	0	PLAZO CONSTRUCTION	S	OUTSTANDING
1	58616	\$12397.00	12/22/21	01309	0	POLYDYNE INC.	S	OUTSTANDING
1	58617	\$184.04	12/22/21	01317	0	PREFERRED ALLIANCE, INC.	S	OUTSTANDING
1	58618	\$42.96	12/22/21	01336	0	QUILL CORPORATION	S	OUTSTANDING
1	58619	\$1056.50	12/22/21	04026	0	RANEY PLANNING AND MANAGEMENT, INC	S	OUTSTANDING
1	58620	\$5400.00	12/22/21	03281	0	REGIONAL GOVERNMENT SERVICES	S	OUTSTANDING
1	58621	\$459.38	12/22/21	01367	0	RICE TRUCKING SOIL FARM	S	OUTSTANDING
1	58622	\$544.47	12/22/21	01372	0	RITE-WAY ELECTRIC	S	OUTSTANDING
1	58623	\$7201.60	12/22/21	03306	1	ROBERT HALF MANAGEMENT RESOURCES	S	OUTSTANDING
1	58624	\$75.60	12/22/21	01402	1	SAFETY-KLEEN CORP.	S	OUTSTANDING

CITY OF PACIFICA
 CHECK REGISTER
 CHECK RANGE: 58574 - 58719

BANK	CHECK #	CHECK AMT	CHECK DATE	VENDOR #	ADDRS #	VENDOR NAME	TYPE	CHECK STATUS
1	58625	\$220.20	12/22/21	05197	0	SAN MATEO COUNTY MOSQUITO & VECTOR CONTROL	S	OUTSTANDING
1	58626	\$1612.94	12/22/21	04860	0	SERRA YELLOW CAB	S	OUTSTANDING
1	58627	\$160.64	12/22/21	00002	35	SOLIS, ELIZABETH (PETTY CASH)	S	OUTSTANDING
1	58628	\$52.69	12/22/21	01513	0	SOUTH CITY LUMBER	S	OUTSTANDING
1	58629	\$1060.00	12/22/21	01531	1	ST. FRANCIS ELECTRIC, INC.	S	OUTSTANDING

Attachment: FY 2021-2022 Disbursements 58574-58719 -12-16 to 12-31 (4873 : Disbursements - Dated 12/16/21 through 12/31/21)

1	58630	\$268.92	12/22/21	00002	39 SUZUKI, MARIA (PETTY CASH)	S OUTSTANDING
1	58631	\$1579.14	12/22/21	01587	0 TELECOMMUNICATIONS ENGINEERING ASSOCIATES	S OUTSTANDING
1	58632	\$324.00	12/22/21	00001	247 TIET, YEN	S OUTSTANDING
1	58633	\$45972.24	12/22/21	01635	0 TROJAN TECHNOLOGIES, INC.	S OUTSTANDING
1	58634	\$500.00	12/22/21	01657	2 U.S. POSTAL SERVICE	S OUTSTANDING
1	58635	\$1483.81	12/22/21	02922	0 UNLIMITED TOOL REPAIR AND FABRICATION.	S OUTSTANDING
1	58636	\$402.63	12/22/21	01812	3 US BANK EQUIPMENT FINANCE	S OUTSTANDING
1	58637	\$4705.24	12/22/21	03835	0 US FOODS, INC	S OUTSTANDING
1	58638	\$313.60	12/22/21	02266	0 VALLEY INDUSTRIAL SPECIALTIES, INC.	S OUTSTANDING
1	58639	\$975.37	12/22/21	01684	0 VERIZON WIRELESS	S OUTSTANDING
1	58640	\$470.68	12/22/21	00001	151 WACHTELBOEN, DUANE	S OUTSTANDING
1	58641	\$8011.84	12/22/21	02679	0 WESTERN TRUCK FAB	S OUTSTANDING
1	58642	\$2075.94	12/22/21	04999	1 XEROX FINANCIAL SERVICES	S OUTSTANDING
1	58643	\$132.16	12/22/21	00001	286 YANO, ELIZABETH	S OUTSTANDING
1	58644	\$500.00	12/22/21	05426	0 YIFTEE INC.	S OUTSTANDING
1	58645	\$2395.31	12/22/21	05423	0 ZUCKERMAN-HERITAGE, INC.	S OUTSTANDING
1	58646	\$487.99	12/22/21	01751	0 ZUMAR INDUSTRIES, INC.	S OUTSTANDING
1	58647	\$118.00	12/29/21	04066	0 ALERT PEST CONTROL COMPANY INC	S OUTSTANDING
1	58648	\$38.70	12/29/21	00136	0 ALHAMBRA	S OUTSTANDING
1	58649	\$77.26	12/29/21	00138	0 ALL INDUSTRIAL ELECTRIC SUPPLY, INC.	S OUTSTANDING
1	58650	\$54.68	12/29/21	04980	1 AMAZON.COM SALES, INC.	S OUTSTANDING
1	58651	\$228.65	12/29/21	03895	0 AMERICAN FIDELITY ADMINISTRATIVE SERVICES LLC	S OUTSTANDING
1	58652	\$203.10	12/29/21	00009	0 AT&T	S OUTSTANDING
1	58653	\$43.23	12/29/21	00009	2 AT&T MOBILITY	S OUTSTANDING
1	58654	\$200.00	12/29/21	02118	0 BOOTZIN/ALEX	S OUTSTANDING
1	58655	\$1432.29	12/29/21	00510	0 CINTAS CORPORATION #464	S OUTSTANDING
1	58656	\$1369.50	12/29/21	05082	0 COASTSIDE NEWS GROUP, INC.	S OUTSTANDING
1	58657	\$293.44	12/29/21	02168	0 COMCAST	S OUTSTANDING
1	58658	\$45978.00	12/29/21	00022	59 COUNTY OF SAN MATEO	S OUTSTANDING
1	58659	\$1585.25	12/29/21	00611	2 CSG CONSULTANTS, INC.	S OUTSTANDING
1	58660	\$7628.84	12/29/21	00025	0 DALY CITY/CITY OF	S OUTSTANDING
1	58661	\$9875.00	12/29/21	00645	0 DAVEY TREE EXPERT COMPANY	S OUTSTANDING
1	58662	\$45.91	12/29/21	02614	0 DISH	S OUTSTANDING
1	58663	\$2400.00	12/29/21	04277	0 EASTMAN INVESTIGATIVE SERVICES	S OUTSTANDING
1	58664	\$1050.00	12/29/21	05217	0 ELECTRICAL CONSTRUCTION SERVICES INC.	S OUTSTANDING
1	58665	\$251.29	12/29/21	02610	1 ENVIRONMENTAL.COM, LLC	S OUTSTANDING
1	58666	\$167.93	12/29/21	00773	0 FEDEX	S OUTSTANDING
1	58667	\$1000.00	12/29/21	05429	0 FRANK VELLA	S OUTSTANDING
1	58668	\$100.00	12/29/21	03823	1 GIBSON JR, EUGENE	S OUTSTANDING
1	58669	\$6720.00	12/29/21	00870	0 GOVCONNECTION, INC.	S OUTSTANDING
1	58670	\$125.23	12/29/21	00872	0 GRAINGER	S OUTSTANDING
1	58671	\$2314.68	12/29/21	00875	0 GRANITE ROCK COMPANY #26577	S OUTSTANDING
1	58672	\$185.60	12/29/21	00892	0 HACH COMPANY	S OUTSTANDING
1	58673	\$1890.00	12/29/21	05103	0 HADRONEX INC.	S OUTSTANDING
1	58674	\$2400.00	12/29/21	05090	0 JOE LAWRENCE	S OUTSTANDING
1	58675	\$71.39	12/29/21	01812	4 KBA DOCUSYS	S OUTSTANDING

Report: CHECKREG Generated: 18DEC20 13:17 Run: TUESDAY JAN2522 7:58 Page: 4

CITY OF PACIFICA
CHECK REGISTER
CHECK RANGE: 58574 - 58719

BANK	CHECK #	CHECK AMT	CHECK DATE	VENDOR #	ADDRS #	VENDOR NAME	TYPE	CHECK STATUS
1	58676	\$1410.94	12/29/21	01070		0 LAURETTA PRINTING COMPANY	S	OUTSTANDING
1	58677	\$408.07	12/29/21	00001	285	LAVEZZO, GIORGIO	S	OUTSTANDING
1	58678	\$324.43	12/29/21	01142		0 MC MASTER-CARR SUPPLY COMPANY	S	OUTSTANDING
1	58679	\$265.99	12/29/21	01154		0 METRO MOBILE COMMUNICATIONS	S	OUTSTANDING
1	58680	\$9538.13	12/29/21	05374		0 MORENO & ASSOCIATES, INC.	S	OUTSTANDING
1	58681	\$440.00	12/29/21	04375		0 NASTT FINANCIAL SERVICES	S	OUTSTANDING
1	58682	\$436.33	12/29/21	01217		0 OFFICE DEPOT	S	OUTSTANDING
1	58683	\$144260.12	12/29/21	01240		0 PACIFIC GAS & ELECTRIC CO.	S	OUTSTANDING
1	58684	\$225802.30	12/29/21	01295	3	PETERSON POWER SYSTEMS INC.	S	OUTSTANDING
1	58685	\$30992.50	12/29/21	01309		0 POLYDYNE INC.	S	OUTSTANDING
1	58686	\$13.10	12/29/21	01336		0 QUILL CORPORATION	S	OUTSTANDING
1	58687	\$102.50	12/29/21	04026		0 RANEY PLANNING AND MANAGEMENT, INC	S	OUTSTANDING
1	58688	\$9449.04	12/29/21	03306	1	ROBERT HALF MANAGEMENT RESOURCES	S	OUTSTANDING
1	58689	\$4033.92	12/29/21	05376	0	ROCKWELL AUTOMATION INC.	S	REISSUE
1	58690	\$164.51	12/29/21	00022	9	SAN MATEO COUNTY INFORMATION SERVICES	S	OUTSTANDING
1	58691	\$1025.00	12/29/21	03064	0	SESAC	S	OUTSTANDING
1	58692	\$1000.00	12/29/21	01409	8	SMPCPSA	S	OUTSTANDING
1	58693	\$3326.00	12/29/21	00044	1	SWRCB	S	OUTSTANDING
1	58694	\$152.91	12/29/21	00001	141	THAXTON, SUSAN	S	OUTSTANDING
1	58695	\$58.24	12/29/21	04874	0	THE DIRECTV GROUP, INC.	S	OUTSTANDING
1	58696	\$8793.25	12/29/21	04670	0	U.S. TELEPACIFIC CORP.	S	OUTSTANDING
1	58697	\$833.98	12/29/21	04576	1	UNIVAR SOLUTIONS USA INC	S	OUTSTANDING
1	58698	\$237.11	12/29/21	02899	1	UTILITY TELECOM GROUP, LLC	S	OUTSTANDING
1	58699	\$774.79	12/29/21	03980	0	VERITIV OPERATING COMPANY	S	OUTSTANDING
1	58700	\$1139.68	12/29/21	01684	0	VERIZON WIRELESS	S	OUTSTANDING
1	58701	\$2415.00	12/29/21	01182	0	WILLDAN FINANCIAL SERVICES	S	OUTSTANDING
1	58702	\$1735.00	12/29/21	01729	0	WITMER-TYSON IMPORTS, INC.	S	OUTSTANDING
1	58703	\$3543.91	12/29/21	02495	0	YSI INCORPORATED	S	OUTSTANDING
1	58704	\$851.82	12/29/21	01751	0	ZUMAR INDUSTRIES, INC.	S	OUTSTANDING
1	58705	\$242.76	12/24/21	00814	1	CALIFORNIA STATE DISBURSEMENT UNIT	S	OUTSTANDING
1	58706	\$171.06	12/24/21	00814	1	CALIFORNIA STATE DISBURSEMENT UNIT	S	OUTSTANDING
1	58707	\$240.00	12/24/21	00814	1	CALIFORNIA STATE DISBURSEMENT UNIT	S	OUTSTANDING
1	58708	\$50.00	12/24/21	00814	0	FRANCHISE TAX BOARD	S	OUTSTANDING
1	58709	\$350.00	12/24/21	00814	0	FRANCHISE TAX BOARD	S	OUTSTANDING
1	58710	\$4.00	12/24/21	01764	3	NATIONAL D.R.I.V.E	S	OUTSTANDING
1	58711	\$246.00	12/24/21	01767	0	NPFBA	S	OUTSTANDING
1	58712	\$2325.08	12/24/21	01758	1	PACIFICA FIREFIGHTERS UNION	S	OUTSTANDING
1	58713	\$439.00	12/24/21	01758	0	PACIFICA FIREFIGHTERS-LTD	S	OUTSTANDING
1	58714	\$840.00	12/24/21	01759	0	PACIFICA POLICE OFFICERS ASSOCIATION	S	OUTSTANDING

Attachment: FY 2021-2022 Disbursements 58574-58719 -12-16 to 12-31 (4873 : Disbursements - Dated 12/16/21 through 12/31/21)

1	58715	\$210.00	12/24/21	01760	0	PACIFICA POLICE OFFICERS SAVINGS	S	OUTSTANDING
1	58716	\$420.00	12/24/21	01769	0	PACIFICA POLICE SUPERVISORS ASSOCIATION	S	OUTSTANDING
1	58717	\$2777.00	12/24/21	01764	0	TEAMSTERS LOCAL #856	S	VOIDED
1	58718	\$17143.64	12/30/21	04608	0	TRI COUNTIES BANK	S	OUTSTANDING
1	58719	\$2715.00	12/24/21	01764	0	TEAMSTERS LOCAL #856	S	OUTSTANDING

TOTAL # OF ISSUED CHECKS: 146 TOTAL AMOUNT: 1,024,918.88

TOTAL # OF WIRES: 0 TOTAL AMOUNT: 0.00

TOTAL # OF VOIDED/REISSUED/UNCLAIMED CHECKS: 2 TOTAL AMOUNT: 6,810.92

Report: CHECKREG Generated: 18DEC20 13:17 Run: TUESDAY JAN2522 7:58 Page: 5

CITY OF PACIFICA
CHECK REGISTER
CHECK RANGE: 58574 - 58719

BANK	CHECK #	CHECK AMT	CHECK DATE	VENDOR #	ADDRS #	VENDOR NAME	TYPE	CHECK STATUS
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TOTAL # OF ACH CHECKS: 0 TOTAL AMOUNT: 0.00

TOTAL # OF UNISSUED CHECKS: 0

Report: CHECKREG Generated: 18DEC20 13:17 Run: TUESDAY JAN2522 7:58 Page: 6

FUND TOTALS

FUND	FUND NAME	ISSUED TOTAL	VOIDED/REISSUED TOTAL
001	GENERAL FUND	382,259.13	2,777.00
005	TRUST AND AGENCY FUND	857.43	0.00
009	STREET CONSTRUCTION FUND	1,290.56	0.00
010	GAS TAX MAINTENANCE FUND	25,713.97	0.00
012	HIGHWAY 1 IMPROVEMENT FUND	76.02	0.00
018	SEWER CHARGE FUND	267,932.46	4,033.92
019	PLANNED LOCAL DRAINAGE FUND	67,102.30	0.00
022	GENERAL CAPITAL IMPROVEMENT	10,546.17	0.00
026	PARK IN-LIEU - CAP IMPROVMT	2,415.00	0.00
028	PB&R SPECIAL REVENUE	1,612.94	0.00
034	SEWER FACILITY CONSTRUCT. FUND	228,802.30	0.00
038	DISASTER ACCOUNTING FUND	22,949.75	0.00
071	MOTOR POOL OPERATIONS FUND	6,549.93	0.00
TOTAL -		1,018,107.96	6,810.92

NO FY 2021-2022 CHECKS ISSUED ON 12/16 - 12/21/21.

Attachment: FY 2021-2022 Disbursements 58574-58719 -12-16 to 12-31 (4873 : Disbursements - Dated 12/16/21 through 12/31/21)



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Approval of Minutes

RECOMMENDED ACTION:

Move to approve the minutes of the regular City Council Meeting held on January 24, 2022.

STAFF CONTACT:

Sarah Coffey, City Clerk
650-738-7307
scoffey@pacifica.gov

BACKGROUND/DISCUSSION:

Move to approve the minutes of the regular City Council Meeting held on January 24, 2022 (Attachment A).

FISCAL IMPACT:

None.

ORIGINATED BY:

City Clerk

ATTACHMENT LIST:

Attachment A: Minutes of January 24, 2022 Meeting (PDF)



**CITY OF PACIFICA
CITY COUNCIL MINUTES**

Zoom Meeting: <https://zoom.us/j/92690013329>
Dial-in: 1-669-900-6833 | WebinarID: 926 9001 3329
Alt 1: <https://www.cityofpacifica.org/LiveStream>
Alt 2: Cable Channel 26

Mayor Mary Bier
Mayor Pro Tem Tygarjas Bigstycck
Councilmember Mike O'Neill
Councilmember Sue Vaterlaus
Councilmember Sue Beckmeyer

January 24, 2022 (MONDAY)
www.cityofpacifica.org

Mayor Mary Bier called the meeting to order on January 24, 2022 at 7:00 PM

7:00 PM OPEN SESSION

Call to Order

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

Attendee Name	Title	Status	Arrived
Mary Bier	Mayor	Present	
Tygarjas Bigstycck	Mayor Pro Tem	Present	
Mike O'Neill	Councilmember	Present	
Sue Vaterlaus	Councilmember	Present	
Sue Beckmeyer	Councilmember	Present	

City Clerk Coffey took a verbal roll call.

Staff Present: Kevin Woodhouse, City Manager; Michelle Kenyon, City Attorney; Tina Wehrmeister, Asst. City Manager/Planning Director; Lisa Petersen, PW Director; Dan Steidle, Police Chief; Sean Kavanaugh, Dep. Fire Chief; Yulia Carter, Chief Financial Sustainability Officer; Sam Bautista, PW Dep. Director; Michael Perez, PB&R Director; Ken Fong, IT Support; Josh Montemayor, Management Analyst; Sarah Coffey, City Clerk

Reading of Land Acknowledgment

Mayor Bier read the Land Acknowledgment.

Salute to the Flag led by Mayor pro Tem Bigstycck

City Clerk Coffey explained the conditions for having Council meetings pursuant to the provisions of Government Code Section 54953 (as amended by AB 361) which authorizes teleconferenced meetings under the Brown Act during certain proclaimed states of emergency. She also explained that the public can observe and participate in the meeting via the Zoom link provided in the Agenda or by phone to the dial-in number and Webinar ID provided in the

Attachment: Attachment A: Minutes of January 24, 2022 Meeting (4871 : Approval of Minutes)

Agenda. This meeting can also be viewed live via local TV Channel 26 or online at www.cityofpacifica.org/LiveStream. City Clerk Coffey also gave information on how to present public comments via email or live if participating by Zoom or phone.

SPECIAL PRESENTATIONS

A. Proclamation - Human Trafficking Prevention Month

Mayor Bier read the proclamation recognizing Human Trafficking Prevention Month. She then added that they have a document that tells how people can take action against human trafficking which is on the city's website, www.cityofpacifica.org. She then introduced Dr. Stevens.

Dr. Susan Stevens appreciated and accepted the proclamation on behalf of San Mateo County Human Trafficking Program. She stated that she lives in San Mateo County and is a physician who is volunteering with this program to raise awareness among care providers in the county. She stated that many people think human trafficking is a crime that only happens in other countries, but they are mistaken as it occurs throughout the United States, including San Mateo County and happens to all children and all adults, and in 2021, San Mateo County Human Trafficking Program conducted a voluntary assessment of local agencies and organizations and, during 2020, a range of 282 to 306 human trafficking victims were identified who had some nexus with San Mateo County, averaging over 23 victims per month, including minors, adults, labor and sex trafficking victims and they have no way of knowing how many people are victimized and it remains undetected. She stated that this program was created in 2015, in cooperation with the San Mateo County police organizations and staffed by the human trafficking program coordinator. She stated that the program works to enhance the response to human trafficking countywide in different ways by encouraging collaborative partnerships with county agencies and non-governmental organizations to enhance the delivery of services to victims, training to law enforcement and community and raising awareness. She stated that the program hosts a monthly meeting, the Human Trafficking Initiative, and is open to governmental, non-governmental, faith and community organizations and the public who have a role or interest in response to human trafficking in San Mateo County, and it focuses on human trafficking in the county and delivering relevant information on all aspects of human trafficking. She stated that, if you want more information or to be more involved, you can email stophumantrafficking@smcgov.org or visit the San Mateo County Human Trafficking Program website. She thanked staff for this proclamation and inviting her to be here.

Mayor Bier appreciated her presence.

Councilmember Vaterlaus thanked her for what she is doing as it is an important subject.

Mayor pro Tem Bigstyk echoed Councilmember Vaterlaus' comments, adding that he is speechless. He tries to say more than thank you when they do proclamations, and as he meditates on that level of evil, he was speechless and he might follow up with one of those meetings to check what that looks like and he may become more aware of the issue.

Councilmember Beckmeyer thanked her for being present at this meeting and thanked the mayor for the proclamation. She thought this was a topic that we think we know what it is about until they hear details and are amazed that it is everywhere, even in Pacifica, and it was important to be reminded. She stated that this topic makes her think, if you see something, say something, because if it doesn't seem right, it might not be. She stated that we have resources to bring it forward.

Councilmember O'Neill thanked her for coming, adding that he thought we had such an incident in the north end of town a few years ago of human trafficking, so it has happened in Pacifica. He agreed with Councilmember Beckmeyer that, if you see something, say something.

Mayor Bier referred to the proclamation mentioning that victims often don't know that they are being victimized and that affected her. She was emotionally taken by the topic and she was glad she was at this meeting as it was important, and she thanked her for all the work she does.

Dr. Stevens stated that she is jumping into it and doesn't know a lot about it, but it is one thing that comes to her attention. She stated that the statistics financial numbers are lower than they were a year ago, and she stated that the reason is Covid as the traffickers hit the victims inside the houses and watching them, and they can't get out to say that they need help.

Mayor Bier thought that was why her work was so important.

B. San Mateo County Libraries Annual Report

Mayor Bier stated that they have a presentation on the San Mateo County Libraries' Annual Report from the new Libraries Manager and she was excited.

Pacifica Libraries Manager Stephanie Saba stated that she grew up in Pacifica and was glad to be back and managing Pacifica's libraries. She presented the San Mateo County Libraries Annual Report for Fiscal Year 2020-2021, referring to its creation and the joint powers authority formed in 1999, mentioning that presently each of the thirteen libraries are part of a larger family offering transformative experiences, an inclusive sense of place and an environment for learning. She referred to the diversity of the community and how they assess and respond to their needs to uplift the community and provide much needed services to the community. She stated that the San Mateo County Libraries continue to be a high performing organization. She commented on Pacifica's libraries new services and accomplishments to be proud of, and highlighted a few of them, such as support through Zoom during the school closures and connecting with the communities with thousands of walk-up visits. They also continued the meal programs during the pandemic as a go-to service in Half Moon Bay and Palo Alto. Their work force development program reached hundreds of people for vital support with the job losses following the Covid-19 outbreak, as well as preparing plans for safe reopening. She mentioned expansions in several of their programs. Then showed a video of a new program for the children.

Mayor Bier mentioned that they had lost the sound and thought she should play it again as it was important information.

City Clerk Coffey was checking on the status to see if she can switch to the computer sound rather than the microphone.

Councilmember Vaterlaus thought it was cute even without the sound.

Mayor Bier thought, if they can't get the sound, they can put the link on Connect with Pacifica so people can see it, and play it at the Pacifica Collaborative.

Ms. Saba stated that she will send her the link. She stated that they were looking forward to accomplishing many new and exciting priorities, including opening the new Atherton library in

the spring and working on the new library in Palo Alto and Pacifica, refreshing other library interiors, etc. She thanked Council for allowing her to come to the meeting and all their help, and she thanked the library staff for their work.

Councilmember O'Neill thanked Ms. Saba, stating that he hasn't had a chance to meet her because of all the Zoom events. He stated that they have a library system that they should be proud of, mentioning the program committing to every child reading at least at the third grade level so no one will be left behind. He acknowledged that they stepped up to the plate and continued serving lunches during the pandemic and were adapting to the realities of Covid with Zoom classes. He stated that there are a lot of groups that meet at the library and they are filling the gap with the schools being overwhelmed. He was proud of being on the Board which is one he has enjoyed. He mentioned the special exhibit at the Brisbane library. He thanked Ms. Saba for being a part of all that, as well as managing Pacifica's libraries.

Mayor pro Tem Bigstycyk welcomed Ms. Saba home to Pacifica. He had the opportunity over the past few months to see the Atherton library and visiting the Half Moon Bay library and Brisbane library and salivating on what they have and what Pacifica could have when we make it happen. He was looking forward to get the Library Advisory Committee going again, and he was excited to begin that process and bring the collaborative community space to Pacifica.

Councilmember Beckmeyer welcomed Ms. Saba as she hasn't seen her for some time. She is happy that she is here, mentioning city employees who come at a young age and graduate to different levels of responsibility. She thanked her for the support that the San Mateo County Library provides to our schools, which is so necessary as schools do a great job but can't cover all the hours. She considers it an amazing resource that never stops giving. She was on board with Mayor pro Tem Bigstycyk that they will be back on it in 2022.

Councilmember Vaterlaus thanked her for reminding them of all the great things that libraries do, adding that it is not just about books anymore but about everything, such as people looking for jobs, etc. She was hoping that this is the year for the Pacifica library.

Mayor Bier thanked her for coming, adding that it was nice to meet her. She reiterated that they can talk about playing the video at the Pacifica Collaborative with a presentation.

Ms. Saba agreed, and she thanked the Council for having her.

Mayor pro Tem Bigstycyk stated that he saw a hand raised, and he didn't know if it was a comment for this item or a different reason.

Mayor Bier questioned if she was supposed to ask for public comment.

Mayor pro Tem Bigstycyk thought it would be a good idea to check on it.

Mayor Bier opened public comment.

Mgmt. Analyst Montemayor requested the member of the public to unmute, but the participant with the hand raised did not respond.

Mayor Bier closed public comment, and stated that, if necessary, he could add comments later.

CONSENT CALENDAR

Mayor Bier asked if any Councilmember wanted to pull an item for deliberation and discussion versus just asking questions or making a statement. She then opened public comments on the Consent Calendar items, indicated that none have been pulled.

Mgmt. Analyst Montemayor saw one hand raised by Christine Boles.

Christine Boles, Pacifica, stated that she had a few questions about consent Item 3. She was pleased that the North County Fire is applying for a grant for vegetation management to prevent wildfires and for community education, mentioning her thoughts on this item and her questions for Dep. Fire Chief Kavanaugh.

Mark Hubbell, Pacifica, mentioned sending an email to Council and staff on concerns regarding the General Plan EIR report and he was still waiting for a response.

Councilmember O'Neill mentioned that this was not oral communications.

Mayor Bier thanked him, and explained that this is the time when they are asking the community for public comments on Consent Calendar agenda items, and if Mr. Hubbell would like to do that, he can, but if not, he can save his comment for the oral communications item.

Mr. Hubbell asked when that period is.

Mayor Bier stated that it was after the motion on consent and they go through the agenda.

Mgmt. Analyst Montemayor stated there were no other speakers.

City Manager Woodhouse stated that Dep. Fire Chief of the North County Fire Authority is present and they were happy to respond to the question related to the process they undertake for how any received grant funds would be prioritized for a project and he thought the questions and comments from Ms. Boles, except for that one, did not relate to this exact calendar item but more to the Plan Pacifica documents that are out for review. He stated that staff is not prepared to respond to those questions at this time and she has submitted comments on those documents. He thought they could back up and say that, for the thousands of dollars they applied for, they only received a certain amount and their prioritizing process, such as the chipping program, was spread around the city to treat areas that North County Fire determines are the most priority. He then left it to Dep. Fire Chief Kavanaugh to comment.

Dep. Fire Chief Kavanaugh stated that they applied for the climate CCI grant with CalFire. They applied for it last year and it was denied. He stated that there are multiple grants and the reason it is on the agenda is that when they get approval through a city's Council, it helps in the process. He stated that they also applied for a Coastal Conservancy grant that they were awarded last year and used for the chipping program and they were applying for that again this year.

Mayor Bier thanked him for being present to answer questions.

Dep. Fire Chief Kavanaugh thought that what they are trying to do in Pacifica was very successful with the chipping program last summer and they hope to be successful in the grant application again for Coastal Conservancy. He stated that this CCI grant is a lot bigger grant

and there are a lot more people statewide that are applying for it. They look at the serious fire severity zones in communities with a history of fire. He wanted to confirm that they put it on the Council's consent as it helps in the process when they put the grants through.

Mayor pro Tem Bigstycyk thanked him for being present, adding that he enjoyed a presentation recently by Ryan Adams at the Emergency Preparedness concerning how \$130,000 went into the chipping program. He thought that money was able to allow the chipper could go to many neighborhoods and 28 loads were taken away. He stated that he didn't have the number by weight but the conservative estimate was that each load was no less than a ton of chipped material from everything that was cleared out. He stated that, if he wanted to comment further on the programs, it might help.

Dep. Fire Chief Kavanaugh referred to the grant they had the previous year, and he stated that they still have funds left over from the Coastal Conservancy grant that they will use again and finish the funds they got from the them. They hope they will be awarded again by the Coastal Conservancy or CCI grant. He stated that, when they get a grant, it is very specific on how they have to use them, and keep those who award the grants informed as there were specific details on how they use that money for the projects they do.

Councilmember Vaterlaus asked if they use that grant money in areas they deem are higher fire hazard zones.

Dep. Fire Chief Kavanaugh stated that, for the chipping programs, when you look at the maps submitted through the Coastal Conservancy, it was the horseshoe around Pacifica to the east, to the north, to the south and they will continue to do it again this spring. When they look at the maps, they will pick areas they think will have the most benefit to the residents, and working to clear the vegetation.

Mayor Bier thanked him for being here. She asked Council if they had any statements or questions on any of the consent items. She stated that she has one statement on item #4. She wanted to be sure the Chit-Chat Café is getting plenty of information as early as possible about when the pier is going to be closed because it is affecting their business. She didn't think it was part of the lease agreement, but she wanted to be sure they heard it and it was on the record.

Councilmember Beckmeyer thanked her for mentioning it, as she thought about it as well, and she thought it was germane to the item on the consent calendar and is covered in the lease, and thought the City Manager might want to comment on that, as there are definitely times when the pier needs to be closed for certain reasons. She then wanted to check in on the minutes. On packet page 15, the second to last paragraph, when Councilmember O'Neill was speaking about the solar system for the community center and he was referring to rebar and concrete and being able to see rebar through concrete, and she thought the statement City Manager Woodhouse was referring to was "failing concrete" and the minutes say "falling". She just wanted to clarify for the record what he stated or what was intended.

City Manager Woodhouse stated that he was not looking directly at the minutes now, but he recalled saying that, when there is metal showing through concrete like that, it is called spauling, thus clarifying that it is not falling or failure, and not sure if it is spauling or spaulding, but that is the correct thought.

Mayor Bier asked if he can comment on the lease agreement about giving them proper notice.

City Manager Woodhouse asked if she can repeat the question, as he understood that they have a graduated charge or correction provision in the lease for when access to the Chit-Chat is hampered by pier closures, storms, etc., as sometimes the pier is closed but the Chit-Chat is still available. He stated that Director Perez has handled the negotiations with Chit-Chat owners and maybe he could speak more specifically to it if necessary.

PB&R Director Perez reiterated what the city manager said, but referring to the mayor's first comment, he stated that they don't have a lot of time before the pier is closed. He stated that, if there is work planned, and there will be some happening and they will have a lot of notice, but typically the timing is not something that staff has had control over. He stated that part of their negotiations included his meeting with Paul Lavorini, Field Services Manager, along with the owner of the Chit-Chat to discuss some of the notifications and various things. He concluded that it is covered and they looked back in 2019 or 2021 when the pier was closed for a long period of time, and they made adjustments for that.

Mayor Bier asked for a motion.

Councilmember Beckmeyer moved to approve the Consent Calendar with the amendment to the Minutes; seconded by Councilmember Vaterlaus.

City Clerk Coffey took a vote by verbal roll call.

Mayor Bier stated that they would open public comments on the consent calendar.

City Attorney Kenyon stated that she already opened that for the consent calendar, which is when Christine Boles spoke.

Mayor Bier stated that they stopped Mr. Hubbell in the middle.

Councilmember O'Neill stated that was because he was speaking on oral communications, and now it is oral communications.

Mayor Bier thanked Councilmember O'Neill for the clarification and then went to oral communications.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sue Beckmeyer, Councilmember
SECONDER:	Sue Vaterlaus, Councilmember
AYES:	Bier, Bigstych, O'Neill, Vaterlaus, Beckmeyer

1. Approval of Disbursements for 12/01/21 through 12/15/21.
PROPOSED ACTION: Move to approve attached lists of disbursements for 12/01/21 through 12/15/21.
2. Approval of Minutes
PROPOSED ACTION: Move to approve the minutes of the special and regular City Council Meeting held on January 10, 2022.

3. Vegetation Management and Wildfire Preparedness Grant Funding Opportunities Through CalFire
PROPOSED ACTION: Approve the resolution to submit for state sponsored grant funding for community vegetation fuel reduction and community education within the City of Pacifica.

4. Adoption of a Resolution of the City Council of Pacifica Approving the Lease Agreement Between the City of Pacifica and Paul and Amy Kukielka, dba Chit Chat Café for the Premises Located at 2100 Beach Boulevard (Located at the Pacifica Pier); authorizing the City Manager to execute the lease agreement and finding the lease categorically exempt from the California Environmental Quality Act (“CEQA”).
PROPOSED ACTION: Move to adopt the Resolution of the City Council of the City of Pacifica approving the Lease Agreement between the City of Pacifica and Amy Kukielka, dba Chit Chat Café for the Premises Located at 2100 Beach Boulevard (Located at the Pacifica Pier); authorizing the City Manager to execute the Lease Agreement and finding the lease categorically exempt from the California Environmental Quality Act (“CEQA”).

5. Peninsula Clean Energy Solar Photovoltaic System with optional Battery Storage Municipal Facilities Procurement
PROPOSED ACTION: Adopt a Resolution authorizing the City Manager to deploy a Solar Photovoltaic System (Solar PV System) with optional battery storage at the Pacifica Community Center in partnership with Peninsula Clean Energy should the City Manager determine there are cost effectiveness or other community benefits as determined by the City following participation in a collaborative procurement(s) led by Peninsula Clean Energy.

6. FY 2021-22 Street Asphalt Base Repair Project
PROPOSED ACTION: Approve the following actions for FY 2021-22 Street Asphalt Base Repair Project:
 - A. Authorize the City Manager to Award and Execute a Construction Services Agreement with G. Bortolotto & Co., Inc., in an Amount Not to Exceed \$ \$151,208.90, including Contingencies and Change Orders; and
 - B. Authorize Staff to Execute Future Change Orders in an Amount Not to Exceed Twenty-Five Percent (25%) of the Contract Award Amount.

7. Playground Equipment Improvement Project (aka FY21-22 Priority Parks Project)
PROPOSED ACTION: Move to approve a Master Agreement for Consultant Services and Task Order No. 1 with NCE (Attachment “A”) in an Amount Not to Exceed \$274,540.00 for the Playground Equipment Improvement Project (aka FY21-22 Priority Parks Project), authorize budget authority in the amount of \$301,994, which includes a 10% contingency amount of \$27,454, and authorize the City Manager to execute all documents associated with this Agreement.

ORAL COMMUNICATIONS

Mgmt. Analyst Montemayor introduced the speakers.

Dan Stegink, Pacifica, stated his concerns about whether they need to pull an item from the

consent calendar as he thought it was a huge violation of Roberts rules. He then mentioned a specific situation at a February 20 meeting where there was a discussion by the city manager, the mayor and other councilmembers which he thought were Brown Act violations, mentioning his thoughts on the consent calendar process.

Jim Kremer, Pacifica, stated that he refuses to believe that anyone in the city was willing to address the EIR process and presented his concerns and specific suggestions and urged Council to fix this problem.

Nancy Tierney, Pacifica, referred to the process in the released General Plan update, Draft Environmental Impact Report and the Sharp Park Specific Plan, and mentioned her thoughts and concerns on the city's process, and she encouraged the Council and staff to pursue more rigorous public engagement per the models she mentioned.

Suzanne Moore, Pacifica, has been trying to complete reviewing the General Plan and draft EIR, stating that she has been struggling, and she expressed her thoughts on how they can make changes to help the community be better involved, and she asked for the improvements as well as an extension of the deadline for public feedback.

Lynn Adams, Pacifica, thanked the number of volunteers for the Pacific Beach Coalition since Covid through 2020 and 2021, totaling 18,760 volunteers, who picked up almost 75,000 pounds since January 2020, giving some specifics on their efforts. She stated that the Pacific Beach Coalition has been very engaged in trying to handle all the litter on our beaches and streets since Covid, mentioning new programs for volunteers, including specific student programs. She thanked Council for their support and they looked forward to keeping Pacifica clean.

Bijan Khosravi, Pacifica, mentioned attending a meeting in August to request approval of Lot 3 in Ohlone. He thanked the Council for the approval and the support from the community, but stated it has been delayed with no reasonable response from the Planning Department, mentioning the specific problems with Planning staff.

Summer Lee, Pacifica, stated that she was part of Mr. Khosravi's appeal and she supported his concerns as he did everything right. She then addressed the community's concerns about the ability to read and understand the draft General Plan. She mentioned some of her thoughts and supported the community's request and asked for clarification on the process.

Mark Hubbell, Pacifica, stated that his effort in trying to review the draft EIR has been a struggle, and he mentioned his thoughts on the process which he found frustrating and unproductive and questioned the city abandoning the robust reach out program presented in 2014, and presented his suggestions to fix the problem.

Christine Boles, Pacifica, echoed the concerns of previous speakers on the General Plan and EIR process, and asked for a response to concerns that she has raised and when they can expect the updated changes requested by the involved community. She also expressed support for Mr. Khosravi's project and mentioned some specific concerns that need to be addressed.

Jose Luis, Pacifica, thanked Council and staff for all their work. He voiced concerns about the flags at the pier, and requested they get new ones.

Pete Shoemaker, Pacifica, referred to his concerns on the General Plan and EIR, which is

basically on the process. He asked that the city work with experts in the community to improve the documents, lower staff stress and make their jobs easier, and move them on.

Jesse Thomas, Pacifica, stated that this is his first time to be on Zoom and he asked if this is the time to bring up agenda #9.

Mayor Bier stated that it is not, and they will let him know when they are on that item.

Peter Loeb, Pacifica, stated that the draft EIR needs to be fixed, specifically mentioning his thoughts on what needs to be done. He also thought the General Plan draft needed an interactive table of contents and mentioned his suggestions for any changes. He also supported Mr. Khosravi in his struggles as he worked in good faith so he got a project everyone supported and he is ready to go.

Marj Davis, Pacifica, stated that she also has concerns on the draft General Plan and EIR and has had a lot of input from other members of the public. She mentioned concern at the misspelling of Councilmember's names, as well as other errors, etc. She then presented her suggestions to improve the documents properly, and asked the city to withdraw them, make the corrections and resubmit them to the public and reset the 45-day review period.

COUNCIL COMMUNICATIONS

Mayor pro Tem Bigstycck stated that he did a lot over the past few weeks, and would like to report in a timely fashion, but he would also like to respond to what they heard which he thought it was important.

Mayor Bier agreed.

Mayor pro Tem Bigstycck shared a lot of the community's concerns. He stated that some of the feedback implies that city staff is trying to undermine the process, which he did not think was the case. He thought half a step was missed, starting by taking personal responsibility as in his zeal for wanting to get the General Plan through, he joined with the thought to get it done this year, and he thought they did the right thing. What he didn't understand during his participation in the discussion was that they were trying to get it done as quickly and best way possible, but he should have taken a role in asking what the roll out would look like. When he looked at the first page and his name is not spelled correctly, he didn't think it was because they aren't good at their job but there was a lot of work to do and they were asking them to do it quickly, adding that he is not concerned if his name is not spelled correctly, because his main concern is the experience they are having as a community. He felt they have what they asked for, which is a lot of documentation, and he thought staff will speak later to say they are doing what they can to make the documents more user friendly. He stated that what is frustrating is that they are talking to staff but the public is not hearing those conversations, as they are listening to the public and then they are talking to each other. Councilmembers are trying to serve the public while they are working with exceptional staff. He stated that, as everything in government, this is going to be a long process. He commented earlier that he didn't think he could sit through another year waiting for the General Plan, but staff is working on making them more user friendly. He stated that his request to fellow Councilmembers, the community and staff is if they can figure out where they are now and how to breathe into this. He didn't think they need to start over. They haven't seen the feedback coming from the community about the EIR yet, and as they get closer to the deadline, that is when they decide if an extension is appropriate. They haven't heard what the public specifically does not like about the EIR except

for the difficulty to read it, and as they get closer to the deadline, Council needs to address if an extension is appropriate. He stated that, on the documentation page, it shows that comments are requested to be made on the General Plan and Sharp Park Specific Plan by February 21, along with the EIR and he didn't think that was right as the comment period for the General Plan and Sharp Park Specific Plan are independent of the EIR and closer to May when they are going to have the Planning Commission hearings on those and in June when they have Council hearings on them. He was inviting everyone to take a deep breath, figure it out together and they are trying to. He stated that they have lots of time to comment on the General Plan and the Sharp Park Specific Plan. He stated that, as they get closer to the EIR deadline, they will figure out if an extension is appropriate. He asked if they will allow him to now talk about what he has done over the last two weeks.

Mayor Bier asked that he go through it quickly.

Mayor pro Tem Bigstycck reminded everyone about covidtests.gov, stating that they can order four free Covid tests now through the mail system and it will come in about two weeks. He attended the PRC meeting where James Crow who is going to be the President of Fog Fest was present. He attended the Pacifica Daly City Democrats meeting where Senator Josh Becker spoke. He attended the ribbon cutting for Elevate Healing on Palmetto afterward as they are entering the next stage of their business. He stated that, if you are into holistic medicine, they are doing great work and he encouraged checking them out. Peninsula Clean Energy held a special meeting before the California Community Power meeting which is determining whether we are cooperating with a lot of the other CCAs, Community Choice Aggregations to purchase a real big battery so we have a place to store all our clean energy. With Emergency Preparedness, he talked about vegetation management update that Ryan Adams gave. He attended a San Mateo Labor Council food distribution in Millbrae and distributed food with Senator Josh Becker's staff. He went to Foster City to look at how they are progressing with their sea wall project, which is impressive. He and Councilmember Beckmeyer got a fabulous tour of the stormwater drainage infrastructure, pump stations, learned about the Master Plan update underway, and he thanked the staff for giving them the tour. He attended the One Shoreline online meeting and had lunch at Kenny's.

Councilmember Vaterlaus attended a meeting called Smart Coast California which is encompassing all the coastal towns and learned about a new type of reef balls which they are placing out and they are interesting because they become living reefs, have holes and they have growth and develop plant life as well as marine life that are protected in them. She attended the Fairmont Homeowners and they concerns were about the field that SI owns and she understood that the whole building has been demolished. She stated that the San Mateo County Legislative meeting was an intense meeting about everything the county has done during all this Covid time, explaining about the testing, food programs, etc. and it is not over. She attended the CCAG's Legislative meeting, and they had left off various places like Highway 1, Skyline 35 and they have added all peninsula interchange and highways which is a good thing. She attended the CCAG's regular meeting and they are getting closer on the managed lanes and there were presentations on the end of managed lanes. She drove on 101 and the streets are coming along and it is easy to drive on 101. She did a walk to school presentations and drainage programs. She also attended the San Mateo Flood and Sea Level Rise / One Shoreline meeting which was short. They talked about some new projects they will be working on. The Covid recovery coordination meeting for the county gave a lot of numbers because they are talking about testing, which we have in Pacifica on Sunday on Francisco. She asked the public to call ahead to get an appointment. She attended the Democrats with Senator Josh Becker and, thanks to the Mayor pro Tem, she met his chief of staff at the ribbon cutting for

Elevate. She attended the San Mateo County Office of Emergency Services Council and she asked people to sign up for SMC Alerts. She stated that we are going to a different system where everything will be consistent. She stated the county is happy to have countywide 10% participation. She thought that was dismal, and in Pacifica we have 20% which is still bad and they think that is high. She asked if they could do that as an opt out, instead of people having to opt in. She stated that they said they have a program that is opt out with land lines. She didn't think land lines work. She hoped that, with the new program, they can try to do opt out so everyone gets the alerts. She stated that she also talked about Zone Haven which is working well with ways and if there are evacuations, check what your tentative evacuation route would be, know what your zone is. Someone asked what if they don't know their zone and they need to evacuate, and she said it was not a big deal, but if you don't know it, it will tell you what streets and give you all the information on the zones and, in an emergency, you will know how to evacuate. She thought it was a great program.

Mayor Bier stated that she goes to all meetings.

Councilmember Vaterlaus stated she went to ten additional meetings she didn't talk about.

Councilmember O'Neill was with Councilmember Beckmeyer at the Economic Development Committee meeting and they heard a presentation by John Hutar who is the executive director of the San Mateo County Convention and Visitors Bureau, which was interesting in terms of where we were, where we were at, where we hope to be, and interesting info on visitors in San Mateo County and what they do. He stated that the Holiday Inn remodel did not have any sort of big rooms for business conferences and he is putting together a tour to show up to 7 or 8 people places to have meetings in Pacifica. He is going to try and borrow a van from the school district. He attended a climate meeting and they got a code red and got several emails about it. He stated that he talked to Mayor pro Tem Bigstycyk about approaching PCE for a potential way they could facilitate that partnership. He got a tour of the carpenters apprenticeship train facility they built in Pleasanton, and while you think of a carpenter with a hammer, but they have 16 different professions that fall under the carpenters' union, drywall, etc., but the most interesting was when Mayor pro Tem Bigstycyk went to Foster City to look at their seawall, the carpenters were the ones who drive the piles for the seawalls and they train all the divers for any underwater work done through the carpenters' union, in addition to framing, welding, etc. He is chair of LAFCO.

Councilmember Beckmeyer acknowledged that she attended the Democrats' meeting with Senator Becker, and was a wonderful experience. She thought we were fortunate to have close working relationships with the elected officials who represent us and they are getting to know more about Pacifica and our needs, and that is what we need. She mentioned previously that she had applied for a County committee, Resource Management and Climate Protection Committee and she was selected for that committee. She was very impressed at the first meeting from a micro project in La Honda having to do with what happens when we have power outages and the school can't function. She stated that, in La Honda, there are 22 teachers with 20 who live in town. She stated that they can't draw water to run the school if they don't have power. That was the problem being discussed and resolved, and she got in on a proposal. It was fascinating that the portable generators that are electric are charged up and ready to go. She stated that the concept is to have the power box batteries ready for teachers to take home and have at their home so they can function and support the kids. She stated that there was a central site for the battery gets recharged and you can take out a different one, almost like a lending library, and it is good enough to run a refrigerator and household appliances. It was not practical to charge it at home as it needs to be able to charge it quickly at a commercial building.

She was fascinated to see the kind of thinking that goes on in this committee about how to handle a relatively small but significant problem in La Honda. She stated that it went to a giant presentation about the Tech Clean California program that has to do with single and multi-family homeowners and an electrification incentive program. She stated that she heard about not having a gas water heater but an electric one and the mechanics of how that rolls out and how the conversions takes place. She stated it is on many levels and there is an issue about heat pumps for space and water heating and learning how those alternatives could be implemented in built environments such as ours. She stated that, if she is ready to change her water heater, how does she consider a heat pump, and what does it look like. She stated that educating everyone, not just at the consumer level, but also the contractors so when you contact a contractor, and you say that you need to replace your water heater, they are well-versed in the different options. She mentioned things they get high level presentations about at Council level are nitty gritty to figure out how it works at the implementation level or education level to move to implementation. She stated that, when she has concrete things to bring them she will, but now it is a fascinating learning process to see what she can bring back to Pacifica and Councilmembers. She referred to Mayor pro Tem Bigstyc mentioned refreshing our Reach Codes and she would like to know about what that means. She thought they were on cycle this year about building codes being updated. She stated it was done in 2019 but it is coming around as it is done every 3 years and they will be hearing about it from staff but her understanding is that, each time it rolls around, because of California's high bar and goals for addressing climate issues and greenhouse gas emissions, each time Title 24 is updated, it will be more stringent and more expected. She stated that learning it now as it is getting ready to be rolled out will be helpful. She stated that there was a Coastal Cities Group meeting with two new representatives, one from Dana Point and one from Fort Bragg. It was a long meeting and the working agenda for the year has to be approved by the CalCities Board. She thought they put together a good next steps for the work done so far over the last 2-3 years in terms of educating coastal cities about sea level rise adaptation, working with Local Coastal Plan Updates and all the things we do in Pacifica that every coastal city has to do. She questions how they make the process smooth, work collaboratively with Coastal Commission staff, before they get to the point of the Coastal Commission hearing, and all the steps along the way.

Mayor Bier attended the county call for the elected speaking about Covid / Omicron virus and testing. They heard from Senator Becker, Congresswoman Jackie Speier, Health Officer Scott Morrow and it was very informative. They were hoping they weren't going to have those anymore, but with Omicron, they had to come back to gather all the information to do the right thing for our communities. She had some conversations with Tree City Pacifica that have concerns about public noticing and trees being cut down before they have a replacement plan in place and she echoed those concerns. She attended the Open Space and Parkland Advisory Committee, adding that there are so many things going on with open space. She stated that it was always informative to attend the meeting and she encouraged the community to attend those meetings as they are open to the public. They had an update from GGNRA which is the Golden Gate National Recreation Area. The restrooms on Mori Point were not working again and everyone let them know that they are on it and they thought the restrooms they put in would work better for the amount of people coming to Mori Point, but it is evident that they are not. They are hoping that they will be able to do some work on them and bring in a different kind of toilet for those restrooms. She stated it was a big deal as we need those restrooms open and people are affected by that. She stated that the city is meeting with GGNRA again this week and they are following up on all the points they made in the first meeting with them and they will let them know how that goes as Planning will be meeting with them. She met with some merchants on Palmetto who are looking to create a maker's fair in the space behind their businesses. As that moves forward, she will let everyone know more about that. She thought it

was wonderful to see merchants working together to bring something like artistic and fun to our community. She attended the Pacifica Environmental family's history of open space presentation. She urged everyone to take a look at that. She thought we took our open space for granted like it was always here and that our community actually had to work super hard to make sure that the open space was protected and they had to raise money in order to get the land over to GGNRA and a lot of things had to happen with a lot of our community leaders. She stated that it was a beautiful presentation and she appreciated it. She also attended the New Mayors Academy through the League of California Cities and they should probably have a session on facilitating the consent calendar. She stated that they did have an exercise with an irregular meeting of the City Council, called dysfunction junction, and they do a comedy act of what to do and not to do during Council meetings. She stated that there was a session on learning about California cities, the League of California Cities and how to use them, developing an effective City Council and City Manager team, a key to good government in the city, and a long session on financial responsibilities and a city revenue workshop which is telling for our agenda at this time, and it was a good warm up for her to start hearing the terms and learning all the different strategies out there. She stated that there are two more days of the Mayors Academy next Thursday and Friday, and she appreciates the city for sending her to that as she appreciates all the opportunities to learn. She seconded everything that Mayor pro Tem Bigstyk said about all the information about the EIR and the draft plans, stating that they are hearing the public loud and clear. They are also trying to go through the documents and she knows how hard it has been for them. They are working on it and they will hear more about it as they move forward.

City Attorney Kenyon wanted to respond to one of the comments that was made during oral communications regarding the consent calendar. She clarified for the public and Council that the Council has not violated the Brown Act by any means with regard to how they handled the consent calendar. She explained that the consent calendar, by its very nature and definition, can be had by one motion, one public comment period for all the items on the consent calendar. If a Councilmember pulls a consent item, which did not happen at this meeting, then if it is pulled off the consent calendar and added to the agenda, that item would not be discussed as part of the consent calendar but a new agenda item. That did not happen at this meeting, and if it had, there would have been a different public comment period for that particular item. She reiterated the clarification if Councilmembers have any questions about it, and she wanted to be clear that there was no Brown Act violation with the way that the consent calendar was handled at this meeting.

Mayor Bier appreciated her clarification.

STAFF COMMUNICATIONS

City Manager Woodhouse stated that he is going to have a prepared report to read on the Plan Pacifica documents for review. He stated that it is lengthy, and he asked that they bear with him as he reads through it as it answers a lot of the concerns that the community has commented on during oral communications. He stated that, in addition to the PDFs provided, at the beginning of the Plan Pacifica review period, the city has received requests to provide the documents in various other formats and with various search functionality. They have worked to accommodate those requests to make public comment as easy and as accessible as possible. As of today, staff has made available to the public the Microsoft Word versions of the draft General Plan, draft Sharp Park Specific Plan and draft Environmental Impact Report. The documents are available in the same location as the official PDF format version at planpacifica.org under the project document page. The public can download individual chapters

in Microsoft Word format, although the Word format doesn't include the pictures and figures and formatting that the final production PDF does. It allows for rapid download by chapter, ease of searching and cutting and pasting, etc., to make the documents ultimately accessible. He stated that it includes tables and figure numbers for easy reference with the PDF version. He stated that the next improvement staff is working on is to make the table of contents interactive in the final production PDF. He stated that the chapter headings have already been made interactive and are live on planpacifica.org and they will continue to work on that interactivity. He stated that the city continues to encourage comments on these documents, and they began receiving comments about the document contents just hours after they were posted for public comment. He stated that the documents have clearly been accessible, but the city is interested in making them more accessible. As community suggestions for viewing so and is spending the resources beyond what is required by law to achieve increased access and ease of review. The staff thanks the community who have provided constructive suggestions about this matter and they have taken those actions. He stated that the public comment period on the draft EIR will end on February 21 at 5:00 pm and comments on the General Plan and Sharp Park Specific Plan, as Mayor pro Tem Bigstycck pointed out, can be submitted up until noon on the day of the Planning Commission's hearing which is anticipated for some time in early May. He stated that the city does encourage submission of comments on the draft General Plan Update and Sharp Park Specific Plan as early as possible along with the 45 days review period for the draft Environmental Impact Report. He stated that once comments on the draft Environmental Impact Report are received, the city will prepare a response to comments to be considered by the Planning Commission and City Council during hearings for certification of the EIR and adoption of the General Plan Update and Sharp Park Specific Plan. He stated that city staff will also strive to provide response to comments on the General Plan Update and Sharp Park Specific Plan, although not required by law, if they are received in a timely fashion before the hearing. Otherwise, all comments received will be included as part of the written records to be considered by the Commission and Council. He reiterated that the documents were available on planpacifica.org under the Project Documents page.

Councilmember O'Neill thought that, at the next meeting, they will be hearing from the FAA on the flight paths and some people follow that.

City Manager Woodhouse stated that he is correct. He knows they are having a meeting on Friday and they will confirm their availability for that date. He hasn't had final confirmation, but they want to plan on that presentation on the 14th.

Mayor Bier called a short break then reconvened the meeting.

PUBLIC HEARINGS - NONE.

CONSIDERATION

8. Consultant Services for Preliminary Feasibility Assessment of Public Private Partnership with Pacifica School District
PROPOSED ACTION: Provide direction to the City Manager about soliciting consultant services for a preliminary feasibility assessment of a public-private partnership with Pacifica School District.

City Manager Woodhouse stated that the Pacifica School District Superintendent Heather Olsen

was present to answer questions, and then presented the staff report. He thought Superintendent Olsen might have additional comments, but left the process to the mayor.

Mayor Bier asked if Councilmember O'Neill had further comments first.

Councilmember O'Neill thought that, since the City Manager said the superintendent's hand was up and they could hear from her and then he can answer any questions she might have.

Mayor Bier was in agreement and welcomed the superintendent.

PSD Superintendent Olsen thought no one appreciates the work of public officials more than they do, and thanked them for what they do for students and their family. She stated she didn't have any questions and she wasn't present on behalf of the Board as they have not discussed this item, but as the manager of the school district, she is happy to represent their current thinking.

Councilmember O'Neill thanked her for her time as schools are being put "through the wringer" presently. He asked if Councilmembers had questions. He stated that it was basically to study the feasibility of moving the city's corporation yard at Milagra down to the school district site where their corporation yard is already and they would use the city's corporation yard to build a school district office and something on the ground floor of a Council Chambers or whatever they deem fit and above that they would have affordable housing. He got a proposal and at the Cal League Conference, he approached a firm that send in a proposal as to what they would charge. If Council gives the City Manager authorization, they can consider not to exceed a certain amount.

City Manager Woodhouse added that the initial quote he got was around \$10,000.

Councilmember O'Neill thought it was around \$10,000, but he can't find the data. He asked Councilmembers if they had any questions on this concept. He added that there was another firm that approached him on this item and he would forward the name of the firm.

Councilmember Beckmeyer stated that, in terms of staff interface with a consultant, the staff report sounds like it is a finance focus and she asked if Chief Financial Sustainability Officer Carter will be involved in the initial conceptual discussion or Planning or Public Works or how would the City Manager envision it at this point.

City Manager Woodhouse thought, at this initial assessment, it will be a team including him, Planning, Public Works and Finance, as the consultants need to know operational space considerations and that will include Public Works and Finance, and Planning related to zoning and land use questions, and he thought they should add the city attorney's office as there will be questions about ordinance, etc. He stated that it is a quick preliminary assessment and they would try to streamline any involvement of the departments. He stated that they want to put good and accurate data into the assessment to get good output.

Mayor pro Tem Bigstycyk wasn't sure who to address his question to, but in the staff report stated the likely timeframe for the school district would be August to December, and he asked if, for time budgeting, it would be best to stick this on the goal setting work plan for the best possible time management as he didn't know the time needed but felt a sense of urgency. He asked, if it can't be done until August, if it would be best to put it on the work plan rather than making a definitive decision at this time.

Councilmember O'Neill stated that, if they do an RFP now, he thought an RFP goes out for 30-60 days or 90 days.

City Manager Woodhouse thought with the concise and short nature of this, it can be a lot quicker than that, but a minimum of three weeks.

Councilmember O'Neill thought, with three weeks to put it together, at that point they have to advertise it and put it out for firms to look at and see if they want to do it and have to allow 30 days, so he thought you were not talking much before April to May that the firm would hit the ground running. He thought they could probably do a lot of the preliminary work with city staff before they go to the school district staff in August or late July, and at that point, if they do it, once they have the finished product, he thought it would be appropriate for it to be on the work plan or discussion for March 2023.

Mayor pro Tem Bigstycck thought his question for the City Manager would be, if they add this at this meeting, and in April would be when the consultant starts talking to city staff, whether that would overburden city staff or relatively insignificant.

City Manager Woodhouse stated that what he and Superintendent Olsen discussed is that, in scoping out the work that needs to be done, the school district staff probably should to provide input into that scope of work, as he would want to consult with them and work to minimize the time they would take. He stated that is one piece of staff workload for both the city and school district, but when the consultant begins work, that is when you will have meetings to gather information about the school district's and city's corporation yards, etc. He thought a good point made is that, if they do the study which is a minor undertaking compared to other RFP studies, if it comes back positive, Council would probably have to take the next step and that is when it is necessary that the work plan item that staff resource will prioritize and that will be the potential discussion in putting it on the work plan during goal setting.

Councilmember O'Neill thought the biggest thing Pacifica has is a lack of space to build any affordable housing and money for the school district and the city, and trying to combine to accomplish the goals to help both entities as they move forward.

Superintendent Olsen stated that this was not on the school district's radar at all, and they loved the original thinking and she thought following a study of the value of the land and feasibility would be of great value and they would be happy to participate in the scoping out. She stated that, for their chief business official, that seemed like a manageable task, but the actual work with staff should happen after they get past the 2022 school year, adding that they didn't dream this one would be so hard.

Councilmember O'Neill thought she was speaking from a very big reference point in terms of what schools are going through. He thought, if they have a shared corporation yard, that could lead to shared resources for back hoes, dump trucks or other equipment they might need and it might work better with shared expenses and savings.

Mayor Bier thought they should go to public comments unless there were other questions.

Mayor Bier opened public comments.

Mgmt. Analyst Montemayor introduced the speakers.

Dan Stegink, Pacifica, referred to the scope of this item, and stated that it was not properly noticed and he didn't think they could take a vote on this at this time. He stated that he heard the City Attorney's comments pursuant to the Bagley-Keene and the Brown Acts, and he disagrees with her, and he is making a Public Records Act Request for all the text messages between Councilmembers O'Neill, Beckmeyer and Vaterlaus at this meeting and ask that they be delivered to the City Attorney this evening.

Christine Boles, Pacifica, thanked Councilmember O'Neill for bringing this concept to the city and working with Superintendent Olsen on this. She expressed her support for this kind of partnership with the school district and she advocated adding this in the coming fiscal year and hopes it works out for the school district. She then referred to the required units by RHNA, and gave her thinking on these goals and asked that it be put on their priority list, as well as offering volunteer services.

Suzanne Moore, Pacifica, stated Ms. Boles is very thorough and supportive in this case. She also supported this partnership and thanked Councilmember O'Neill, city staff and Superintendent Olsen for their involvement, expressing her concern for the dire need for affordable housing.

Mayor Bier closed public comments.

Councilmember O'Neill envisioned that the first floor would be public entity, i.e., school district, Council Chamber and above would be affordable housing, below market rate, and he thought that would be managed by Mid-Peninsula, Bridge Housing or a similar entity as landlord, not the city and he thought the firm studying this project would explore the finances and feasibility of this.

Councilmember Beckmeyer thought it was an interesting concept and was encouraged with the school district and city partnering in this official capacity. She thought this was visionary, and what she has seen with the high school district and the process going on with that district, which is a different type of project, and the ingenuity and thinking outside the box is what is needed and why she is encouraged by this idea. She would like to move forward and she wanted to be sure they don't overtax staff. She trusted the City Manager in parsing that out, adding that mention of involving the Planning Department was her only concern. She proposed that the city cover the cost.

Mayor pro Tem Bigstycck echoed everything Councilmember Beckmeyer said.

Councilmember Vaterlaus was wondering if there were any other public/private partnerships that could be obtained here as well. She was sure this was the start of a great thing to come to pass. She thanked everyone for initiating it as it was a lot of work, but she sees it in the future and knows that we are inundated with the General Plan now, but she thought this will come to pass soon, and she thanked them for getting it started.

Mayor Bier echoed that as well, as she thought it was important for them to be innovative and she thanked Councilmember O'Neill and thought they should move forward but honor the school district's preference for timing and agreed that the city should cover the cost for the preliminary assessment.

Councilmember O'Neill wanted to emphasize that the Council's vote at this time is only

authorizing a study for the feasibility of this concept, but not authorizing the actual concept as that would happen once they get the study and have the ability to check with the county and other sources to see if they can help subsidize the affordable housing elements.

Mayor Bier asked if they had a motion.

Councilmember O'Neill moved to approve the item; seconded by Mayor pro Tem Bigstycck.

Mayor pro Tem Bigstycck asked the City Manager if he had the direction he needs.

City Manager Woodhouse wanted to clarify that the motion is to target the August timeframe with the PSD.

Councilmember O'Neill stated that was okay with him as they have to ask them. He stated that he would put a dollar limit of \$15,000 on it, stating that one came in around \$10,000 but there might be some additional items they come up to look at.

Mayor pro Tem Bigstycck seconded Councilmember O'Neill's motion.

City Clerk Coffey took a vote by verbal roll call.

Mayor Bier thanked Superintendent Olsen for being present.

Councilmember O'Neill also thanked her for coming.

PSD Superintendent Olsen thanked them, adding that she appreciated their support.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mike O'Neill, Councilmember
SECONDER:	Tygarjas Bigstycck, Mayor Pro Tem
AYES:	Bier, Bigstycck, O'Neill, Vaterlaus, Beckmeyer

- 9. Introduction of an Ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica

PROPOSED ACTION: Move to waive the first reading of and introduce by title an ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica

Mayor Bier reminded a previous speaker, Jesse Thomas, that this is when he can make his public comments.

Police Chief Steidle presented the staff report.

Councilmember Vaterlaus thought they should go to public comment.

Mayor Bier opened public comments.

Mgmt. Analyst Montemayor introduced the speakers.

Claudia, Pacifica, stated that she was speaking on behalf of retailers, expressing her thoughts and recommended waiting until November to let the voters decide what is best for the city and the state.

Jesse Thomas, Pacifica, stated that he is an employee at Fog Zone in Pedro Point and echoed Claudia's opinions and shared his thoughts on this ban, including a concern about losing his job.

Rachel Mesia, Pacifica, stated she is the program director for community research at the Stanford Cancer Institute. She shared data that the California Healthy Kid survey collected from Pacifica's 7th grade students regarding their views on smoking and vaping. She thanked them for considering what they can do for the health and well-being of their community.

Mayra Diaz, Pacifica, stated she is with the San Mateo County's Tobacco Prevention Program, and she presented some tobacco-related survey data from the 2017-18 California Student Tobacco Survey and the Surgeon General's report that might be helpful for their decision, adding how they were available to help Pacifica.

Keira McLintock, Pacifica, represented the San Mateo County Tobacco Education Coalition Youth Advisor Group, and shared data on this item.

Lynn Adams, Pacifica, stated she was in favor of the bans, sharing information and her thoughts on the issue.

Elias Jweinat, Pacifica, agreed with everyone on both sides, sharing his thoughts on the ultimate decision as to wait for the November vote and allow the people to make the choice.

Mayor pro Tem Bigstycck stated that he has PCTV in the background and he was noticing that they don't seem to be broadcasting, and he didn't know if that was a legal implication, but he brought it up if there was an issue.

City Attorney Kenyon stated that they need confirmation from the City Clerk that they are still broadcasting.

City Clerk Coffey suggested a small break while she checks with PCTV.

Mayor Bier stated that they can take a break.

City Attorney Kenyon stated that they should continue until they get formal notice, but will monitor it regularly. She thanked Mayor pro Tem Bigstycck for raising that issue.

Tricia Barr, Pacifica, stated that she was the co-chair of the San Mateo County Tobacco Education Coalition and on the high school site council with teachers, administrators, staff and students. She mentioned the past steps the city took and she commends the city to move forward to bring the current ordinance to be consistent with other area jurisdictions and continue with a strong ordinance and the present proposal, as well as mentioning the coalition’s present stances.

City Clerk Coffey stated that PCTV informed her that the broadcast was interrupted again on PCTV.

Mayor Bier asked City Attorney’s recommendations.

City Attorney Kenyon stated that they need to take a break unless the City Clerk is informed that it is not likely that it will resume. She suggested a 3-minute break to hear from the City Clerk.

Mayor Bier agreed and called for a break in the meeting.

City Attorney Kenyon stated that they should continue to be in recess until the City Clerk reports back.

City Clerk Coffey apologized to Council that they were not able to resolve the issues with the PCTV broadcast.

City Attorney Kenyon advised to wait until they have a quorum then call the meeting to order.

Mayor Bier stated that they have a quorum and called the meeting to order following the recess.

City Clerk Coffey reported that they are not able to resolve the issues on PCTV to resume the PCTV broadcast.

Mayor Bier adjourned the meeting at 10:33 pm.

RESULT: MEETING CANCELLED

- 10. Vision 2025 & Beyond – Fiscal Sustainability Analysis, Potential Revenue Options, and Ballot Measure Analysis & Communications Services
PROPOSED ACTION: Receive, discuss, and provide direction to the City Manager on the updated 10 Year Financial Forecast and options to maintain the current level of City services.

RESULT: MEETING CANCELLED

ADJOURN

Mayor Bier adjourned the meeting at 10:33 p.m. due to PCTV broadcast interruption.

Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully Submitted,

Attachment: Attachment A: Minutes of January 24, 2022 Meeting (4871 : Approval of Minutes)

Sarah Coffey, City Clerk

Mary Bier, Mayor

Attachment: Attachment A: Minutes of January 24, 2022 Meeting (4871 : Approval of Minutes)



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Continuation of Proclamation of Local Emergency of the Pacifica Coastline from Westline Drive to the End of Beach Boulevard.

RECOMMENDED ACTION:

Accept report and make a determination that conditions of local emergency continue to exist within the Pacifica Coastline from Westline Drive to the end of Beach Boulevard.

STAFF CONTACT:

Sam Bautista, P.E., Deputy Director of Public Works
650-738-3767
sbautista@pacificagov

Sarah Coffey, City Clerk
650-738-7307
scoffey@pacificagov

BACKGROUND/DISCUSSION:

On January 22, 2016, the Director of Emergency Services proclaimed the existence of a local emergency along the Pacifica coastline from Westline Drive to the end of Beach Boulevard due to El Nino storm activity. Extreme wave heights for extended periods of time caused top-of-bluff retreat at several locations along the Pacifica coast and damage to City infrastructure. Since this date, the Director of Emergency Services has proclaimed the existence of other local emergencies along this same stretch of coastline. These emergencies are described below:

- Failure of the sea wall and promenade on Beach Blvd. (in the vicinity of Santa Maria Avenue), which have been repaired, from the January 22, 2016 storm.
- The 300 & 400 block of Esplanade experience episodic bluff erosion. In recent years (2016-2018), the bluff erosion has progressed to a point where the erosion is now threatening public infrastructure and utilities.
- Undermining of a seven-foot diameter storm drain outfall and concrete headwall for the discharge of Milagra Creek into the Pacific Ocean in the vicinity of 700 Palmetto Avenue from the January 22, 2016 storm. Construction is scheduled to restart in February of 2021 due to project delays.
- A failure of the seawall and promenade on Beach Blvd. in the vicinity of Santa Rosa Avenue and the Pier was discovered on December 16, 2020. Ocean waves, king tides, and high swells undermined a portion of the sea wall and created a large void (25'x25") between the pier abutment seawall connection, affecting the sidewalk and promenade. City staff and contractors stabilized and repaired the large void on January 22, 2021. The sidewalk and promenade restoration was completed on February 22, 2021. Monitoring of the repaired area is on-going.

- On December 29, 2020, another failure of the seawall occurred approximately 150-200 feet north of the intersection of Beach Blvd. and Santa Rosa Avenue. A void, approximately 10' deep by 15' long, was found behind the seawall and was repaired with geotextiles and concrete slurry on January 5, 2021. Full restoration of this section was complete in February 2021. Monitoring of the repaired area is on-going.
- On January 14, 2021, a combination of high tides and large waves damaged a forty-foot section of the Pacifica Municipal Pier's west facing deck and concrete railing. Following this event, the Pier was closed due to safety concerns. City staff requested a structural engineering assessment of the above deck pier elements and a proposed repair and associated cost from a local engineering consultant. This information was provided to the City by the end of March 2021. The pier was reopened on April 2, 2021, but the damaged portion was fenced off for safety reasons. The City is currently moving forward with a repair project and is designing the repair. Construction will be funded by grant money provided through a Senate Bill 129. The City Council approved a resolution on December 13, 2021 to approve the application of the state grant funds for the repair of the pier and the application has been sent to the State Department of Parks and Recreation for processing. The repair project is anticipated to be released for bidding in the spring of 2022.

The City Council first ratified this proclamation (Attachment 1) at its regular meeting of January 25, 2016. Since that date, additional damage had occurred along Beach Boulevard and Esplanade Avenue as noted above.

Pursuant to Government Code section 8630(c), the City Council must review the need for continuing the local emergency at least every 60 days until the City Council terminates the local emergency. Conditions of local emergency still exist since the City Council first acted to declare a local emergency on January 25, 2016, and since that time staff has brought the continuance of Proclamation confirming the existence of local emergency exists within the Pacifica Coastline from Westline Drive to the end of Beach Boulevard every 30 days with January 10, 2022 being the most recent.

The City is using a combination of city staff, contractors, and consultants to manage the discussed emergency work. Staff will bring recommendations to the Council to end the emergency designation for projects on the list once conditions stabilize and the projects are no longer in need of the emergency designation.

The City Manager recommends that the City Council make a determination that conditions of local emergency continue to exist within the Pacifica Coastline from Westline Drive to the end of Beach Boulevard.

FISCAL IMPACT:

None.

ORIGINATED BY:

Engineering
City Clerk

ATTACHMENT LIST:

Attachment 1 - Proclamation of Local Emergency Regarding Pacifica Coastline From Westline Drive to End of Beach Blvd (PDF)

PROCLAMATION OF LOCAL EMERGENCY

WHEREAS, Section 4-2.01 *et seq.* of the Pacifica Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council at the earliest possible time; and

WHEREAS, the City Manager is the Director of Emergency Services of the City of Pacifica; and

WHEREAS, the winter of 2015/2016 has seen the strongest El Nino ocean temperature rise since 1998; and

WHEREAS, the resulting thermal water expansion has caused elevated ocean levels and tides off the coast of Pacifica; and

WHEREAS, recent ocean conditions include combined 25 foot King Tides with very high swell exceeding 15 feet offshore; and

WHEREAS, recent El Nino storm activity has also saturated the earth, including bluffs and surrounding earth at the ocean's edge; and

WHEREAS, a long series of El Nino-induced storm fronts have brought warm pineapple-convection storms from the southwest, as well as additional cold winter fronts from the northwest; and

WHEREAS, extensive top-of-bluff retreat is occurring at several locations along the Pacifica Coast; and

WHEREAS, predicted significant storms through February 2016 are anticipated to bring significant additional coastal erosion within Pacifica, including but not limited to the coastline from Westline Drive to the end of Beach Blvd.; and

WHEREAS, these conditions present extreme peril and threaten the safety of persons and property, including critical public infrastructure; and

WHEREAS, recent storm activities and extreme wave heights for extended periods have caused ground subsidence (sinkhole) contributing to the failure of the sea wall at Beach Boulevard and Santa Maria Avenue, including undermining of adjacent promenade and road closure; and

WHEREAS, these storm activities and extreme wave heights have also caused a section of concrete railing along the City pier to fail, resulting in partial closure of the pier; and

WHEREAS, these storm activities and extreme wave heights have also caused undermining and displacement of a 7 foot diameter storm drain outfall and the massive concrete headwall for the discharge of Milagra Creek drainage to the ocean; and

Attachment: Attachment 1 - Proclamation of Local Emergency Regarding Pacifica Coastline From Westline Drive to End of Beach Blvd (4875 :


WHEREAS, such conditions are or are likely to be beyond the financial and handling capability of the City's services, personnel, equipment, and facilities, requiring the combined forces of the other political subdivisions to combat; and

WHEREAS, the City provides this written notification to the San Mateo County and State CalEMA's Regional and Headquarter offices of a proclamation of local emergency; and

WHEREAS, such proclamation shall be subject to confirmation by the Pacifica City Council at the earliest possible time.

NOW, THEREFORE, BE IT PROCLAIMED that, in accordance with State Law and the City of Pacifica Municipal Code, the Director of Emergency Services proclaims the existence of a local emergency along the Pacifica coastline from Westline Drive to the end of Beach Blvd.

DATED: January 22, 2016

By: 
Lorie Tinfow
Director of Emergency Services

Attachment: Attachment 1 - Proclamation of Local Emergency Regarding Pacifica Coastline From Westline Drive to End of Beach Blvd (4875 :



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Continuation of Proclamation of Local Emergency at the Anza Pump Station.

RECOMMENDED ACTION:

Accept Report and Make a Determination that Conditions of Local Emergency Continue to Exist at the Anza Pump Station at the Pacifica State Beach.

STAFF CONTACT:

Lisa Petersen, P.E., Director of Public Works
(650) 738-3767
petersenl@ci.pacifica.ca.us

Sam Bautista, P.E., Deputy Director of Public Works / City Engineer
(650) 738-3771
bautistas@ci.pacifica.ca.us

BACKGROUND/DISCUSSION:

On Monday, March 16, 2020, the Department of Public Works received a report regarding a fire at the Anza Pump Station at Pacifica State Beach. After Public Works staff investigated the report, it was determined that the storm drain pumping system and roof/bathrooms were damaged during the fire. The engines were destroyed, and the pumps needed to be replaced. The damage to the pump station threatened and continues to threaten the safety of persons and properties within the watershed due to the risk of flooding without an operational pump station.

The City of Pacifica's Emergency Plan and Section 4-2.01 et seq. of the Pacifica Municipal Code empower the City Manager, acting as the Director of Emergency Services, to proclaim the existence of a local emergency when there is an actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and properties within this City.

The proclamation is subject to ratification by the City Council within 7 days, pursuant to the Pacifica Municipal Code. The proclamation of the existence of a local emergency further designates the City Manager or designated representative to act on behalf of the City for public assistance and for individual assistance for purpose of receipt, processing and coordination of all inquiries and requirements necessary to obtain available State and Federal assistance.

Additionally, pursuant to Section 3-15.09 (A) of the Pacifica Municipal Code, in cases of an emergency the City Manager is authorized to proceed at once to replace or repair any public facility without adopting plans, specifications, or working details, or giving notice for bids to let contracts. The City must comply with Public Contract Code Section 22050, which provides a process for City Council's review of the emergency action if notice of bids to let contracts for public projects will not be given because of the emergency.

In this case, the City Manager has determined that the damaged pump station threatens the health and safety of persons and properties, including critical public infrastructure, which

requires immediate attention and constitutes an emergency pursuant to Pacifica Municipal Code section 4-2.02 and Public Contract Code Section 1102.

Such conditions are, or are likely to be, beyond the handling capability of the City's services, personnel, equipment, and facilities, requiring the use of outside contractors to conduct emergency design and repair pursuant to Pacifica Municipal Code section 3-15.09 without giving notice for bids to let contracts. Immediate action is, and continues to be necessary, due to the clear and imminent danger presented by any storm event that could occur during the time the storm water pump station is non-functional. Flooding could occur to areas upstream of the pump station, causing health and safety issues, as well as extensive property damage. As such, on April 8, 2020, the City Manager did proclaim the existence of a local emergency within the City and the need to continue the emergency action continues as the repair will take approximately 8-14 months or longer. The Proclamation of Local Emergency is attached to this staff report as Attachment 1.

City staff has contracted with the civil engineering firm of Schaaf & Wheeler of San Jose, California to assist the City with the rehabilitation of the pump station. In addition, the pump station has been cleared of any fire damaged debris and the damaged pumps/engines have been removed. On July 13, 2020, the City Council approved construction services agreement for rebuild and re-installation of a pump and gear drive, the renovation of bathrooms, purchase and installation of new stainless-steel doors, and repair pump station wet-well grates. As part of the on-going maintenance for the pump station, staff purchased a new pump which was approved by the Council at the August 9, 2020 City Council meeting. An emergency purchase agreement with Herc Rental for a temporary engine was also approved on September 1, 2020. On October 12, 2020, temporary measures were completed to allow for a non-standard system of pumping at the Anza Pump Station until final repairs are completed. This work included a new pump, transfer switch, temporary roof, portable generator connections, and exterior double doors have been installed. Staff is continuing to evaluate and monitor storm water flows and purchased two new sump pumps to accommodate flows.

On May 10, 2021, City Council approved the purchase of two new Caterpillar engines utilizing the City's established Sourcewell Cooperative Purchase Agreement. The rehabilitation plan is currently 100% completed, and staff has completed the engineering review. The roofing plan was approved by the Building Department. Staff has also completed selection of the Construction Management firm which was from the established On-Call Construction Management list. Staff is in the process of discussing permitting requirements for the overall project with the California Coastal Commission.

Staff completed the field portion of a topographic survey to support a PG&E application to re-establish natural gas service at the Anza Pump Station to supply the natural gas to run the pre-purchased natural gas engines to drive the pumps. The City entered into an agreement with PG&E to tap the gas main and install a new gas meter. The City has also engaged a gas pipeline contractor for a quotation on installing the gas service line from the gas main to the gas meter. In addition, the City has submitted the Caltrans Encroachment Permit application required for gas service line construction on Highway 1 and has obtained a separate emergency Coastal Development Permit request with the California Coastal Commission for installation of the new gas line and a redundant pump/engine that was approved.

During a storm event on the morning of December 16, 2021, the City experienced some flooding in the lower Linda Mar area due to the temporary nonstandard pumping system that has been in use at Anza pump station due to the fire damaged pump station engines in March of 2020. This temporary system has been in place because the City has been working to reach agreement with the California Coastal Commission on the remaining permitting requirements for

the permanent pumping system. The City faced several significant stormwater related events from October 2021 through December 2021 and will face more with the continuing storm season. Replacement of this temporary system is considered an emergency and staff is moving forward with construction of the permanent system. To further improve operations between now and when the Anza Pump Station Repair Project is completed, the City recently purchased a small diesel engine that will be used to drive one of the existing smaller stormwater pumps, thereby improving pump station resiliency in the interim. Staff is currently working to hire a contractor to complete the work at the Anza Pump Station work.

Pursuant to Government Code Section 8630(c), the City Council must review the need for continuing the local emergency at least every 60 days until the City Council terminates the local emergency. Conditions of local emergency still exist since the City Council first acted to declare a local emergency on April 13, 2020, and since that time staff has brought the continuance of Proclamation confirming the existence of local emergency at the Anza Pump Station every 30 days with January 10, 2022 being the most recent.

The City is using a combination of city staff, consultants, and contractors to manage the emergency work related to the Anza Pump Station repair project. The City Manager recommends that the City Council make a determination that conditions of local emergency continue to exist at the Anza Pump Station at the Pacifica State Beach. Staff will continue to update the Council on the progress of this emergency work monthly through the emergency declaration Council reports

FISCAL IMPACT:

There is no fiscal impact to continue this local emergency.

ORIGINATED BY:

Engineering

ATTACHMENT LIST:

Attachment 1 - Resolution No. 19-2020 Ratifying Proclamation of Local Emergency at the Anza Pump Station (PDF)

RESOLUTION NO. 19-2020

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA
RATIFYING THE PROCLAMATION OF THE EXISTENCE OF A LOCAL EMERGENCY AT THE
ANZA PUMP STATION AT THE PACIFICA STATE BEACH**

WHEREAS, Section 4-2.05 of the City of Pacifica Municipal Code (“PMC”) designate the City Manager as the Director of Emergency Services; and

WHEREAS, Government Code section 8630 and PMC section 4-2.05(a) empower the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when said city is affected or likely to be affected by an emergency, subject to ratification by the City Council; and

WHEREAS, Section 4-2.02 of the PMC defines "emergency" as the “actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as earthquake, hazardous materials, plane crash, landslide, tsunami, epidemic, flood, riot, fire, or other conditions, including conditions resulting from a labor controversy, which conditions are or are likely to be beyond the capability of control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat”; and

WHEREAS, Section 4-2.01 et seq. of the Pacifica Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council; and

WHEREAS, the City Manager is the Director of Emergency Services of the City of Pacifica; and

WHEREAS, on Monday, March 16, 2020, the Department of Public Works received a report regarding a fire at the Anza Pump Station at the Pacifica State Beach; and

WHEREAS, after Public Works staff investigated the report, it was determined that the storm drain pumping system was damaged during the fire and that the engine and the motors would need to be replaced; and

WHEREAS, the damage to this pump station threatens the safety of persons and properties within the watershed due to the risk of flooding that can occur without an operational pump station; and

WHEREAS, the City Manager has determined that the damaged pump station threatens the health and safety of persons and properties, including critical public infrastructure due to the risk of flooding and requires immediate attention and repair and as such constitutes an emergency pursuant to Pacifica Municipal Code section 4-2.02 and Public Contract Code section 1102; and

WHEREAS, such conditions are beyond the handling capability of the City’s services, personnel, equipment, and facilities, requiring the use of outside contractors to conduct emergency repair pursuant to Pacifica Municipal Code section 3-15.09 without giving notice for bids to let contract,

pursuant to Public Contract Code 22050; and

WHEREAS, on April 8, 2020, the City Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the City of Pacifica, after determining that the damaged condition of the Anza Pump Station is likely to create conditions of disaster or extreme peril which will be beyond the services, personnel and equipment and facilities of the City; and

WHEREAS, in accordance with Government Code section 8630 and PMC section 4-2.05(a) the City Council must take action to confirm the proclamation within 7 and in accordance with Public Contract Code section 22050 which requires confirmation by 2/3 of Council within 14 days of the emergency action.

NOW, THEREFORE, BE IT RESOLVED that said Proclamation of Existence of Local Emergency, as issued by said City Manager in his capacity as Director of Emergency Services, which is attached hereto as Attachment "A", is hereby ratified and approved by the City of Pacifica City Council.

BE IT FURTHER RESOLVED that said local emergency is confirmed to exist and shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Pacifica.

BE IT FURTHER RESOLVED that during the existence of this local emergency, the powers, functions and duties of the Director of Emergency Services, and the emergency organization of the City of Pacifica shall be those prescribed by state law, by the existing ordinances and resolutions of the City of Pacifica, as well as this resolution and any subsequent emergency orders of the City Council.

• • • • •

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 13th day of April 2020, by the following vote:

- AYES**, Councilmembers: Martin, Beckmeyer, Vaterlaus, Bier, O'Neill
- NOES**, Councilmembers: None.
- ABSENT**, Councilmembers: None.
- ABSTAIN**, Councilmembers: None.

CITY OF PACIFICA

Deirdre Martin
Deirdre Martin (Apr 23, 2020)

Deirdre Martin, Mayor

ATTEST:

Sarah Coffey

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

Michelle Marchetta Kenyon

Michelle Marchetta Kenyon, City Attorney

Attachment 1

PROCLAMATION OF LOCAL EMERGENCY

WHEREAS, Section 4-2.01 *et seq.* of the Pacifica Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council at the earliest possible time; and

WHEREAS, the City Manager is the Director of Emergency Services of the City of Pacifica; and

WHEREAS, on Monday, March 16, 2020, the Department of Public Works received a call regarding a fire at the Anza Pump Station at the Pacifica State Beach; and

WHEREAS, after Public Works staff investigated, and determined that the storm drain pumping system was damaged during the fire; and

WHEREAS, the damage to the pump system threatens the safety of persons and property, including critical public infrastructure; and


WHEREAS, such conditions are or are likely to be beyond the handling capabilities of the City's services, personnel, equipment, and facilities, requiring the use of outside contractors to conduct emergency repair; and

WHEREAS, the City provides this written notification to the San Mateo County and State CalEMA's Regional and Headquarter offices of a proclamation of local emergency; and

WHEREAS, such proclamation shall be subject to confirmation by the Pacifica City Council at the earliest possible time.

NOW, THEREFORE, BE IT PROCLAIMED that, in accordance with State Law and the City of Pacifica Municipal Code, the Director of Emergency Services proclaims the existence of a local emergency for the Anza Pump Station.

DATED: April 8, 2020

By: 

 Kevin Woodhouse
 Director of Emergency Services









ResolutionNo19-2020_ProclamationLocalEmergency_AnzaPumpStation

Final Audit Report

2020-04-23

Created:	2020-04-23
By:	Sarah Coffey (coffeys@ci.pacifica.ca.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdA1vw4EkTM2h4RglXoJHKyTtRzoCGB3

"ResolutionNo19-2020_ProclamationLocalEmergency_AnzaPumpStation" History

-  Document created by Sarah Coffey (coffeys@ci.pacifica.ca.us)
 2020-04-23 - 0:24:40 AM GMT- IP address: 50.209.129.249
-  Document emailed to Deirdre Martin (martind@ci.pacifica.ca.us) for signature
 2020-04-23 - 0:25:29 AM GMT
-  Email viewed by Deirdre Martin (martind@ci.pacifica.ca.us)
 2020-04-23 - 9:11:43 PM GMT- IP address: 192.129.0.4
-  Document e-signed by Deirdre Martin (martind@ci.pacifica.ca.us)
 Signature Date: 2020-04-23 - 9:12:00 PM GMT - Time Source: server- IP address: 192.129.0.4
-  Document emailed to Sarah Coffey (coffeys@ci.pacifica.ca.us) for signature
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-  Email viewed by Sarah Coffey (coffeys@ci.pacifica.ca.us)
 2020-04-23 - 10:17:44 PM GMT- IP address: 50.209.129.249
-  Document e-signed by Sarah Coffey (coffeys@ci.pacifica.ca.us)
 Signature Date: 2020-04-23 - 10:17:54 PM GMT - Time Source: server- IP address: 50.209.129.249
-  Signed document emailed to Deirdre Martin (martind@ci.pacifica.ca.us) and Sarah Coffey (coffeys@ci.pacifica.ca.us)
 2020-04-23 - 10:17:54 PM GMT



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Continuation of Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus ("COVID-19").

RECOMMENDED ACTION:

Accept report and make determination that conditions of local emergency continue to exist regarding Novel (new) Coronavirus ("COVID-19").

STAFF CONTACT:

Kevin Woodhouse, City Manager
(650) 738-7409
cmoffice@pacificagov

BACKGROUND/DISCUSSION:

On March 16, 2020, the City Manager, acting in his capacity as Director of Emergency Services, proclaimed the existence of a local emergency pursuant to PMC 4-2.05(a) and executed the "Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus ("COVID-19")" ("Proclamation"). On March 18, 2020, the City Council of the City of Pacifica adopted Resolution No. 18-2020 to ratify the Proclamation of local emergency due to COVID-19 (Attachment 1). The City's Proclamation was sent to San Mateo County Offices of Emergency Services and the California Governor's Office of Emergency Services (CalOES) and allows the City to seek state and federal funds relating to the emergency.

This proclamation of local emergency was based on the following findings.

BACKGROUND:

On January 30, 2020, the World Health Organization ("WHO") declared the COVID-19 outbreak a public health emergency of international concern. On January 31, 2020, the U.S. Department of Health and Human Services declared a Public Health Emergency for the United States of America. The United States Centers for Disease Control and Prevention ("CDC") determined the virus presents a serious public health threat, requiring coordination among state and local health departments to ensure readiness for potential health threats associated with the virus.

On March 3, 2020 both the Director of Emergency Services of the County of San Mateo and the San Mateo County Health Officer issued proclamations of local emergencies based on the imminent and proximate threat to public health from the introduction of COVID-19 in San Mateo County. The San Mateo County Board of Supervisors ratified both proclamations on March 10, 2020.

On March 4, 2020 Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.

On March 11, 2020 the WHO declared a global pandemic due to the significant spread of the virus and the increased numbers of confirmed cases worldwide.

On March 13, 2020, then President Donald J. Trump issued a Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak finding that the COVID-19 outbreak in the United States constituted a national emergency, beginning as of March 1, 2020.

As of June 15, 2021, the California Governor terminated the Executive Orders that put into place the Stay Home Order and the Blueprint for a Safer Economy, and also phased out the majority of executive actions put in place since March 2020 as part of the pandemic response, leaving a subset of provisions in place that facilitate the ongoing recovery. Governor's Orders currently in effect are N-07-21 and N-08-21, both adopted on June 11, 2021.

The California State Public Health Officer issued a new Order on June 11, 2021 to be effective June 15, 2021, which supercedes all prior State health orders. Restrictions that ended on June 15, 2021 include: physical distancing, capacity limits on businesses and the County tier system.

Starting on June 15, 2021, California reopened the economy and the state moved beyond the Blueprint for a Safer Economy system. All sectors listed in the current Blueprint returned to usual operations based on general public health recommendations. Starting on June 15, capacity and distancing restrictions were lifted for most businesses and activities.

In March 2020, the City closed public access to many City facilities, consistent with the State and County health orders in effect at that time. City operations continued with adjusted programs and services, staffing levels and modified operations to support a predominantly remote work model in order to protect public safety and to limit the potential for exposure to the COVID-19 virus. The City has further modified its operations and guidelines based on the orders and guidelines that went into effect on June 15, 2021.

Governor's Executive Order N-08-21 continues modifications of the Brown Act to allow for local legislative bodies to hold meetings via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, and supersedes the provisions previously set forth in Executive Order N-29-20, paragraph 3. These provisions of Executive Order N-08-21, subsection 42 shall apply through September 30, 2021.

On August 2, 2021, the Health Officer of the County of San Mateo issued Order No. C19-12 mandating the wearing of face coverings when indoors in workplaces and public settings, with limited exceptions. This Order was issued due to evidence of the SARS-CoV-2 B.1.617.2 (Delta) variant circulating in San Mateo County. This variant is highly transmissible in indoor settings. San Mateo County Health Order No. C19-12 was ordered effective at 12:01 am on August 3, 2021 and will continue to be in effect until extended, rescinded, superseded, or amended in writing by the Health Officer.

On September 16, 2021, Assembly Bill 361 (AB 361) was signed by the Governor and went into effect immediately upon signature as urgency legislation (codified under Government Code § 54953). AB 361 amends the Brown Act to provide additional provisions that allow meetings of

legislative bodies to be conducted via teleconference.

Order No. C19-12 issued on August 2, 2021 by the Health Officer of the County of San Mateo mandating the wearing of face coverings when indoors in workplaces and public settings remains in effect. The City's current practices at City facilities conform to the Health Order currently in effect.

In late November 2021, a new concerning COVID-19 variant was discovered and identified as the Omicron variant. The Omicron variant spreads rapidly even amongst some vaccinated individuals.

In December 2021, in response to the rapid spread of the Omicron variant, the California Department of Public Health issued guidance requiring masking indoors through January 15, 2022. This requirement was subsequently extended to February 15, 2022.

On January 8, 2022, the California Department of Public Health issued Updated Guidance for Local Health Jurisdictions on Isolation and Quarantine of the General Public ([Link](#)). This guidance updates isolation and quarantine recommendations in alignment with recommendations from the Centers for Disease Control and Prevention (CDC), recommends additional mitigation measures to exit isolation and quarantine, and clarifies that fully-vaccinated persons who are booster-eligible, but have not yet received their booster dose are now recommended to quarantine per updated CDC recommendations. The San Mateo County Health Department may adopt stricter guidance but has not done so as of the date of this report.

CURRENT ANALYSIS:

With COVID-19 case rates subsiding in early February 2022, on February 9, 2022 the County of San Mateo Health Officer announced that San Mateo County would align with the state in lifting its indoor mask mandate for vaccinated persons beginning February 16, 2022. However, unvaccinated individuals over age 2 will continue to be required to wear masks in all indoor public settings and businesses may determine their own protocols to protect staff and patrons and may choose to require all patrons to wear masks. Bay Area health officers continue to strongly recommend masks be used as an effective tool to prevent the spread of COVID-19, especially in crowded or poorly ventilated indoor public settings. Indoor masking is still required by the State for everyone, regardless of vaccination status, in public transportation; health care settings; congregate settings like correctional facilities and homeless shelters; long term care facilities; and in K-12 schools and childcare settings.

As of February 9, 2022, the County reported that the level of virus transmission remains high but has come down considerably from an early January peak. The 7-day logged case rate average reported by the State on Monday, February 7, 2022 was 85 cases per 100K in the population, compared to 144 a week ago.

FISCAL IMPACT:

None by this action; however, continuation of the local emergency will facilitate the ability for the City to request resources including financial support and reimbursement from the State Office of Emergency Services (OES) and Federal Emergency Management Agency (FEMA) for costs incurred in preparation and/or response to the COVID-19 outbreak.

ORIGINATED BY:

City Manager's Office

ATTACHMENT LIST:

Attachment A: Resolution No 18-2020 - Ratifying Local Emergency Due to COVID-19 (PDF)

RESOLUTION NO. 18-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA RATIFYING THE PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY REGARDING NOVEL (NEW) CORONAVIRUS ("COVID-19") BY THE CITY MANAGER IN HIS CAPACITY AS DIRECTOR OF EMERGENCY SERVICES

WHEREAS, Section 4-2.05 of the City of Pacifica Municipal Code ("PMC") designate the City Manager as the Director of Emergency Services; and

WHEREAS, Government Code section 8630 and PMC section 4-2.05(a) empower the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when said city is affected or likely to be affected by an emergency, subject to ratification by the City Council; and

WHEREAS, Section 4-2.02 of the PMC defines "emergency" as the "actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as earthquake, hazardous materials, plane crash, landslide, tsunami, epidemic, flood, riot, fire, or other conditions, including conditions resulting from a labor controversy, which conditions are or are likely to be beyond the capability of control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat"; and

WHEREAS, section 8558 of the Government Code defines a local emergency as including an epidemic; and

WHEREAS, on March 3, 2020, the Director of Emergency Services of the County of San Mateo proclaimed a local emergency based on conditions of extreme peril to the safety of persons and property within San Mateo County resulting from the novel coronavirus (COVID-19); and

WHEREAS, on March 3, 2020, the San Mateo County Health Officer declared a Local Health Emergency pursuant to Health and Safety Code section 101080 based on the imminent and proximate threat to public health from the introduction of COVID-19 in San Mateo County; and

WHEREAS, on or about March 4, 2020, as part of the State of California's response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19 following one official COVID-19 death; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") characterized COVID-19 as a global pandemic and the number of cases will tragically continue to increase across the United States and globally; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N 25-20, which provided, among other things, that non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can

implement social distancing of 6 feet per person. Gatherings of individuals who are at higher risk for severe illness from COVID-19 should be limited to no more than 10 people, while also following social distancing guidelines which provide a distance of 6 feet between people. The Executive Order also ordered certain requirements of the Brown Act relating to teleconferencing could be suspended if specified conditions were met by the public agencies; and

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, as of March 14, 2020, there are 2,726 cases of COVID-19 in the United States, including an estimated 340 reported cases of COVID-19 in California; and

WHEREAS, on March 14, 2020, the San Mateo County Health Officer, pursuant to Health and Safety Code sections 101040, 101085 and 120175 issued revised Order of the Health Officer No. c19-2b which among other things, prohibits all gatherings, as defined, of more than 50 persons and requires the implementation of specified COVID-19 risk mitigation measures for gatherings of 50 or fewer persons in San Mateo County until April 6, 2020, unless rescinded earlier or extended by further action of the Health Officer; and

WHEREAS, as of March 14, 2020, the San Mateo County Health Officer has reported 32 confirmed cases of COVID-19 within San Mateo County (including one death); and

WHEREAS, the City of Pacifica may need to promulgate emergency orders and regulations to facilitate the maintenance of order and reduction in potential loss of life and property; and

WHEREAS, on March 16, 2020, at 12:11 p.m., the City Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the City of Pacifica, after determining that the rapidly widespread of COVID-19 is likely to create conditions of disaster or extreme peril which will be beyond the services, personnel and equipment and facilities of the City and executed the "Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus ("COVID-19")" ("Proclamation"); and

WHEREAS, since the execution of the Proclamation, the San Mateo County Health Officer issued a new Order of the Health Officer of the County of San Mateo dated March 16, 2020, that, among other things, directs all individuals living in the County to shelter in their place of residence and directs all businesses and governmental agencies to cease non-essential operations within the County; and

WHEREAS, the March 16, 2020 Order from the San Mateo County Health Officer provides that "Essential Governmental Functions," as determined by the governmental entity, are not prohibited, however, the social distancing requirements must be complied with, to the extent possible; and

WHEREAS, since the execution of the Proclamation the number of confirmed cases in San Mateo has increased significantly and as of March 17, 2020, the San Mateo County Health Officer reports 64 confirmed cases of COVID-19; and

WHEREAS, in accordance with Government Code section 8630 and PMC section 4-2.05(a) the City Council must take action to confirm the proclamation within 7 days of the proclamation and therefore meeting to consider the Proclamation is essential to allow the City Council an opportunity to consider the Proclamation and the meeting will be conducted in conformance with the March 16, 2020 Order from the San Mateo County Health Officer.

NOW, THEREFORE, BE IT RESOLVED that said Proclamation of Existence of Local Emergency, as issued by said City Manager in his capacity as Director of Emergency Services, which is attached hereto, is hereby ratified and approved by the City of Pacifica City Council.

BE IT FURTHER RESOLVED that said local emergency is confirmed to exist and shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Pacifica.

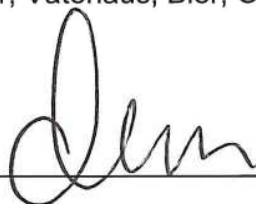
BE IT FURTHER RESOLVED that during the existence of this local emergency, the powers, functions and duties of the Director of Emergency Services, and the emergency organization of the City of Pacifica shall be those prescribed by state law, by the existing ordinances and resolutions of the City of Pacifica, as well as this resolution and any subsequent emergency orders of the City Council.

BE IT FURTHER RESOLVED that the Director of Emergency Services shall send a copy of this Resolution and the Proclamation City's Proclamation will be sent to San Mateo County Offices of Emergency Services and the California Governor's Office of Emergency Services (CalOES) and allow the City to prepare for the emergency and seek applicable state and federal funds relating to the emergency.


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PASSED AND ADOPTED at a special meeting of the City Council of the City of Pacifica, California, held on the 18th day of March, 2020, by the following vote:


AYES, Councilmembers: Martin, Beckmeyer, Vaterlaus, Bier, O'Neill.
NOES, Councilmembers: None.
ABSENT, Councilmembers: None.
ABSTAIN, Councilmembers: None.



Deirdre Martin, Mayor

ATTEST:


Sarah Coffey, City Clerk

APPROVED AS TO FORM:


Michelle Marchetta Kenyon, City Attorney

Attachment: Attachment A: Resolution No 18-2020 - Ratifying Local Emergency Due to COVID-19 (4882 : Continuation of Proclamation of Local

**PROCLAMATION OF EXISTENCE OF LOCAL EMERGENCY REGARDING NOVEL
(NEW) CORONAVIRUS ("COVID-19")**

WHEREAS, Government Code section 8630 and section 4-2.01 *et seq.* of the Pacifica Municipal Code empower the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council at the earliest possible time; and

WHEREAS, the City Manager is the Director of Emergency Services of the City of Pacifica; and

WHEREAS, on March 3, 2020, the Director of Emergency Services of the County of San Mateo proclaimed a local emergency based on conditions of extreme peril to the safety of persons and property within San Mateo County resulting from the novel coronavirus (COVID-19); and

WHEREAS, on March 3, 2020, the San Mateo County Health Officer declared a Local Health Emergency pursuant to Health and Safety Code section 101080 based on the imminent and proximate threat to public health from the introduction of COVID-19 in San Mateo County; and

WHEREAS, on or about March 4, 2020, as part of the State of California's response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19 following one official COVID-19 death; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") characterized COVID-19 as a global pandemic and the number of cases will tragically continue to increase across the United States and globally; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N 25-20, which provided that non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can implement social distancing of 6 feet per person. Gatherings of individuals who are at higher risk for severe illness from COVID-19 should be limited to no more than 10 people, while also following social distancing guidelines; and

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, as of March 14, 2020, there are 2,726 cases of COVID-19 in the United States, including an estimated 340 reported cases of COVID-19 in California; and

WHEREAS, on March 14, 2020, the San Mateo County Health Officer, pursuant to Health and Safety Code sections 101040, 101085 and 120175 issued revised Order

of the Health Officer No. c19-2b which among other things, prohibits all gatherings, as defined, of more than 50 persons and requires the implementation of specified COVID-19 risk mitigation measures for gatherings of 50 or fewer persons in San Mateo County until April 6, 2020, unless rescinded earlier or extended by further action of the Health Officer; and

WHEREAS, as of March 14, 2020, the San Mateo County Health Officer has reported 32 confirmed cases of COVID-19 within San Mateo County, including tragically, one death.

NOW, THEREFORE, the City of Pacifica Director of Emergency Services finds that:

- A. The United States of America has confirmed cases of individuals who have a severe acute respiratory illness caused by COVID-19, first detected in Wuhan, Hubei Province, People's Republic of China ("China"). The virus was first reported in China on December 31, 2019; and
- B. WHO officials now report that sustained human-to-human transmission of COVID-19 is occurring. Transmission from asymptomatic individuals has been documented. Suspected community transmission of COVID-19 is occurring in the United States; and
- C. Although the majority of individuals infected with COVID-19 recover from the disease without special treatment, there is significant potential for serious infection and death; and
- D. On January 30, 2020, WHO declared the COVID-19 outbreak a public health emergency of international concern, and on January 31, 2020, the U.S. Department of Health and Human Services declared a Public Health Emergency for the United States of America; and
- E. The United States Centers for Disease Control and Prevention ("CDC") has determined that the virus presents a serious public health threat, requiring coordination among state and local health departments to ensure readiness for potential health threats associated with the virus; and
- F. Due to the significant transmission of the virus and the increased numbers of confirmed cases worldwide, the WHO declared a global pandemic on March 11, 2020 due to COVID-19; and
- G. The County's Public Health Officer has found that COVID-19 spreads easily from person to person and may result in serious illness or death, and it is essential that the spread of the virus be slowed to safeguard the public and protect healthcare resources considering the influx of new patients and has determined that these conditions constitute a threat to community health warrant a proclamation of a Local Health Emergency; and
- H. Conditions of extreme peril to the safety of persons and property have arisen within the City caused by the threat of COVID-19 that will impact significant City and community operations, including critical public infrastructure and services, and which will require the provision of additional public safety and emergency services; and
- I. As contemplated in the Emergency Service Act contained in Government Code Section 8550 et seq., including Section 8558(c) and as defined in PMC 4-2.02, a local emergency exists because of the existence of conditions of disaster or of extreme peril to the safety of persons and property within the

City of Pacifica caused by the aforesaid conditions and warrant and necessitate the proclamation of a Local Emergency to enable the City of Pacifica and other local government entities to adequately plan, prepare and secure resources to be able to effectively respond to the threat posed by COVID-19, and to warn City of Pacifica residents and visitors of the threat posed by COVID-19 and to enable them sufficient time to plan and prepare; and

- J. At the time of this proclamation, the City Council is not in session (and cannot immediately be called into session).

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency exists in accordance with the findings set forth above, commencing on or about the time and date of the signature of the Director of Emergency Services below.

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of this local emergency, the powers, functions and duties of the emergency organization of this City shall be those prescribed by state law, by ordinances, including PMC section 4-2.01 *et seq.*, and resolutions of this City, and by the City's Continuity of Operations Plan.

IT IS FURTHER PROCLAIMED AND ORDERED that this local emergency shall continue to exist until ratified by the City Council. The City Council shall terminate the local emergency at the earliest possible date that conditions warrant.

IT IS REQUESTED that the Governor of the State of California include the City of Pacifica in any emergency declaration by the State; ensure the City of Pacifica is included in any emergency declaration that may be issued by the President of the United States of America; waive regulations that may hinder response and recovery efforts; and make available California Disaster Act and State Private Nonprofit Organizations Assistance Program funding and any other applicable funding.

Date and time: 3/15/2020 12:41pm By: [Signature]
Kevin Woodhouse, Director of Emergency Services

ATTEST: [Signature]
Sarah Coffey, City Clerk



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Consideration of a Resolution Making Findings as Required by AB 361 to Continue to Permit the City Council and the City’s Committees and Commissions to Conduct Teleconferenced Meetings Due to Health and Safety Concerns Relating to COVID-19

RECOMMENDED ACTION:

Move to adopt a Resolution making findings pursuant to AB 361 to authorize the City Council and the City’s Committees and Commissions to continue to conduct teleconferenced meetings due to health and safety concerns relating to COVID-19.

STAFF CONTACT:

Kevin Woodhouse, City Manager
650-738-7409
kwoodhouse@pacifica.gov

Sarah Coffey, City Clerk
650-738-7307
scoffey@pacifica.gov

BACKGROUND/DISCUSSION:

On March 4, 2020 Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for broader spread of COVID-19. On March 16, 2020, the City Manager, acting in his capacity as Director of Emergency Services, proclaimed the existence of a local emergency pursuant to PMC 4-2.05(a) and executed the "Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus ("COVID-19")" ("Proclamation"). On March 18, 2020, the City Council of the City of Pacifica adopted Resolution No. 18-2020 to ratify the Proclamation of local emergency due to COVID-19 and continues to affirm the existence of the local emergency.

Beginning with the Special City Council Meeting held on March 18, 2020 for the purpose of adopting Resolution No. 18-2020 ratifying the City Manager’s Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus (“COVID-19”), all City Council, Committee and Commission meetings have been held via videoconference using a Zoom Meeting or Zoom Webinar platform with no physical meeting location open to the public. The Governor’s Executive Orders N-25-20 and N-29-20 suspended certain requirements of the Brown Act to allow for public meetings to be held via teleconferenced meetings, either via audio or video or both, for all members of the body to participate from remote locations with no physical meeting location open to the public. The City of Pacifica has been holding public meetings of the City Council and City Committees and Commissions fully virtually via Zoom with

no physical location open to the public since March 18, 2020 due to the COVID-19 pandemic as provided for under Governor's Executive Orders suspending certain provisions of the Brown Act to allow for the virtual meeting format. Some Committee and Commission meetings had been initially suspended in the early months of the pandemic, but most have resumed meeting regularly via Zoom. The usage of Zoom to conduct public meetings remotely via teleconference has allowed the City to ensure the public's continued access to meetings while also ensuring the public's safety.

The Governor's Executive Order N-08-21 issued on June 11, 2021 provided local jurisdictions a basis upon which to continue conducting public meetings via videoconference without a physical location open to the public under the relaxed provisions of the Brown Act until September 30, 2021.

On August 2, 2021, the Health Officer of the County of San Mateo issued Order No. C19-12 mandating the wearing of face coverings when indoors in workplaces and public settings, with limited exceptions. This Order was issued due to evidence of the SARS-CoV-2 B.1.617.2 (Delta) variant circulating in San Mateo County. This variant is highly transmissible in indoor settings. San Mateo County Health Order No. C19-12 was ordered effective at 12:01 am on August 3, 2021 and will continue to be in effect until extended, rescinded, superseded, or amended in writing by the Health Officer.

Assembly Bill 361 (AB 361) was signed by the Governor on September 16, 2021 and went into effect immediately upon signature as urgency legislation (codified under Government Code § 54953). AB 361 amends the Brown Act to provide additional provisions that allow meetings of legislative bodies to be conducted via teleconference. Its provisions allow a local agency legislative body to meet without complying with the standard teleconferencing requirements of the Brown Act if the Governor has proclaimed a State of Emergency and any of the following occurs:

- 1) State or local officials have imposed or recommended measures to promote social distancing,
- 2) the meeting is being held for the purposes of determining, by a majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees;
- 3) the legislative body has determined that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

In addition, AB 361 adds new procedures and clarifies the requirements for conducting remote meetings, including the following:

- Public Comment Opportunities in Real Time - a legislative body that meets remotely pursuant to AB 361 must allow members of the public to access the meeting via a call-in option or an internet-based service option, and the agenda for the remote meeting must provide an opportunity for members of the public to directly address the body in real time. A legislative body cannot require public comments to be submitted in advance of the meeting.
- No Action During Disruptions - in the event of a disruption that prevents the local agency from broadcasting the remote meeting, or in the event of a disruption within the local agency's

control that prevents members of the public from offering public comments using the call-in option or internet-based service option, AB 361 prohibits the legislative body from taking any further action on items appearing on the meeting agenda until public access is restored.

- Periodic Findings - Government Code § 54953(e)(B) requires the legislative body to hold a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risk to the health or safety of attendees.

AB 361 will sunset on January 1, 2024.

DISCUSSION:

At the regular meeting of the City Council held on October 11, 2021, the City Council adopted Resolution No. 63-2021 making findings as required by AB 361 to permit the City Council and City Committees and Commissions to conduct teleconferenced meetings due to the health and safety concerns relating to COVID-19. The resolution also directed staff to agendize for Council consideration no less than every 30 days the need to continue to utilize teleconferenced meetings pursuant to AB 361. The City Council subsequently adopted Resolution No. 69-2021 on November 8, 2021; Resolution No. 80-2021 on December 13, 2021; and Resolution No. 01-2022 on January 10, 2022 re-affirming the findings required by AB 361 to continue to conduct teleconferenced public meetings due to COVID-19 risk.

Since the adoption of Resolution No. 01-2022 at the City Council meeting held on January 10, 2022, the COVID-19 Omicron variant has continued to present a health and safety risk to the public due to its rapid spread even amongst vaccinated individuals. With COVID-19 case rates subsiding in early February 2022, on February 9, 2022 the County of San Mateo Health Officer announced that San Mateo County would align with the state in lifting its indoor mask mandate for vaccinated persons beginning February 16, 2022. However, unvaccinated individuals over age 2 will continue to be required to wear masks in all indoor public settings and businesses may determine their own protocols to protect staff and patrons and may choose to require all patrons to wear masks. Bay Area health officers continue to strongly recommend masks be used as an effective tool to prevent the spread of COVID-19, especially in crowded or poorly ventilated indoor public settings. Businesses, venue operators and hosts may determine their own paths forward to protect staff and patrons and may choose to require all patrons to wear masks. Indoor masking is still required by the State for everyone, regardless of vaccination status, in public transportation; health care settings; congregate settings like correctional facilities and homeless shelters; long term care facilities; and in K-12 schools and childcare settings.

As of February 9, 2022, the County reported that the level of virus transmission remains high but has come down considerably from an early January peak. The 7-day lagged case rate average reported by the State on Monday, February 7, 2022 was 85 cases per 100K in the population, compared to 144 a week ago.

At this time, the City is still not able to ensure that social distancing requirements can be

maintained by Councilmembers, Commissioners, Committee members and members of the public in Council Chambers or at other locations where City Committees and Commissions regularly meet while COVID-19 and variants remain a risk to public health.

The enclosed Resolution makes the required findings under AB 361, and if adopted, it will allow the City to continue to offer teleconference accessibility for public meetings, to help mitigate the spread of COVID-19, as well as during other state-proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk. Staff recommends that the City Council adopt the attached Resolution to re-affirm the findings required by AB 361.

The resolution also directs staff to agendize for Council consideration no less than every 30 days the need to continue to utilize teleconferenced meetings pursuant to AB 361.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

“An Engaged Community” - includes taking actions to restore trust in city government, expanding communication, and building community.

“Maintaining a Safe Community” - includes support our first responders (police, fire, public works), responding to emergencies, protecting people, property, businesses, and our infrastructure (streets, sidewalks, storm and waste water), and engaging in emergency preparedness and prevention activities.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

ORIGINATED BY:

City Clerk

ATTACHMENT LIST:

Attachment A: Full text of AB 361 (PDF)

Attachment B: Resolution No. 18-2020 - Ratifying Local Emergency Due to COVID-19 (PDF)



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA MAKING FINDINGS AS REQUIRED BY AB 361 TO PERMIT THE CITY COUNCIL AND CITY COMMITTEES AND COMMISSIONS TO CONDUCT TELECONFERENCED MEETINGS DUE TO THE HEALTH AND SAFETY CONCERNS RELATING TO COVID-19

WHEREAS, on March 4, 2020, as part of the State of California’s response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 16, 2020, at 12:11 p.m., the City Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the City of Pacifica, after determining that the rapidly widespread of COVID-19 is likely to create conditions of disaster or extreme peril which will be beyond the services, personnel and equipment and facilities of the City and executed the “Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus (“COVID-19”)” (“Proclamation”); and

WHEREAS, on March 18, 2020, the City Council of the City of Pacifica adopted Resolution No. 18-2020 ratifying the “Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus (“COVID-19”)”, which continues to remain in place; and

WHEREAS, on March 17, 2020, the Governor of California executed Executive Order N-29-20 which suspended and modified specified provisions in the Ralph M. Brown Act (Government Code Section § 54950 *et seq.*) and authorized local legislative bodies to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and address the local legislative body; and

WHEREAS, on August 2, 2021, the Health Officer of the County of San Mateo issued Order No. C19-12 mandating the wearing of face coverings when indoors in workplaces and public settings, with limited exceptions due to the COVID-19 Delta variant circulating in San Mateo County and evidence of the Delta variant being highly transmissible in indoor settings; and

WHEREAS, on June 11, 2021, the Governor of California executed Executive Order N-08-21 which extended the provisions of Executive Order N-29-20 concerning teleconference accommodations for public meetings through September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor of California signed into law Assembly Bill 361 (AB 361, Rivas) (Stats. 2021, ch. 165) amending Government Code § 54953 and providing alternative teleconferencing requirements to conduct public meetings during a proclaimed state of emergency; and

WHEREAS, the City of Pacifica has been conducting public meetings of City Council and City Committees and Commissions via teleconference since March 18, 2020 under the modified provisions of the Brown Act as allowed for by Governor's Orders N-29-20, N-08-21 and/or N-15-21 in effect at the time; and

WHEREAS, AB 361 (Stats. 2021, ch. 165) imposes requirements to ensure members of the public are able to attend and participate in public meetings conducted via teleconference, including:

- Notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option;
- The legislative body shall take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored;
- Prohibits the legislative body from requiring public comments to be submitted in advance of the meeting and specifies that the legislative body must provide an opportunity for members of the public to address the legislative body and offer comments in real time;
- Prohibits the legislative body from closing the public comment period until the public comment period has elapsed or until a reasonable amount of time has elapsed; and

WHEREAS, the City has already implemented and is in full compliance with the requirements listed above when conducting public meetings via teleconference, which are now codified in Government Code § 54953(e)(2)(B-G); and

WHEREAS, pursuant to Government Code § 54953(e)(B), the legislative body shall hold a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees. The City Council must make these findings no later than 30 days after the first teleconferenced meeting is held pursuant to AB 361 (Stats. 2021, ch. 165) after September 30, 2021, and must also make these findings every 30 days thereafter, in order to continue to allow teleconference accessibility for conducting public meetings; and

WHEREAS, on August 2, 2021, the Health Officer of the County of San Mateo issued Order No. C19-12 mandating the wearing of face coverings when indoors in workplaces and public settings, with limited exceptions. This Order was issued due to evidence of the SARS-CoV-2 B.1.617.2 (Delta) variant circulating in San Mateo County. This variant is highly transmissible in indoor settings. San Mateo County Health Order No. C19-12 was ordered effective at 12:01 am on August 3, 2021 and will continue to be in effect until extended, rescinded, superseded, or amended in writing by the Health Officer; and

WHEREAS, in December 2021 and January 2022 the COVID-19 Omicron variant

has been observed by scientists and medical professionals to spread rapidly even amongst some vaccinated individuals and continues to present a health and safety risk to the general public; and

WHEREAS, in December 2021 the California Department of Public Health issued guidance requiring masking indoors through January 15, 2022 and subsequently extended that requirement to February 15, 2022 due to the rapid spread of the COVID-19 Omicron variant; and

WHEREAS, on February 9, 2022 the County of San Mateo Health Officer announced that San Mateo County would align with the state and eleven Bay Area counties in lifting its indoor mask mandate for vaccinated persons beginning February 16, 2022; however, unvaccinated individuals over age 2 will continue to be required to wear masks in all indoor public settings; and

WHEREAS, Bay Area health officers continue to strongly recommend masks be used as an effective tool to prevent the spread of COVID-19, especially in crowded or poorly ventilated indoor public settings; and

WHEREAS, indoor masking is still required by the State for everyone, regardless of vaccination status, in public transportation; health care settings; congregate settings like correctional facilities and homeless shelters; long term care facilities; and in K-12 schools and childcare settings; and

WHEREAS, as of February 9, 2022, the County reported that the level of virus transmission remains high but has come down considerably from an early January peak. The 7-day lagged case rate average reported by the State on Monday, February 7, 2022 was 85 cases per 100K in the population, compared to 144 a week ago; and

WHEREAS, on October 11, 2021, November 8, 2021, December 13, 2021, and January 10, 2022, the City Council of the City of Pacifica adopted Resolution Nos. 63-2021, 69-2021, 80-2021, and 01-2022, respectively, making findings as required by AB 361 to permit the City Council and City Committees and Commissions to conduct teleconferenced meetings to due to public health and safety concerns related to COVID-19; and

WHEREAS, the City cannot ensure that social distancing requirements can be maintained by Councilmembers, Commissioners, Committee members and members of the public in Council Chambers or at other locations where City Committees and Commissions regularly meet for the duration of meetings while the COVID-19 Delta and Omicron variants remain a risk to public health.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pacifica, California, as follows:

SECTION 1. The City Council hereby declares that the recitals set forth above are true and correct, and incorporated into this resolution as findings of the City Council.

SECTION 2. The City Council hereby declares that a state of emergency as a result of the threat of COVID-19 still exists and continues to impact the ability of members of the public, the City Council, City Commissions and Committees, City staff and consultants to meet safely in person and would present imminent risks to the health and safety of attendees.

SECTION 3. The State of California and the City of Pacifica continue to follow safety measures in response to COVID-19 as ordered or recommended by the Centers for Disease Control and Prevention (CDC), California Department of Public Health (DPH), and/or County of San Mateo, as applicable, including facial coverings when required. Based upon that guidance, in person attendance indoors at public meetings continues to present a health risk for certain segments of the population, necessitating teleconferencing to allow for meaningful public participation options for all Pacifica constituents.

SECTION 4. The City Council hereby declares that, pursuant to the findings listed in this Resolution, the City Council and the City Council appointed Committees and Commissions are authorized to utilize teleconferencing to conduct public meetings pursuant to AB 361 and Government Code § 54953, as amended thereby.

SECTION 5. The City Council determines that, every 30 days, it will reconsider the circumstances of the emergency and review whether it continues to directly impact the ability of the Council and appointed Committees and Commissions members to meet safely in person.

SECTION 6. Severability: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have adopted this Resolution and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

SECTION 7. Effective Date: This Resolution shall become effective immediately upon adoption.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 14th day of February, 2022, by the following vote:

AYES, Councilmembers:
NOES, Councilmembers:

ABSENT, Councilmembers:
ABSTAIN, Councilmembers:

Mary Bier, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Kenyon, City Attorney

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

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RESOLUTION NO. 18-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA RATIFYING THE PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY REGARDING NOVEL (NEW) CORONAVIRUS ("COVID-19") BY THE CITY MANAGER IN HIS CAPACITY AS DIRECTOR OF EMERGENCY SERVICES

WHEREAS, Section 4-2.05 of the City of Pacifica Municipal Code ("PMC") designate the City Manager as the Director of Emergency Services; and

WHEREAS, Government Code section 8630 and PMC section 4-2.05(a) empower the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when said city is affected or likely to be affected by an emergency, subject to ratification by the City Council; and

WHEREAS, Section 4-2.02 of the PMC defines "emergency" as the "actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as earthquake, hazardous materials, plane crash, landslide, tsunami, epidemic, flood, riot, fire, or other conditions, including conditions resulting from a labor controversy, which conditions are or are likely to be beyond the capability of control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat"; and

WHEREAS, section 8558 of the Government Code defines a local emergency as including an epidemic; and

WHEREAS, on March 3, 2020, the Director of Emergency Services of the County of San Mateo proclaimed a local emergency based on conditions of extreme peril to the safety of persons and property within San Mateo County resulting from the novel coronavirus (COVID-19); and

WHEREAS, on March 3, 2020, the San Mateo County Health Officer declared a Local Health Emergency pursuant to Health and Safety Code section 101080 based on the imminent and proximate threat to public health from the introduction of COVID-19 in San Mateo County; and

WHEREAS, on or about March 4, 2020, as part of the State of California's response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19 following one official COVID-19 death; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") characterized COVID-19 as a global pandemic and the number of cases will tragically continue to increase across the United States and globally; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N 25-20, which provided, among other things, that non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can

implement social distancing of 6 feet per person. Gatherings of individuals who are at higher risk for severe illness from COVID-19 should be limited to no more than 10 people, while also following social distancing guidelines which provide a distance of 6 feet between people. The Executive Order also ordered certain requirements of the Brown Act relating to teleconferencing could be suspended if specified conditions were met by the public agencies; and

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, as of March 14, 2020, there are 2,726 cases of COVID-19 in the United States, including an estimated 340 reported cases of COVID-19 in California; and

WHEREAS, on March 14, 2020, the San Mateo County Health Officer, pursuant to Health and Safety Code sections 101040, 101085 and 120175 issued revised Order of the Health Officer No. c19-2b which among other things, prohibits all gatherings, as defined, of more than 50 persons and requires the implementation of specified COVID-19 risk mitigation measures for gatherings of 50 or fewer persons in San Mateo County until April 6, 2020, unless rescinded earlier or extended by further action of the Health Officer; and

WHEREAS, as of March 14, 2020, the San Mateo County Health Officer has reported 32 confirmed cases of COVID-19 within San Mateo County (including one death); and

WHEREAS, the City of Pacifica may need to promulgate emergency orders and regulations to facilitate the maintenance of order and reduction in potential loss of life and property; and

WHEREAS, on March 16, 2020, at 12:11 p.m., the City Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the City of Pacifica, after determining that the rapidly widespread of COVID-19 is likely to create conditions of disaster or extreme peril which will be beyond the services, personnel and equipment and facilities of the City and executed the "Proclamation of the Existence of a Local Emergency Regarding Novel (new) Coronavirus ("COVID-19")" ("Proclamation"); and

WHEREAS, since the execution of the Proclamation, the San Mateo County Health Officer issued a new Order of the Health Officer of the County of San Mateo dated March 16, 2020, that, among other things, directs all individuals living in the County to shelter in their place of residence and directs all businesses and governmental agencies to cease non-essential operations within the County; and

WHEREAS, the March 16, 2020 Order from the San Mateo County Health Officer provides that "Essential Governmental Functions," as determined by the governmental entity, are not prohibited, however, the social distancing requirements must be complied with, to the extent possible; and

WHEREAS, since the execution of the Proclamation the number of confirmed cases in San Mateo has increased significantly and as of March 17, 2020, the San Mateo County Health Officer reports 64 confirmed cases of COVID-19; and

WHEREAS, in accordance with Government Code section 8630 and PMC section 4-2.05(a) the City Council must take action to confirm the proclamation within 7 days of the proclamation and therefore meeting to consider the Proclamation is essential to allow the City Council an opportunity to consider the Proclamation and the meeting will be conducted in conformance with the March 16, 2020 Order from the San Mateo County Health Officer.

NOW, THEREFORE, BE IT RESOLVED that said Proclamation of Existence of Local Emergency, as issued by said City Manager in his capacity as Director of Emergency Services, which is attached hereto, is hereby ratified and approved by the City of Pacifica City Council.

BE IT FURTHER RESOLVED that said local emergency is confirmed to exist and shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Pacifica.

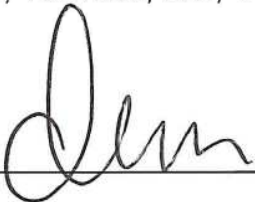
BE IT FURTHER RESOLVED that during the existence of this local emergency, the powers, functions and duties of the Director of Emergency Services, and the emergency organization of the City of Pacifica shall be those prescribed by state law, by the existing ordinances and resolutions of the City of Pacifica, as well as this resolution and any subsequent emergency orders of the City Council.

BE IT FURTHER RESOLVED that the Director of Emergency Services shall send a copy of this Resolution and the Proclamation City's Proclamation will be sent to San Mateo County Offices of Emergency Services and the California Governor's Office of Emergency Services (CalOES) and allow the City to prepare for the emergency and seek applicable state and federal funds relating to the emergency.


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PASSED AND ADOPTED at a special meeting of the City Council of the City of Pacifica, California, held on the 18th day of March, 2020, by the following vote:


AYES, Councilmembers: Martin, Beckmeyer, Vaterlaus, Bier, O'Neill.
NOES, Councilmembers: None.
ABSENT, Councilmembers: None.
ABSTAIN, Councilmembers: None.



Deirdre Martin, Mayor

ATTEST:


Sarah Coffey, City Clerk

APPROVED AS TO FORM:


Michelle Marchetta Kenyon, City Attorney

Attachment: Attachment B: Resolution No. 18-2020 - Ratifying Local Emergency Due to COVID-19 (4872 : Resolution - AB 361 to Permit Continuing

**PROCLAMATION OF EXISTENCE OF LOCAL EMERGENCY REGARDING NOVEL
(NEW) CORONAVIRUS ("COVID-19")**

WHEREAS, Government Code section 8630 and section 4-2.01 *et seq.* of the Pacifica Municipal Code empower the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council at the earliest possible time; and

WHEREAS, the City Manager is the Director of Emergency Services of the City of Pacifica; and

WHEREAS, on March 3, 2020, the Director of Emergency Services of the County of San Mateo proclaimed a local emergency based on conditions of extreme peril to the safety of persons and property within San Mateo County resulting from the novel coronavirus (COVID-19); and

WHEREAS, on March 3, 2020, the San Mateo County Health Officer declared a Local Health Emergency pursuant to Health and Safety Code section 101080 based on the imminent and proximate threat to public health from the introduction of COVID-19 in San Mateo County; and

WHEREAS, on or about March 4, 2020, as part of the State of California's response to address the global COVID-19 outbreak, Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19 following one official COVID-19 death; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") characterized COVID-19 as a global pandemic and the number of cases will tragically continue to increase across the United States and globally; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N 25-20, which provided that non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can implement social distancing of 6 feet per person. Gatherings of individuals who are at higher risk for severe illness from COVID-19 should be limited to no more than 10 people, while also following social distancing guidelines; and

WHEREAS, on March 13, 2020, President Donald J. Trump issued a Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, as of March 14, 2020, there are 2,726 cases of COVID-19 in the United States, including an estimated 340 reported cases of COVID-19 in California; and

WHEREAS, on March 14, 2020, the San Mateo County Health Officer, pursuant to Health and Safety Code sections 101040, 101085 and 120175 issued revised Order

of the Health Officer No. c19-2b which among other things, prohibits all gatherings, as defined, of more than 50 persons and requires the implementation of specified COVID-19 risk mitigation measures for gatherings of 50 or fewer persons in San Mateo County until April 6, 2020, unless rescinded earlier or extended by further action of the Health Officer; and

WHEREAS, as of March 14, 2020, the San Mateo County Health Officer has reported 32 confirmed cases of COVID-19 within San Mateo County, including tragically, one death.

NOW, THEREFORE, the City of Pacifica Director of Emergency Services finds that:

- A. The United States of America has confirmed cases of individuals who have a severe acute respiratory illness caused by COVID-19, first detected in Wuhan, Hubei Province, People's Republic of China ("China"). The virus was first reported in China on December 31, 2019; and
- B. WHO officials now report that sustained human-to-human transmission of COVID-19 is occurring. Transmission from asymptomatic individuals has been documented. Suspected community transmission of COVID-19 is occurring in the United States; and
- C. Although the majority of individuals infected with COVID-19 recover from the disease without special treatment, there is significant potential for serious infection and death; and
- D. On January 30, 2020, WHO declared the COVID-19 outbreak a public health emergency of international concern, and on January 31, 2020, the U.S. Department of Health and Human Services declared a Public Health Emergency for the United States of America; and
- E. The United States Centers for Disease Control and Prevention ("CDC") has determined that the virus presents a serious public health threat, requiring coordination among state and local health departments to ensure readiness for potential health threats associated with the virus; and
- F. Due to the significant transmission of the virus and the increased numbers of confirmed cases worldwide, the WHO declared a global pandemic on March 11, 2020 due to COVID-19; and
- G. The County's Public Health Officer has found that COVID-19 spreads easily from person to person and may result in serious illness or death, and it is essential that the spread of the virus be slowed to safeguard the public and protect healthcare resources considering the influx of new patients and has determined that these conditions constitute a threat to community health warrant a proclamation of a Local Health Emergency; and
- H. Conditions of extreme peril to the safety of persons and property have arisen within the City caused by the threat of COVID-19 that will impact significant City and community operations, including critical public infrastructure and services, and which will require the provision of additional public safety and emergency services; and
- I. As contemplated in the Emergency Service Act contained in Government Code Section 8550 et seq., including Section 8558(c) and as defined in PMC 4-2.02, a local emergency exists because of the existence of conditions of disaster or of extreme peril to the safety of persons and property within the

City of Pacifica caused by the aforesaid conditions and warrant and necessitate the proclamation of a Local Emergency to enable the City of Pacifica and other local government entities to adequately plan, prepare and secure resources to be able to effectively respond to the threat posed by COVID-19, and to warn City of Pacifica residents and visitors of the threat posed by COVID-19 and to enable them sufficient time to plan and prepare; and

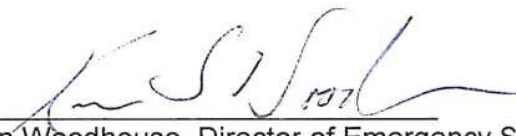
J. At the time of this proclamation, the City Council is not in session (and cannot immediately be called into session).

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency exists in accordance with the findings set forth above, commencing on or about the time and date of the signature of the Director of Emergency Services below.

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of this local emergency, the powers, functions and duties of the emergency organization of this City shall be those prescribed by state law, by ordinances, including PMC section 4-2.01 *et seq.*, and resolutions of this City, and by the City's Continuity of Operations Plan.

IT IS FURTHER PROCLAIMED AND ORDERED that this local emergency shall continue to exist until ratified by the City Council. The City Council shall terminate the local emergency at the earliest possible date that conditions warrant.

IT IS REQUESTED that the Governor of the State of California include the City of Pacifica in any emergency declaration by the State; ensure the City of Pacifica is included in any emergency declaration that may be issued by the President of the United States of America; waive regulations that may hinder response and recovery efforts; and make available California Disaster Act and State Private Nonprofit Organizations Assistance Program funding and any other applicable funding.

Date and time: 3/15/2020 12:41pm By: 
Kevin Woodhouse, Director of Emergency Services

ATTEST: 
Sarah Coffey, City Clerk



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

2021 Mandated Fire and Life Safety Inspections Compliance Report

RECOMMENDED ACTION:

Receive 2021 mandated fire and life safety inspections compliance report and move to adopt resolution acknowledging receipt of the North County Fire Authority’s mandated fire and life safety inspections performed within the City of Pacifica pursuant to Sections 13146.2 and 13146.3 of the Health and Safety Code.

STAFF CONTACT:

Sean Kavanaugh, Deputy Fire Chief
650-991-8138
skavanaugh@northcountyfire.org

BACKGROUND/DISCUSSION:

California Health & Safety Code Section 13146.4 requires all fire departments, including the North County Fire Authority, that provide fire protection services report annually to its administering authority (the City of Pacifica) on its compliance with Sections 13146.2 and 13146.3.

The North County Fire Authority performs annual inspections in every building used as a public or private school, hotel, motel, lodging house, apartment house, and certain residential care facilities. The purpose of this resolution is to request the City Council of the City of Pacifica acknowledge fulfillment of the requirements of the required annual inspections in compliance with Health and Safety Code Sections 13146.2 and 13146.3. The North County Fire Authority reports the following relating to those inspections:

A. EDUCATIONAL GROUP E OCCUPANCIES: Total 32

Educational Group E occupancies are generally those public and private schools, used by more than six persons at any one time for educational purposes through the 12th grade. During calendar year 2021, the North County Fire Authority inspected all 32 Group E occupancies, buildings, structures and/or facilities. This is a compliance rate of 100% for this reporting period; and

B. RESIDENTIAL GROUP R OCCUPANCIES: Total 150

Residential Group R occupancies are generally those occupancies containing sleeping units, and include hotels, motels, apartments (three units or more), etc. as well as other residential occupancies, including those designated as residential care facilities. These residential care facilities have several different sub-classifications, and they may contain residents or clients that have a range of needs, including those related to custodial care, mobility impairments, cognitive disabilities, etc. The residents may also be non-ambulatory or bedridden. During calendar year 2021, the North County Fire Authority inspected all 150 Group R occupancies, buildings,

structures and/or facilities. This is a compliance rate of 100% for this reporting period.

ALTERNATIVE ACTION:

None

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

“Maintaining a Safe Community” includes supporting our first responders (police, fire, public works), responding to storm emergencies, protecting people, property, businesses, and our infrastructure (streets, sidewalks, storm and wastewater), and engaging in emergency preparedness activities.

To ensure the health and safety of the public through a mandated fire and life safety program is a top priority. By ensuring that these buildings meet the standards set forth by state law, we greatly reduce the risks for the loss of life and property.

FISCAL IMPACT:

None

ORIGINATED BY:

North County Fire Authority

ATTACHMENT LIST:



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA, CALIFORNIA
ACKNOWLEDGING RECEIPT OF THE NORTH COUNTY FIRE AUTHORITY’S MANDATED
FIRE AND LIFE AND SAFETY INSPECTIONS PERFORMED WITHIN THE CITY OF
PACIFICA PURSUANT TO SECTIONS 13146.2 AND 13146.3 OF THE CALIFORNIA
HEALTH AND SAFETY CODE.**

WHEREAS, California Health & Safety Code Sections 13146.2 and 13146.3 requires all fire departments, including the North County Fire Authority, that provide fire protection services to perform annual inspections in every building used as a public or private school, hotel, motel, lodging house, apartment house, and certain residential care facilities for compliance with building standards, as provided; and

WHEREAS, California Health & Safety Code Section 13146.4 requires all fire departments, including the North County Fire Authority, that provide fire protection services to report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3; and

WHEREAS, the City Council of the City of Pacifica intends this Resolution to fulfill the requirements of the California Health & Safety Code regarding acknowledgment of the North County Fire Authority’s report prepared in compliance with California Health & Safety and Sections 13146.2 and 13146.3.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pacifica that said City Council expressly acknowledges receipt of the report from North County Fire Authority prepared in compliance with California Health & Safety Code Sections 13146.2 and 13146.3as follows:

A. EDUCATIONAL GROUP E OCCUPANCIES: Total 32

Educational Group E occupancies are generally those public and private schools, used by more than six persons at any one time for educational purposes through the 12th grade. During calendar year 2021, the North County Fire Authority inspected of all 32 Group E occupancies, buildings, structures and/or facilities. This is a compliance rate of 100% for this reporting period.

B. RESIDENTIAL GROUP R OCCUPANCIES: Total 150

Residential Group R occupancies, for the purposes of this resolution, are generally those

occupancies containing sleeping units, and include hotels, motels, apartments (three units or more), etc. as well as other residential occupancies (including several residential care facilities). These residential care facilities have several different sub-classifications, and they may contain residents or clients that have a range of needs, including those related to custodial care, mobility impairments, cognitive disabilities, etc. The residents may also be non-ambulatory or bedridden. During calendar year 2021, the North County Fire Authority inspected all 150 Group R occupancies, buildings, structures and/or facilities. This is a compliance rate of 100% for this reporting period.

• • • • •

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 14th day of February 2022, by the following vote:

- AYES**, Councilmembers:
- NOES**, Councilmembers:
- ABSENT**, Councilmembers:
- ABSTAIN**, Councilmembers:

Mary Bier, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Kenyon, City Attorney



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Reclassify Child Care Technician to Recreation Specialist in the Parks, Beaches, and Recreation Department and update the related job description.

RECOMMENDED ACTION:

Move to reclassify Child Care Technician position to Recreation Specialist within the Parks, Beaches and Recreation Department and adopt a Resolution approving updated Recreation Specialist job description.

STAFF CONTACT:

Michael Perez, Parks, Beaches and Recreation Director
650-738-7382
mperez@pacificagov

Irene Camarena, HR Manager
650-738-7303
icamarena@pacificagov

BACKGROUND/DISCUSSION:

The Parks, Beaches and Recreation (PB&R) Department consists of Child Care, Recreation and Senior Services divisions. The current Recreation Specialist position serves in an administrative support role for all divisions within the department. The Child Care Technician position has served specifically as administrative support to the Child Care division. With the recent retirement of the long-term Child Care Technician, there is an opportunity for PB&R and Human Resources (HR) to re-evaluate the business needs of the department regarding this position.

Based on this evaluation, the City Manager is recommending reclassifying the Child Care Technician position to Recreation Specialist, giving the department a total of two, and updating the job description (attached). This would strengthen the PB&R Department's administration by increasing efficiencies, providing additional support to the Director, allowing for cross-training of staff, and offer additional support to all divisions within the department.

Staff believes that this reclassification would result in a more qualified and available applicant pool and better meet the needs of the department.

Department Director Perez and Human Resources Manager Camarena had the opportunity to meet and confer with Teamsters Local 856 to answer any questions and provide clarification. The union and the incumbent have reviewed and accepted the proposed changes to the job description.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

This action supports the Council goal of a **Strong Workforce Infrastructure**.

FISCAL IMPACT:

The Child Care Technician and Recreation Specialist salary ranges are not significantly different and the fiscal impact per year would be \$600 based on the current salary schedule.

Child Care Technician \$4,421-\$5,277

Recreation Specialist \$4,471-\$5,319

ORIGINATED BY:

Parks, Beaches & Recreation Department
Human Resources

ATTACHMENT LIST:

Recreation Specialist-Administrative Services Jan 2022 (PDF)



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA REVISING THE CLASSIFICATION, JOB DESCRIPTIONS, AND TITLES FOR THE CHILD CARE TECHNICIAN AND RECREATION SPECIALIST

WHEREAS, the Child Care Technician position in the Parks, Beaches and Recreation Department job has been reclassified to a Recreation Specialist after analysis and review by staff; and

WHEREAS, the job description for the Recreation Specialist has been revised and reviewed by staff; and

NOW, THEREFORE, be it resolved by the City Council of the City of Pacifica, California, that the job description and reclassification listed above and attached are hereby revised and authorized.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 14th day of February, 2022, by the following vote:

- AYES**, Councilmembers:
- NOES**, Councilmembers:
- ABSENT**, Councilmembers:
- ABSTAIN**, Councilmembers:

Mary Bier, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Kenyon, City Attorney



03-01-2013
Revised: 1/24/2022

RECREATION SPECIALIST—ADMINISTRATIVE SERVICES

DEFINITION

Under direct supervision, Recreation Specialist incumbents are responsible for providing administrative support to all divisions of the Parks, Beaches and Recreation (PB&R) Department (Child Care, Senior Services, Recreation) including but not limited to planning, coordinating, and implementing recreation programs in defined program units such as recreation activities and programs, health and fitness programs, senior and child care programs, prevention programs, special events, marketing functions, and city-wide volunteer programs, for various age groups. Recreation Specialists are important for creating community and connecting people.

SUPERVISION RECEIVED/EXERCISED

This position reports to the Parks, Beaches and Recreation (PB&R) Director or designee and will assist in supervision of part-time staff and volunteers; and perform other duties as assigned.

ESSENTIAL FUNCTION REQUIREMENTS

- Must possess excellent written and oral communication skills in order to generate reports, maintain records, and address participant feedback and/or complaints, etc.;
- Must possess excellent customer service skills;
- Must be able to work independently and with teams;
- Must be able to maintain a flexible work schedule dependent upon the needs of the position and be able to work evenings and occasional weekends and holidays.
- Must be proficient in Microsoft Office Suite 365 (Word, Excel, Publisher and Adobe DC) and have the ability to learn department-specific computer software programs; and
- must be able to work proficiently and professionally in a fast-paced office environment.

ESSENTIAL DUTIES AND RESPONSIBILITIES

Duties may include, but are not limited to the following:

- Display outstanding customer service techniques with customers both in person/ verbally and/or written correspondence. Assist with Parks and Recreation services activities including but not limited to sports, recreation, wellness and academic programs, classes and events;
- Develop, coordinate, and assist with distribution of site and program publicity and activity brochures, flyers and various department publications;
- Provide courteous and professional service to all program participants, facility users, City personnel and the public;
- Acts as a liaison between the department and the community providing information to the community and responding to inquiries and requests from the public;



03-01-2013

Revised: 1/24/2022

- Work with program contractors in class and program coordination;
- Performs administrative duties such as assisting with the organization of information, filing, preparing reports, compiling data, and reviewing documents ;
- Assist with ordering, maintaining, and taking inventory of program supplies; organize and maintain monthly department invoicing;
- Prepare and maintain Commission agendas, reports and minutes; attend and provide administrative support to Commission meetings;
- Conduct set-up and clean-up of facility and equipment; may be charged with the opening and closing duties;
- Maintain appropriate budget controls;
- Assist customers with enrollment, registration, and maintains waitlist for various child care and recreation programs;
- Prepare invoices, maintains customer/vendor accounts and other accounting tasks for various child care, seniors services and recreation programs;
- Helps with collection of delinquent accounts;
- May assist in the training and supervising of part-time staff and/or volunteers;
- Handle promotion of programs including but not limited to communication with local publications and outreach to local organizations and schools;
- May coordinate and participate in functions/events in conjunction with the department's goals and objectives;
- May perform work as an on-site Child Care or Recreation staff support as needed;
- Ability to work cooperatively with other departments, outside agencies, and the general public;
- Work in a collaborative team environment and nurture the development of staff;
- Possess and maintain a positive "can do" attitude;
- The ability to be flexible and follow guidance and direction.

EDUCATION AND EXPERIENCE GUIDELINES

A BA/BS degree in recreation or a related field **plus** one year of professional recreation experience.

OR

A minimum of three (3) years of recent full-time paid experience (or the part-time equivalent), providing highly specialized recreational services to youth, adults seniors, in the area of assignment (or in a related filed).

SPECIAL DUTIES

The Recreation Specialist position will help with the following areas and may be assigned to one or more specifically: Aquatics, Community Center, Teens, Elementary-age Recreation, Senior Services, Child Care, and Administration.



03-01-2013

Revised: 1/24/2022

Knowledge of a wide variety of recreation programs and activities including active and passive games, arts and crafts, dramatic arts, nature and science, and special events.

LICENSE AND CERTIFICATES

- Possession of a valid California Class C Driver's License is required.
- Certification of American Red Cross CPR/First Aid and AED is required within the first six-months of employment and must maintain certifications thereafter as a condition of continued employment.
- If 18 years of age or older, must pass a fingerprint and/or background clearance prior to employment.

TOOLS AND EQUIPMENT USE

Personal computer (Microsoft Office--Word, Excel, Public, Outlook, and other software programs) calculator, copy and, telephone.

PHYSICAL DEMANDS

The physical demands described herein are representative of those that must be met by an employee to successfully perform the essential duties and responsibilities of this position. Reasonable accommodations may be made to enable individuals with disability to perform the essential functions. Work may include prolonged walking, sitting and standing, as well as light to moderate lifting up to fifty (50) pounds, carrying, reaching, stooping and pulling. Work requires manual dexterity, clear (understandable) speech, visual and hearing acuity. The ability to actively participate in recreational activities (including games), and work outdoors in both heat and cold, are also required. Occasionally required to climb or balance, stoop, kneel, crouch or crawl.

WORK ENVIRONMENT

Work is typically performed at an activity site, community center and/or in an outdoor environment in various types of weather; with frequent interruptions, deadlines, complaints, and peak workload periods. Position may require working nights and weekends. The functions of this position may be performed in both indoor and outdoor locations, alone or as part of a team. In an indoor environment, the setting may be consistent with an office environment or a specialized recreational venue. In an outdoor environment, incumbents may occasionally be exposed inclement weather conditions. Incumbents may be exposed to noise, moisture, dust, vibrations, heat and cold. Basic cleaning of facilities may include exposure to cleaning agents. Work may take place and require travel in a vehicle to and from off-site indoor and outdoor locations throughout the City.



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Approval of Purchase Agreement with Polydyne Inc., via sole source, for the supply of Clarifloc WE-2123, the cationic polymer used at the Calera Creek Water Recycling Plant for wastewater treatment.

RECOMMENDED ACTION:

Move to Approve the Purchase Agreement between the City of Pacifica and Polydyne Inc., via Sole Source, for the Supply of Clarifloc WE-2123, Cationic Polymer used at the Calera Creek Water Recycling Plant for Wastewater Treatment in an Amount Not to Exceed \$85,000 from February 2022 to June 2022; and Authorize the City Manager to Execute all Necessary Documents.

STAFF CONTACT:

Lisa Petersen, Director of Public Works
(650) 738-3767
lpetersen@pacifica.gov

Maria Aguilar, Plant Manager
(650) 738-4660
maguilar@pacifica.gov

Dave Peel, Assistant Superintendent
(650) 738-4660
dpeel@pacifica.gov

BACKGROUND/DISCUSSION:

Cationic Polymers (Polymers) are long-chain organic molecules called “polyelectrolytes” and when mixed with water create a mixture called polyelectrolyte complex (PEC). Polymers are being used at the Calera Creek Water Recycling Plant (Plant) in its gravity belt thickener (GBT) to thicken wastewater sludge.

PEC with its positive electrical charge is mixed with sludge in the GBT to neutralize the negative electrical charge on the sludge particles. Once neutralized, the particles no longer repel each other and can be flocculated, which is the process of bringing together those coagulated particles into a bigger, heavier particle (floc) that is more readily settable. Larger floc allows for better separation between solids and liquids and therefore lowers the amount suspended solids, which can clog the Plant’s pumps. Following this process, the thickened sludge is sent to the digester for further treatment then to the centrifuge for dewatering, ultimately becoming a dryer “biosolid cake”, which is hauled away.

Up to late 2009, the Plant used various types of Polymers. Some of these Polymers clogged pumps daily causing many hours of maintenance on the pumps at the Plant. Because of this constant equipment breakdown, the Plant became in danger of experiencing other problems that would impact effective Plant operation. These on-going issues prompted staff to invite Polymer manufacturer representatives to run their Polymer products through the Plant's system for staff observation. Of the various types and brands of polymers, the Zetag 8818 (Zetag) was the most effective, and so the Plant started using Kubwater's Polymer Zetag which reliably produced excellent sludge without sacrificing pumps and other equipment.

In November 2020, the Plant performed a trial batch with a new Polymer called Clarifloc WE-2123 (Clarifloc) manufactured by Polydyne, Inc. that provided good results. In addition, the price of Clarifloc is less than Zetag, allowing for a cost savings. These are the only two Polymer products that have proven to be safe and effective for use at the Plant.

The Plant consumes cationic polymer at about 11,000 pounds a month or 132,000 pounds annually. Polydyne has extended the price of the Clarifloc at \$1.40 per pound until the end of June 2022, which is 46% less than Zetag's price of \$2.05 per pound. It is projected that the total cost from February to June 2022 for using Polydyne will be \$85,000 in comparison to \$124,000 if the Plant uses Zetag, which is in addition to \$50,000 already expended this fiscal year under the City Manager's authority.

For these reasons, the City Manager is recommending the approval, via sole source, of a Purchase Agreement with Polydyne Inc. for the supply of Clarifloc WE-2123 Polymer for the remainder of Fiscal Year 2021-22. Staff will return to the City Council for a new approval of the Plant's Polymer purchase for Fiscal Year 2022/23 in June 2022.

ALTERNATIVE ACTION:

The Council may choose not to approve the Purchase Agreement with Polydyne Inc. via sole source and direct staff to get at a third quote. However, doing so would delay the treatment of wastewater and is likely to violate the Plant's National Pollutant Discharge Elimination System (NPDES) permit.

RELATION TO CITY GOALS AND WORK PLAN:

Approval of the Purchase Agreement with Tesco is consistent with the following Council adopted Goals:

- Stewardship of City Infrastructure and Maintaining a Safe Community: This purchase will ensure continuous treatment of wastewater at the Calera Creek Water Recycling Plant and compliance with its NPDES permit.

FISCAL IMPACT:

The total project cost is anticipated to not exceed \$135,000 for FY 2021-22 and will be charged on WWTP- Chemical Expense Account Number 18.940741.52342.000.000. No additional budget authority is necessary as sufficient funds have been allocated in the Wastewater Enterprise Fund FY 2021-22 budget to pay for this purchase.

ORIGINATED BY:

Public Works - Wastewater Division

ATTACHMENT LIST:

PA120303_120304_Polydyne_BS (PDF)

PURCHASE AGREEMENT

CITY OF PACIFICA – WASTEWATER DIVISION

PURCHASE ORDER NOS. 120303 and 120304

Seller (Vendor):		Buyer:	
Name	Polydyne, Inc.	Name:	City of Pacifica
Address	1 Chemical Plant Road	Address:	540 Crespi Drive
City, State Zip:	Riceboro, GA 31323	City, State, ZIP:	Pacifica, CA 94044
Attn:	Charles Scott		Maria P. Aguilar
Phone:	(916) 202-6191	Fax:	(650) 355-7256
E-mail:	charless@polydyneinc.com	Fed. Tax I.D.:	
Project Information (If Applicable):		Ship To:	
Charge to		Calera Creek Water Recycling Plant	
Acct#: 18.940741.52342.0000.000 – WWTP Chemical Expense		700 Pacific Coast Highway	
		Pacifica, CA 94044	
Order Date		Ship Via	
February 15, 2022		-	
		Payment Terms	
		Net 30 days of invoice Upon Receipt of Equipment Delivery	

Buyer and Seller agree as follows:

MATERIAL AND/OR EQUIPMENT TO BE PROVIDED: Vendor shall furnish the materials or equipment described below in strict compliance with the Quotation from Polydyne, Inc. dated 1-14-2022 (Attachment 1) at the price or prices set forth opposite each item and within the times stated below in accordance with the terms and provisions of this Purchase Agreement, including the attached Terms and Conditions, which are incorporated into and made a part of this Agreement:

Item No.	Item Description	Budget Acct No.	Quantity	Unit Price	Extension	Delivery Date
1	Polymer: Clarifloc WE-2123 (1 tote = 2,300 lbs)	18.940741.52342.0000.000	2,300 lbs	\$ 1.40	\$ 3,200/tote	
				TOTAL	\$ 3,200/tote	

Sales Tax (9.375%): \$ 301.88/tote
 Shipping: \$ 0

P.O. Total: \$ 85,000.00 (Not to exceed)

Attachment: PA120303_120304_Polydyne_BS (4879 : Purchase Agreement with Polydyne Inc., via sole source)

Special Terms and Conditions	
Shipping:	Show Purchase Order number on all packages and invoices.
	All purchases are F.O.B Pacifica unless otherwise specified on Purchase Order.
Charges:	All transportation charges must be prepaid and shown separately on all invoices.
	City of Pacifica is exempt from Federal Excise Tax.

Purchase up to \$10,000 (must be approved by Department Head or authorized signator)

Purchase between \$10,000.01 and \$25,000 (must be approved by the Assistant City Manager)

Approved:
Name: LISA PETERSEN
Title: Director of Public Works

Approved:
Name: TINA WEHRMEISTER
Title: Assistant City Manager

Purchase between \$25,000.01 and \$50,000 (must be approved by the City Manager)

Approved:
Name: KEVIN WOODHOUSE
City Manager

Purchase above \$50,000 (must be approved by the City Council)

Date City Council Approved: _____

Buyer: CITY OF PACIFICA

Authorized Signature:
Name: KEVIN WOODHOUSE
Title: City Manager

Vendor: POLYDYNE, INC.

Authorized Signature: Boyd Stanley
Boyd Stanley (Jan 21, 2022 08:07 EST)
Name: Boyd Stanley
Title: Sr. Vice-President

If Seller is located in the City of Pacifica, does Seller have a current business license?

Yes No

Attachment: PA120303_120304_Polydyne_BS (4879 : Purchase Agreement with Polydyne Inc., via sole source)

PURCHASE ORDER TERMS AND CONDITIONS

DEFINITIONS: The term "Buyer" as used in this Purchase Order means the City of Pacifica, and the term "Seller" means the person, firm, or corporation from whom the material or equipment described in the purchase order is ordered.

ACCEPTANCE: The attached Acceptance Copy shall be signed and returned by the Seller within ten (10) calendar days after it is received by the Seller. The receipt by the Buyer of the signed Acceptance Copy or the initiation of performance under this Purchase Order by the Seller shall constitute acceptance of the Purchase Order by the Seller, including all of the terms and conditions herein. Acceptance is limited to the terms stated herein. Any additional or different terms and conditions proposed by the Seller are rejected unless expressly agreed to in writing by City Purchasing Agent or authorized agent.

COMPLETE AGREEMENT: This Purchase Order, including all applicable terms, conditions and specifications, shall constitute the sole and exclusive agreement between the parties. This Purchase Order supersedes all other writings and negotiations, written or oral. The City of Pacifica will not be responsible for goods delivered without a Purchase Order properly signed by the City Purchasing Agent or authorized agent. When this Purchase Order covers a purchase rendered over a stated period of time, Seller must obtain a new order upon expiration of the time period to authorize the purchase for an additional period of time.

DEFAULT: The Buyer may terminate the whole or any part of the purchase in any one of the following circumstances: (1) If the Seller fails to make delivery or fails to perform within the time specified herein or any extension thereof; or (2) If Seller delivers nonconforming goods; or (3) If Seller fails to perform in accordance with the material provisions of this agreement, or so fails to make progress as to endanger performance of this Purchase Order in accordance with its terms. In the event of any such failure Buyer will provide Seller with written notice of the default and Buyer's intention to terminate for default if Seller fails to cure the default to Buyer's satisfaction within seven (7) calendar days of Buyer's notice. If Seller fails to cure or correct the default within seven days, the Buyer may, without further notice to Seller, procure upon such terms and in such manner as the Buyer may deem appropriate, items similar to those terminated, and the Seller shall be liable to the Buyer for any excess costs of such similar items; however, the Seller shall continue the performance of this Purchase Order to the extent not terminated. The rights and remedies of the Buyer provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Purchase Order.

CHANGES: Buyer may direct in writing changes, including additions to or deletions from the quantities originally ordered, or in the specifications or drawings. If any such change causes a material increase or decrease in the cost of, or the time required for, performance hereunder, an equitable adjustment shall be made in the price or schedule. Any claims for adjustment which Seller believes result from any change directed by Buyer shall be asserted in writing by Seller no later than ten (10) days from the date of Seller's receipt of any such direction. Equitable adjustments for any claims or changes under this agreement, including claims arising from terminations or suspensions directed under DEFAULT above, of this agreement, will be made by

written Change Order. Nothing contained herein shall excuse Seller from proceeding with the change as directed prior to negotiation of any adjustment. Whether made pursuant to this clause or by mutual agreement, changes shall not be binding upon the Buyer, except when confirmed in writing by a member of the Buyer's Purchasing Department.

INVOICES: Seller shall send Buyer a separate invoice for each shipment. Invoices shall not be issued prior to delivery of items. Payment shall not be made prior to receipt of items and an invoice. Credit and discount periods will be computed from the date of receipt of the invoice to the date the Buyer's check is mailed. Unless freight and other charges are itemized, the discount will be taken on the full amount of the invoice. Payment will be made within thirty (30) days after approval of the invoice by the Buyer.

TITLE AND RISK OF LOSS: All prices shall be F.O.B. Factory. The Seller shall be responsible for safe and adequate packing of the items, which shall conform to the carriers' requirements. The Seller shall separately number all cases and packages, showing the corresponding numbers on the invoices. An itemized packing slip bearing this Purchase Order number shall be placed in each container. No extra charge shall be made for packaging or packing materials unless authority therefor is set forth in this Purchase Order. Seller shall assume and pay for any and all loss or damage to the merchandise from any cause whatsoever until delivered to Buyer at the specified destination.

DELIVERY: Timely performance and deliveries are essential to this Purchase Order. The Buyer reserves the right to refuse deliveries made in advance of the delivery schedule. Overshipment allowances, if authorized, will be applied to the entire order. If the Buyer agrees to accept deliveries after the date of delivery has passed, the Buyer shall have the right to direct the Seller to make shipment to the delivery point set forth in this Purchase Order by the most expeditious means, and the total cost of such expedited shipment and handling shall be borne by the Seller. Acceptance of late deliveries shall not be deemed a waiver of the Buyer's right to hold the Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller's obligation to make future deliveries in accordance with the delivery schedule.

DELAYS: Seller will not be liable for delays in performing its obligations to the extent the delay is caused by an unforeseeable condition which is beyond Seller's reasonable control and without Seller's fault or negligence. Acts of God, such as storms or floods, as well as government priorities, acts of civil or military authorities, fires, strikes, epidemics, war or riot are examples of events which will be excusable for being beyond Seller's reasonable control, only upon fulfillment of the following conditions: (a) within seven (7) days of the commencement of any excusable delay, Seller shall provide Buyer with written notice of the cause and extent thereof as well as a request for a schedule extension for the estimated duration thereof, and (b) within seven (7) days of the cessation of the event causing delay Seller shall provide Buyer with written notice of the actual delay incurred, upon receipt of which, the date of promised delivery shall be extended for the time actually lost by reason of an excusable delay.

INSPECTION AND APPROVAL: All items are subject to final inspection and approval after delivery to Buyer. If any items are defective in material or workmanship or otherwise not in conformity with the requirements of this Purchase Order, the Buyer shall have the right to

require Seller to correct or replace them. Final acceptance or rejection shall be made by the Buyer as promptly as practicable after delivery. Final acceptance shall be conclusive except with respect to latent defects, fraud or such gross mistakes as amount to fraud, or with respect to the Buyer's rights under the "Warranty" clause.

WARRANTIES-GUARANTEES: The Seller warrants that the items, at time of delivery, shall conform to the Buyer's specifications, the requirements of this Purchase Order, approved sample or samples, if any, and are free from defects in design, material and workmanship. Warranty will be as described in the attached Vendor's Quotation. At the Buyer's option, the Seller shall promptly either repair or replace defective items after receipt of the Buyer's written notice of a defect. Transportation charges for the return and redelivery of defective items shall be borne by the Seller. Seller also warrants that said merchandise is free and clear of all liens and encumbrances whatsoever and the Seller has good and marketable title to same, and Seller agrees to indemnify, defend and hold the City of Pacifica, its officers, agents and employees free and harmless against any and all claimants to said merchandise.

SAFETY: All equipment and materials shall comply with all Federal, State and local safety rules and regulations including OSHA. Where applicable, materials must be labeled in accordance with Section 5194, Title 8, of the California Administrative Code. The Seller is required to include a Material Safety Data Sheet prepared in accordance with Section 5194(9) with each shipment of all such materials to the City.

EQUAL OPPORTUNITY EMPLOYER: It is the policy of the City of Pacifica that in connection with all materials furnished or work performed under this Purchase Order, there be no discrimination against employees because of race, religion, color, sex or national origin, and therefore the Seller agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practices Act.

TAXES: Unless prohibited by law, Seller shall pay and has included in the prices of this Purchase Order any federal, state or local tax, transportation tax, or other tax which is required to be imposed upon the items ordered hereunder, or by reason of their sale or delivery.

TERMINATION FOR CONVENIENCE: Buyer shall have the right to terminate this Purchase Order in whole or in part at any time, and from time to time, by written notice effective upon receipt by Seller of such notice, even though Seller is not in breach of any obligation hereunder. Upon receipt of notice of termination, Seller shall immediately discontinue performance and shall comply with Buyer's instructions concerning disposition of completed and partially completed items, work in progress and materials acquired pursuant to this Purchase Order. In the event of such termination, Seller shall be paid an amount in settlement to be mutually agreed upon by the parties which shall cover Seller's reasonable costs of performance incurred prior to termination in connection with the items for which this Purchase Order is terminated plus a reasonable profit based upon such costs. However, said payment shall not exceed the price specified herein for such items. Seller shall advise the Buyer, in writing, of Seller's claim, if any, for termination costs within ten (10) days after receipt of the notice of termination. Termination in accordance with this article shall not affect Buyer's obligation to pay for items accepted by Buyer prior to such termination.

PURCHASE AGREEMENT

Project Title: POLYDYNE, INC. – PURCHASE ORDER NOS. 120303 and 120304

GOVERNING LAW; VENUE; DEFINITIONS: The definition of terms used, interpretation of this Purchase Order and rights of all parties hereunder shall be construed under and governed by the laws of the State of California. Any litigation with respect to this Purchase Order shall be brought and conducted in San Mateo County, California.

Attachment: PA120303_120304_Polydyne_BS (4879 : Purchase Agreement with Polydyne Inc., via sole source)

ATTACHMENT 1

Attachment: PA120303_120304_Polydyne_BS (4879 : Purchase Agreement with Polydyne Inc., via sole source)

January 14, 2022

Maria Aguilar
City of Pacifica
700 Pacific Coast Highway
Pacifica, CA 94044

SUBJECT: Sole Source Declaration

Dear Maria:

We trust this letter will serve your needs in defining Polydyne Inc. as the sole source manufacturer and supplier of the following product below supplied to the City of Pacifica:

CLARIFLOC WE-2123

Polydyne has lab/jar tested, field trialed, and customized the above-referenced product specifically for the City of Pacifica. This CLARIFLOC WE-2123 product is not substitutable or “off the shelf.” The product molecular structure, molecular weight, and particular raw material components are unique to Polydyne’s CLARIFLOC product line. CLARIFLOC is Polydyne’s trademark, and no other vendor is authorized to supply these CLARIFLOC products, to include your current CLARIFLOC WE-2123.

For the period of February 1, 2022 through June 30, 2024 Polydyne Inc. shall commit to manufacture, maintain inventory, and supply the city of Pacifica with CLARIFLOC WE-2123.

For the period February 1, 2022 through June 30, 2022, Polydyne Inc. shall supply the City of Pacifica CLARIFLOC WE-2123 at \$1.40/Lb in totes (2300-lbs). Thereafter, each subsequent 1-year period will commence July 1st and end June 30th, and will be possibly subject for a price adjustment (up or down) for each 1-year period based on the current US Bureau of Labor PPI price index for plastics and materials.

We want to assure you and your rate payers that Polydyne will continue to provide the highest level of technical service and product quality, as well as the lowest unit price in the industry.

Thank you for your business! If you have any questions, please feel free to contact Charles Scott, Technical Sales Representative, at (916) 202-6191 or Rawlin Castro, Western Region Manager at (415)218-6089.

Best regards,

Charles Scott
Technical Sales Representative



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Authorize Agreement with Creative Digital Agency for Marketing Services

RECOMMENDED ACTION:

Authorize City Manager to Execute a Professional Services Agreement with Creative Digital Agency for Economic Development Marketing Services

STAFF CONTACT:

Yulia Carter, Chief Financial Sustainability Officer
(650) 501-6004
ycarter@pacifica.gov

BACKGROUND:

In September, the City retained Creative Digital Agency (CDA) to a) prepare a Pacifica Marketing Report & Gap Analysis and b) develop a marketing plan to support and advance the City's Economic Development program in the next two years (2022-2024). CDA provides marketing services to several cities and counties in the Economic Development and Tourism fields as well as a number of private sector companies.

On December 13, 2021, the City Council held a Study Session on the Vision 2025 & Beyond study. This discussion included a presentation of the Pacifica Marketing Report & Gap Analysis and a review of the 14 Economic Development marketing opportunities in Pacifica identified in the report from CDA. The discussion also included input from members of the City's Economic Development Committee (EDC).

During the review and discussion of the Marketing Report, interest and support was expressed for all of the marketing opportunities. There was also direction from the City Council to proceed with the development of a 2 Year Marketing Plan with CDA that would be brought back to the City Council and which prioritized work on the Shop Pacifica and Workcations marketing opportunities.

Agreement for Services & Work Program

Staff has incorporated input from the City Council and EDC and drafted an Agreement between the City of Pacifica and CDA for a 2-Year Economic Development Marketing Program and Services. This agreement includes a Scope of Work that includes priority work areas that will be the initial focus of the services from CDA (see **Attachment A**).

The Priority Work Areas include:

1. **Shop Pacifica eGift Card Program** which was launched over the holidays with some initial design and marketing assistance from CDA that has already added almost \$2,000 in spending to the Pacifica economy.

2. **Workcations** opportunity that will bring additional visitors and revenue to hotels in Pacifica.
3. **Social Media** - The priority work areas also include a focus on improving Pacifica's social media reach when it comes to marketing the City. This work will include more use of Instagram as well as the use of blogs, newsletters, influencers, and other social media tools.
4. **Banners** - opportunity that would target residents and visitors, provide awareness for Shop Pacifica program and upcoming events. The Palmetto Avenue would be great location to target local foot traffic audience and further promote Shop Pacifica program, events and feature local businesses in rotational manner. Sharp Park Road messaging would be digestible at glance while driving past to promote inspiration for an overnight visit to see what Pacifica has to offer.

The agreement also includes the balance of the 14 economic development marketing opportunities as areas of services once the four priority work items are well underway.

To track the progress of the work from CDA, the Scope of Work includes a detailed list of Key Performance Indicators (KPIs) in areas including Earned Media, Owned Media, and Paid Media. These KPIs will be used in CDA's progress reports to the City.

The proposed agreement also includes a schedule of services and hourly rates for these services. The agreement has a Cost Ceiling of \$150,000 over the 2-year term of the project.

Additional Information Requested from CDA

During the December 13, 2021 study session interest was expressed by the City Council in receiving additional information on the Pacifica Marketing Study & Gap Analysis interviews and information sources as well as examples of CDA's marketing capabilities and past projects in the areas of economic development and tourism marketing. That information is attached to this report and includes:

- List of Stakeholder Interviews and Meetings and Research Materials and Sources for the initial Pacifica assessment work (see **Attachment B**)
- Capabilities and Testimonials (see **Attachment C**)
- Sample Marketing Update Report with KPIs - Sausalito Lighted Boat Parade (see **Attachment D**)

ALTERNATIVE ACTION:

City Council may revise or modify the Staff recommendations and next steps outlined in this report.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

This item furthers the City Council's Strategic Goal and the City's efforts toward **Fiscal Sustainability**.

The City receives several million dollars per year of revenue from businesses in Pacifica. This includes Sales Tax, Transient Occupancy Tax (TOT), Business License Taxes and a portion of

Property Tax and Utility Users Tax revenues. These commercial and industrial sector revenues help fund the City's General Fund Budget which pays for ongoing City services including Police, Fire, Library, Community Development and Parks, Beaches and Recreation services.

FISCAL IMPACT:

Funding for the initial Economic Development marketing work by CDA under this agreement is included in the 2021-22 Budget as per Council's approval to allocate \$50,000 of ARPA funds towards the City's Tourism and Marketing program as a first year of two-year allocation. If approved as recommended, the next fiscal year's funding will be added to the FY 2022-23 Base Budget pending City Council's approval of the budget.

ORIGINATED BY:

City Manager's Office

ATTACHMENT LIST:

- Attachment A - Scope of Work (DOCX)
- Attachment B - CDA Stakeholder Interviews, Research Materials and Sources used in Initial Assessment (DOCX)
- Attachment C - CDA Capabilities and Testimonials - Economic Development and Tourism Marketing (PDF)
- Attachment D - CDA Sample Marketing Update- Sausalito Lighted Boat Parade (PDF)

EXHIBIT A SCOPE OF WORK

1. PROJECT OVERVIEW & OBJECTIVES

The following scope of work details Creative Digital Agency’s (CDA) approach for this project. It will include work with the CITY led by the Chief Fiscal Sustainability Officer in the implementation of the Economic Development Marketing Opportunities defined in the Pacifica Marketing Study and Gap Analysis prepared by CONSULTANT. The work will include developing marketing strategies and services that lead to rapid improvements and results in the Pacifica business sector.

2. PRIORITY WORK AREAS

The CITY is interested in pursuing all 14 of the marketing opportunities defined in the Pacifica Marketing Study and shown in Exhibit A-1 (List of Marketing Opportunities) and Exhibit A-2 (Pacifica Marketing Study and Gap Analysis). In the initial work on this project during the first 12 months, the CITY will work with CONSULTANT and CONSULTANT will provide marketing services that prioritize these four opportunities:

1. SHOP PACIFICA

CITY has launched a Shop Pacifica eGift Card Program with the assistance of CONSULTANT and Yiftee. The program is designed to stimulate spending at local Pacifica businesses. It has already resulted in almost \$1,000 in additional dollars coming into the local Pacifica economy.

The work in this area will build on the initial marketing and design work of CONSULTANT to produce the Shop Pacifica logo, business card, marketing material and graphics in coordination with the CITY.

CONSULTANT will assist CITY in moving the program from its current “soft launch” phase to a full launch. This will include various marketing channels and campaigns can be used to promote this new offering such as Blog Posts, Social Media Posts, the Connect with Pacifica Newsletter, Posters and Flyers at Local Businesses and Events and a Holiday Gift Card Campaign. It will also include developing program social media on Instagram and the Web, launch materials and announcements to gain coverage in news media, facilitating stories through social media and travel influencers and an anticipated eGift Card bonus program.

2. WORKCATIONS

CONSULTANT has identified an opportunity for CITY to stimulate the Hotel sector of the local economy by marketing hotels in Pacifica as an ideal location for Workcations. This initiative will build upon Pacifica’s unique location, its proximity to San Francisco and the San Francisco International Airport and Pacifica hotels with beachfront rooms and views that are inspirational settings for creativity and projects.

CONSULTANT will assist CITY in launching the Workcations program using social media including Instagram and the City website, local blogger, influencer and news media coverage and articles marketing Pacifica hotels as an ideal Workcation location.

3. SOCIAL MEDIA

CONSULTANT has identified a need for Pacifica to improve its presence and effectiveness with social media channels. Other coastal and travel destinations in the area have much higher and effective social media presence and reach than Pacifica.

CONSULTANT will assist CITY in improving Pacifica’s social media traffic and reach. This may include high quality visual content that is consistently posted is key to attracting and retaining followers and raising awareness about Pacifica, sharing events in local surrounding Facebook groups to gain more exposure of events as well as Pacifica businesses, growing a social media presence that can generate increased revenue for the City as it will assist in exposure and communication of events, activities and local shops, restaurants and hotels, reach Travel and lifestyle influencers on Social Media that drive highly-effective advocacy for visitors who have never before considered a trip to Pacifica, or who wouldn’t know what to spend money on when they arrived. Primarily, social media services will revolve around expanding the reach and engagement rates from a visitor population, while additionally increasing the reach of relevant content posted by local businesses on their own social media pages.

4. PRINTED BANNER DESIGN: PALMETTO & SHARP PARK

CONSULTANT has identified an opportunity for Pacifica to increase awareness for shop local and overnight visitation efforts through the printed outdoor banner placements along Palmetto & Sharp Park.

CONSULTANT will assist CITY by providing graphic design services for these outdoor banner placements. The Palmetto placements shall be used to promote shopping at local merchants and the Shop Pacifica program to residents. These banners could be rotated out to promote upcoming annual events, as well. The banner placements along Sharp Park shall be used to promote shopping at local merchants and overnight visitation to increase hotel stays and will be designed to be easily seen by drivers passing by, with evergreen messaging designed to not require seasonal rotation of the banners themselves.

3. FUTURE WORK AREAS

As noted in Section 2, CITY will also work with CONSULTANT on other opportunities defined in the Pacifica Marketing Study and Gap Analysis (Exhibit A-1) and other opportunities that may arise. The goal of the work is to provide flexibility for CITY to receive the full benefit of the expertise and resources of CONSULTANT during the term of this agreement.

4. KEY PERFORMANCE INDICATORS

CONSULTANT will provide CITY with Key Performance Indicators or “KPIs” each month that measure the success of the results of the marketing program designed by CONSULTANT in consultation and coordination with CITY. These Metrics Will Be Used to Measure and Report Marketing Performance, Month-Over-Month:

EARNED MEDIA (i.e., PR efforts)*

- **“# of Published Posts”** - The total number of stories/articles/videos published by an outside organization (i.e., a newspaper writing an article about Pacifica)
- **“Traditional Audience”** - The estimated number of people exposed to non-digital media (i.e., TV & print)
- **“Digital Coverage Views”** - The estimated number of people exposed to digital media
- **“PR Social Shares”** - The estimated number of people who shared a piece of digital media on their own social media channel (i.e., sharing a newspaper article they read on their Facebook page). Does not include content shared on or from Visit Pacifica’s own social media channels.

OWNED MEDIA (i.e., Pacifica’s websites, newsletters, and owned social media channels)*

- **“Follower Count”** - How many people have requested to receive Visit Pacifica’s social media content
- **“Reach”** - How many unique people or devices are being exposed to marketing efforts
- **“Engagement Rate”** - Percentage of people who interact with digital media, such as “liking” a Facebook post, or leaving a comment
- **“% Visitors”** - The percentage of people reached who do NOT live in Pacifica
- **“Search Volume”** - The average number of monthly online searches (for the previous 12 months) related to Pacifica and its attractions/businesses
- **“Hashtag Volume”** - How many total social media posts around the world include hashtags specifically related to Pacifica and its attractions/businesses.

PAID MEDIA (i.e., advertising)*

- **“Impressions Served”** - Measures the volume of advertising. An impression equals one ad, served one time, to one person.
- **“Clicks”** - Measures the number of clicks or taps on digital advertising (i.e., clicking on an ad to visit a web page)
- **“Video Views”** - For video advertising; measures how many times people actually watch a portion of a video ad without scrolling away or clicking away

*Note: These are general, non-technical definitions

EXHIBIT A-1**List of 14 Marketing Opportunities in Pacifica**

1. Workations Marketing Campaign
2. Attracting Trade Conferences
3. Branding Unique Neighborhoods
4. Promote Citywide Gift Cards Program
5. Attract New Businesses
6. Promote Shop Local
7. Printed Banner Design; Palmetto & Sharp Park
8. Updates & maintenance for City Web presence
9. Local Communications
10. Analytics
11. Social Media Services
12. Bloggers & Influencers
13. Events/Activities – “Crazy for Crab”
14. Events/Activities – “Pop Up Market”

EXHIBIT B

Compensation

CITY shall pay CONSULTANT for the Services on a cost reimbursement basis as outlined in Exhibit B-1, up to the Cost Ceiling (as defined in Section 2.1 of the Agreement).

CONSULTANT agrees to use appropriate methods to contain its fees and costs under this Agreement. Compensation shall include only the following costs, which shall all count toward the Cost Ceiling.

EXHIBIT B-1

Note: The specific allocation of services and costs within this budget is subject to change with City input and approval during the term of the contract, in response to evolving developments, needs, and conditions in within the city (including, for example, changes related to the ongoing COVID-19 pandemic), as well as any relevant new insights or information that informs more optimal allocation of the different services below.

Additional work outside the scope of this agreement may be performed upon request during the term for a **blended hourly rate of \$110/hr** across all services.

Paid Media Services (Paid Advertising)	Not To Exceed (NTE)
Paid Search Ads/Search Engine Marketing (SEM)	\$7,500
Display Ads (Digital Video & Banner Ads): 4M impressions	\$20,000
Social Media Ads: 7,127 clicks	<u>\$21,380</u>
NOT TO EXCEED TOTAL – PAID MEDIA	\$48,880
Marketing Services	
Account Management: \$220/month for 24 months	\$5,280
PR Retainer \$2,500/month for 12 months	\$30,000
Social Media Services \$2,000/month for 24 months	\$48,000
Web Maintenance & Updates: \$330/month for 24 months	\$7,920
Print/Graphic Design: \$880/asset, 4 unique assets	\$3,520
Print/Video Content: \$1,600/day for 4 days	<u>\$6,400</u>
NOT TO EXCEED TOTAL – MARKETING SERVICES	\$101,120
NOT TO EXCEED TOTAL – 24 MONTHS	\$150,000

Definitions:

- Impressions: measures the volume of advertising. One impression equals one ad, served one time, to one person.
- Clicks: measures interactions with a digital advertisement; a person tapping or clicking a link on an ad

**CREATIVE
DIGITAL
AGENCY**

Throughout the initial assessment work, CDA reached out to over 40 stakeholders with the invitation to participate in informational interviews. The list included individuals from restaurants, hotels, retail shops, BID, Chamber of Commerce, EDC, Art and Historical organizations and elected officials.

Stakeholder Interviews and Meetings

1. Jim Heldberg - EDC Member/Silicon Segway
2. Cindy Abbot - Sanchez Art Center
3. Holly Smallie - GM, Lytt
4. Mike O'Neill - City Council Member
5. Daisy Fong - EDC Vice Chair
6. Kathleen Courtney - Former EDC Member
7. Matt Spero - Lighthouse Hotel
8. Beth Lemke - Owner, Grape in the Fog
9. Mitch Postal - Rancho Day Fiesta, San Mateo County History Museum
10. Kathleen Brookshire - Table Wine
11. Olga Munoz - 731 Gallery
12. Rachel Cauteruccio - Former EDC Member
13. Lynn Gallo - Chamber of Commerce, Treasurer
14. Archie Judan - Chamber of Commerce
15. Ella Patel - Anchor Inn
16. Carlos Patel - America's Best Value Inn
17. Richard Birchard - Inn at Rockaway

**CREATIVE
DIGITAL
AGENCY****Research Materials and Sources****Audience Search Trends and Competitor Analysis (7-12):**

- Google Trends, SEM Rush

Travel Site Trends/Reviews (13-14):

- Tally of reviews of Pacifica hotels on Expedia/reviews from Tripadvisor and Expedia

Workations (18-19):

- [NorthOne](#) , Google Trends, various publications

Competitor Analysis Attractions (30):

- Visit Pacifica + Half Moon Bay Websites

Social Media (41):

- Instagram and Facebook Accounts



CREATIVE DIGITAL AGENCY

Attachment: Attachment C - CDA Capabilities and Testimonials - Economic Development and Tourism Marketing (4887 : Agreement with

AGENCY OVERVIEW

We Unlock a Modern Audience

CDA Creative Digital Agency is a full-service firm created to help brands cross the ever-widening cultural gap between generations, lifestyles, and behaviors.

We owe our success to our “audience-first” approach, creating real business impact for clients by building our creative and tactical decisions on a strategic foundation backed by authentic understanding of our audience.

Our Objective? Business Impact

We know that success isn't about numbers on a spreadsheet, it's about real business impact; creating meaningful change for our clients. That's why the Mobile Marketing Association ranked us as a Top Digital/Specialist Agency on their Global Business Impact Index.

Award-Winning Work

Our expertise in helping brands innovate in the digital space has been honored with awards from Inc. 5000, the Mobile Marketing Association, Mobile Marketing Magazine, and the Gov Design Awards.

Travel, Tourism, and Hospitality Experience

We have had the privilege to work with amazing clients in the Travel/Tourism/Hospitality space, including Los Angeles Tourism & Convention Board, Carnival Cruise Line, Airbnb, Visit Savannah, Visit Valley Forge, Alliance for Pioneer Square, Seattle, Experience Westport, WA, Voyij Alaska, Destination Sausalito, and Visit Benicia CA.

Creators by Trade

Did you catch Visit Barcelona's “Barcelona From the Air” campaign when it made the front page of Reddit? Our team did that. Did you see Speed Stick's ad for Super Bowl XLVII? We produced it. Did you catch Carnival Cruise's keynote address at CES last year? We wrote it. Our creative team has produced video, photo, graphics, and copywriting work for some of the biggest and most exciting brands in the world.



Photo
by CDA

AWARDS & ACCOLADES



Top 35 Agencies
MMA Global
Business Impact
Index



Winner
ITV GameChangers
Award



Inc. 5000
National List, Fastest
Growing Companies



3x Winner
Mobile Marketing
Association Smarties
Awards



**Top 10 Ad
Agencies**
Agency Spotter



Winner
Mobile Marketing
Magazine EMMA
Awards



CLIENTS



Attachment: Attachment C - CDA Capabilities and Testimonials - Economic Development and Tourism Marketing (4887 : Agreement with

CAPABILITIES OVERVIEW (1 of 2)

Branding & Strategy

- Competitive audit
- Brand strategy
- Brand identity and asset development
- Brand health/reputation monitoring

Influencers and Experiential

- In-house entertainment department maintains relationships with all the major Hollywood talent agencies
- In-house social influencer tool with global audience of 50M+
- Brand guidelines documentation and coverage tracking

Localization/Translations

- Staff fluent in six languages
- Regularly localize campaigns for a global audience, sometimes in dozens of languages

C-Level and Internal Communications Support

- Consultation and strategy
- Organizational alignment
- Presentations

Co-Branding and Retail Partnerships

- Outreach and onboarding
- Promotional collateral
- Hyperlocal advertising buys
- Staff training

Paid Advertising Services

- Market research
- Strategic media/vendor partnerships & corporate tie-ins
- Planning
- Negotiation/buying
- Placement
- Management
- Trafficking
- Reconciliation

CAPABILITIES OVERVIEW (2 of 2)

Creative Production

- Video production (multi format)
- Design: Print, OOH, communications collateral
- Design: Digital media
- Social content development
- Copywriting

Analytics

- Media impact and ratings
- Digital engagement
- Audience profiling
- Post-campaign surveys

Digital Services

- Offsite and onsite search engine optimization (SEO)
- Web and mobile user journey mapping and conversion optimization
- Landing page development
- Web and mobile UX
- eCRM (email, SMS/text marketing, marketing automation)

Social Media

- Strategy and optimization
- Content calendar
- Community management/outreach

PR/Earned Media

- Media relations
- Media training for clients
- Press releases and scalable templates
- Press conference coordination
- Media monitoring
- In-kind advertising
- Issues mitigation



Since 2019, CDA has been working with Benicia to rebuild their library of creative assets, and to re-conceive their marketing plan and approach to better reach their audience with an authentic voice and relevant media channels, including local San Francisco travel influencers and numerous co-op placements with Visit California.

As with all destinations, the arrival of COVID-19 early this year changed everything. CDA worked with Benicia businesses to quickly rebuild the entire 2020 marketing strategy, which had historically revolved around crowded events, to focus instead on promoting safe outdoor daytrips designed to maximize local revenue while enabling safe social distancing.



Elements

- Brand Strategy
- Guidelines for Local Businesses
- COVID-19 Recovery
- Video, Print, Radio Production
- Out of Home Creatives
- Digital Ad Units
- Social Media Content and Management
- PR Services
- Web Design and Development
- Paid Media Operations



For the launch of Airbnb’s “Experiences” product in the APAC market, CDA assisted with brand launch, messaging, style guide and practices, and produced content to promote unique cultural activities all over the world.

20-25 photo/video shoots were completed each month across multiple countries, languages, and content creators.

Services Provided

- Brand launch
- Style guide
- Creative Production
- Outreach and coordination with local event businesses



Messaging and Creative Production for an International Audience

Since 2017, CDA has been working with the Los Angeles Tourism & Convention Board to attract prospective business and leisure visitors.

This includes the production of engaging graphic and video content for events, industry trade shows, PR, web, and social media.

We are currently engaged in LAX's "The New Jet Age" campaign, which began with the reveal this past summer of the West Gates at Tom Bradley International Terminal and continues with other state-of-the-art facilities to attract business and leisure travelers.

Scope of Work

- Video production
- Trade show collateral
- Graphic design
- Digital content
- Social content





Pioneer Square – a historic Seattle neighborhood – needed to increase foot traffic to local businesses while building awareness amongst tourists and local residents alike. CDA designed and delivered an interactive, mobile responsive experience that highlighted neighborhood attractions in a modern and engaging way.

- Mobile responsive web experiences
- Cross-media paid advertising (search, social, display, video)
- Design, development, and promotion
- Suite of interactive features



VISIT SAVANNAH

EST.  1733



Working with partners in our travel media travel network, CDA provided direct placements for Visit Savannah, resulting in massive engagement and pickup.

Services Provided

- Turnkey Creative Production and Coordination
- Campaign strategy
- Media planning, purchase, and trafficking

Results

- Drove 2x Google Search Trends volume vs. any point in previous 12 months.
- 98% favorable response from comments

REFERENCES

Robert Chin
CEO | AQUILINI BRANDS

To Whom it May Concern:

Since 2015, I've had the pleasure of working with the team at CDA on a variety of different cross-media advertising and custom web development projects. As innovators, they helped test, proof, and launch outside-the-box campaigns.

I have found them to be insightful and on-trend, with an excellent strategic approach to understanding and engaging a target audience. Further, they are skilled at navigating the bureaucracy of large, multi-level corporate brands and making sure campaigns are efficiently pushed to market and don't languish in the idea phase.

CDA's team is responsive and enjoyable to work with, and I am happy to recommend them.

p: 209.606.2975

e: robertc247@gmail.com

LinkedIn: [linkedin.com/in/robert-t-chin/](https://www.linkedin.com/in/robert-t-chin/)

Engagement start: 2015

REFERENCES

Briant Canha

Latin American Operations Director | Merck Animal Health

Since 2016, I've had the pleasure of working with CDA on custom web development projects for Merck Animal Health. Together with their innovative engineering team and creatives, we've been able to launch custom web platforms in the US and Latin America that have shown excellent engagement from end-users.

CDA has been great at working with our team to bring complex and difficult web projects to life, and their work has won us major industry awards like the Mobile Marketing Association's Global Smarties Awards and Mobile Marketing Magazine's Effective Mobile Marketing Awards.

They are the best digital vendors I've worked with in the time I've been working at Merck, and I highly recommend them.

p: 919.484.7555

e: briant@jmcinc.net

LinkedIn: [linkedin.com/in/briantcanha/](https://www.linkedin.com/in/briantcanha/)

Engagement start: 2016

REFERENCES

Linsey Willis

Director of External Affairs | Contra Costa Transportation Authority

I am happy to serve as a reference for CDA. Throughout, CDA's team has shown excellent communication and coordination skills, and their ability to effectively listen, consult, and collaborate with our team meets the needs of all our stakeholders.

In addition to their creativity, CDA has worked diligently to keep our project on-time and on-budget. Their staff has been unfailingly responsive.

I welcome the opportunity to provide additional information and insight into the creative partnership between CDA and the Contra Costa Transportation Authority.

p: 925.256.4700

e: lwillis@ccta.net

Engagement start: 2017

REFERENCES

John Boudouvas

VP Marketing | Los Angeles Tourism & Convention Board

To Whom it May Concern:

Starting in 2017, CDA has worked with LATCB to deliver a wide variety of creative services across different media formats to help promote Los Angeles International Airport both at home and to an international audience.

They have proven to be very flexible, able to deliver a high quality end result on a quick turnaround, with tight deadlines.

p.213.236.2346

e. jboudouvas@latoursim.org

Engagement start: 2017

Engagement end: Current client

CREATIVE DIGITAL AGENCY

CONTACT
Kevin Almeida
213.509.7630
kevin@creativedigitalagency.com

CITY OF SAUSALITO MARKETING UPDATE 11/2021-12/2021

Photo credit: @_h



CREATIVE
DIGITAL
AGENCY

Attachment: Attachment D - CDA Sample Marketing Update- Sausalito Lighted Boat Parade (4887 :

OVERVIEW

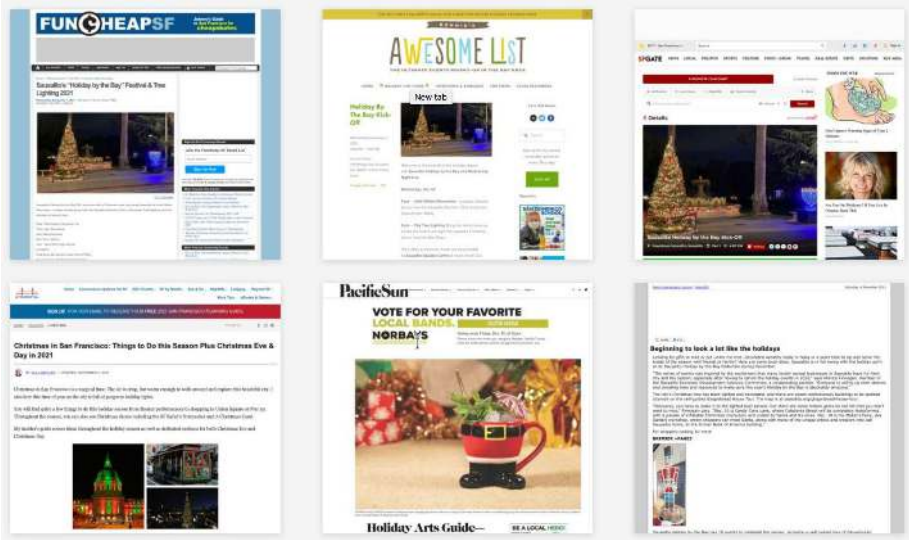
113 Earned placements include:

TV Coverage (Lighted Boat Parade)

- KRON-TV
- KGO-TV (ABC)
- KNTV (NBC)

Digital Coverage Highlights

- SF Gate
- Oakland Magazine
- Mercury News
- Walnut Creek Magazine
- Marin Independent Journal (print and digital)
- Marin Magazine
- SF Tourism Tips
- FunCheap SF
- Patch
- Ronnie's Awesome List
- Sightseer's Delight
- Marin Mommies
- Bay Area Parent



Attachment D - CDA Sample Marketing Update- Sausalito Lighted Boat Parade (4887 :

KPI TRACKING

KPI TRACKER	TOTAL	Q4 2021
EARNED MEDIA		
# of Published Posts	113	113
Traditional Audience	162,000	162,000
Digital Est. Coverage Views	926,000	926,000
Est. Youtube Views	0	N/A
Est. Social Shares	1,090	1,090
OWNED MEDIA		
	0	
Instagram New Followers	42	42
Facebook New Followers	1	1
Instagram Total Followers	N/A	1,657
Facebook Total Followers	N/A	300
Instagram Reach	4,142	4,142
Facebook Reach	194	194
Instagram Engagement Rate (not counting views)	13%	13%
Facebook Engagement Rate (not counting views)	14%	14%
Social Reach % Visitors	85%	85%
# of Creative Assets Produced	10	10
Avg Monthly Search Volume, 12 months	N/A	164,970
Hashtag Volume	N/A	532,218
Dest. Sausalito Website Visitor Traffic	0	TBD
PAID MEDIA		
Impressions served	16,350	16,350
Clicks	1,233	1,233
Video Views	0	0
REVENUES (reported to CDA by city)		
Sales Tax	0	TBD
TOT	0	TBD
Hotel Occupancy %	NA	TBD

PAID MEDIA AUDIENCE (Paid Search Only)

Who is engaging with our paid ads?

AGE

18-24	3%
25-34	19%
35-44	30%
45-54	22%
55-64	17%
65+	9%

GENDER

Female	73%
Male	27%

SPENDING POTENTIAL

Top 10%	49%
11-20%	26%
21-30%	15%
31-40%	3%
41-50%	2%
Lower 50%	5%

LOCATION

Bay Area	76%
Sac/Modesto Area	24%



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Redistricting - Public Hearing #2 to Receive Input Regarding Proposed Draft District Map, Composition of Council District Boundaries, and Communities of Interest.

RECOMMENDED ACTION:

Receive report, conduct the second public hearing in the redistricting process, and:

- (A) Consider and discuss the draft Council District Map published as Map 505b and other draft map submitted by member of the public;
- (B) Receive public input on composition of Council District boundaries, communities of interest, and draft maps;
- (C) Provide direction on any revisions to draft maps; and
- (D) Confirm the date of the third public hearing in the redistricting process.

STAFF CONTACT:

Sarah Coffey, City Clerk
650-738-7307
scoffey@pacifica.gov

BACKGROUND/DISCUSSION:

On December 17, 2018, the City Council of the City of Pacifica adopted Ordinance No. 839-C.S., establishing a district-based system for the election of members of the City Council by five districts, establishing the boundaries and identification number of each district and establishing the election order of each district. This ordinance added Chapter 9 "District Elections" to Title 2 of the Pacifica Municipal Code. By this action, the City of Pacifica changed from an at-large election system to a by district election system for the election of City Council members, established five voting districts to elect Councilmembers, adopted Map 505b defining City Council district boundaries and establishing the sequence of elections for each district with Districts 1 and 4 to be elected in November 2020 and Districts 2, 3 and 5 to be elected in November 2022.

Every ten years, after the federal census is complete, district lines must be reviewed and, if necessary, adjusted to keep the boundaries as nearly equal in population as possible, allowing for certain variances due to geography, topography, communities of interest, etc., as required by federal and California law. This process of reviewing the census data and adjusting the district boundary lines is called redistricting. The City of Pacifica has engaged National Demographics Corporation (NDC) to provide demographer services to assist in the process of redistricting. The redistricting process for the City of Pacifica must be completed by April 17, 2022.

In California, the process for redistricting is established by the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act ("Act"). Under the Act, cities and counties must conduct certain outreach, maintain websites with publicly available information about draft maps and hold at least four public hearings on the issue.

Under the Act, the council shall draw and adopt boundaries using the following criteria in the listed order of priority (Elections Code 21601(c) for general law cities):

1. Comply with the federal requirements of equal population and the federal Voting Rights Act
2. Geographically contiguous
3. Undivided neighborhoods and “communities of interest” (socio-economic geographic areas that should be kept together)
4. Easily identifiable boundaries
5. Compact (do not bypass one group of people to get to a more distant group of people)
6. Shall not favor or discriminate against a political party

Once the above prioritized criteria are met, other traditional districting principles may be considered, such as:

1. Minimizing the number of voters delayed from voting due to a change of their district;
2. Respecting voters' choices / continuity in office
3. Future population growth

By law, the City must hold at least four public hearings that enable community members to provide input on the redistricting process. The process involves the following requirements:

- At least one hearing must occur before the City draws draft maps
- At least two hearings must happen after the drawing of draft maps
- The fourth hearing can happen either before or after the drawing of draft maps
- City staff or consultants may hold a public workshop instead of one of the required public redistricting hearings

Previously, the first public hearing in the redistricting process was held on January 10, 2022. At the January 10, 2022 Public Hearing, the Council received a presentation from NDC providing a general overview of the redistricting process, information regarding the federal and state requirements regarding the criteria in order of priority to be used to establish district boundaries, review of the existing district boundary map 505b with 2020 census data and received public input on what factors should be taken into consideration while creating district boundaries. The January 10, 2022 public hearing was held prior to the consideration of any draft maps.

Tonight's meeting is the second public hearing to consider this matter. The purpose of this public hearing is to hear from the community on what factors should be taken into consideration while evaluating district boundaries such as input on neighborhoods and communities of interest, and to consider any draft maps that have been submitted or prepared.

A *community of interest* under the relevant Elections Code for cities (Section 21601(c) / 21621(c)) is “a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation.”

Possible features defining community of interest might include, but are not limited to:

- A. School attendance areas;
- B. Natural dividing lines such as major roads, hills, or highways;
- C. Areas around parks and other neighborhood landmarks;
- D. Common issues, neighborhood activities, or legislative/election concerns; and
- E. Shared demographic characteristics, such as:

- (1) Similar levels of income, education, or linguistic isolation;
- (2) Languages spoken at home; and
- (3) Single-family and multi-family housing unit areas.

The City has a webpage dedicated to the redistricting process which can be found here: www.cityofpacifica.org/Redistricting <<http://www.cityofpacifica.org/Redistricting>>

City staff has also made efforts to conduct outreach to the public to provide information on the City's redistricting process including the following:

- Public Hearing Notice for the January 10, 2022 public hearing was posted at City Hall on January 4, 2022 and published in the Pacifica Tribune on January 5, 2022.
- Following the January 10, 2022 public hearing, public mapping kits in English and Spanish were posted to the City website and available at City Hall.
- Public Hearing Notice for the February 14, 2022 Public Hearing #2 was posted at City Hall on January 21, 2022 and published in the Pacifica Tribune on January 26, 2022 and February 2, 2022.
- Information on redistricting and soliciting public input and submission of draft maps for the redistricting process were published in the City of Pacifica's "Connect With Pacifica" weekly e-newsletter and distributed by email on January 21, 2022, January 28, 2022 and February 4, 2022.
- Information on redistricting and soliciting public input and submission of draft maps in reference to the February 14, 2022 Public Hearing was also published to the City's NextDoor and Facebook social media feeds on February 2, 2022.

Public comments, draft maps and input regarding redistricting can be sent to the City via email to publiccomment@pacificagov; please indicate "Redistricting" in the subject line.

Draft Maps

The community was encouraged to submit proposed maps prior to tonight's public hearing for Council's initial consideration and discussion.

A. Map 505b

Map 505b (Attachment A) is the existing district boundary map which was adopted on by Ordinance No. 839-C.S. on December 17, 2018 by the City Council, establishing the current district-based system for the election of members of the City Council. NDC has completed its analysis of the 2020 census data and map 505b and has determined that the map is population balanced as all of the Council districts only deviate by a total of 1.87%. The analysis are attached for reference as Attachment B. Additionally, the map would meet the criteria specified in Elections Code section 21601(c). Thus, the Council could consider the existing map 505b for re-adoption at the end of the redistricting process.

B. Draft Map Proposed By Member of the Public (Draft District Map 506)

One submitted district map from an individual member of the public was received for consideration at the February 14, 2022 Public Hearing. The draft map was posted to the City's redistricting webpage upon its receipt on February 8, 2022 and is attached as Attachment C for reference. The submitter included with the proposed map the following factors that were considered in the proposal:

- Each district extends to the West border and gets a piece of the coastline;
- Each district also extends 'up the hill' or to the Eastern boundary of Pacifica, although zone 5 is a little limited on the East;

- Each district attempts to keep neighborhoods together within the limits of the somewhat oddly shaped population units;
- Each district tries to cluster around E-W main highways, like Hickey, Manor, Sharp Park, Crespi, and Linda Mar.

Next Steps

Additional public hearings are scheduled to be held on February 28, 2022 and March 14, 2022.

The proposed process timeline to complete the map adoption process includes:

- Public Hearing #1 January 10, 2022 - review process and laws, review 2020 census data, receive input on composition of districts
- Public Hearing #2 February 14, 2022 - review draft maps
- Public Hearing #3 February 28, 2022 - selection of final map and election sequencing and introduction of ordinance
- Public Hearing #4 March 14, 2022 - Final adoption of ordinance

At the February 28, 2022 public hearing, oral and written testimony will be solicited to receive additional public input on the draft maps and staff will present the introduction of an ordinance to propose a selected map and district election sequencing for adoption.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

The process of evaluating City Council districts with respect to updated 2020 census data and consideration of redistricting is consistent with the following Council adopted Goals:

“**A Connected Community**” includes taking actions to restore trust in City government, expanding communication and building community.

FISCAL IMPACT:

The fiscal impact of engaging NDC as the consulting demographer ranges from \$3,500 to a not-to-exceed amount of \$45,000 per the attached agreement, with the low-range cost being associated with concluding the redistricting process with a finding that the current districts are “still balanced.”

Additional costs for the redistricting process that are not reflected in the agreement not-to-exceed cost include city attorney legal expenses, publication expenses related to notices of public hearings associated with the redistricting process, printing and publication expenses for additional informational community outreach and advertising, and translation costs for meetings or printed materials, if necessary. The primary expense related to redistricting would be the engagement of the demographer per the attached agreement. Expenses for redistricting would be budgeted under the general fund City Manager - Election Expenses fund 01.200210.52331.0000.000.

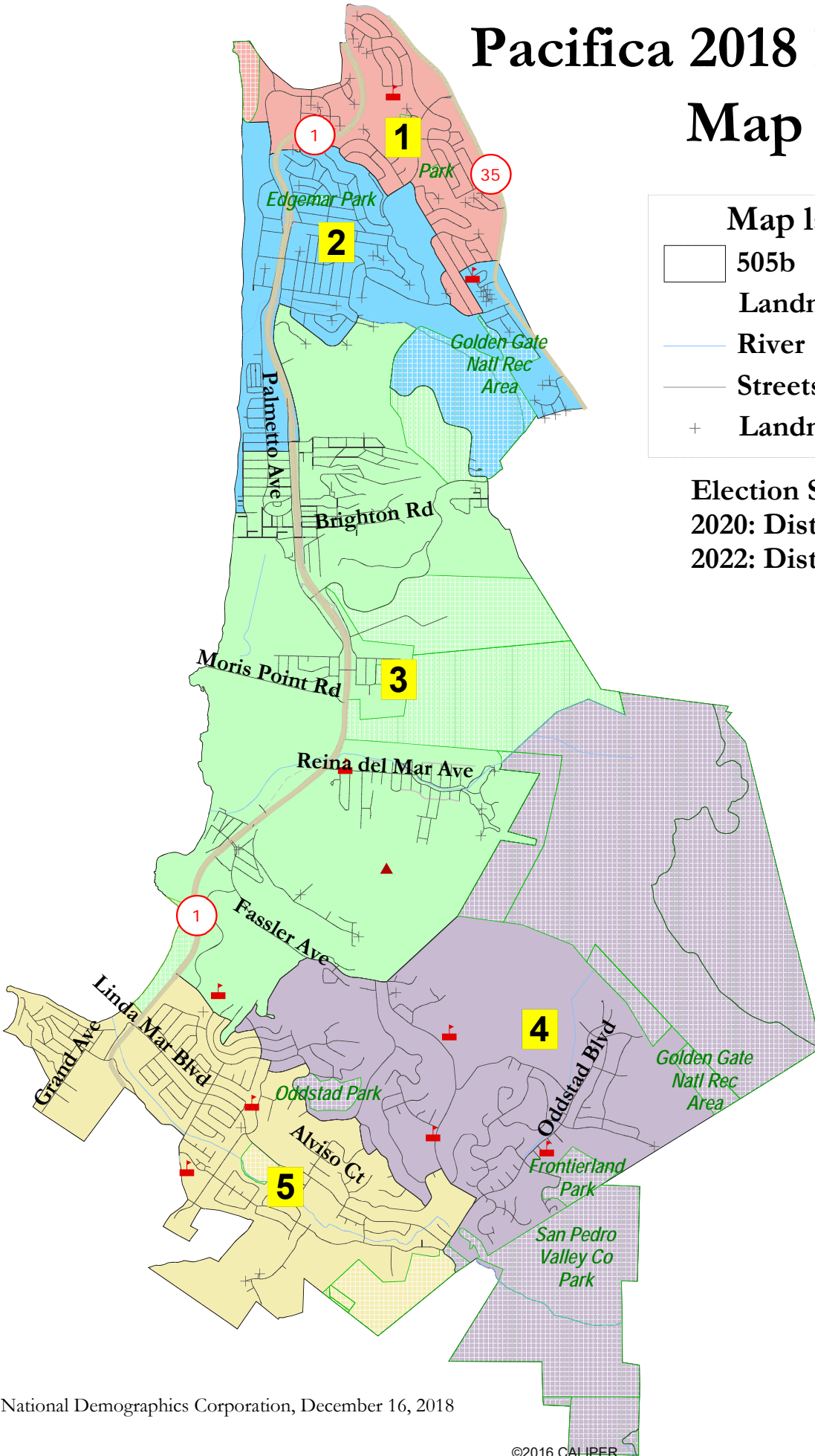
ORIGINATED BY:

City Clerk

ATTACHMENT LIST:

Attachment A: Existing District Map 505b (PDF)
Attachment B: NDC 2020 Census Data Analysis - Map 505b (PDF)
Attachment C: Draft District Map 506(PDF)

Pacifica 2018 Districting Map 505b



Map layers

- 505b
- Landmark Area
- River
- Streets
- + Landmark Point

Election Sequence:
 2020: Districts 1 and 4
 2022: Districts 2, 3 and 5

Attachment: Attachment A: Existing District Map 505b (4885 : Redistricting Based on 2020 Census - Public Hearing 2)

<i>City of Pacifica - Current Plan</i>							
Category	Field	1	2	3	4	5	Total
2020 Census	Total Population	7,742	7,710	7,657	7,763	7,802	38,674
	Population Deviation	7	-25	-78	28	67	145
	Pct. Deviation	0.09%	-0.32%	-1.01%	0.36%	0.87%	1.87%
Total Pop.	Hispanic/Latino	21%	18%	17%	18%	21%	19%
	NH White	22%	42%	59%	59%	61%	48%
	NH Black	4%	3%	2%	1%	1%	2%
	NH Asian/Pac.Isl.	49%	34%	19%	19%	14%	27%
	NH Native Amer.	1%	1%	1%	1%	1%	1%
Citizen Voting Age Pop	Total	6,085	5,778	5,875	6,208	5,825	29,770
	Hisp	19%	19%	14%	17%	13%	17%
	NH White	26%	47%	68%	65%	73%	56%
	NH Black	7%	3%	3%	1%	1%	3%
	Asian/Pac.Isl.	47%	29%	14%	15%	11%	23%
	Native Amer.	0%	0%	1%	0%	0%	0%
Voter Registration (Nov 2020)	Total	4,699	5,010	5,613	5,979	5,983	27,284
	Latino est.	28%	19%	13%	14%	13%	17%
	Spanish-Surnamed	26%	17%	12%	12%	12%	15%
	Asian-Surnamed	13%	10%	5%	6%	4%	7%
	Filipino-Surnamed	10%	4%	1%	2%	1%	3%
	NH White est.	42%	64%	78%	78%	82%	71%
	NH Black	10%	4%	3%	1%	1%	4%
Voter Turnout (Nov 2020)	Total	3,879	4,246	4,947	5,283	5,277	23,632
	Latino est.	28%	18%	12%	14%	12%	16%
	Spanish-Surnamed	25%	17%	11%	12%	12%	15%
	Asian-Surnamed	13%	10%	5%	6%	4%	7%
	Filipino-Surnamed	10%	4%	1%	2%	1%	3%
	NH White est.	42%	64%	78%	78%	82%	71%
	NH Black	10%	4%	3%	1%	1%	4%
Voter Turnout (Nov 2018)	Total	2,542	3,059	4,027	4,290	4,214	18,132
	Latino est.	25%	16%	11%	13%	12%	14%
	Spanish-Surnamed	23%	15%	11%	12%	11%	14%
	Asian-Surnamed	10%	9%	4%	4%	3%	6%
	Filipino-Surnamed	9%	3%	1%	2%	1%	3%
	NH White est.	46%	68%	81%	80%	83%	74%
NH Black est.	11%	4%	3%	2%	1%	3%	
Age	age0-19	22%	20%	19%	23%	22%	21%
	age20-60	57%	60%	56%	48%	50%	54%
	age60plus	21%	20%	25%	29%	28%	24%
Immigration	immigrants	32%	28%	15%	14%	12%	21%
	naturalized	81%	74%	75%	85%	73%	78%
Language spoken at home	english	55%	62%	83%	83%	87%	74%
	spanish	11%	12%	6%	6%	4%	8%
	asian-lang	29%	21%	6%	8%	5%	14%
	other lang	4%	4%	5%	3%	4%	4%
Language Fluency	Speaks Eng. "Less than Very Well"	16%	10%	4%	6%	3%	8%
Education (among those age 25+)	hs-grad	43%	37%	37%	44%	42%	41%
	bachelor	29%	33%	25%	26%	27%	28%
	graduatedegree	12%	16%	27%	17%	16%	18%
Child in Household	child-under18	36%	29%	26%	29%	31%	30%
Pct of Pop. Age 16+	employed	71%	72%	71%	64%	67%	69%
Household Income	income 0-25k	7%	9%	7%	10%	3%	7%
	income 25-50k	9%	11%	11%	8%	9%	9%
	income 50-75k	10%	11%	11%	12%	15%	12%
	income 75-200k	52%	47%	47%	48%	54%	49%
	income 200k-plus	22%	22%	25%	22%	19%	22%
Housing Stats	single family	73%	69%	77%	87%	95%	80%
	multi-family	27%	31%	23%	13%	5%	20%
	rented	31%	41%	32%	25%	17%	29%
	owned	69%	59%	68%	75%	83%	71%

Total population data from California's adjusted 2020 Census data. Citizen Voting Age Population, Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data. Turnout and Registration data from California Statewide Database ("Latino" figures calculated by NDC using Census Bureau's Latino undercount by surname estimate).

The offer to submit redistricting suggestions arrived on Feb. 4 in my email in the weekly Connect with Pacifica newsletter that said the deadline was the same day. So, I hope you'll still consider this submission a couple of days after the deadline.

I laid out the districts in a basically East-to-West stacked order:

- Each district extends to the West border and gets a piece of the coastline (and skin in the game when it comes to climate discussions);
- Each district also extends 'up the hill' or to the Eastern boundary of Pacifica, although zone 5 is a little limited on the East;
- Each district attempts to keep neighborhoods together within the limits of the somewhat oddly shaped population units;
- Each district tries to cluster around E-W main highways, like Hickey, Manor, Sharp Park, Crespi, and Linda Mar.



[MAP ATTACHED]

Pacifica 2021 Redistricting Public Participation Kit

An online version of this map that allows you to zoom in and out for more detail is available as a link from the City website.

Each number indicates the total population of that "population unit" area. Each district must have essentially equal population. The population of each of the 5 districts must be close to 7,735, with no more than a 773 difference between the largest and smallest.

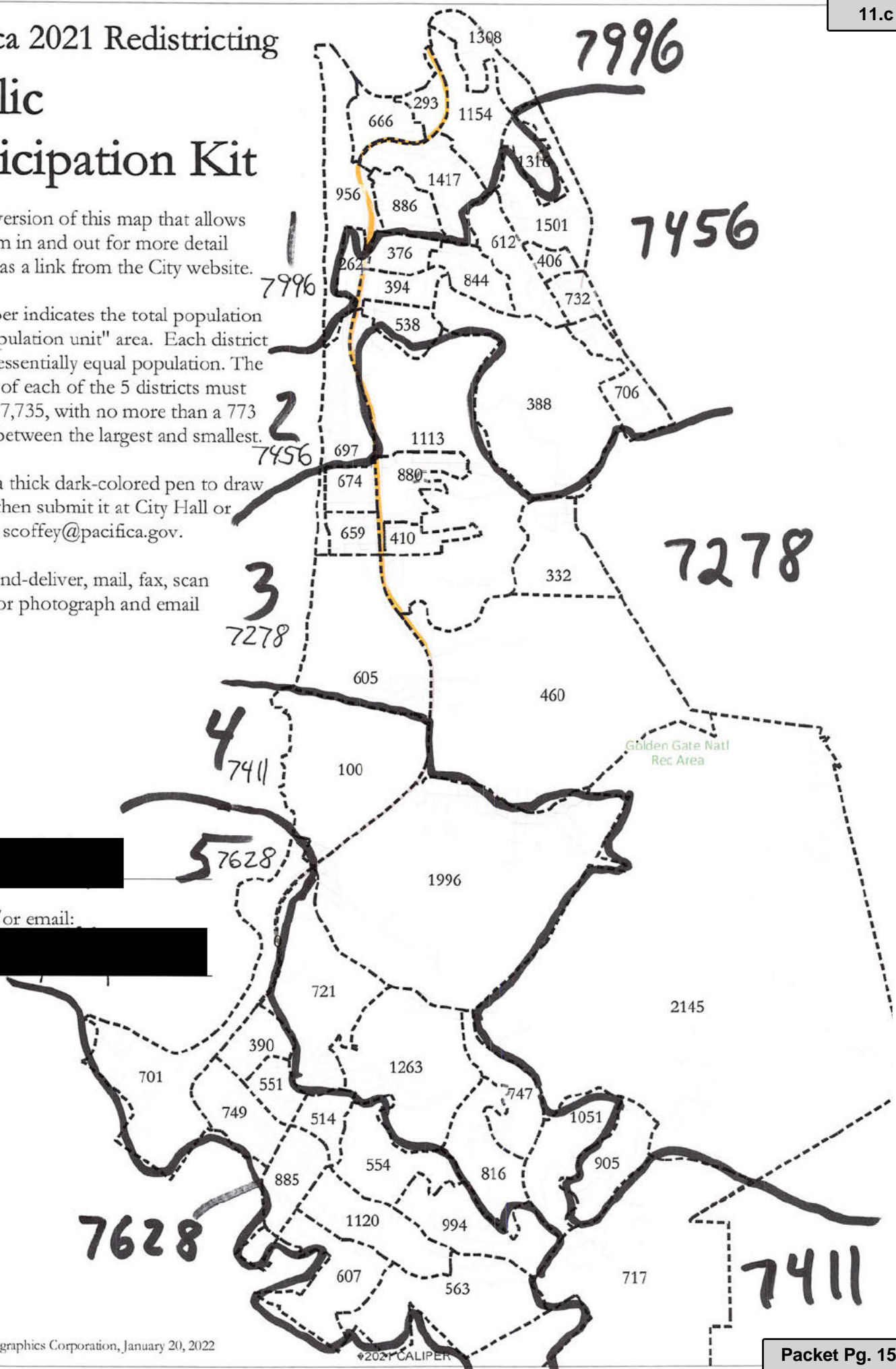
Please use a thick dark-colored pen to draw your map, then submit it at City Hall or by email to scoffey@pacifica.gov.

You can hand-deliver, mail, fax, scan and email, or photograph and email your map.

Name:



Phone and/or email:



Attachment C: Draft District Map 506 (4885 : Redistricting Based on 2020 Census - Public Hearing 2)



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Resolution to Update the Park Development Impact Fee and Ordinance Establishing Updated Impact Fees and Quimby Act Dedication Requirements and In Lieu Fees

RECOMMENDED ACTION:

Move to:

1. Adopt resolution to update the Park Development Impact Fee within the City of Pacifica; and
2. Move to Introduce by title only and waive first reading of an “Ordinance of the City Council of the City of Pacifica, California repealing Chapter 19 of the Pacifica Municipal Code and replacing it with Chapter 19 (Park Facilities Impact Fee); repealing Section 10-1.803 (Park Land Dedication) of the Pacifica Municipal Code and replacing it with Section 10-1.803 (Park Land Dedication) to establish updated Impact Fees and Quimby Act dedication requirements and in lieu fees imposed on New Development in the City of Pacifica”; and finding the Ordinance exempt under the California Environmental Quality Act (“CEQA”).

STAFF CONTACT:

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(650) 738-3767

Tina Wehrmeister, Assistant City Manager/Planning Director
twehrmeister@pacificagov
(650) 738-7409

Lisa Petersen, P.E., Director of Public Works
lpetersen@pacificagov
(650) 738-3767

BACKGROUND/DISCUSSION:

The City of Pacifica has a park impact fee program to ensure that new development pays the capital costs associated with growth. In the case of parks, these impacts fees would apply to the most common development type in Pacifica currently - incremental growth associated with additions and new single-family homes. The proposed fee update would also apply to other types of new development including multi-family housing and subdivisions.

Pacifica’s park impact fees were last adopted in 2012 (Attachment “A”) and need to be updated to reflect service demand and incorporate best available information. Currently, park impact fees generate an average of \$150,352 per year which is not sufficient to maintain the City’s existing level of service for park facilities and serve future growth.

In California, local governments can impose two types of development impact fees for funding

parcs and recreational facilities. Under the Quimby Act (Government Code § 66477), local governments may require the dedication of land for parks or the payment of fees in-lieu of land dedication as a condition of subdivision map approval. To fund the construction of new park and recreational facilities, local governments may also impose an AB1600 Park Impact Fees by following the guidelines set forth by the Mitigation Fee Act (Government Code § 66000). On March 26, 2012, City Council adopted Resolution No. 09-2012 establishing the need for a Parkland Dedication In-Lieu Fee (Quimby Act) and Park Facilities Impact Fee, within the City of Pacifica (Attachment "A"). The City prepared a Park Facilities Impact Fee Study to establish the nexus between the imposition of new citywide Park Impact Fees and the estimated reasonable cost of providing the service for which the fee is charged. The Park Impact Fee program is designed to ensure that new development subject to the City's Quimby program pays their fair of the cost of land acquisition for parks (in order to maintain the City's existing ratio of parks-to-population) and their fair share of the cost of development of new parks, trails and open space.

Quimby Act Fee

Local governments in California provide a critical role in the effort to set aside parkland and open space for recreational purposes. Cities and counties have been authorized since the passage of the 1975 Quimby Act to pass ordinances requiring that developers set aside land, donate conservation easements, or pay fees for park improvements. Revenues generated through the Quimby Act cannot be used for the operation and maintenance of park facilities. The goal of the Quimby Act was to require developers to help mitigate the impacts of growth from new development. The Quimby Act gives authority for passage of land dedication ordinances only to cities and counties. The Quimby Act only applies to residential subdivision developments. The fees must be paid and land conveyed directly to the local public agencies that provide park and recreation services communitywide. The fee is based on the cost of land in the community and the City's current park service standards, which exceeds five (5) park acres per one thousand (1,000) residents standard.

Park Impact Fee

An impact fee is a fee that is imposed by a local government on a new or proposed development project to pay for all or a portion of the costs of providing public services to the new development. Impact fees are a charge on new development to help fund and pay for the construction or needed expansion of offsite capital improvements. Projects subject to this fee include new single-family homes and additions, two of the most common development types in Pacifica. A park impact fee is based on maintaining the current level of park service for a community, cost of land, and anticipated population growth.

DISCUSSION:

According to the population projections provided by the Association of Bay Area Governments (ABAG) and current population estimates, the City will grow to a total of 39,890 residents by 2040. In order to maintain the City's existing ratio of parks-to-population, development impact fees are needed to fund new development's share of the cost of park and recreational facilities. The fee levels do not depend on the growth projections. The projections are used to estimate fee revenue. The fees are driven by the cost of parks and the existing parkland standards. The goal of this effort is to ensure there is adequate funding to acquire land, build new parks, and improve existing parks to meet the demand of the increased population.

Currently, the City imposes the Quimby Act and Mitigation Fee Act Fees depending on the type of development. Technically, there are three park-related fees:

- A Quimby Act Fee in-lieu of land dedication. This fee is payable by residential development occurring in subdivisions.

- A Mitigation Fee Act Fee for land acquisition. This fee is payable by residential development not occurring in subdivisions.
- A Mitigation Fee Act Fee for parkland improvements. This fee is payable by all residential development.

A development project pays either the Quimby Act Fee in-lieu of land dedication, or the Mitigation Fee Act Fee for land acquisition, not both. The Quimby and Mitigation Fee Act land-related fees are the exact same amount, and everyone pays the Mitigation Fee Act improvements fee, therefore, the total fee is the same for everyone. The nuance is that those subject to Quimby can dedicate the land instead of paying the fee, in which case, they would still be responsible for the Mitigation Fee Act improvement fee.

These fees are a funding source for park improvements in Pacifica. Recently, the fees have been used to fund a portion of the construction of Community Center Park and Fairmont Park, in which the footprint of the play structures were increased in both parks. It is anticipated that a portion of funding used to install new expanded play structures at Imperial Park, Skyridge Park, Marvilla Park and Brighton Park will be provided by these fees. Without these fees, there would be no continuing money source for new or major improvements to Pacifica’s parks, athletic fields, and open space. The City plans to use park facilities fee revenue to purchase parkland or construct improvements to add to the system of park and recreation facilities that serves new development. The City may only use impact fee revenue to provide facilities and intensify usage of existing facilities needed to serve new development. Fee revenue collected under the Quimby Act can also be used to rehabilitate park facilities, in addition to acquiring new parkland.

It is good practice to analyze and periodically update impact fees, and the City contracted with Willdan Financial Services to assist with the update (Attachment “B”). These fees are calculated based on cost of parkland (per acre) and cost of park improvement (per acre). In 2012, the costs of parkland and park improvements were \$150,000 (per acre) and \$411,000 (per acre), respectively. In December 2021, the costs of parkland and park improvements were \$1,545,000 (per acre) and \$1,350,000 (per acre), respectively. These increased costs result in higher calculated fees. The following table shows the current, updated Park Facilities Impact, and remodel/add bedroom fees:

Bedrooms	Current Park Facilities Impact Fee	Updated Park Facilities Impact Fee	Remodel/Add Bedroom
0	\$0	\$20,522	
1	\$3,702	\$24,066	\$3,544
2	\$5,181	\$36,764	\$12,698
3	\$6,416	\$44,589	\$7,825
4	\$7,897	\$50,938	\$6,349
5	\$9,130	\$58,910	\$7,972
Additional Bedroom	+\$1,481	+\$7,972	\$7,972

Bedroom Calculation

All fees are calculated based on the average number of people living in a dwelling unit in Pacifica. Occupant density assumptions ensure a reasonable relationship between the size of a development project, the increase in service population associated with the project, and the amount of the fee. Persons per bedroom assumptions ensure a reasonable relationship between the size of a dwelling unit and the residents, and therefore demand for public facilities. For residential development, the fee is based on the number of bedrooms in each additional housing unit, so the fee schedule must convert service population estimates to these measures

of bedrooms per dwelling unit and number of dwelling units in the project. The conversion is done with average household size factors that vary by bedrooms proposed in the dwelling unit and are established from the 2019 American Housing Survey, which estimates the persons per bedroom. The occupant densities are factors taken into consideration when calculating the fees. (Refer to Attachment “B”, Occupant Densities, Page 6) For residential remodels or bedroom additions, the fee is incremental. For example, if a homeowner wants to add a bedroom to their existing three-bedroom home, the homeowner would pay \$6,349.

Staff recommends updating the new Park Development Impact Fee as shown in the table above. Should the City Council agree with the increased fee, staff recommends adopting the attached resolution to increase the fee and include it in the Fiscal Year 2021-22 Master Fee Schedule. Staff also recommends City Council consider including a construction cost escalation factor similar to other City fees (e.g., the Engineering News Record Construction Cost Index (CCI) for the San Francisco Bay Area) and adjust it automatically on an annual basis.

As a comparison, the following tables shows Park Impact Fees of cities on the Peninsula (based on a four-bedroom single family unit):

City	Park Impact Fee
Pacifica (existing)	\$5,887
Pacifica (updated)	\$50,938
Half Moon Bay	\$7,764
Millbrae	\$55,522
San Mateo	\$29,598
Sunnyvale	\$87,120

As stated earlier in the report, the Mitigation Fee Act, contained in Government Code 66000 et seq., permits the City to impose development impact fees on new development for the purposes of funding the public facilities necessary to serve that new development, and California Government Code section 66477 (the “Quimby Act”) allows cities to require the dedication of land or to impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreation purposes as a condition of approval of a tentative or parcel map. The City’s Municipal Code contains outdated provisions regarding the City’s Park Facilities Impact Fee and Quimby Act dedication requirements and in lieu fees. As such, staff is bringing the attached Ordinance (Attachment “C”) to amend the City’s existing Code provisions and bring them into compliance with new state laws. In the future, the Council would be able to update the fees or change the amount of the fees via resolution without needing to adopt another ordinance.

ALTERNATIVE ACTION:

Should the City Council not adopt the resolution updating the Park Development Impact Fee, the acquisition of parkland and/or the design and construction of public park improvements would be unfunded or underfunded.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

The updated park in-lieu fee is consistent with the following Council adopted Goal:

- **Stewardship of City Infrastructure:** The updated park in-lieu fee would assist the City in acquiring parkland and/or fund the design and construction of public park improvements that would promote a healthy environment and activities for

residents and visitors.

FISCAL IMPACT:

Park in-lieu fees assist the City in providing adequate park facilities necessitated by new development. Staff's evaluation does not result in a budgetary impact.

ORIGINATED BY:

Engineering

ATTACHMENT LIST:

Attachment "A" - Resolution No. 09-2012 (PDF)

Attachment "B" - Park Development Impact Fee Update (PDF)

Attachment "C" - Quimby Act and Park Facilities Impact Fee Update Ordinance (DOCX)

**RESOLUTION NO. 22-****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA SETTING UPDATED CHARGES FOR THE PARK FACILITIES IMPACT FEE (PACIFICA MUNICIPAL CODE CHAPTER 19) AND QUIMBY ACT PARKLAND DEDICATION REQUIREMENTS AND IN LIEU FEES IMPOSED ON NEW DEVELOPMENT IN THE CITY OF PACIFICA (PACIFICA MUNICIPAL CODE SECTION 10-1.803)**

WHEREAS, the Pacifica Municipal Code (“PMC”) imposes upon new non-subdivision, residential development the requirement to pay a Park Facilities Impact Fee (PMC Ch. 19); and

WHEREAS, Section 10-1.803 of the PMC also imposes a parkland dedication or in-lieu fee requirement on subdivision developments, pursuant to Government Code section 66477 (“the Quimby Act”), to help defray the impact of development on neighborhood and community parklands (“Quimby Act Fee”); and

WHEREAS, Title 8, Chapter 19 of the PMC empowers the City Council to establish the amount of the Park Facilities Impact Fee by resolution in accordance with a nexus study that demonstrates the reasonable relationship between the fee’s use and the type of development project on which the fee will be imposed and that demonstrates the reasonable relationship between the need for Park Facilities and the type of development projects on which the fee will be imposed; and

WHEREAS, the City contracted with Willdan Financial Services to perform studies for a proposed park development fee update to address both the Quimby Act Fee and Park Facilities Impact Fee.

WHEREAS, Willdan Financial Services prepared and submitted a Park Development Impact Fee Update, dated December 21, 2021, attached to the staff report accompanying this resolution as Attachment “B” and incorporated by reference (“the Fee Report”); and

WHEREAS, the Fee Report (1) establishes a proposed amount and provides an evaluation of the need for an updated Park Facilities Impact Fee and establishes the nexus between the imposition of the new Park Facilities Impact Fee and the estimated reasonable cost of providing the service for which the fee is charged; and (2) establishes a proposed amount for a Quimby Act Fee and establishes the reasonable relationship between the imposition of the Quimby Act Fee and the use of the park and recreational facilities by the future inhabitants of the proposed subdivision; and

WHEREAS, the Fee Report substantiated the need for the update to the Park Facilities Impact Fee and the Quimby Act Fee; and

WHEREAS, the Fee Report identifies the City’s existing level of public parks service, identifies the proposed new level of service, and includes an explanation of why the new level of service is appropriate; and

WHEREAS, the Fee Report includes information that supports the City’s actions, as required by subdivision (a) of Section 66001; and

WHEREAS, the Fee Report reviewed the assumptions of the nexus study supporting the existing Park Facilities Impact Fee and Quimby Fee and evaluated the amount of fees collected under the existing fees; and

WHEREAS, the City annually adopts a Capital Improvement Program for the development and maintenance of parks; and

WHEREAS, the capital improvement plan indicates the approximate location, size, time of availability, and estimates of cost for all facilities or improvements to be financed with the fees; and

WHEREAS, the Fee Report was presented to the Council along with this resolution, and is hereby adopted by Council; and

WHEREAS, the City Council determined that the Fee Report complies with California Government Code section 66000 et seq.; and

WHEREAS, the City desires to rescind and repeal all prior resolutions setting charges, fees, or dedication requirements for the Park Facilities Impact Fee and the Quimby Act Fee, and replace them with the updated fees provided in **Exhibit 1**; and

WHEREAS, pursuant to Government Code sections 66016, 66016.5, 66018, and 6062a and the Pacifica Municipal Code, the City must adopt the updated Park Facilities Impact Fee only after notice and public hearing; and

WHEREAS, pursuant to Government Code section 6062a, a notice of a public hearing on the proposed fee schedule was published on February 2, 2022, and February 9, 2022, in the Pacifica Tribune, a newspaper of general circulation; and

WHEREAS, pursuant to Government Code sections 66016 and 66016.5, notice of the time and place of the meeting, including a general explanation of the matters to be considered and a statement that required data is available was mailed at least 30 days prior to the meeting to those members of the public who filed a written request with the City; and

WHEREAS, at least ten (10) days prior to the public hearing referenced above, the City made available for public inspection information required under government Code section 66000, *et. seq.*; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Pacifica hereby rescinds and repeals all prior resolutions setting rates for the Park Facilities Impact Fee and the Quimby Act Fee and replaces them with the fees as shown in **Exhibit 1**, incorporated by this reference.

Section 1. Findings. The City Council finds and determines as follows:

- a) The above recitals are correct and are material to this Resolution and are incorporated into this Resolution as findings of the City Council.
- b) The fees proposed bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the new subdivisions.
- c) The Quimby Act Fee is calculated to fund acquisition of the same amount of land that would otherwise have been dedicated.

Section 2. Adoption of Fee Report. The City Council has approved and adopted the Fee Report and determined that it is consistent with the General Plan.

Section 3. Exemption. Pursuant to Government Code section 65852.2(f)(2), the Park Facilities Impact Fee shall not apply to accessory dwelling units of less than 750 square feet.

Section 4. Effective Date. In accordance with Government Code section 66017, this Resolution shall be in full force and effect 60 days after its adoption and shall be published or posted as required by law.

Section 5. Validity. The above recitations are true and correct, are material to the adoption of this Resolution, and are incorporated herein by reference.

Section 6. Environmental review. The City Council finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA"). This action is not a project within the meaning of the CEQA Guidelines Section 15378 and 15061(b)(3) as it has no potential for physical effects on the environment because it involves an adoption of certain fees and/or charges imposed by the City, does not commit the City to any specific project, and said fees and/or charges are applicable to future development projects and/or activities, each of which future projects and/or activities will be fully evaluated in full compliance with CEQA when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (see CEQA Guidelines, Section 15004(b)(1)). Pursuant to CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause significant effect on the environment, is not defined as a "project" under CEQA. Therefore, approval of the fees and/or charges is not a "project" for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a "project" under CEQA, is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the fees and/or charges may have a significant effect on the environment.

Section 7. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Resolution be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portions of this Resolution.

The City Council hereby declares that it would have passed this and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrase, or clauses be declared unconstitutional on their face or as applied.

Section 8. The City Clerk shall certify the adoption of this Resolution and shall cause a certified Resolution to be filed in the Office of the City Clerk.

.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 14th day of February 2022, by the following vote:

- AYES**, Councilmembers:
- NOES**, Councilmembers:
- ABSENT**, Councilmembers:
- ABSTAIN**, Councilmembers:

Mary Bier, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Kenyon, City Attorney

EXHIBIT 1

QUIMBY ACT AND PARK FACILITIES IMPACT FEE FEES

Parkland Dedication In-Lieu Fee (Quimby Act), May be increased by Council based on land cost

Bedrooms	FY 21-22
0	\$10,952
1	\$12,843
2	\$19,621
3	\$23,796
4	\$27,184
5	\$31,439
Each after Five	\$4,254

Park Facilities Impact Fee (Mitigation Fee Act), Increase annually per CCI

Bedrooms	FY 21-22
0	\$9,570
1	\$11,223
2	\$17,144
3	\$20,793
4	\$23,754
5	\$27,471
Each after Five	\$3,718

Attachment "A"

RESOLUTION NO. 09-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA ESTABLISHING A PARKLAND DEDICATION IN-LIEU FEE (QUIMBY ACT) WITHIN THE CITY OF PACIFICA

WHEREAS, the City of Pacifica desires that new development fund its fair share of park facilities.

WHEREAS, in accordance with Government Code section 66477(a), otherwise known as the "Quimby Act," Section 10-1.803 of the City's Municipal Code requires the dedication of land or the imposition of fees, or a combination of both, for park and recreational purposes, as a condition of approval of a tentative map or parcel map.

WHEREAS, approvals of subdivision maps and their conditions may be appealed pursuant to section 10-1.410 of the Pacifica Municipal Code.

WHEREAS, Title 8, Chapter 19 of the City's Municipal Code requires the dedication of land or payment of a park impact fee for any new development that is not otherwise subject to the Quimby Act requirements set forth in Section 10-1.803.

WHEREAS, the City contracted with Willdan Financial Services to perform studies for a proposed park development fee update to address both the Quimby Act and park impact fees.

WHEREAS, Willdan Financial Services prepared and submitted a Park Development Fee Update Report, dated September 5, 2011, attached as Exhibit A to this Resolution and incorporated by reference (the "Fee Report"), that (1) establishes a proposed amount and provides an evaluation of the need for a Park Facilities Impact Fee ("Impact Fee") and establishes the nexus between the imposition of the Impact Fee and the estimated reasonable cost of providing the service for which the fee is charged; and (2) establishes a proposed amount for a Parkland Dedication In-Lieu Fee ("Quimby Act Fee") and establishes the reasonable relationship between the imposition of the Quimby Act Fee and the use of the park and recreational facilities by the future inhabitants of the proposed subdivision.

WHEREAS, the Fee Report established the need to adjust the Impact Fee and the Quimby Act Fee in the City of Pacifica.

WHEREAS, this Resolution addresses the Quimby Act Fee; the Impact Fee is being considered concurrently.

WHEREAS, the City Council desires to adopt the Quimby Act Fee, in accordance with the calculations and recommendations contained in the Fee Report.

NOW, THEREFORE, the City Council of the City of Pacifica hereby resolves as follows:

Section 1. Findings.

The City Council finds and determines as follows:

A. The fees proposed bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the new subdivisions.

B. The Quimby Act Fee is calculated to fund acquisition of the same amount of land that would otherwise have been dedicated.

Section 2. Adoption of Fee Report.

The City Council has approved and adopted the Fee Report and determined that is consistent with the General Plan.

Section 3. CEQA Finding.

The adoption of an in-lieu fee is not subject to the California Environmental Quality Act in that it is not a "project." Also, pursuant to CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause a significant effect on the environment, is not defined as a "project" under CEQA.

Section 4. Timing, Collection and Use of Fee.

The Quimby Act Fee shall be paid in accordance with Section 10-1.803 and the Quimby Act.

Section 5. Amount of Fee.

The City Council hereby approves, adopts and amends the Quimby Act Fee as set forth in Exhibit B to this Resolution, attached herein and incorporated by reference. The Impact Fee set forth in Exhibit B is consistent with the Fee Report. The amount of the Quimby Act Fee may be modified by the Council based on land costs.

Section 6. Effective Date.

The Quimby Act Fee identified in Exhibit B shall take effect upon the effective date of the Ordinance being considered concurrently to amend certain subsections of section 10-1.803.

* * * * *

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 26th day of March, 2012.

AYES, Council Members: Nihart, Digre, Stone, DeJarnatt

NOES, Council Members: None

ABSENT, Council Member: None

ABSTAIN, Council Members: None

Pete DeJarnatt
Pete DeJarnatt, Mayor

APPROVED AS TO FORM:

[Signature]
Michelle Marchetta Kenyon, City Attorney

ATTEST:

Kathy O'Connell
Kathy O'Connell, City Clerk

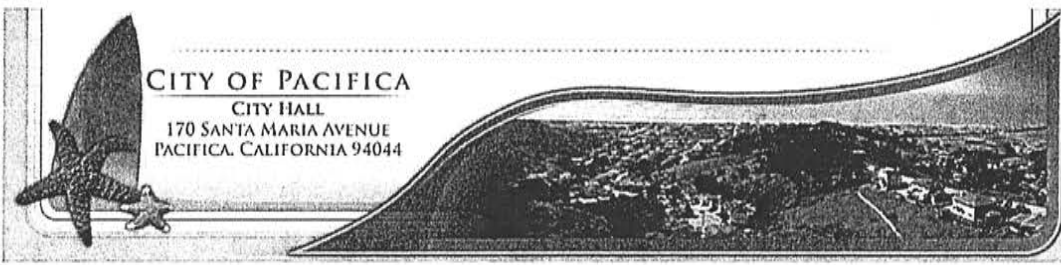
Attachment: Attachment "A" - Resolution No. 09-2012 (4876 : Resolution - Update Park Development Impact Fee)

CITY OF PACIFICA

PARK DEVELOPMENT FEE UPDATE

FINAL REPORT

SEPTEMBER 5, 2011



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Sacramento, CA
Temecula, CA

www.willdan.com

Attachment: Attachment "A" - Resolution No. 09-2012 (4876 : Resolution - Update Park Development Impact Fee)

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Executive Summary

This report summarizes an analysis of the need for capital improvements in park and recreation facilities to support future development within the City of Pacifica through 2030. It is the City's intent that the costs representing future development's share of these facilities and improvements be imposed on that development in the form of a development impact fee for park and recreation facilities.

The primary policy objective of a park fee program is to ensure that new development pays the capital costs associated with growth. To fulfill this objective, public agencies should review and update their fee programs periodically to incorporate the best available information. The primary purpose of this report is to create fees that incorporate current facility plans to serve a 2030 service population.

The City imposes public facilities fees under authority granted by the *Mitigation Fee Act*, contained in *California Government Code* Sections 66000 *et seq.* This report provides the necessary findings required by the *Act* for adoption of the fees presented in the fee schedules contained herein.

Facility Standards and Costs of Growth

A fee analysis has a choice among three different approaches to calculate facilities standards and allocate the costs of planned facilities to accommodate growth in compliance with the Mitigation Fee Act.

The **existing inventory** approach is based on a facility standard derived from the agency's existing level of facilities and existing demand for services. This approach results in no facility deficiencies attributable to existing development. This approach is often used when a long-range plan for new facilities is not available. Only the initial facilities to be funded with fees are identified in the fee study. Future facilities to serve growth will be identified through the City's annual capital improvement plan and budget process and/or completion of a new facility master plan. In this study, this approach has been selected for the park facilities impact fee.

The **planned facilities** approach is based on a master plan that uses standards applied to projected growth to estimate facility needs. This approach allocates costs based on the ratio of planned facilities that serve new development to the increase in demand associated with new development. This approach is appropriate when specific planned facilities can be identified that only benefit new development. Examples include street improvements to avoid deficient levels of service or a sewer trunk line extension to a previously undeveloped area. This approach is appropriate when planned facilities would not serve existing development. This approach is also used when the cost of future facilities needed to serve new development is lower than the existing standard. This approach has not been selected for use in this study.

The **system plan** approach is also based on a master facilities plan, but in this case the needed facilities serve both existing and new development. This approach is used when it is not possible to differentiate the benefits of new facilities between new and existing development. Often the master plan is based on increasing facility standards, so the

agency must find non-impact fee revenue sources to fund existing development's fair share of planned facilities. This approach has also not been selected for use in this study.

Demographic Assumptions

The base year for this study is 2010. Estimates of existing population are from the City's General Plan Update and from the 2010 Census, and dwelling unit estimates are from the California Department of Finance (DOF). Projected growth through 2030 was based on Association of Bay Area Governments (ABAG) revised 2009 estimates for the City.

The data is summarized in **Table E.1**.

Table E.1: Population and Housing Estimates and Projections

City of Pacifica	2010	2030	Change
Residents ¹	39,000	39,600	600
Dwelling Units ¹			
Single Family, Two-Family	11,123	11,294	171
Multi-Family	3,197	3,246	49
Total	14,320	14,540	220

Note: All values rounded to nearest ten; totals may not be exact.

¹ 2010 residents and dwelling units based on the City of Pacifica July 2010 General Plan. 2030 Projections are based on revised 2009 demographic estimates from the Association of Bay Area Governments (ABAG).

Sources: California Department of Finance (DOF), Table E-5, 2010; City of Pacifica July 2010 General Plan; Association of Bay Area Governments (ABAG); U.S. Census Bureau; Willdan Financial Services.

Table E.2 establishes a relationship between the number of bedrooms in residential land uses and the number of household occupants. The household density factors are calculated using data from the 2009 American Housing Survey, the most recent year for which survey data was available at the time this report was prepared.

Table E.2: Household Size by Number of Bedrooms

Residential Uses	People in Housing Unit ¹
Number of Bedrooms	
0	1.0
1	1.5
2	2.1
3	2.6
4	3.2
5	3.7
Each Bedroom Above 5	Add 0.6

Notes:
¹Predicted values from a best fitting linear regression taken from a 2009 national survey of 45,000 housing units.

Sources: U.S. Census, American Housing Survey, and Willdan Financial Services

Fee Schedules

Tables E.3a and E.3b summarize the schedule of maximum justified development impact fees based on the analysis contained in this report. The tables show the park facilities fee based on the Quimby Act land dedication standard and a Mitigation Fee Act existing parkland standard. Each table also indicates maximum justified incremental fee for adding bedrooms to an existing home.

Table E.3a: Parkland Dedication In-Lieu Fee (Quimby Act)

Residential Use	A Cost Per Capita	B Household Size	C=A x B Base Fee ¹	D=C x 2% Admin Charge ²	E=C+D Total Fee	Incremental (per bdrm) Fee
<u>Zero Bedrooms</u>						
Parkland	\$ 706	1.00	\$ 706	\$ 14	\$ 721	
Improvements	1,936	1.00	1,936	39	1,974	
Total					\$ 2,695	N/A
<u>One Bedroom</u>						
Parkland	\$ 706	1.50	\$ 1,060	\$ 21	\$ 1,081	
Improvements	1,936	1.50	2,904	58	2,962	
Total					\$ 4,042	\$ 1,347
<u>Two Bedrooms</u>						
Parkland	\$ 706	2.10	\$ 1,484	\$ 30	\$ 1,513	
Improvements	1,936	2.10	4,065	81	4,146	
Total					\$ 5,659	\$ 1,617
<u>Three Bedrooms</u>						
Parkland	\$ 706	2.60	\$ 1,837	\$ 37	\$ 1,874	
Improvements	1,936	2.60	5,033	101	5,133	
Total					\$ 7,007	\$ 1,347
<u>Four Bedrooms</u>						
Parkland	\$ 706	3.20	\$ 2,261	\$ 45	\$ 2,306	
Improvements	1,936	3.20	6,194	124	6,318	
Total					\$ 8,624	\$ 1,617
<u>Five Bedrooms</u>						
Parkland	\$ 706	3.70	\$ 2,614	\$ 52	\$ 2,666	
Improvements	1,936	3.70	7,162	143	7,305	
Total					\$ 9,971	\$ 1,347
<u>Each Bedroom Above Five: ADD These Amounts to Five Bedroom Fee</u>						
Parkland	\$ 706	0.60	\$ 424	\$ 8	\$ 432	
Improvements	1,936	0.60	1,161	23	1,185	
Total					\$ 1,617	\$ 1,617

Notes:

¹ Fee per dwelling unit.² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 9; Willdan Financial Services.

Table E.3b: Park Facilities Impact Fee (Mitigation Fee Act)

Land Use	A	B	C=A x B	D=C x 2%	E=C+D	Incremental (per bdrm) Fee
	Cost Per Capita	Density	Base Fee ¹	Admin Charge ²	Total Fee	
<u>Zero Bedrooms</u>						
Parkland	\$ 706	1.00	\$ 706	\$ 14	\$ 721	
Improvements	1,936	1.00	1,936	39	1,974	
Total					\$ 2,695	N/A
<u>One Bedroom</u>						
Parkland	\$ 706	1.50	\$ 1,060	\$ 21	\$ 1,081	
Improvements	1,936	1.50	2,904	58	2,962	
Total					\$ 4,042	\$ 1,347
<u>Two Bedrooms</u>						
Parkland	\$ 706	2.10	\$ 1,484	\$ 30	\$ 1,513	
Improvements	1,936	2.10	4,065	81	4,146	
Total					\$ 5,659	\$ 1,617
<u>Three Bedrooms</u>						
Parkland	\$ 706	2.60	\$ 1,837	\$ 37	\$ 1,874	
Improvements	1,936	2.60	5,033	101	5,133	
Total					\$ 7,007	\$ 1,347
<u>Four Bedrooms</u>						
Parkland	\$ 706	3.20	\$ 2,261	\$ 45	\$ 2,306	
Improvements	1,936	3.20	6,194	124	6,318	
Total					\$ 8,624	\$ 1,617
<u>Five Bedrooms</u>						
Parkland	\$ 706	3.70	\$ 2,614	\$ 52	\$ 2,666	
Improvements	1,936	3.70	7,162	143	7,305	
Total					\$ 9,971	\$ 1,347
<u>Each Bedroom Above Five: ADD These Amounts to Five Bedroom Fee</u>						
Parkland	\$ 706	0.60	\$ 424	\$ 8	\$ 432	
Improvements	1,936	0.60	1,161	23	1,185	
Total					\$ 1,617	\$ 1,617

Notes:

¹ Fee per dwelling unit.² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 9; Willdan Financial Services.

The City would collect the fee based on only one of the two approaches, as determined by the City according to the characteristics of proposed development. Each fee includes a component for park improvements based on the City's existing standard. The park facilities value per capita is converted to a fee per dwelling unit based on an occupancy factor that varies by the number of bedrooms in the unit.

New development, including bedroom additions, not subject to the Quimby Act would pay the land and improvement components of the *Mitigation Fee Act* park facilities fee.

shown in Table 3.10b. New development subject to the Quimby Act could either dedicate land at the Quimby Act standard, or pay a land dedication in-lieu fee at the Quimby Act Standard, shown in Table 3.10a. The land dedication in-lieu fee would be paid in addition to the *Mitigation Fee Act* fee for park improvements.

The City may adopt any fee up to those shown in the table. If the City adopts a lower fee then it should consider reducing the fee for each land use by the same percentage. This approach would ensure that each new development project would fund the same proportionate share of public facilities costs.

1. Introduction

This report presents an analysis of the need for park and recreation facilities to accommodate new development in the City of Pacifica. This chapter explains the study approach and summarizes results under the following sections:

- ◆ Background and study objectives;
- ◆ Public facilities financing in California;
- ◆ Organization of the report; and
- ◆ Facility standards approach.

Background and Study Objectives

The primary policy objective of a public facilities fee program is to ensure that new development pays the capital costs associated with growth. The primary purpose of this report is to update existing park fee documentation with a fee study that reflects the most current facility planning and growth projections. This study presents the maximum justified public facilities fee levels to impose on new development to either maintain the City's facilities standards or help to achieve adopted goals. The City should review and update this report and the calculated fees approximately at least once every five years to incorporate the best available information.

Impact fees are required to comply with the Mitigation Fee Act, contained in *California Government Code* Sections 66000 to 66025. This report provides the necessary findings required by the Act for adoption of the public facilities fees presented in the fee schedules contained herein.

Public Facilities Financing In California

The changing fiscal landscape in California during the past 30 years has steadily undercut the financial capacity of local governments to fund infrastructure. Three dominant trends stand out:

- ◆ The passage of a string of tax limitation measures, starting with Proposition 13 in 1978 and continuing through the passage of Proposition 218 in 1996;
- ◆ Declining popular support for bond measures to finance infrastructure for the next generation of residents and businesses; and
- ◆ Steep reductions in federal and state assistance.

Faced with these trends, many cities and counties have had to adopt a policy of "growth pays its own way." This policy shifts the burden of funding infrastructure expansion from existing taxpayers onto new development. This funding shift has been accomplished primarily through the imposition of assessments, special taxes, and development impact fees also known as public facilities fees. Assessments and special taxes require approval of property owners and are appropriate when the funded facilities are directly related to the developing property. Development fees, on the other hand, are

an appropriate funding source for facilities that benefit all development jurisdiction-wide. Development fees need only a majority vote of the legislative body for adoption.

Organization of the Report

The determination of a public facilities fee begins with the selection of a planning horizon and development of projections for population and employment. These projections are used throughout the analysis of different facility categories, and are summarized in Chapter 2.

Chapter 3 is devoted to documenting the maximum justified public facilities fee for park and recreation facilities. Chapter 4 describes the fee implementation process. The statutory findings required for adoption of the proposed public facilities fees in accordance with the *Mitigation Fee Act* (codified in *California Government Code* Sections 66000 through 66025) are summarized in Chapter 5.

Facility Standards and Cost Allocation Approach

A facility standard is a policy that indicates the amount of facilities required to accommodate service demand. Examples of facility standards include building square feet per capita and park acres per capita. Standards also may be expressed in monetary terms such as the replacement value of facilities per capita. The adopted facility standard is a critical component in determining new development's need for new facilities and the amount of the fee. Standards determine new development's fair share of planned facilities and ensure that new development does not fund deficiencies associated with existing development.

2. Land Use Projections

This chapter describes the growth projections used in this study. The existing service population in 2010 is used as the base year of the study and the planning horizon is the year 2030.

Use of Growth Projections for Impact Fees

Estimates of the existing service population and projections of growth are critical assumptions used throughout this report. These estimates are used as follows:

- ◆ Estimates of total development in 2030 are used to determine the total amount of public facilities required to accommodate the future service population.
- ◆ Estimates of existing and new development are used to allocate the fair share of total planned facility costs between existing and new development.

Land Use Types

To ensure a reasonable relationship between each fee and the type of development paying the fee, growth projections distinguish between different land use types. The land use types used in this analysis are defined below.

- ◆ **Single-family:** Detached one-family dwelling units.
- ◆ **Multi-family:** All attached multi-family dwellings such as duplexes, condominiums, and townhouses plus mobile homes, apartments, and dormitories.
- ◆ **Retail:** All highway, neighborhood, community, and regional retail; educational, and hotel/motel development.
- ◆ **Office:** All general, professional, and medical office development.
- ◆ **Industrial:** All manufacturing and warehouse development.

Some development may include more than one land use type, such as an industrial building with living quarters (a live-work designation) or a planned unit development with both single and multi-family uses. In these cases the public facilities fee would be calculated separately for any residential land use.

The City should have the discretion to impose each facility fee based on the specific aspects of a proposed development regardless of zoning. The guideline to use is the probable occupant density of the development, in particular the number of residents for a dwelling unit having a certain number of bedrooms. The fee imposed should be based on an estimate of the number of bedrooms that most closely matches the project information available to or the experience of the City when determining the likely number of bedrooms constructed in a residential structure.

Growth Projections

The base year for this study is the year 2010. Estimates of existing population are from the City's General Plan Update and from the 2010 Census, and dwelling unit estimates

are from the California Department of Finance (DOF). Projected growth through 2030 was based on Association of Bay Area Governments (ABAG) revised 2009 estimates for the City.

Table 2.1 shows estimates of the growth in terms of residents and dwelling units.

Table 2.1: Population and Housing Estimates and Projections

City of Pacifica	2010	2030	Change
Residents ¹	39,000	39,600	600
Dwelling Units ¹			
Single Family, Two-Family	11,123	11,294	171
Multi-Family	3,197	3,246	49
Total	14,320	14,540	220

Note: All values rounded to nearest ten; totals may not be exact.

¹ 2010 residents and dwelling units based on the City of Pacifica July 2010 General Plan. 2030 Projections are based on revised 2009 demographic estimates from the Association of Bay Area Governments (ABAG).

Sources: California Department of Finance (DOF), Table E-5, 2010; City of Pacifica July 2010 General Plan; Association of Bay Area Governments (ABAG); U.S. Census Bureau; Willdan Financial Services.

Household Densities

Persons per household assumptions ensure a reasonable relationship between the development of housing units and the increase in park and recreation service population, and therefore the amount of the fee. Developers pay the fee based on the number of bedrooms in each additional housing unit, so the fee schedule must convert service population estimates to these measures of bedrooms per dwelling unit and number of dwelling units in the project.

This conversion is done with average household size factors that vary by bedrooms proposed in the dwelling unit, shown in Table 2.2. The data series that was used to statistically establish these household size factors is from the 2009 American Housing Survey. The Survey provides responses from owners and renters of approximately 45,000 housing units nationwide.

Table 2.2: Household Size by Number of Bedrooms

Residential Uses	People in Housing Unit ¹
Number of Bedrooms	
0	1.0
1	1.5
2	2.1
3	2.6
4	3.2
5	3.7
Each Bedroom Above 5	Add 0.6

Notes:

¹Predicted values from a best fitting linear regression taken from a 2009 national survey of 45,000 housing units.

Sources: U.S. Census, American Housing Survey, and Willdan Financial Services

3. Parks Facilities

The purpose of the fee is to ensure that new development funds its fair share of park facilities. The City will use fee revenues to expand park facilities to serve new development. This analysis documents two separate fees based on the Quimby Act and the Mitigation Fee Act.

The City will collect the fee based on a standard of 4.71 acres per 1,000 residents (the facility standard as of the Census in 2010) if the development is subject to the Quimby Act land dedication requirement. For all other development, the City will collect a fee based on the existing standard of parkland per capita through the Mitigation Fee Act.

Service Population

Residents are the primary users of parks and open space. Therefore, demand for parks and associated facilities is based on residential population and excludes workers. **Table 3.1** provides an estimate of the residents in Pacifica as of the 2010 Census, the current City resident population, and a projection for the year 2030 from the base population published for the City's ongoing General Plan Update.

Table 3.1: Parks Service Population

City of Pacifica	Residents
Census (2010)	37,234
General Plan (2010)	39,000
New Development (2010-2030)	600
Projected (2030)	39,600

Sources: City of Pacifica July 2010 General Plan; Association of Bay Area Governments (ABAG); U.S. Census Bureau; Willdan Financial Services.

Facility Inventory

This section describes the City's existing facility inventory, standards, and associated costs. **Table 3.2** shows the inventory of existing developed parkland in the City of Pacifica. The City currently owns approximately 119 acres of parkland, not including publicly maintained parkland adjacent to the City's recreation, community, and cultural buildings.

All parkland shown in the table has been developed prior to 2010, a requirement of the Quimby Act fee if these facilities are to be part of the City's Quimby standard. All Quimby fees are based on the standard of parkland per capita as of the last federal census.

In contract, the Mitigation Fee Act fee should be based on the most recent available data.

Table 3.2: Parkland Inventory

Park or City Owned Property	Park Area (Acres)
<i>Developed Prior to 2010</i>	
Edgewood Vista	7.4
Horizon Park/Imperial Park	12.8
Skyridge Park	2.1
Edgemar Park	1.2
Department of Public Works	0.9
Pomo Park	0.8
City Hall, Planning, Building & PB&R	1.2
Council Chambers	3.2
Palmetto Mini Park	0.1
Brighton Mini Park	0.1
Fairway Park Baseball Fields	7.0
Calera Creek Pedestrian Path	12.4
Rockaway Beach	5.1
Saltaire Park	0.4
Pacifica State Beach	3.1
Portola Mini Park	0.2
Frontierland Park	61.1
Total Parkland	119.0

Note: Excluded parks featuring special recreation, community, or cultural facilities.

Source: City of Pacifica.

Table 3.3 shows the existing inventory of City vehicles and equipment used to maintain City parkland. These assets are valued at a total of \$1 million.

Table 3.3: Park Vehicles and Equipment Inventory

Name	Vehicle No.	Units	Unit Cost	Total Cost
<i>Vehicles and Equipment</i>				
Ford Crown Victoria	152	1	\$ 24,250	\$ 24,250
Chevy Astro	904	1	\$ 18,729	\$ 18,729
Ford E-150 Van	908	1	\$ 19,939	\$ 19,939
Chevrolet Blazer LS	83	1	\$ 17,387	\$ 17,387
Ford Taurus	89	1	\$ 14,265	\$ 14,265
Ford 3/4 P/U Truck	200	1	\$ 17,451	\$ 17,451
GMC Sierra 1500 Truck w/ box and bedliner	201	1	\$ 21,739	\$ 21,739
GMC 1/2 Ton P/U	202	1	\$ 17,316	\$ 17,316
Ford 3/4 Crew Cab P/U	204	1	\$ 22,192	\$ 22,192
Ford F350 Truck	205-6	2	\$ 21,275	\$ 42,550
Ford F250 Truck	209-10, 213-4	4	\$ 18,526	\$ 74,104
Ford F250 Truck	211	1	\$ 20,789	\$ 20,789
Ford F250 Utility	215-6	2	\$ 21,886	\$ 43,772
GMC Sonoma Truck	217	1	\$ 14,785	\$ 14,785
Dodge Dakota	301	1	\$ 12,397	\$ 12,397
Chev K3500 4X4	501	1	\$ 24,522	\$ 24,522
Ford CC 4X4	502	1	\$ 25,317	\$ 25,317
John Deere Turf Mower	505	1	\$ 42,569	\$ 42,569
Case 580M 4 Wheel Drive Extenahoe	532	1	\$ 55,232	\$ 55,232
Bobcat S130 Skid Steer Loader	535	1	\$ 24,232	\$ 24,232
Diablo Trailer	539	1	\$ 3,929	\$ 3,929
Bandit 1590 Chipper	561	1	\$ 39,197	\$ 39,197
John Deere 1445 Mower	563	1	\$ 20,539	\$ 20,539
Ford Tree Truck	600	1	\$ 83,146	\$ 83,146
John Deere Trac/Load #5310	601	1	\$ 36,461	\$ 36,461
Tree Trimming Truck	604	1	\$ 119,860	\$ 119,860
GMC Dump Truck	626	1	\$ 33,172	\$ 33,172
GMC White Dump Truck	627	1	\$ 32,684	\$ 32,684
International 4400 4X2 Truck	628	1	\$ 64,359	\$ 64,359
Zieman Tilt Trailer	660	1	\$ 9,472	\$ 9,472
Zieman 1255 Trailer	661	1	\$ 1,001	\$ 1,001
Torro Trailer - Texas Bragg	664	1	\$ 1,774	\$ 1,774
Brush Bandit	666	1	\$ 18,944	\$ 18,944
Longhorn Dovetail Trailer	669	1	\$ 4,255	\$ 4,255
525-Gallon Water Truck	670	1	\$ 4,295	\$ 4,295
Gem Electric Motor Car	E-2	1	\$ 4,483	\$ 4,483
Total Vehicles Equipment		41		\$ 1,031,108

Source: City of Pacifica.

Table 3.4 shows the existing inventory of recreation, community, and cultural facilities in the City of Pacifica, along with building and land size and facility costs.

Table 3.4: Recreation, Community, and Cultural Facilities Inventory

Improvement Type / Park or Facility Name	Amount	Units	Unit Cost	Total Cost
<i>Land</i>				
Fairmont West Park and Recreation Center	5.8	acres	\$ 150,000	\$ 875,850
Fairmont Park and Recreation Center	16.2		150,000	2,432,615
Sharp Park Promenade	1.3		150,000	201,620
Pacifica Community Center	3.7		150,000	555,000
Oddstad Park/Cultural Arts Center	20.1		150,000	3,021,750
Sanchez Fields/Arts Center	9.1		150,000	1,365,900
Subtotal, Land	56.4			\$ 8,452,735
<i>Buildings</i>				
Fairmont West Park and Recreation Center	3,036	sq. ft.	\$ 250	\$ 759,000
Fairmont Park and Recreation Center	1,860		250	465,000
Pacifica Community Center	21,188		250	5,297,000
Oddstad Park/Cultural Arts Center	7,930		250	1,982,500
Sanchez Fields/Arts Center	37,000		250	9,250,000
Subtotal, Buildings	71,014			\$ 17,753,500
<i>Other Facilities</i>				
Pacifica Community Center Skate Park	1	ea.	\$	200,000
Sharp Park Promenade Pier	1			500,000
Subtotal, Buildings				\$ 700,000
Total Value, Recreation Facilities				\$ 26,906,235

Source: City of Pacifica.

Parks Facility Standards

Park facility standards establish a reasonable relationship between new development and the need for expanded park facilities. The most common measure in calculating new development's demand for parks is the ratio of park acres per resident. A park facility standard may be based on a city's existing inventory of park facilities or an adopted policy standard contained in a master facility plan or general plan. Facility standards may also be based on a land dedication standard established by the Quimby Act.

The Mitigation Fee Act does not dictate use of a particular type or level of facility standard for public facilities fees. To comply with the findings required under the law, facility standards must not burden new development with any cost associated with facility deficiencies attributable to existing development. A simple and clearly defensible approach to calculating a facility standard is to use the city's existing ratio of park acreage per 1,000 residents. If the City imposes an impact fee under the Mitigation Fee Act at a level higher than the existing standard, it may be required to fund facilities using non-fee revenue to eliminate the existing acreage deficiency compared to the adopted standard.

The Mitigation Fee Act allows use of fee revenue for the expansion of service capacity in the City's park and recreation facilities. Allowable uses of revenue include land acquisition; trail easements and the construction of trails, trailhead facilities, and signage; and park improvements including recreation facilities.

In contrast to the Mitigation Fee Act, the Quimby Act does specify facility standards to use for parkland dedication. The Quimby Act allows cities to impose a land dedication requirement of up to three acres per 1,000 residents or the city's actual park standard as of the last federal census, up to a maximum of five acres per 1,000 residents. The land dedication requirement must be reasonably related to the demand placed on city parks by new development. Pacifica's General Plan Update references park standards of many types, including a measure of park proximity to residential development.

Table 3.5 shows the existing standard for improved park acreage per 1,000 residents and documents the City's standard as of the 2010 Census. The Quimby Act standard for the City is based on the existing standard, because the standard falls in the range of three to five acres per 1,000 residents.

Table 3.5: Parkland Standards

	Quimby Act		Mitigation Fee Act
	2010	Quimby Standard ¹	2010
Acres of Improved Parkland	119.0	N/A	119.0
Acres included in Recreational Facilities	56.4	-	56.4
Total Acres of Parkland (A)	175.4		175.4
Residents (B)	37,234	N/A	37,234
Standard (acres per 1,000 residents) (C = A / B x 1,000)	4.71	4.71	4.71

¹ Equal to the City's standard as of the most recent federal census, provided the standard is not more than 5 acres per 1,000 resident

Sources: Tables 3, 4, and 6; City of Pacifica; Willdan Financial Services.

The Quimby Act only applies to land subdivisions. A city cannot apply the Quimby Act to development on land subdivided prior to adoption of a Quimby ordinance, such as development on infill lots. The Quimby Act also would not apply to residential development of future projects on single parcels, such as many types of apartment development.

The Quimby Act allows payment of a fee in lieu of land dedication. The fee is calculated to fund acquisition of the same amount of land that would have been dedicated. The fee does not include the cost of park improvements because the land dedication requirement does not include improvements.

The Quimby Act allows use of in-lieu fee revenue for any community or neighborhood park or recreation facility purpose. Allowable uses of revenue include land acquisition; trail easements and the construction of trails, trailhead facilities, and signage; park

improvements including recreation facilities, and rehabilitation of existing park and recreation facilities.

Park Facility Costs

Table 3.6 shows the cost per acre for park facilities. The cost per acre for special use facilities, including community centers, pools, vehicles, and equipment, is based on the current value of these facilities per acre of park land. Standard park improvements, such as grading, parking, and basketball courts are estimated to cost \$300,000 per acre. Land acquisition for new park facilities is estimated to cost \$150,000 per acre.

Table 3.6: Parkland and Park Improvements Unit Costs

		Cost	Cost or Amount	Share
<i>Park Improvements</i>				
Special Use Facilities ¹				
Buildings Value		\$ 17,753,500		
Other Facilities		700,000		
Vehicles & Equipment		<u>1,031,108</u>		
Total Special Use Facilities	A		\$ 19,484,608	
Total Improved Park Acres	B		<u>175.4</u>	
Special Use Facilities Cost per Improved Acre	$C = B / A$		\$ 111,000	
Standard Park Improvements ²	D		<u>300,000</u>	
Subtotal, Park Improvements Per Acre	$E = C + D$		\$ 411,000	73%
<i>Land Acquisition per acre</i>	F		\$ 150,000	27%
Total Parks Cost per acre	$G = E + F$		\$ 561,000	100%

¹ Special use facilities include only those facilities that are not part of standard park improvements, such as art centers,

² Improvement costs are estimated at \$300,000 per acre for site improvements (curbs, gutters, water, sewer, and electrical

Sources: Tables 4, 5, and 6; Meadows Construction Services; City of Pacifica; Willdan Financial Services.

Table 3.7 shows the per capita cost standard for park land acquisition and improvements. Park land costs per capita are shown for both the Quimby Act land dedication standard of 4.71 acres per 1,000 residents and the existing parkland standard of 4.71 acres per 1,000 residents. All development, including subdivision development subject to the Quimby Act land dedication requirement, would be charged an impact fee for park improvements based on the existing standard of 4.71 acres per 1,000 residents.

Table 3.7: Park Land and Improvements Cost Standard

		<u>Land</u>		<u>Improvements</u>
		Quimby Fee	Impact Fee	Impact Fee
Investment (per acre)	A	\$ 150,000	\$ 150,000	\$ 411,000
Park Standard (acres per 1,000 residents)	B	4.71	4.71	4.71
Total Cost Per 1,000 Residents	$C = A \times B$	\$ 706,448	\$ 706,448	\$ 1,935,668
		1,000	1,000	1,000
Cost Per Resident	$D = C / 1000$	\$ 706	\$ 706	\$ 1,936

Sources: Tables 6.6, and 6.7; Willdan Financial Services.

Table 3.8 provides a preliminary capital improvement program for the City. The list of projects should not be considered as a ranked list of City priorities at this time, but serves as a set of example projects to be funded by impact and Quimby fees collected by the City as growth occurs.

All projects in the list that functionally replace, rehabilitate, or renovate park facilities are best funded using Quimby fee revenues. No impact fee revenues may be used on those categories of projects. As capital projects become better defined and funded by the City, there may be components of each project that provide replaced, rehabilitated, or renovated facilities, and other components that expand the capacity of the park to serve additional City residents by constructing new facilities. The latter components may be funded by City park impact fees.

Table 3.8: 20 Year Capital Improvement Program

No. & Name of Project	Improvement Type	Eligible for Funding by Type of Fee	Estimated Cost
1 Mini-Bus for Child Care Program	New Capacity	Impact Fees or Quimby Fees	\$ 90,000
2 Restrooms at Parks - 4	New Capacity	Impact Fees or Quimby Fees	\$ 500,000
3 New Playground Equipment/Structure or Playground Renovation Project	Assume Renovation / Replacement	Quimby Fees	
Brighton Mini Park			\$ 40,000
Edgemar			200,000
Sanchez			150,000
Portola			70,000
Oddstad Park			150,000
Imperial			150,000
Fairmont West			150,000
Fairway			75,000
Fairmont			50,000
Total Playgrounds			\$ 1,035,000
4 Field Renovation - 3	Renovation / Replacement	Quimby Fees	
Fairmont West			\$ 200,000
Fairway Park			200,000
Sanchez			200,000
Total Fields Renovation			\$ 600,000
5 Fairmont West Roof	Renovation / Replacement	Quimby Fees	\$ 50,000
6 Office Roof & Internal Renovation	Renovation / Replacement	Quimby Fees	\$ 100,000
7 Brink Pool	Assume Renovation / Replacement	Quimby Fees	
Starter/Racing Blocks			\$ 25,000
Slide			30,000
Water Polo Goals			5,000
Lane Lines			4,500
Total Pool			\$ 64,500
8 Skate Park	Assume Renovation / Replacement	Quimby Fees	
Fence			\$ 40,000
Landscaping			35,000
Total Skate Park			\$ 75,000
9 Community Center	Assume Renovation / Replacement	Quimby Fees	
Walkways and Landscaping			\$ 60,000
HVAC Upgrades			TBD
Carpet and Flooring			65,000
Restroom and doors			30,000
Total Community Center			\$ 155,000
10 Bike Park - Construct	New Capacity	Impact Fees or Quimby Fees	\$ 200,000
11 Dog Park - Maintenance	Renovation / Replacement	Quimby Fees	\$ 20,000
GRAND TOTAL			\$ 2,889,500

Sources: City of Pacifica and Willdan Financial Services.

Projected Fee Revenue

Table 3.9 shows the share of capital program costs that will not likely be funded by park fee revenue sources by 2030. The City can allocate funds to complement impact fee revenues, or the City can limit the size of the preliminary capital program shown in Table 3.8.

Additional funding sources could include new or existing general taxes, a new special tax, or a general obligation bond. New general taxes would require majority voter approval. Special taxes or a general obligation bond would require two-thirds voter approval.

Table 3.9: Non-Fee Funding Needed for Planned Park Improvements

Cost of Planned Park Improvements	A	\$	2,889,500
Quimby or Impact Fee Standard per capita			
Land	<i>B</i>	\$	706
Improvements	<i>C</i>		1,936
Total	$D = B + C$	\$	<u>2,642</u>
New Development Park Service Population (2010-2030)	<i>E</i>		600
Projected Quimby and Impact Fee Revenue	$F = D \times E$	\$	<u>1,585,270</u>
Existing Fund Balance	<i>G</i>		<u>262,128</u>
Total Funding Available 2010-2030	$H = F + G$	\$	<u>1,847,398</u>
Non-Fee Funding Required		\$	<u>1,042,102</u>

Sources: Tables 2, 10 and 11; Willdan Financial Services.

Fee Schedule

Tables **3.10a** and **3.10b** show the park facilities fee based on the Quimby Act land dedication standard and a Mitigation Fee Act existing parkland standard, respectively. The City would collect the fee based on only one of the two approaches, as determined by the City according to the characteristics of proposed development. Each fee includes a component for park improvements based on the City's existing standard. The park facilities value per capita is converted to a fee per dwelling unit based on an occupancy factor that varies by the number of bedrooms in the unit.

In order to calculate fees by land use type, the investment in park facilities is determined on a per resident basis for both land acquisition and improvement. These park facilities values (shown in Table 3.7) are expressed as per capita values based on the unit cost estimates and facility standards.

New development not subject to the Quimby Act would pay the land and improvement components of the *Mitigation Fee Act* park facilities fee shown in Table **3.10b**. New development subject to the Quimby Act could either dedicate land at the Quimby Act

standard, or pay a land dedication in-lieu fee at the Quimby Act Standard, shown in Table 3.10a. The land dedication in-lieu fee would be paid in addition to the *Mitigation Fee Act* fee for park improvements. Table 3.10a and 3.10b also detail fees to be paid for increasing the number of bedrooms in an existing home, on a per bedroom basis.

Table 3.10a: Parkland Dedication In-Lieu Fee (Quimby Act)

Residential Use	A	B	C=A x B	D=C x 2%	E=C+D	Incremental (per bdrm) Fee
	Cost Per Capita	Household Size	Base Fee ¹	Admin Charge ²	Total Fee	
<u>Zero Bedrooms</u>						
Parkland	\$ 706	1.00	\$ 706	\$ 14	\$ 721	
Improvements	1,936	1.00	1,936	39	1,974	
Total					\$ 2,695	N/A
<u>One Bedroom</u>						
Parkland	\$ 706	1.50	\$ 1,060	\$ 21	\$ 1,081	
Improvements	1,936	1.50	2,904	58	2,962	
Total					\$ 4,042	\$ 1,347
<u>Two Bedrooms</u>						
Parkland	\$ 706	2.10	\$ 1,484	\$ 30	\$ 1,513	
Improvements	1,936	2.10	4,065	81	4,146	
Total					\$ 5,659	\$ 1,617
<u>Three Bedrooms</u>						
Parkland	\$ 706	2.60	\$ 1,837	\$ 37	\$ 1,874	
Improvements	1,936	2.60	5,033	101	5,133	
Total					\$ 7,007	\$ 1,347
<u>Four Bedrooms</u>						
Parkland	\$ 706	3.20	\$ 2,261	\$ 45	\$ 2,306	
Improvements	1,936	3.20	6,194	124	6,318	
Total					\$ 8,624	\$ 1,617
<u>Five Bedrooms</u>						
Parkland	\$ 706	3.70	\$ 2,614	\$ 52	\$ 2,666	
Improvements	1,936	3.70	7,162	143	7,305	
Total					\$ 9,971	\$ 1,347
<u>Each Bedroom Above Five: ADD These Amounts to Five Bedroom Fee</u>						
Parkland	\$ 706	0.60	\$ 424	\$ 8	\$ 432	
Improvements	1,936	0.60	1,161	23	1,185	
Total					\$ 1,617	\$ 1,617

Notes:

¹ Fee per dwelling unit.

² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 9; Willdan Financial Services.

Table 3.10b: Park Facilities Impact Fee (Mitigation Fee Act)

Land Use	A Cost Per Capita	B Density	C=A x B Base Fee ¹	D=C x 2% Admin Charge ²	E=C+D Total Fee	Incremental (per bdrm) Fee
<u>Zero Bedrooms</u>						
Parkland	\$ 706	1.00	\$ 706	\$ 14	\$ 721	
Improvements	1,936	1.00	1,936	39	1,974	
Total					\$ 2,695	N/A
<u>One Bedroom</u>						
Parkland	\$ 706	1.50	\$ 1,060	\$ 21	\$ 1,081	
Improvements	1,936	1.50	2,904	58	2,962	
Total					\$ 4,042	\$ 1,347
<u>Two Bedrooms</u>						
Parkland	\$ 706	2.10	\$ 1,484	\$ 30	\$ 1,513	
Improvements	1,936	2.10	4,065	81	4,146	
Total					\$ 5,659	\$ 1,617
<u>Three Bedrooms</u>						
Parkland	\$ 706	2.60	\$ 1,837	\$ 37	\$ 1,874	
Improvements	1,936	2.60	5,033	101	5,133	
Total					\$ 7,007	\$ 1,347
<u>Four Bedrooms</u>						
Parkland	\$ 706	3.20	\$ 2,261	\$ 45	\$ 2,306	
Improvements	1,936	3.20	6,194	124	6,318	
Total					\$ 8,624	\$ 1,617
<u>Five Bedrooms</u>						
Parkland	\$ 706	3.70	\$ 2,614	\$ 52	\$ 2,666	
Improvements	1,936	3.70	7,162	143	7,305	
Total					\$ 9,971	\$ 1,347
<u>Each Bedroom Above Five: ADD These Amounts to Five Bedroom Fee</u>						
Parkland	\$ 706	0.60	\$ 424	\$ 8	\$ 432	
Improvements	1,936	0.60	1,161	23	1,185	
Total					\$ 1,617	\$ 1,617

Notes:

¹ Fee per dwelling unit.² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 9; Willdan Financial Services.

4. Implementation

Impact Fee Program Adoption Process

The *Mitigation Fee Act* (the *Act*) is codified in California Government Code sections 66000 *et seq.* Impact fee program adoption procedures are found in *California Government Code* section 66019. Adoption of an impact fee program requires the City Council to follow certain procedures including holding a public meeting. A fourteen day mailed public notice is required for those registering for such notification.

Data, such as an impact fee report, must be made available at least 10 days prior to the public meeting. Your legal counsel should inform you of any other procedural requirements as well as advice regarding adoption of an enabling ordinance and/or a resolution. After adoption there is a mandatory 60-day waiting period before the fees go into effect. This procedure must also be followed for fee increases.

Fee Phase-In

To minimize the potential impacts of the impact fee update on development activity, the City may choose to phase in changes in impact fee levels over a period of two to four years. This phase-in period would allow developers to anticipate the increased fee amounts in when determining how much to pay for land and making other decisions in the real estate development process. A phase-in period may also allow the real estate market to recover from its current downturn before the increased fees take effect.

The City could also consider including a market-based trigger for implementing the fee increase in the ordinance or resolution adopting the revised fees. The trigger could be based on a factor such as the number of building permits issued in the previous year or a minimum population growth rate.

It is not recommended that the City set lower fees for particular land uses as part of economic development policy without a funding plan to cover fee program shortfalls. To address current economic conditions, phase-in periods may be adjusted differentially by use (a four-year period to reach 100 percent fee levels instead of a two-year period) as long as the City is collecting the full fee amount during the period that most of the growth through 2030 is occurring.

Other Revenue Sources

Because the City's desired capital program is more costly than anticipated fee revenues through 2030, the City should consider how additional park facilities may be funded through the use of alternative funding sources. Potential sources of revenue include existing or new general fund revenues, one time grant revenues, or the use of existing or new taxes. Any new tax would require two-thirds voter approval, while new assessments or property-related charges would require majority property-owner approval.

Inflation Adjustment

Appropriate inflation indexes should be identified in a fee ordinance including an automatic adjustment to the fee annually. Separate indexes for land and construction

costs should be used. Calculating the land cost index may require the periodic use of a property appraiser. The construction cost index can be based on the City's recent capital project experience or can be taken from any reputable source, such as the *Engineering News-Record*. To calculate prospective fee increases, each index should be weighed against its share of total planned facility costs represented by land or construction, as appropriate.

Reporting Requirements

The City should comply with the annual and five-year reporting requirements of the *Act*. For facilities to be funded by a combination of public fees and other revenues, identification of the source and amount of these non-fee revenues is essential. Identification of the timing of receipt of other revenues to fund the facilities is also important.

Fee Accounting

The City should deposit fee revenues into separate restricted fee accounts for each of the fee categories identified in this report. Fees collected for a given facility category should only be expended on new facilities of that same category.

Programming Revenues and Projects with the CIP

The City should commit all projected fee revenues and fund balances to specific projects in its Capital Improvements Program. These should represent the types of facilities needed to serve growth and described in this report. The use of the CIP in this manner documents a reasonable relationship between new development and the use of those revenues. The CIP also provides the documentation necessary for the City to hold funds in a project account for longer than five years if necessary to collect sufficient monies to complete a project.

The City may decide to alter the scope of the planned projects or to substitute new projects as long as those new projects continue to represent an expansion of the City's facilities. If the total cost of facilities varies from the total cost used as a basis for the fees, the City should consider revising the fees accordingly.

5. Mitigation Fee Act Findings

Fees are assessed and typically paid when a building permit is issued and imposed on new development projects by local agencies responsible for regulating land use (cities and counties). To guide the imposition of facilities fees, the California State Legislature adopted the *Mitigation Fee Act* (the *Act*) with Assembly Bill 1600 in 1987 and subsequent amendments. The *Act*, contained in *California Government Code* §§66000 – 66025, establishes requirements on local agencies for the imposition and administration of fees. The *Act* requires local agencies to document five statutory findings when adopting fees.

The five findings in the *Act* required for adoption of the maximum justified fees documented in this report are: 1) Purpose of fee, 2) Use of fee Revenues, 3) Benefit Relationship, 4) Burden Relationship, and 5) Proportionality. They are each discussed below and are supported throughout this report.

Purpose of Fee

- ◆ *Identify the purpose of the fee (§66001(a)(1) of the Act).*

We understand that it is the policy of the City that new development will not burden the existing service population with the cost of facilities required to accommodate growth. The purpose of the fees proposed by this report is to implement this policy by providing a funding source from new development for capital improvements to serve that development. The fees advance a legitimate City interest by enabling the City to provide capital facilities to new development.

Use of Fee Revenues

- ◆ *Identify the use to which the fees will be put. If the use is financing facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in §65403 or §66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the facilities for which the fees are charged (§66001(a)(2) of the Act).*

Fees proposed in this report, if enacted by the City, would be used to fund expanded facilities to serve new development. Facilities funded by these fees are designated to be located within the City. Fees addressed in this report have been will be used to fund park and recreation facilities.

Descriptions of the planned facilities such as size and cost estimates are included in Chapter 3 of this report. More thorough descriptions of certain planned facilities, including their specific location, if known at this time, are included in master plans, capital improvement plans, or other City planning documents or are available from City staff. The City may change the list of planned facilities to meet changing needs and circumstances of new development, as it deems necessary. The fees should be updated if these amendments result in a significant change in the fair share cost allocated to new development.

Planned facilities to be funded by the fees are described in the *Facility Inventory*, *Facility Standards*, or the *Facility Needs and Costs* section in each facility category chapter.

Benefit Relationship

- ◆ *Determine the reasonable relationship between the fees' use and the type of development project on which the fees are imposed (§66001(a)(3) of the Act).*

We expect that the City will restrict fee revenue to the acquisition of land, construction of facilities and buildings, and purchase of related equipment, furnishings, and vehicles used to serve new development as described above under the "Use of Fee Revenues" finding. The City will keep fees in segregated accounts. Facilities funded by the fees are expected to provide a citywide network of facilities accessible to the additional residents and workers associated with new development. Under the *Act*, fees are not intended to fund planned facilities needed to correct existing deficiencies. Thus, a reasonable relationship can be shown between the use of fee revenue and the new development paying the fees.

Burden Relationship

- ◆ *Determine the reasonable relationship between the need for the public facilities and the types of development on which the fees are imposed (§66001(a)(4) of the Act).*

Facilities need is based on a facility standard that represents the demand generated by new development for those facilities. For park facilities, demand is measured by a single facility standard that can be applied across land use types to ensure a reasonable relationship to the type of development. The demand for parks facilities is based on residential population.

The standards used to identify facility needs are also used to determine if the planned facilities will partially serve the existing service population by correcting existing deficiencies. This approach ensures that new development will only be responsible for its fair share of planned facilities, and that the fees will not unfairly burden new development with the share of facilities associated with serving the existing service population.

Chapter 2, Land Use Projections, provides a description of how service population and growth projections are calculated. Facility standards are described in the *Facility Standards* or the *Facilities Inventory* section of Chapter 3.

Proportionality

- ◆ *Determine how there is a reasonable relationship between the fees amount and the cost of the facilities or portion of the facilities attributable to the development on which the fee is imposed (§66001(b) of the Act).*

The reasonable relationship between each facilities fee for a specific new development project and the cost of the facilities attributable to that project is based on the estimated service population that will be generated by the project. Fees for a specific project are based on the project's number of dwelling units and the number of bedrooms in each dwelling unit. New development projects with greater numbers of units or more bedrooms per unit can result in a higher service population, resulting in higher fee

revenue than projects with fewer units or bedrooms. Thus, the fees ensure a reasonable relationship between a specific new development project and the cost of the facilities attributable to that project.

See *Chapter 2, Growth Projections*, or the *Service Population* or *Demand* sections in Chapter 3 for a description of how facility demand factors are determined for residential uses. See the *Fee Schedule* section of Chapter 3 for a presentation of the proposed facilities fees.

Exhibit B

Table 3.10a: Parkland Dedication In-Lieu Fee (Quimby Act)

Residential Use	A Cost Per Capita	B Household Size	C=A x B Base Fee ¹	D=C x 2% Admin Charge ²	E=C+D Total Fee	Incremental (per bdrm) Fee
<u>Zero Bedrooms</u>						
Parkland	\$ 706	1.00	\$ 706	\$ 14	\$ 721	
Improvements	1,936	1.00	1,936	39	1,974	
Total					\$ 2,695	N/A
<u>One Bedroom</u>						
Parkland	\$ 706	1.50	\$ 1,060	\$ 21	\$ 1,081	
Improvements	1,936	1.50	2,904	58	2,962	
Total					\$ 4,042	\$ 1,347
<u>Two Bedrooms</u>						
Parkland	\$ 706	2.10	\$ 1,484	\$ 30	\$ 1,513	
Improvements	1,936	2.10	4,065	81	4,146	
Total					\$ 5,659	\$ 1,617
<u>Three Bedrooms</u>						
Parkland	\$ 706	2.60	\$ 1,837	\$ 37	\$ 1,874	
Improvements	1,936	2.60	5,033	101	5,133	
Total					\$ 7,007	\$ 1,347
<u>Four Bedrooms</u>						
Parkland	\$ 706	3.20	\$ 2,261	\$ 45	\$ 2,306	
Improvements	1,936	3.20	6,194	124	6,318	
Total					\$ 8,624	\$ 1,617
<u>Five Bedrooms</u>						
Parkland	\$ 706	3.70	\$ 2,614	\$ 52	\$ 2,666	
Improvements	1,936	3.70	7,162	143	7,305	
Total					\$ 9,971	\$ 1,347
<u>Each Bedroom Above Five: ADD These Amounts to Five Bedroom Fee</u>						
Parkland	\$ 706	0.60	\$ 424	\$ 8	\$ 432	
Improvements	1,936	0.60	1,161	23	1,185	
Total					\$ 1,617	\$ 1,617

Notes:

¹ Fee per dwelling unit.

² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 9; Willden Financial Services.

CITY OF PACIFICA

PARK DEVELOPMENT IMPACT FEE UPDATE

FINAL REPORT

DECEMBER 21, 2021



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Attachment: Attachment "B" - Park Development Impact Fee Update (4876 : Resolution - Update Park Development Impact Fee)

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Attachment: Attachment "B" - Park Development Impact Fee Update (4876 : Resolution - Update Park Development Impact Fee)

1. Introduction

This report summarizes an analysis of the need for public facilities and capital improvements to support future development within the City of Pacifica through 2040. It is the City's intent that the costs representing future development's share of these facilities and improvements be imposed on that development in the form of a development impact fee, also known as a public facilities fee. The public facilities and improvements included in this analysis of the City's public facilities fee program all fall into the parks and recreation facilities category.

Background and Study Objectives

The primary policy objective of a park impact fee program is to ensure that new development pays the capital costs associated with growth. To fulfill this objective, public agencies should review and update their fee programs periodically to incorporate the best available information. The primary purpose of this report is to create fees that incorporate current park acquisition and development costs needed to maintain the City's parkland standards and serve future growth.

The City imposes public facilities fees under authority granted by the *Mitigation Fee Act*, contained in *California Government Code* Sections 66000 *et seq.* This report provides the necessary findings required by the *Act* for adoption of the fees presented in the fee schedules contained herein.

Depending on the characteristics of the development project, the City may use the Quimby Act to calculate impact fees. The Quimby Act only applies to residential subdivisions. The Quimby Act allows a city to require developers to dedicate at least three acres and up to five acres per 1,000 residents, if the city's existing park standard as of the last Census justifies the higher level. In this case, fees charged under the Quimby Act or the Mitigation Fee Act support a standard of five acres of parkland per 1,000 residents.

Organization of the Report

The determination of a public facilities fee begins with the selection of a planning horizon and development of projections for population and employment. These projections are used throughout the analysis of different facility categories and are summarized in Chapter 2.

Chapter 3 is devoted to documenting the maximum justified public facilities fee for parks and recreation facilities.

Chapter 4 describes the fee implementation process. The five statutory findings required for adoption of the proposed public facilities fees in accordance with the *Mitigation Fee Act* (codified in *California Government Code* Sections 66000 through 66025) are summarized in Chapter 5.

Facility Standards and Cost Allocation Approach

A facility standard is a policy that indicates the amount of facilities required to accommodate service demand. Examples of facility standards include building square feet per capita and park acres per capita. Standards also may be expressed in monetary terms such as the value of facilities per capita, or the value of improvements per acre or per capita. The adopted facility standard is a critical component in determining development's need for new facilities and the amount of the fee. Standards determine new development's fair share of planned facilities and ensure that new development does not fund deficiencies associated with the existing city infrastructure.

The parks and recreation facilities fees calculated in this report use an existing inventory demand standard translated into facility costs per capita to determine new development's fair share of

planned facility costs. A cost standard provides a reasonable method for converting disparate types of facilities, in this case parkland and special use recreational facilities, into a single measure of demand (capital cost per capita). The cost standard justified is based on the **existing inventory** of parks and recreation facilities. New development would fund the expansion of facilities at the same rate that existing development has provided facilities to date, thus by definition, there is no existing deficiency. In this case the City's existing inventory justifies a standard that exceeds five acres per 1,000 residents. To be consistent with the maximum standard identified in the Quimby Act, this analysis caps the fees at a five acre per 1,000 resident standard.

Attachment: Attachment "B" - Park Development Impact Fee Update (4876 : Resolution - Update Park Development Impact Fee)

2. Land Use Assumptions

This chapter describes the projections of growth used in this study. The existing service population in 2021 is used as the base year of the study and the planning horizon is the year 2040. This chapter also describes the sources of the unit costs for land and buildings used in this study.

Use of Growth Projections for Impact Fees

Estimates of the existing service population and projections of growth are critical assumptions used throughout this report. These estimates are used as follows:

- The estimate of existing service population in 2021 is used as an indicator of existing facility demand and to determine existing facility standards.
- Estimates of total service population in 2040 are used to determine the total amount of public facilities required to accommodate the future service population.
- Estimates of existing population and new development are used to allocate the fair share of total planned facility costs between existing and new development.

Land Use Types

To ensure a reasonable relationship between each fee and the type of development paying the fee, growth projections distinguish between different land use types. The fees calculated in this report are charged per bedroom for residential dwelling units. Relevant terms are defined below.

- *Bedroom*: A room in a dwelling unit that may be used for sleeping accommodation including such spaces that may be labeled as bedroom, master bedroom, den, library, office, study or the like, when such space conforms to the definition of a "Sleeping Unit" in accordance with the requirements for a sleeping accommodation as provided in the building code.

Note that under recently adopted AB 602, fees adopted after July 1, 2022, must either calculate a fee levied or imposed on a housing development project proportionately to the square footage of the proposed units, or make specified findings explaining why square footage is not an appropriate metric to calculate the fees. In this fee study, the fees are calculated per additional bedroom. The justification for calculating fees using this approach is as follows:

Residential building square footage is not an appropriate metric to calculate fees imposed on housing development project because as square footage increases, a building does not necessarily house more people. Since residents are the drivers of demand for parks, it is important to use a metric that scales with increases in residents. In this case, data from the American Housing Survey, and American Community Survey is used to estimate the number of residents associated with each additional bedroom in Pacifica. Scaling fees with increases in residents provides the reasonable relationship between the development project and the burden posed by that project for new park facilities. Further, using increases in bedrooms to estimate occupancy and subsequently calculate impact fees incentivizes smaller developments, since projects with fewer bedrooms pay lower fees than projects with more bedrooms.

- *Dwelling*: A building or structure, or portion thereof, designed for residential occupancy with facilities for cooking, sleeping, and bathing; provided, however, "dwelling" shall not mean any convalescent/nursing home, hospital, hotel/motel, or congregate care facility.
- *Residential Use*: Residential use is a place of residence wherein housing is the primary land use. Types of residential uses include single-family, multifamily, mobile home/trailer, and secondary unit. For the purposes of the development impact fees, "bedroom," as defined herein, shall be the residential use characteristic used to determine the appropriate fees required by each residential type.
- *Unit*: One or more rooms in a dwelling designed for occupancy by one person, or one group of people, with a common entry and a common cooking facility.

The City should have the discretion to impose the parks and recreation facilities fee based on the specific aspects of a proposed development regardless of zoning. The guideline to use is the probable occupant density of the development. The fee imposed should be based on the land use type that most closely matches the probable occupant density of the development.

Impact Fees for Accessory Dwelling Units

The California State Legislature recently amended requirements on local agencies for the imposition of development impact fees on accessory dwelling units (ADU) with Assembly Bill AB 68 in 2021. The amendment to California Government Code §65852.2(f)(2) stipulates that local agencies may not impose any impact fees on ADU less than 750 square feet. ADU greater than 750 square feet can be charged impact fees in proportion to the size of the primary dwelling unit.

Calculating Impact Fees for Accessory Dwelling Units

For ADUs greater than 750 square feet, impact fees can be charged as a percentage of the single family impact fee. The formula is:

$$\frac{\text{ADU Square Feet}}{\text{Primary Residence Square Feet}} \times \text{Single Family Impact Fee} = \text{ADU Impact Fee}$$

In the case of an 800 square foot ADU and a 1,600 square foot primary residence, the park fees would be 50 percent (800 square feet / 1,600 square feet = 50%) of the primary dwelling unit fee.

Growth Projections for City of Pacifica

Park and recreation facilities in Pacifica primarily serve residents in the City of Pacifica. The City lacks significant private sector employment, and plans for parks to serve its residential population. Therefore, residents comprise the park and recreation facilities service population.

The base year for this study is the year 2021. The planning horizon is 2040. Resident growth between 2021 and 2040 comprises the growth increment in this analysis. The City's population in 2020 per the US Census is used to calculate the parkland standard under the *Quimby Act*. The projection for 2040 is based on population projections provided by the Association of Bay Area Governments (ABAG).

Table 1 shows estimates of the growth in terms of residents between 2021 and 2040. The table also shows the City's population in 2020.

Table 1: Parks Service Population

	Residents
Census 2020	38,130
Existing Household Population (2021)	37,708
Growth (2021 - 2040)	2,182
Total (2040)	39,890

Sources: US Census Bureau; CA DOF, Table E-5, 2021; ABAG Projections 2040 by Jurisdiction; Willdan Financial Services.

Occupant Densities

All fees in this report are calculated based on dwelling units. Occupant density assumptions ensure a reasonable relationship between the size of a development project, the increase in service population associated with the project, and the amount of the fee.

Persons per bedroom assumptions ensure a reasonable relationship between the size of a dwelling unit and the residents, and therefore demand for public facilities. For residential development, the fee is based on the number of bedrooms in each additional housing unit, so the fee schedule must convert service population estimates to these measures of bedrooms per dwelling unit and number of dwelling units in the project.

This conversion is done with average household size factors that vary by bedrooms proposed in the dwelling unit, shown in **Table 2**. The data series that was used to statistically establish these household size factors is from the 2019 American Housing Survey (AHS), the most recent AHS data available. Willdan used AHS data from the Pacific Division to estimate the persons per bedroom for the Pacific Division. The estimate of persons per bedroom for the Pacific Division was then adjusted using based on difference in average dwelling unit density for Pacifica compared to the Pacific Division as calculated from US Census' American Community Survey (ACS) data. These adjustments were necessary because data for the City of Pacifica is not specifically available from the American Housing Survey, and the American Community Survey does not provide data at the granularity needed to estimate these factors for the City.

Table 2: Occupant Density

<i>Residential - per Dwelling Unit, by Number of Bedrooms</i>		
0	1.39	Residents per Dwelling Unit
1	1.63	Residents per Dwelling Unit
2	2.49	Residents per Dwelling Unit
3	3.02	Residents per Dwelling Unit
4	3.45	Residents per Dwelling Unit
5	3.99	Residents per Dwelling Unit
Each Additional Bedroom	0.54	Residents per Bedroom

Sources: American Housing Survey, 2019; U.S. Census Bureau, 2019 5-Year American Community Survey, Tables B25024 and B25033; Willdan Financial Services.

3. Parks & Recreation Facilities

The following chapter documents the nexus analysis, demonstrating the need for new park and recreation facilities demanded by new development. This analysis documents two separate fees based on the *Quimby Act* and the *Mitigation Fee Act*. The City would collect the fee based a standard of 5.0 acres per 1,000 residents if the development was subject to the *Quimby Act* land dedication requirement. For all other development, the City would collect based on the existing standard through the *Mitigation Fee Act*. The City would only collect one of the two fees depending on which was appropriate. In this case, because the City's existing standard exceeds 5.0 acres, both fees are calculated at the 5.0 acre per 1,000 resident standard.

Existing Park and Recreation Facilities Inventory

The City of Pacifica maintains several park and recreation facilities throughout the city. **Table 3** summarizes the City's existing parkland inventory. All facilities are located within the City limits. The City has revised this inventory from the prior impact fee analysis in 2012, based on the latest information available. The inventory distinguishes between developed and undeveloped parkland. Developed parkland includes parks that are open for public use with typical park amenities. This includes facilities that are owned by other agencies that the City has joint use agreements for, such as school fields. Undeveloped parkland and open space represents land that the City owns, but does not yet include any improvements or amenities.

Table 3: Parkland Inventory

Park Name	Developed Acreage
<u><i>District Parks</i></u>	
Frontierland Park	63.00
<u><i>Neighborhood Parks</i></u>	
Fairmont Park	6.57
Fairmont West Park	5.84
Fairway Park	16.71
Imperial Park	12.68
Oddstad Park	17.95
Saltaire Park	0.40
Sanchez Park	6.35
Subtotal	66.50
<u><i>Pocket Parks</i></u>	
Edgemar Park	1.20
Brighton Mini-Park	0.10
Horizon Mini-Park	0.10
Palmetto Mini-Park	0.10
Pomo Park	0.80
Portola Mini-Park	0.20
Skyridge Park	1.90
Subtotal	4.40
<u><i>Joint Use Facilities - School Fields</i></u>	
Terra Nova High School	33.00
Subtotal	33.00
<u><i>Special Facilities</i></u>	
Calera Creek Multi-purpose Trail	12.40
Skate Park	1.40
Cattle Hill Open Space - Trailhead Parking Lot	0.14
Cattle Hill Open Space - Baquiano Trail	0.63
APN 009-650-270 (Harry Dean Trail spur)	0.81
Grace McCarthy Vista Point	2.60
Pacifica Beach Park	1.86
Rockaway Beach Promenade	0.10
Beach Boulevard Promenade	0.91
Beach parking lot (Highway 1 & Rockaway Beach)	1.33
APN 018-150-040 (Beach Parking Lot)	0.40
APN 022-161-120 (Beach Parking, Restrooms, Beach)	0.77
APN 022-191-270 et. al (Beach Parking, Restrooms, Beach)	2.12
San Pedro Terrace Trail	0.61
Subtotal	26.08
Total	192.98

Source: City of Pacifica.

Attachment: Attachment "B" - Park Development Impact Fee Update (4876 : Resolution - Update Park Development Impact Fee)

Parkland Unit Costs

Table 4 shows the estimated cost per acre for developing parkland, including land acquisition. The land value of \$1.5 million per acre is the average acquisition cost per acre in the City, based on an analysis of land sales comparisons since 2018 in Pacifica and neighboring Half Moon Bay. The assumed cost of park improvements is based on a recent cost estimate from a neighboring City, South San Francisco, and includes the typical improvements that the City would include in a standard park, but excludes special use facilities such as pools or recreation centers. The improvements in the cost estimate include the following: site preparation, grading, construction of curbs, gutters, play area, electrical, furnishings irrigation and planting. City staff confirmed that the example project cost estimate is like the types of park improvements that the City of Pacifica is planning to construct. In total it costs an estimated \$2.9 million to acquire and improve an acre of parkland in Pacifica.

Table 4: Parkland Unit Costs

Item	Cost Per Acre
Land Acquisition ¹	\$ 1,545,000
Standard Park Improvements ²	\$ 1,350,000
Vehicles and Equipment	6,800
Total - Improvements	\$ 1,356,800
Total Cost per Acre	\$ 2,901,800

¹ Based on an analysis of sales comparisons in Pacifica and Half Moon Bay since 2018.

² Improvement costs are estimated at \$1.35 million per acre for site improvements (curbs, gutters, water, and electrical access), plus basic park and school field amenities such as basketball or tennis court, restroom, parking, tot lot, irrigation, turf, open green space, pedestrian paths, and picnic tables based on recent costs from a neighboring jurisdiction. Excludes special use facilities such as recreation centers and pools.

Sources: Costar; City of Pacifica; Appendix Table A.1, Willdan Financial Services.

City of Pacifica Park Facilities Standards

To calculate new development's need for new parks, municipalities commonly use a ratio expressed in terms of developed park acres per 1,000 residents. **Table 5** shows the existing standard for improved park acreage per 1,000 residents and documents the City's standard as of the last Census for the Quimby Act standard. Since both standard calculations exceed five acres per 1,000 residents, the fees documented in this report are capped at a five-acre standard, consistent with the maximum Quimby Act standard.

Table 5: Park Facilities Level of Service Standards

	Mitigation Fee Act Standard	Quimby Act Standard
Improved Park Acreage	192.98	192.98
Service Population (Residents)	37,708	38,130
Level of Service Standard (Acres per 1,000 Residents)	5.12	5.06
Policy Level of Service (Acres per 1,000 Residents)	5.00	5.00

Sources: Tables 1 and 3.

Facilities Needed to Accommodate New Development

Table 6 shows the park facilities needed to accommodate new development at the policy standard. To maintain this standard through the planning horizon, new development must fund the purchase and improvement of 20.14 acres of parkland, at a total cost of \$58.3 million.

Table 6: Park Facilities to Accommodate New Development

	Calculation	Parkland	Improvements	Total
<i>Parkland (Quimby Act or Mitigation Fee Act), Improvements (Mitigation Fee Act)</i>				
Facility Standard (acres/1,000 residents)	A	5.00	5.00	
Resident Growth (2021-2035)	B	2,182	2,182	
Facility Needs (acres)	$C = (B / 1,000) \times A$	10.91	10.91	
Average Unit Cost (per acre)	D	\$ 1,545,000	\$ 1,350,000	
Total Cost of Parkland To Serve New Development	$E = C \times D$	\$ 16,855,950	\$ 14,728,500	\$31,584,450

Sources: Tables 1, 4 and 5.

Parks Facilities Cost per Capita

Table 7 shows the cost per capita of providing new park facilities at the five acre per 1,000 resident standard. The cost per capita is shown separately for land and improvements. The costs per capita in this table will serve as the basis of three fees:

- A Quimby Act Fee in-lieu of land dedication. This fee is payable by residential development occurring in subdivisions.
- A Mitigation Fee Act Fee for land acquisition. This fee is payable by residential development not occurring in subdivisions.
- A Mitigation Fee Act Fee for parkland improvements. This fee is payable by all residential development.

A development project pays either the Quimby Act Fee in-lieu of land dedication, or the Mitigation Fee Act Fee for land acquisition, not both. All development projects pay the Mitigation Fee Act Fee for park improvements.

Table 7: Park Facilities Cost per Capita

	Calculation	<u>Land</u>		<u>Improvements</u>	
		Quimby Fee	OR Impact Fee	AND	Impact Fee
Parkland Investment (per acre)	A	\$ 1,545,000	\$ 1,545,000	\$	1,350,000
Level of Service (acres per 1,000 residents)	B	5.00	5.00		5.00
Total Cost per 1,000 capita	$C = A \times B$	\$ 7,725,000	\$ 7,725,000	\$	6,750,000
Cost per Resident	$D = C / 1,000$	\$ 7,725	\$ 7,725	\$	6,750

Sources: Tables 4 and 6.

Use of Fee Revenue

The City plans to use park facilities fee revenue to purchase parkland or construct improvements to add to the system of park and recreation facilities that serves new development. The City may only use impact fee revenue to provide facilities and intensify usage of existing facilities needed to serve new development.

Fee revenue collected under the Quimby Act can also be used to rehabilitate park facilities, in addition to acquiring new parkland.

Fee Schedule

To calculate fees by land use type, the investment in park facilities is determined on a per resident basis for both land acquisition and improvements. These cost factors (shown in Table 7) are based on the unit cost estimates and facility standards.

The City anticipates that the park fees would be the primary revenue source to fund new development's investment in park facilities. **Table 8** shows the maximum justified park facilities fee based on a five acre per 1,000 resident standard. Fees can also be charged incrementally for the addition of net new bedrooms.

The total fee includes an administrative charge to fund costs that include: (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Table 8: Park Facilities Impact Fee Schedule

Number of Bedrooms	Land Acquisition per Capita	Improvements Cost per Capita	Total Cost per Capita	Density ¹	Base Fee	Admin Charge ²	Total Fee per Dwelling Unit	Incremental Fee per Bedroom
0	\$ 7,725	\$ 6,750	\$ 14,475	1.39	\$20,120	\$ 402	\$ 20,522	
1	7,725	6,750	14,475	1.63	23,594	472	24,066	\$ 3,544
2	7,725	6,750	14,475	2.49	36,043	721	36,764	12,698
3	7,725	6,750	14,475	3.02	43,715	874	44,589	7,825
4	7,725	6,750	14,475	3.45	49,939	999	50,938	6,349
5	7,725	6,750	14,475	3.99	57,755	1,155	58,910	7,972
Additional Bedroom	7,725	6,750	14,475	0.54	7,817	156		7,972

¹ Persons per dwelling unit.² Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 2 and 7.

Fee Increases

Per AB 602 “If a nexus study supports the increase of an existing fee, the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of fees collected under the original fee.”

The assumptions from the nexus study supporting the original fee have been reviewed and updated as necessary. These updates include adjustments to the City’s existing facility inventories, unit cost assumptions, existing and projected service population and parkland standards.

Table 9 displays and analysis of the fees collected under the current fee program. The table shows the previous five years of park fee revenue collection history. During this time period the City collected an average of \$150,352 per year. City staff confirmed that fees collected at this amount are not sufficient to maintain the City’s existing level of service for park facilities.

Table 9: Historic Fee Revenue

	Park Impact Fee/In-Lieu Fee Revenue
FY 2020-21	133,028
FY 2019-20	160,779
FY 2018-19	180,520
FY 2017-18	134,399
FY 2016-17	<u>143,032</u>
Five Year Average	150,352

Sources: City of Pacifica Mitigation Fee Act Annual Report of Development Fees, FY2016-17 through FY2020-21

4. Implementation

Inflation Adjustment

The City can keep its impact fee program up to date by periodically adjusting the fees for inflation. Such adjustments should be completed regularly to ensure that new development will fully fund its share of needed facilities. We recommend that the California Construction Cost Index (<https://www.dgs.ca.gov/RES/RESOURCES/Page-Content/Real-Estate-Services-Division-Resources-List-Folder/DGS-California-Construction-Cost-Index-CCCI>) be used for adjusting fees for inflation. The California Construction Cost Index is based on data from the Engineering News Record and is aggregated and made available for free by the State of California.

The fee amounts can be adjusted based on the change in the index compared to the index in the base year of this study (2021).

While fee updates using inflation indices are appropriate for periodic updates to ensure that fee revenues keep up with increases in the costs of public facilities, the City will also need to conduct more extensive updates of the fee documentation and calculation (such as this study) when significant new data on growth forecasts and/or facility plans become available. Note that decreases in index values will result in decreases to fee amounts.

Reporting Requirements

The City should comply with the annual and five-year reporting requirements of the *Act*. For facilities to be funded by a combination of public fees and other revenues, identification of the source and amount of these non-fee revenues is essential. Identification of the timing of receipt of other revenues to fund the facilities is also important.

Fee Accounting

The City should deposit fee revenues into separate restricted fee accounts for each of the fee categories identified in this report. Fees collected for a given facility category should only be expended on new facilities of that same category.

Programming Revenues and Projects with the CIP

The City should commit all projected fee revenues and fund balances to specific projects in its Capital Improvements Program. These should represent the types of facilities needed to serve growth as described in this report. The use of the CIP in this manner documents a reasonable relationship between new development and the use of those revenues. The CIP also provides the documentation necessary for the City to hold funds in a project account for longer than five years if necessary to collect sufficient monies to complete a project.

The City may decide to alter the scope of the planned projects or to substitute new projects as long as those new projects continue to represent an expansion of the City's facilities. If the total cost of facilities varies from the total cost used as a basis for the fees, the City should consider revising the fees accordingly.

5. Mitigation Fee Act Findings

Fees are assessed and typically paid when a building permit is issued and imposed on new development projects by local agencies responsible for regulating land use (cities and counties). To guide the imposition of facilities fees, the California State Legislature adopted the *Mitigation Fee Act* with Assembly Bill 1600 in 1987 and subsequent amendments. The *Act*, contained in *California Government Code* §§66000 – 66025, establishes requirements on local agencies for the imposition and administration of fees. The Act requires local agencies to document five statutory findings when adopting fees.

The five findings in the Act required for adoption of the maximum justified fees documented in this report are: 1) Purpose of fee, 2) Use of fee Revenues, 3) Benefit Relationship, 4) Burden Relationship, and 5) Proportionality. They are each discussed below and are supported throughout this report.

Purpose of Fee

- Identify the purpose of the fee (§66001(a)(1) of the Act).

We understand that it is the policy of the City that new development will not burden the existing service population with the cost of facilities required to accommodate growth. The purpose of the fees proposed by this report is to implement this policy by providing a funding source from new development for capital improvements to serve that development. The fees advance a legitimate City interest by enabling the City to provide capital facilities to new development.

Use of Fee Revenues

- Identify the use to which the fees will be put. If the use is financing facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in §65403 or §66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the facilities for which the fees are charged (§66001(a)(2) of the Act).

Fees proposed in this report, if enacted by the City, would be used to fund expanded facilities to serve new development. Facilities funded by these fees are designated to be located within the City. Fees addressed in this report will be used to fund park and recreation facilities.

Descriptions of the planned facilities such as size and cost estimates are included in Chapter 3 of this report. More thorough descriptions of certain planned facilities, including their specific location, if known at this time, are included in master plans, capital improvement plans, or other City planning documents or are available from City staff. The City may change the list of planned facilities to meet changing needs and circumstances of new development, as it deems necessary. The fees should be updated if these amendments result in a significant change in the fair share cost allocated to new development.

Planned facilities to be funded by the fees are described in the *Existing Park and Recreation Facilities Inventory*, *City of Pacific Park Facilities Standards*, or the *Facility Needed to Accommodate New Development* sections in Chapter 3 of this report.

Benefit Relationship

- Determine the reasonable relationship between the fees' use and the type of development project on which the fees are imposed (§66001(a)(3) of the Act).

We expect that the City will restrict fee revenue to the acquisition of land, construction of facilities and buildings, and purchase of related equipment, furnishings, and vehicles used to serve new development as described above under the “Use of Fee Revenues” finding. The City will keep fees in segregated accounts. Facilities funded by the fees are expected to provide a citywide network of facilities accessible to the additional residents and workers associated with new development. Under the *Act*, fees are not intended to fund planned facilities needed to correct existing deficiencies. Thus, a reasonable relationship can be shown between the use of fee revenue and the new development paying the fees.

Burden Relationship

- Determine the reasonable relationship between the need for the public facilities and the types of development on which the fees are imposed (§66001(a)(4) of the Act).

Facilities need is based on a facility standard that represents the demand generated by new development for those facilities. For park facilities, demand is measured by a single facility standard that can be applied across land use types to ensure a reasonable relationship to the type of development. The demand for parks facilities is based on residential population.

The standards used to identify facility needs are also used to determine if the planned facilities will partially serve the existing service population by correcting existing deficiencies. This approach ensures that new development will only be responsible for its fair share of planned facilities, and that the fees will not unfairly burden new development with the share of facilities associated with serving the existing service population.

Chapter 2, Land Use Assumptions, provides a description of how service population and growth projections are calculated. Facility standards are described in the *City of Pacific Park Facilities Standards* section of Chapter 3.

Proportionality

- Determine how there is a reasonable relationship between the fees amount and the cost of the facilities or portion of the facilities attributable to the development on which the fee is imposed (§66001(b) of the Act).

The reasonable relationship between each facilities fee for a specific new development project and the cost of the facilities attributable to that project is based on the estimated service population that will be generated by the project. Fees for a specific project are based on the project’s number of dwelling units and the number of bedrooms in each dwelling unit. New development projects with greater numbers of units or more bedrooms per unit can result in a higher service population, resulting in higher fee revenue than projects with fewer units or bedrooms. Thus, the fees ensure a reasonable relationship between a specific new development project and the cost of the facilities attributable to that project.

See *Chapter 2, Land Use Assumptions* for a description of how facility demand factors are determined for residential uses. See the *Fee Schedule* section of Chapter 3 for a presentation of the maximum justified facilities fees.

Appendix

Appendix Table A.1: Park Vehicles and Equipment Inventory

Vehicle #	Type	Units	Unit Cost	Total Cost
41	Toyota Prius	1	\$ 26,858	\$ 26,858
56	Ford Escape	1	25,547	25,547
85	Chevy Blazer	1	19,551	19,551
89	Ford Taurus	1	14,265	14,265
200	Ford F250	1	17,450	17,450
201	Chevy 1500	1	21,738	21,738
202	Ford F150	1	24,006	24,006
205	Ford F350	1	21,274	21,274
220/221	Ford F250	2	25,179	50,358
222/223	Ford F350	2	29,832	59,664
216	Ford F250 Utility	1	21,886	21,886
224	Ford F350 Utility	1	32,650	32,650
225	Ford F350 Stakebody	1	36,650	36,650
301	Toyota Tacoma 4X4	1	25,719	25,719
307	Ford Ranger	1	15,407	15,407
505	John Deere Wide Area Mower	1	42,569	42,569
533	John Deere 310sk	1	99,440	99,440
534	Bobcat E50	1	51,091	51,091
535	Bobcat Skidsteer	1	24,232	24,232
536	Cat Skidsteer	1	69,423	69,423
537	John Deere Dozer	1	25,000	25,000
539	Diablo Trailer	1	3,929	3,929
561	Bandit Chipper	1	39,197	39,197
563	John Deere Mower	1	20,539	20,539
600	Ford Tree Bucket Truck	1	166,535	166,535
601	John Deere Front Loader	1	36,461	36,461
626	GMC Dump Truck	1	33,172	33,172
627	GMC Dump Truck	1	32,684	32,684
628	Inernational 4400 Dump Truck	1	64,359	64,359
629	Ford F450 Dump Bed	1	54,018	54,018
660	Ziman Tilt Trailer	1	9,472	9,472
661	Ziman Tilt Trailer(SMALL)	1	1,001	1,001
664	Texas Trailer Small Mower	1	1,774	1,774
669	Longhorn Trailer	1	4,225	4,225
670	525 Gallon Water Trailer	1	4,295	4,295
Total				\$ 1,196,439
Total Improved Park Acres				192.98
Vehicles Cost per Improved Acre				\$ 6,200

Sources: City of Pacifica.

ATTACHMENT "C"

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA, CALIFORNIA REPEALING CHAPTER 19 OF THE PACIFICA MUNICIPAL CODE AND REPLACING IT WITH CHAPTER 19 (PARK FACILITIES IMPACT FEE); REPEALING SECTION 10-1.803 (PARK LAND DEDICATION) OF THE PACIFICA MUNICIPAL CODE AND REPLACING IT WITH SECTION 10-1.803 (PARK LAND DEDICATION) TO ESTABLISH UPDATED IMPACT FEES AND QIMBY ACT DEDICATION REQUIREMENTS AND IN LIEU FEES IMPOSED ON NEW DEVELOPMENT IN THE CITY OF PACIFICA.

WHEREAS, the City of Pacifica's Municipal Code contains outdated provisions regarding the City's Park Facilities Impact Fee and Quimby Act dedication requirements and in lieu fees; and

WHEREAS, the Mitigation Fee Act, contained in Government Code 66000 et seq., permits the City to impose development impact fees on new development for the purposes of funding the public facilities necessary to serve that new development; and

WHEREAS, the City's current Park Facilities Impact Fee requirements are contained in Chapter 19, "Park Facilities Impact Fee," of Title 8 "Building Regulations," of the Pacifica Municipal Code; and

WHEREAS, the City desires to continue to impose a Park Facilities Impact Fee on new non-subdivision, residential development to fund the costs associated with constructing and expanding park and recreation facilities and to update the fee to bring it in line with current City objectives; and

WHEREAS, the City Council desires to amend the City's existing ordinance regarding the Park Facilities Impact Fee to ensure that the Park Facilities Impact Fee ordinance is consistent with state law; and

WHEREAS California Government Code section 66477 (the "Quimby Act") allows legislative bodies of cities to require the dedication of land or to impose a requirement of the payment of fees in lieu thereof, or a combination of both, or park or recreation purposes as a condition of approval of a tentative or parcel map; and

WHEREAS, the City's current parkland dedication requirements are contained in Section 10-1.803, "Parkland Dedication," of Article 8, "Dedication and Reservations," of Chapter 1, "Subdivisions," of Title 10 "Subdivisions and Dedications," of the Pacifica Municipal Code; and

WHEREAS, the City Council desires to amend the City's existing ordinance regarding the dedication of parkland and the payment of in-lieu fees to ensure that the Parkland Dedication ordinance is consistent with state law; and

WHEREAS, at its meeting on February 14, 2022, after duly publishing all required notices, the City Council held a public hearing as part of a regularly scheduled meeting to consider the ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA, CALIFORNIA, does hereby ordain as follows:

Section 1. Chapter 19 (Park Facilities Impact Fee) is hereby repealed and replaced as set forth in Attachment 1, attached hereto, and incorporated herein by reference.

Section 2. Section 10-1.803 (Parkland Dedication) is hereby repealed and replaced as set forth in Attachment 2, attached hereto, and incorporated herein by reference.

Section 3. **Validity.** The above recitations are true and correct.

Section 4. **Findings.** The City Council finds that the proposed amendments to the Pacifica Municipal Code are necessary and reasonable to implement the goals and objectives of the City's General Plan and are permitted by California state law.

Section 5. **Environmental review.** The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA"). This action is not a project within the meaning of the CEQA Guidelines Section 15378 and 15061(b)(3) as it has no potential for physical effects on the environment because it involves an adoption of certain fees and/or charges imposed by the City, does not commit the City to any specific project, and said fees and/or charges are applicable to future development projects and/or activities, each of which future projects and/or activities will be fully evaluated in full compliance with CEQA when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (see CEQA Guidelines, Section 15004(b)(1)). Pursuant to CEQA Guidelines section 15378(b)(4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause significant effect on the environment, is not defined as a "project" under CEQA. Therefore, approval of the fees and/or charges is not a "project" for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a "project" under CEQA, is exempt from CEQA review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that approval of the fees and/or charges may have a significant effect on the environment.

Section 6. **Actions to effectuate and codification.** The City Manager is hereby authorized and directed to take other actions on behalf of City, which are not expressly and specifically reserved for the City Council, to implement and effectuate this ordinance. The City Clerk is directed to codify this ordinance in a manner which best reflects the legislative intent of the City Council in enacting this ordinance. The City Clerk is directed to resolve any numbering conflicts accordingly.

Section 7. **Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 8. **Effective date.** This ordinance shall be in full force and effective no less than thirty (30) days after its adoption, and shall be published or posted as required by law.

Section 9. **Publication.** The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Pacifica, California and cause the same to be published in accordance with State law.

PASSED AND ADOPTED this _____ day of _____, 2022, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mary Bier, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Marchetta Kenyon, City Attorney

Attachment: Attachment "C" - Quimby Act and Park Facilities Impact Fee Update Ordinance (4876 : Resolution - Update Park Development

Attachment 1

Chapter 19

Park Facilities Impact Fee

Chapter 19. – Park Facilities Impact Fee

Sec. 8-19.01. - Authority and purpose.

This chapter is enacted pursuant to Section 66000 et seq. of the California Government Code (“the “Mitigation Fee Act”) and the general police powers of the City. This chapter is enacted for the purpose of providing land and/or funds for such additional parks, recreational facilities, and open space as may be deemed appropriate pursuant to the General Plan, Local Coastal Program, Coastal Land Use Plan, and zoning laws of the City. This chapter is also enacted to require the dedication of such funds and/or lands to offset the impact on the need for parks, recreational facilities, and open space created by new residential development which does not require a tentative subdivision or parcel map pursuant to Title 10 of this Code.

Sec. 8-19.02. - Definitions.

The definitions set forth in this section govern the construction of this chapter:

1. "Manufactured or mobile home" means and includes each manufactured or mobile home located in a mobile home park on a temporary, semi-permanent or permanent basis.
2. "Person" or “Developer” means and includes every person, firm or corporation constructing new single-family residences, manufactured and mobile homes, residential dwelling units directly or through the services of an employee, agent or independent contractor.
3. "Residential dwelling unit" means each unit of an apartment, duplex, multiple-dwelling structure or dwelling group or condominium.
4. "Bedroom" means any room in a residential dwelling unit used for sleeping, for the purposes of this chapter meaning any room added to a residential dwelling unit that includes a bedroom, or has provision for such inclusion.

Sec. 8-19.03. - Fee imposition.

Except as otherwise provided in this chapter, each person developing nonsubdivision residential development projects shall pay a Park Facilities Impact Fee in an amount established by resolution of the city council in accordance with a nexus study that demonstrates the reasonable relationship between the fee’s use and the type of development project on which the fee will be imposed and demonstrates the reasonable relationship between the need for park facilities and the type of development projects on which the fee will be imposed.

Sec. 8-19.04. - Exemptions.

The following types of development shall not be required to pay a Park Facilities Impact Fee:

- a) Alterations, renovations or expansion of an existing residential building or structure where no new bedrooms are created.
- b) Replacement of existing dwelling units on the same lot resulting in no net increase of bedrooms.
- c) The replacement of a destroyed or partially destroyed or damaged building or structure where no additional bedrooms are created.
- d) Nonresidential development.

Sec. 8-19.05. - Determination of required fees.

- a) Every person constructing any new single-family residence, residential dwelling unit or manufactured mobile home within the City, or any addition or modification to such that includes the addition of one or more bedrooms, shall pay the Park Facilities Impact Fee established by resolution of the City Council, unless the development of such residence, unit, home, addition or modification requires a tentative subdivision or parcel map pursuant to Title 10 of this Code, in which case Section 10-1.803 shall be applicable.
- b) The Park Facilities Impact Fee may be modified automatically on an annual basis in accordance with the change in the Engineering News Record ("ENR") construction cost index for the San Francisco area.

Sec. 8-19.06. – Payment of fees

- a) The fees required by this chapter shall be paid at the time the city issues a building permit for each development project, unless the developer of a nonsubdivision residential development enters into an agreement with the city to pay the fees at the time the certificate of occupancy is issued, pursuant to Government Code Section 66007(c). An agreement to defer payment until the issuance of a certificate of occupancy must be executed and recorded before the city will issue a building permit for the development project.
- b) If new development changes or intensifies the existing use on the project site, thereby requiring the payment of a new or additional Park Facilities Impact Fee, the fee amount associated with the existing use on the project site shall be credited against the new total fee due, as determined by the public works director; provided, however, that in no event shall the city refund the fees previously paid.

Sec. 8-19.07. - Park Facilities Impact fee fund and accounting.

- a) All of the funds collected pursuant to this chapter shall be deposited in the Park Development Fund currently being maintained by the City and shall be used solely for the acquisition, improvement and expansion of public parks, playground and recreational facilities in accordance with the provisions of the open space and recreation element of the General Plan of the City. Any interest accrued by the account shall be used solely for the purpose of funding park facilities.
- b) Park Facilities Impact Fee Accounting. The city shall maintain accounts and prepare reports in accordance with California Government Code Section 66001 et seq.

Sec. 8-19.08. – In Lieu of Fees

In lieu of fees the City may accept, in its sole discretion, the donation of land or the development of parks to satisfy all or part of the development fees established by this chapter.

Sec. 8.19.09. – Fee adjustments.

Any person subject to a fee required by this chapter may apply to the public works director for a reduction, adjustment or waiver of that fee based upon the absence of a reasonable relationship between the impact of that applicant's residential development project on park facilities in the city and the amount of the fee charged.

- a) *Application.* An applicant shall file a written request to adjust fees with the public works director not later than 10 days after the city notifies the developer of the amount of the fee to be charged. Additional time, as determined by the public works director, will be allowed when significant additional information is required of the developer. The application shall provide evidence illustrating that the payment of the fee authorized by this chapter and imposed by implementing resolution bears no reasonable relationship or nexus with the impact of the development on the need for park facilities within the city and shall state in detail the factual basis for the request for reduction, adjustment or waiver. If an applicant desires to receive a building permit prior to the completion of the appeal process, the applicant shall deposit the fee being appealed with the application. Such fee or portion thereof will be refunded if the appeal is successful.
- b) *Decision of the Public Works Director.* The public works director shall issue a decision on the application within 30 days after the application is filed with the public works department. The public works director's decision shall state his or her determination regarding the amount of the Park Facilities Impact Fee that may reasonably be imposed on the new development and include a brief description of the basis for the director's decision.
- c) *Appeal of the Decision of the Public Works Director.* Decisions of the public works director may be appealed to the city manager. Appeals must be filed within 10 days of the public works director's decision. The city manager shall review the application and evidence presented to the public works director and issue a decision within 15 days. The decision of the city manager is final and may be appealed or protested pursuant to Government Code Section 66020.

Sec. 8-19.09. – Fee refunds.

Upon application, fees collected by the city pursuant to this chapter shall be refunded under the following circumstances:

- a) Fees collected pursuant to this chapter are erroneously or illegally collected.
- b) The building permit expires, and no extension has been granted, for the development project upon which fees were imposed pursuant to this chapter. An application for refund pursuant to this subsection (B) shall be filed with the community development director no later than 90 days after expiration of the building permit. The amount of refund shall be reduced by an amount to cover the cost to the city for processing the refund.

Attachment 2

Sec.10-1.803

Park land Dedications

Sec.10-1.803. – Park land Dedications

- a) *General.* This section is enacted pursuant to the authority granted by the Subdivision Map Act and the general police powers of the City and is for the purpose of providing such additional park and recreational facilities and open space as appropriate pursuant to the General Plan of the City. The park and recreational facilities for which the dedication of land and/or payment of a fee is required by this article are in accordance with the policies, principles, and standards for park and recreation facilities contained in the General Plan and Local Coastal Plan.
- b) *Requirements.* As a condition of the approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for park or recreational purposes at the time and according to the standards and formula contained in this article. The land dedicated or the fees paid, or both, shall be used for community and neighborhood parks and facilities in such a manner that the locations of such parks and facilities bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the development generating such dedication or fees, or both.
- c) *Standards and formula for the dedication of land.* Where a park or recreational facility has been designated in the General Plan, and is to be located in whole or in part within the proposed subdivision, and is reasonably related to serving the present and future needs of the residents of the subdivision, the subdivider shall dedicate land for park and recreation facilities sufficient in size and topography to meet such purpose. The amount of land to be provided shall be determined pursuant to the following standards and formula: the formula for determining the amount of acreage to be dedicated is based on the General Plan standards and shall be two (2) acres per 100 dwelling units (two hundredths (.02) acre per unit). The dedication of land shall not exceed the proportionate amount necessary to provide three acres of park area per 1,000 persons residing in the subdivision, unless the amount of existing neighborhood and community park area exceeds that limit, in which case, the city council may adopt a higher amount, not to exceed five acres per 1,000 persons residing in the subdivision. This acreage shall be in net acres and shall not include any public rights-of-way within or adjacent to the proposed park site pursuant to Government Code Section 66477(a)(2).
- d) *Formula for fees in lieu of land dedication.*
1. General formula. If there is no park or recreational facility designated in the General Plan to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider, in the City's discretion, shall either dedicate land in the amount provided in subsection (d) of this section or pay a fee in lieu of dedication equal to the value of the land prescribed for dedication in said subsection (d) and in an amount determined in accordance with the provisions of subsection (g) of this section.
 2. Fees in lieu of land: Fifty parcels or less. If the proposed subdivision contains fifty (50) parcels or less and has no park facility, the subdivider shall pay a fee equal to the land value of the portion of the park or recreational facilities required to serve the

- needs of the residents of the proposed subdivision as prescribed in subsection (d) of this section and in an amount determined in accordance with the provisions of subsection (g) of this section.
3. Use of money. The money collected shall be used for the purpose of developing new or rehabilitating existing neighborhood or community parks or recreational facilities reasonably related to serving the subdivision, including the purchase of necessary land or the improvement of such land for park and recreational purposes. The money shall be committed within five (5) years after payment or the issuance of building permits on one-half (½) of the lots created by the subdivision, whichever occurs later. If the money is not committed, it shall be distributed and paid to the then record owners of the subdivision in the same proportion the size of their lots bears to the total area of all lots in the subdivision.
- e) *Criteria for requiring both dedications and fees.* In subdivisions of over fifty (50) lots, the subdivider shall both dedicate land and pay a fee in lieu of dedication in accordance with the following:
1. When only a portion of the land to be subdivided is proposed in the General Plan as the site for a local park or recreational facility, such portion shall be dedicated for local park purposes, and a fee computed pursuant to the provisions of subsection (g) of this section shall be paid for any additional land which would have been required to be dedicated pursuant to subsection (d) of this section.
 2. When a major part of the local park or recreational site has already been acquired by the City, and only a small portion of land is needed from the subdivision to complete the site, the remaining portion shall be dedicated, and a fee, computed according to subsection (g) of this section, shall be paid in an amount equal to the value of the land which would otherwise have been required to be dedicated according to subsection (d) of this section. The fee shall be used for the improvement of the existing park and recreational facility or for the improvement of other neighborhood or community parks and recreational facilities reasonably related to serving the subdivision.
- f) *Amount of fees in lieu of park land dedications.* When a fee is required to be paid in lieu of park land dedication, the amount of the fee shall be as set forth in a resolution adopted by the City Council.
- g) *Determination of land or fee.* Whether the City accepts the land dedication, or elects to require the payment of a fee in lieu of, or a combination of both, shall be determined by the consideration of the following:
1. The policies, standards, and principles for park and recreation facilities in the General Plan and Local Coastal Plan;
 2. The topography, geology, access, and location of land in the subdivision available for dedication;
 3. The size and shape of the subdivision and the land available for dedication;
 4. The feasibility of dedication;
 5. The compatibility of dedication with the General Plan and Local Coastal Plan; and
 6. The availability of previously acquired park property.

The determination by the City as to whether land shall be dedicated or whether a fee shall be charged, or a combination, shall be final and conclusive.

- h) *Credit for Park Improvements.* If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located

thereon shall be a credit against the payment of fees or dedication of land required by this section pursuant to Government Code Section 66477(a)(9).

- i) *Credit for private recreation or open space.* Common interest developments, as defined in Section 4100 of the Civil Code, shall be eligible to receive a credit, as determined by the city council, against the amount of land required to be dedicated or the amount of the fee imposed for the value of private open space within the development which is usable for recreational purposes. All other residential, subdivision developments may apply for a credit for private recreation or open space, which shall be provided in the City's sole discretion.
- j) *Procedure.*
 1. At the time of the approval of the tentative subdivision map or parcel map, the Planning Commission shall determine, after a report and recommendation from the Parks, Beaches, and Recreation Commission, whether land is to be dedicated or in-lieu fees are to be paid by the subdivider or any combination of land and fees.
 2. The Planning Commission may approve, modify, or disapprove the recommendation of the Parks, Beaches, and Recreation Commission; provided, however, any modification of the proposed recommended condition not previously considered by the Parks, Beaches, and Recreation Commission shall first be referred back to the Parks, Beaches, and Recreation Commission for a report and further recommendation. The Parks, Beaches, and Recreation Commission shall report back to the Planning Commission within thirty (30) days. After the receipt of the report, or after thirty (30) days have passed, the Planning Commission may adopt the condition.
 3. The recommendation of the Parks, Beaches, and Recreation Commission shall include the following:
 - i. The amount of land required; or
 - ii. That a fee be charged in lieu of land; or
 - iii. That a combination of land and a fee be required; and/or
 - iv. That a stated amount of credit be given for private recreation facilities or unique natural and special features and the like; and
 - v. The location of the park land and, where appropriate, the siting and conceptual design of the park facilities appurtenant thereto to be dedicated or used in lieu of fees; and
 - vi. The approximate time when the development of the park or recreation facility shall commence.
 4. At the time of the recording of the final subdivision map, the subdivider shall dedicate the land and/or pay the fees as determined by the City. At the discretion of the City, fees may be paid prior to the issuance of any building permit for any structure in the subdivision.
 5. Open space covenants for private park or recreational facilities shall be submitted to the City prior to the approval of the final subdivision map and, if approved, shall be recorded concurrently with the final subdivision map.

- k) *Parkland Dedication in Lieu Fee Fund.* The revenues from fees collected by the city in lieu of land dedication shall be deposited in a segregated land in lieu fee fund for park or recreational purposes, pursuant to Government Code Section 66477(a)(3).
- l) *Commencement of development.* At the time of the approval of the final subdivision or parcel map, the City shall specify when the development of the park or recreational facilities shall be commenced.
- m) *Not Applicable to Certain Subdivisions.* The provisions of this section do not apply to:
1. Subdivisions containing less than five parcels and not used for residential purposes. However, the city shall place the following condition on the parcel map:

If, within four years, a building permit is requested for construction of a residential structure on one or more of the parcels, the owner of each such parcel is required to pay a parkland dedication in lieu fee in the amount set forth by City Council resolution before the permit is issued.
 2. Commercial or industrial subdivisions or condominium projects or stock cooperatives that consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Extension of Public Comment Period on the Draft Environmental Impact Report for the General Plan Update and Sharp Park Specific Plan.

RECOMMENDED ACTION:

Extend the public comment period on the Draft Environmental Impact Report for the General Plan Update and Sharp Park Specific Plan by 15 days beyond the current 45 day comment period.

STAFF CONTACT:

Kevin Woodhouse, City Manager
(650) 738-7409
cmoffice@pacifica.gov

BACKGROUND/DISCUSSION:

The Draft Environmental Impact Report (DEIR) for the General Plan Update (GPU) and Sharp Park Specific Plan (SPSP) was released on January 7, 2022, along with the GPU and SPSP draft documents. At the request of some community members, the release date was delayed from mid-December to the first week of January to not have part of the 45-day review period fall over the end-of-year holiday period, in consideration of the public's holiday priorities. This release marks the final phase of years of work and public engagement on these critical planning documents for Pacifica. The Frequently Asked Questions document released at the same time as the GPU and SPSP documents, available at www.planpacifica.org <<http://www.planpacifica.org>>, describes the extensive public engagement undertaken over many years to get to this final phase.

City staff and City Councilmembers have heard from a small number of community members who have experienced challenges working with the DEIR document and who have indicated these challenges have affected their ability to efficiently review the documents. City staff and the City Council have communicated the importance of receiving public comments on the DEIR, GPU and SPSP, so that the Planning Commission and City Council's final review of the documents are complete with public comments in the record, along with revisions to the final draft documents as recommended by staff based on review of the public comments. Therefore, in support of the goal to have robust public involvement and comment on the documents, the City Manager recommends for the Council's consideration a 15-day extension to the public comment period on the DEIR, revising the original 45-day deadline of February 21, 5:00 p.m., to March 8, 2022, 5:00 p.m. As previously communicated, this deadline only applies to comments on the DEIR, as written comments on the GPU and SPSP can be submitted for inclusion in the record anytime up to noon on the days of the Planning Commission and City Council hearings which are anticipated in May/June, 2022.

This 15-day extension strikes a reasonable balance between the public's desire to have more time to provide comments and the City's need to complete the Plan Pacifica project in a timely

manner. As discussed in more detail below, there are a number of factors applicable to considering a 15-day extension, including the need to make progress on all Council priorities for this fiscal year, the impending commencement of the Housing Element project, and maintaining compliance with CEQA requirements relating to public comment on the DEIR.

Extending the public comment period by 15 days will complement other efforts City staff has made to increase the accessibility of the DEIR, GPU, and SPSP, including making the documents available in Word format to increase searchability and copy-and-paste functionality. A 60-day review period also exceeds the requirements of the California Environmental Quality Act, which identifies a 45-day comment period on a DEIR as an adequate period of time.

The extension recommended by the City Manager also should be considered in the context of other important City Council priorities. A 15-day extension would still allow Planning Commission and City Council consideration of the documents before the end of June, 2022, which in turn will allow other critical City Council priorities to proceed as planned for Fiscal Year 2021-22 and into FY 2022-23. Work on the GPU and SPSP have been City Council Priorities each year since the effort was reengaged in 2018/2019. The City Council's Priorities for FY 2021-22, which were adopted on April 12, 2021, clearly state the Council's direction to complete the GPU and SPSP this fiscal year:

- *Complete a Comprehensive General Plan Update*
- *Complete a Sharp Park Specific Plan*

Moreover, the workplans developed for these major efforts, which were developed and published on the City's website in September 2021, provide the anticipated milestones to complete this work, which state:

The General Plan and EIR are scheduled to be released for public review by December 2021. After a 45-day public review period and preparation of responses to comments, the Planning Commission and City Council will hold hearings in early 2022 to recommend and adopt the documents, respectively.

As Councilmembers are aware, development of annual workplans for City Council's priorities is an essential management tool to plan and balance limited staff resources to complete the Council's robust list of priorities for the fiscal year. As a result, when there are impacts to the workplan, it is imperative the City Manager keeps the City Council informed. The Plan Pacifica timeline has already been slightly delayed from the workplan timeline to accommodate community requests, causing modest delays in other priorities. An additional 15-day delay will cause additional delays for several priority projects such as the Housing Element, Climate Action Plan update, Quarry Site Specific Plan, and the Wireless Communication Ordinance update. Some of these projects likely will need to receive timeline adjustments, which will be discussed in the context of Council goal-setting in March.

Several steps must still occur after completion of the recommended 15-day extension of the DEIR public comment period, as summarized below:

- Prepare responses to comments on the DEIR;
- Review comments on the GPU and SPSP and update documents, as appropriate;
- Release Responses to Comments, Final EIR, and Final Draft GPU/SPSP at least two weeks before the first Planning Commission hearing;
- Hold Planning Commission hearing(s) to make a recommendation on the documents;
- Hold City Council hearing (s) to approve documents and certify the EIR.

City staff does not know at this time the extent of substantive comments that may be received from the public or commenting agencies, and therefore cannot predict the exact amount of staff and consultant time necessary to prepare the responses to comments on the DEIR and revise the final draft GPU and SPSP for the Planning Commission and City Council hearings. However, in accordance with the City Council Priorities, staff intends to schedule final adoption hearings before the end of FY 2021-22.

ALTERNATIVE ACTION:

The City Council could choose to not extend the public comment period on the DEIR, or could choose an extension shorter or longer than the recommended 15-day extension. An extension longer than 15 days would have significant impacts on other major Council Priorities.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

Extension of the public comment period on the DEIR relates to the City Council's goal of "An Engaged Community."

FISCAL IMPACT:

There is no fiscal impact related to a 15-day extension of the public comment period on the DEIR.

ORIGINATED BY:

City Manager's Office

ATTACHMENT LIST:



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Introduction of an Ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica

RECOMMENDED ACTION:

Move to waive the first reading of and introduce by title an ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica.

STAFF CONTACT:

Daniel Steidle, Chief of Police
650-738-7314
steidled@pacificapolice.org

BACKGROUND/DISCUSSION:

At the City Council meeting held on January 24, 2022, staff presented to Council an ordinance for consideration related to the sale and distribution of flavored tobacco products, electronic cigarettes, and the sales of tobacco products at pharmacies. The staff report was presented to Council and the Council was in the process of hearing public comments on this item when the Mayor adjourned the meeting early due to a technical issue with the live stream broadcast.

This staff report serves to continue this item, already in progress, at the February 14, 2022 City Council meeting.

Attached to this report for reference is the staff report from September 27, 2021 (Attachment A) which requested Council direction on this potential ordinance, the staff report from January 24, 2022 (Attachment B), which was presented to Council as the introduction of the ordinance.

ALTERNATIVE ACTION:

If not introduced as presented, Council may choose to introduce this ordinance with amendments or decline to introduce this ordinance and provide staff with further direction

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

Consideration of a prohibition on the sale of flavored tobacco products and E-cigarettes in Pacifica resonates with the City Council Goal of “A Healthy and Compassionate Community.”

FISCAL IMPACT:

The City Attorney costs for bringing this ordinance to adoption is \$6,000 - \$10,000.

Personnel costs relating to enforcement of this ordinance are expected to be minimal.

ORIGINATED BY:

Police

ATTACHMENT LIST:

Attachment A- 09-27-21 Staff Report (PDF)

Attachment B-01-24-22 Staff Report (PDF)

ORDINANCE NO. (ID # 4877)

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA ADDING CHAPTER 32, "SALE OR DISTRIBUTION OF ELECTRONIC CIGARETTES" AND CHAPTER 33, "SALES OF FLAVORED TOBACCO PRODUCTS AND PHARMACY SALES OF TOBACCO PRODUCTS PROHIBITED" AND AMENDING SECTION 5-31.03, "LIMITS ON TOBACCO RETAILER LICENSES" WITHIN CHAPTER 31 OF TITLE 5 "PUBLIC WELFARE, MORALS, AND CONDUCT" OF THE PACIFICA MUNICIPAL CODE TO BAN THE SALE AND DISTRIBUTION OF FLAVORED TOBACCO PRODUCTS, THE SALE AND DISTRIBUTION OF ELECTRONIC CIGARETTES AND TO PROHIBIT THE SALE OF TOBACCO PRODUCTS AT PHARMACIES IN THE CITY OF PACIFICA

WHEREAS, tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people each year.¹ It causes or contributes to many forms of cancer, as well as heart and respiratory diseases, among other health disorders. Tobacco use remains a public health crisis of the first order, in terms of the human suffering and loss of life it causes, the financial costs it imposes on society and the burdens it places on our health care system; and

WHEREAS, according to the Federal Food and Drug Administration ("FDA"), nearly 80% of youth ages 12-17 and nearly 75% of young adults ages 18-25 who were currently tobacco users in 2014 reported that the first tobacco product they ever used was flavored;² and

WHEREAS, each day, about 2,500 children in the United States try their first cigarette; and another 400 children under 18 years of age become new regular, daily smokers. 81% of youth who have ever used a tobacco product report that the first tobacco product they used was flavored.³ Flavored tobacco products promote youth initiation of tobacco use and help young occasional smokers to become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke and thereby increasing the appeal of tobacco products. As tobacco companies well know, menthol, in particular, cools and numbs the throat to reduce throat irritation and make the smoke feel smoother, making menthol cigarettes an appealing option for youth who are initiating tobacco use. Tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a "graduation strategy" to encourage new users to start with tobacco products with lower levels of nicotine and progress to products with higher levels of nicotine. It is therefore unsurprising that young people are much more likely to use menthol-, candy- and fruit-flavored tobacco products than adults, including not just cigarettes but also cigars

¹ U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

² Villanti, A. C., Johnson, A. L., Ambrose, B. K., Cummings, K. M., Stanton, C. A., Rose, S. W., ... Hyland, A. (2017). Flavored Tobacco Product Use in Youth and Adults: Findings From the First Wave of the PATH Study (2013-2014). *American Journal of Preventive Medicine*.

³ Ibid.

and cigarillos. Data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle school and high school smokers report using flavored little cigars or flavored cigarettes. Further the Centers for Disease Control and Prevention has reported a more than 800% increase in electronic cigarette use among middle school and high school students between 2011 and 2015. Nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes are sold in thousands of flavors that appeal to youth, such as cotton candy and bubble gum; and

WHEREAS, According to Tobacco Free Kids, a non-profit organization that works to reduce youth access to tobacco and reduce tobacco related deaths:

- Tobacco industry documents show that the tobacco companies have a long history of developing and marketing flavored tobacco products as “starter” products that attract kids.
- Flavors improve the taste and reduce the harshness of tobacco products, making them more appealing and easier for beginners to try the product and ultimately become addicted.
- Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating tobacco use.
- According to the Federal Food and Drug Administration’s (FDA) Tobacco Product Scientific Advisory Committee (TPSAC), menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Flavors can create the false impression that a tobacco product is less harmful than it really is; and

WHEREAS, Tobacco-Free Kids conducted a 2019 survey of middle and high school students and determined the following based on those survey results:

- 81% of youth who have ever used tobacco products initiated with a flavored product.
- 72.3% of youth tobacco users have used a flavored tobacco product in the month preceding the survey.
- At least two-thirds of youth tobacco users report using tobacco products “because they come in flavors I like”; and

WHEREAS, research also shows that use of menthol cigarettes has perpetuated disparities among other groups. According to the 2018 National Survey of Drug Use and Health (NSDUH): 85% of African American smokers, 50% of Hispanic smokers and 47% of Asian American smokers use menthol cigarettes, compared to 29% of White smokers; 51% of lesbian/gay and 46% of bisexual smokers use menthol cigarettes, compared to 39% of heterosexual smokers; 45% of smokers with severe psychological distress use menthol cigarettes compared to 39% of smokers with no past month serious psychological distress; 47% of smokers living in poverty use menthol cigarettes, compared to 36% of smokers with an income exceeding twice the Federal Poverty Threshold; and 60% of pregnant smokers use menthol cigarettes⁴; and

⁴ Delnevo, CD, et al., “Banning Menthol Cigarettes: A Social Justice Issue Long Overdue,” *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

WHEREAS, by selling tobacco products, pharmacies reinforce positive social perceptions of smoking, convey tacit approval of tobacco use, and send a message that it is not dangerous to smoke; and

WHEREAS, the Tobacco and Education Research Oversight Committee for California, as well as the American Pharmacists Association, the California Pharmacists Association, and the California Medical Association have called for the adoption of state and local prohibitions of tobacco sales in drug stores and pharmacies; and

WHEREAS, electronic smoking device (or electronic cigarette (E-cigarette), vape, vape pen, e-hookah, etc.) usage by youth has been rising. Usage by high school students increased 78% between 2017-2018 with 1 in 5 high school students currently using and 1 in 20 middle school students currently using the products.⁵ The devices were available in the U.S. marketplace in the mid-2000s⁶ and by 2014, the products were the most commonly used tobacco product among middle school and high school students;⁷ and

WHEREAS, The Centers for Disease Control and Prevention also has reported a more than 800% increase in E-cigarette use among middle school and high school students between 2011 and 2015; and

WHEREAS, according to a 2021 FDA survey, more than 2 million U.S. youth currently use E-cigarettes (11.3% of high school students and 2.8% of middle school students).⁸ Among those youth, about 2 in 5 of them use E-cigarettes frequently while about 1 in 4 use E-cigarettes daily. These survey results show high rates of frequent and daily use which suggests many teens have a strong dependence on nicotine. Of those youth that indicated E-cigarette use in survey, nearly 85% of them used flavored E-cigarettes; and

WHEREAS, in 2016, it was estimated that 20.5 million (4 in 5) middle and high school students in the U.S. were exposed to advertisements for E-cigarettes from at least one source. This was a significant increase compared to 2014 and 2015 data. Furthermore, almost 17.7 million (7 in 10) youths were exposed to advertisements for E-cigarettes in retail stores in 2016, while about 2 in 5 had exposure on the Internet or on television, and almost 1 in 4 had exposure through magazines and newspapers. E-cigarette advertising has an association with e-cigarette use among youths. The advertising themes and strategies used are similar to traditional cigarette advertising tactics that have been found to appeal to youths;⁹ and

WHEREAS, a 2018 National Academy of Sciences, Engineering, and Medicine report found moderate evidence that e-cigarette use increases the frequency and intensity

⁵ Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students – United States, 2011-2018.

⁶ US Department of Health and Human Services. E-cigarette use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2016.

⁷ Arrazola RA, Singh T, Corey CG, et al. Tobacco use among middle and high school students—United States, 2011–2014.

⁸ FDA and Centers for Disease Control and Prevention (CDC) released findings from the 2021 National Youth Tobacco Survey (NYTS)

⁹ Marynak K, Gentzke A, Wang TW, Neff L, King BA. Exposure to Electronic Cigarette Advertising Among Middle and High School Students – United States, 2014-2016. MMWR Morb Mortal Wkly Rep 2018.

of smoking cigarettes in the future.¹⁰ According to a report by the Surgeon General, any use of E-cigarettes among young people is not safe even if the young people do not move on to future cigarette smoking;¹¹ and

WHEREAS, on January 13, 2020 and September 27, 2021 staff presented to City Council reports on the consideration of development of an ordinance prohibiting the sales of flavored tobacco products and E-cigarettes; and

WHEREAS, with the delay and potential repeal of SB793, City Council listed as one of 17 priorities adopted on April 17, 2021 to “Present an ordinance to City Council for consideration regulating the sale of flavored tobacco in Pacifica”; and

WHEREAS, a local prohibition against the sale and distribution of all electronic smoking devices and flavored tobacco is an effective means to reduce the availability of these products to youth, thereby protecting the public health and safety by discouraging tobacco initiation and continued use.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Added. Chapter 5.32, “Sale and Distribution of Electronic Cigarettes” is hereby added to Title 5, “Public Welfare, Morals, and Conduct” of the Pacifica Municipal Code as follows:

“Sec. 5-32.01 – Definitions

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

- a) "Distribute" or "Distribution" means the transfer by any Person other than a common carrier, at any point from the place of manufacture or thereafter to a Person who sells or offers to sell the electronic cigarette or other electronic smoking device.
- b) "Electronic Cigarette" has the meaning set forth in Section 30121 of the California Revenue and Taxation Code, as may be amended from time to time.
- c) "Person" means any individual, partnership, cooperative association, private corporation, or any other legal entity.
- d) "Tobacco Retailer" is defined as set forth in subsection (i) of Section 5-31.01 of this Code.

¹⁰ Moritz, T. (2019, March 18). Vaping: It’s All Smoke and Mirrors.

¹¹ US Department of Health and Human Services. E-cigarette use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2016.

- e) "Tobacco Retailer License" "shall mean a Tobacco Retailer that has been issued a License pursuant to Section 5-31.02 of this Code.
- f) "Sell", "Sale" or "to Sell" mean any transaction where, for any consideration, ownership is transferred from one (1) Person or entity to another including, but not limited to any transfer of title or possession for consideration, exchange or barter, in any manner or by any means

Sec. 5-32.02 – Sale or Distribution of Electronic Cigarettes Prohibited.

- a) No Person, Tobacco Retailer, or other legal entity shall Sell or offer for Sale nor Distribute any Electronic Cigarette to a Person within the geographic boundaries of the City.
- b) For Tobacco Retailers that have a valid Tobacco Retailer License, the provisions of Section 5-32.02(a) shall take effect upon expiration of the Tobacco Retailer License in effect as of the effective date of this Ordinance.

Sec. 5-32.03 – Enforcement.

- a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- b) Violations of this chapter are subject to a civil action brought by the City Attorney, punishable by a civil fine payable to the city not less than One Hundred (\$100) Dollars and not exceeding One Thousand and no/100ths (\$1,000.00) Dollars per violation.
- c) Violations of this chapter may, in the discretion of the City Attorney, be prosecuted as infractions or misdemeanors.
- d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- e) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

Sec. 5-32.04 – Public Nuisance.

Any violation of this chapter is hereby declared a public nuisance.”

Section 3. Added. Chapter 5.33, “Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited” is hereby added to Title 5, “Public Welfare, Morals, and Conduct” of the Pacifica Municipal Code as follows:

“Sec. 5-33.01 – Definitions

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

- a) "Adult" shall mean any individual 21 years of age or older.
- b) "Adult-only retailer" shall mean any retailer or businesses that allows entry only by adults onto the entire premises of the business or retailer, or that require minors to be accompanied by a parent, guardian, or another adult in order to enter the entire premises of the business or the retailer. The definition of an "adult-only retailer" does not include any retailer or business that only prohibits minors from entering certain sections, divisions, or a part of the premises that are marked or otherwise restricted as adult only and allows minors to otherwise enter the remainder of its premises unaccompanied by a parent, guardian or another adult.
- c) "Characterizing flavor" shall mean a distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aroma relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition that constitutes a characterizing flavor.
- d) "Constituent" shall mean any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.
- e) "Distinguishable" shall mean perceivable by either the sense of smell or taste.
- f) "Distribute" or "Distribution" means the transfer by any Person other than a common carrier, at any point from the place of manufacture or thereafter to a Person who sells or offers to sell the electronic cigarette or other electronic smoking device.
- g) "Flavored tobacco product" shall mean any tobacco product that contains a constituent that imparts a characterizing flavor.
- h) "Hookah Pipe" shall mean a type of water pipe used to smoke flavored tobacco products, with a long flexible tube for drawing aerosol through water.
- i) "Hookah Products" shall mean any component of a hookah pipe including, but not limited to, heads, stems, bowls, vases and hoses.

- j) "Labeling" shall mean written, printed, pictorial, or graphic matter upon any tobacco product or any of its packaging.
- k) "Packaging" shall mean a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold, or offered for sale, to a consumer.
- l) "Person" means any individual, partnership, cooperative association, private corporation, or any other legal entity.
- m) "Pharmacy" shall mean any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.
- n) "Sell", "Sale" or "to Sell" shall mean any transaction where, for any consideration, ownership is transferred from one (1) Person or entity to another including, but not limited to any transfer of title or possession for consideration, exchange or barter, in any manner or by any means.
- o) "Tobacco Product" shall have the same definition as set forth in subsection (h) of Section 5-31.01 of this Code.
- p) "Tobacco Retailer" shall have the same definition as set forth in subsection (i) of Section 5-31.01 of this Code.
- q) "Tobacco Retailer License" shall mean a Tobacco Retailer that has been issued a License pursuant to Section 5-31.02 of this Code.

Sec. 5-33.02 – Sale or Offer for Sale of Flavored Tobacco Products Prohibited.

- a) No Person, Tobacco Retailer, or other legal entity shall Sell, or offer for Sale nor Distribute, any Flavored Tobacco Product, except as provided in Section 5-33.02(c).
- b) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the Tobacco Product has or produces a Characterizing Flavor including, but not limited to, text, color, and/or images on the product's Labeling or Packaging that are used to explicitly or implicitly communicate that the Tobacco Product has a Characterizing Flavor.

- c) Tobacco Retailers that are Adult-Only Retailers that sell Flavored Tobacco Products for use with a Hookah Pipe or Hookah Products shall be exempt from the requirements of section 5-33.02(a).
- d) For Tobacco Retailers that have a valid Tobacco Retailer License, the provisions of Section 5-33.02(a) shall take effect upon expiration of the Tobacco Retailer License in effect as of the effective date of this Ordinance.

Sec. 5-33.03 – Sale or Offer for Sale of Tobacco Products by a Pharmacy Prohibited.

- a) No Pharmacy or Pharmacy employee or agent shall sell or offer for sale any Tobacco Product.
- b) No new Tobacco Retailer License may be issued to a Pharmacy after the effective date of this Ordinance.
- c) No Tobacco Retailer License may be renewed by a Pharmacy after the effective date of this Ordinance.
- d) The provisions of Section 5-33.03(a) shall take effect upon the expiration of the Pharmacy's Tobacco Retailer License in effect as of the effective date of this Ordinance.

Sec. 5-33.04 – Enforcement.

- a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- b) Violations of this chapter are subject to a civil action brought by the City Attorney, punishable by a civil fine payable to the City not less than One Hundred (\$100) Dollars and not exceeding One Thousand and no/100ths (\$1,000.00) Dollars per violation.
- c) Violations of this chapter may, in the discretion of the City Attorney, be prosecuted as infractions or misdemeanors.
- d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- e) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

Sec. 5-33.05 – Public Nuisance.

Any violation of this ordinance is hereby declared a public nuisance.

Sec. 5-33.06 – No Conflict with Federal or State Law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by federal or state law.”

Section 4. Amended. Section 5-31.03, “Limits on tobacco retailer licenses” of Chapter 31 “Tobacco Retailing” within Title 5, “Public Welfare, Morals, and Conduct” of the Pacifica Municipal Code is hereby amended by repealing and replacing Section 5-31.03 in its entirety to read as follows:

“Sec. 5-31.03. - Limits on tobacco retailer licenses.

- a) No license may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.
- b) No license may issue to authorize tobacco retailing at any location that is licensed under State law to serve alcoholic beverages for consumption on the premises (e.g., an "on-sale" license issued by the California Department of Alcoholic Beverage Control) and no license may issue to authorize tobacco retailing at any location offering food or alcoholic beverages for sale for consumption by guests or patrons on the premises. For example, tobacco retailing in bars and restaurants is prohibited. Restaurants that allow on-site consumption of alcoholic beverages that were brought to the premises by patrons shall also not be entitled to a license to engage in tobacco retailing.
- c) No license may issue to authorize tobacco retailing at a Pharmacy, as that term is defined in Section 5-33.01 of this Code.”

Section 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases be declared unconstitutional.

Section 6. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State Law.

Section 7. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its adoption and shall be published and posted as required by law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the _____ day of _____ 20____, by the following vote:

- AYES**, Councilmembers:
- NOES**, Councilmembers:
- ABSENT**, Councilmembers:
- ABSTAIN**, Councilmembers:

CITY OF PACIFICA

By: _____
Mary Bier, Mayor

ATTEST:

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

Michelle M. Kenyon, City Attorney

* * * * *

(ID # 4877) at 2/14/2022 7:00 PM City Council Regular Meeting



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

9/27/2021

SUBJECT:

Consideration of Development of an Ordinance Prohibiting the Sale of Flavored Tobacco Products and Electronic Cigarettes (“E-Cigarettes”).

RECOMMENDED ACTION:

Accept the report and provide direction to the City Manager regarding developing an ordinance prohibiting the sale of flavored tobacco products.

STAFF CONTACT:

Daniel Steidle, Chief of Police
650-738-7314
steidled@pacificapolice.org

BACKGROUND/DISCUSSION:

Concerns regarding health problems caused by smoking and second-hand smoke and the attractiveness of flavored tobacco products to minors has created public health policy discussions at the local, state and national level. In response, some local jurisdictions have adopted ordinances prohibiting the sale of flavored tobacco products.

At the request of Councilmembers Bier and O’Neill, staff presented this topic to City Council on January 13, 2020 seeking direction regarding whether to develop an ordinance prohibiting the sale of flavored tobacco products and E-Cigarettes. At the time of the presentation, SB793 was in the process of legislation. SB793 provides that a tobacco retailer, or any of the tobacco retailer’s agents or employees, shall not sell, offer for sale, or possess with the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer. An exemption to this bill allows for the sale of hookah products, if the business is properly licensed and does not allow patrons under 21 years of age to enter the business. Direction from City Council was to wait for the outcome on SB793 before determining whether to adopt a local ordinance.

On August 28, 2020, SB793 was signed into law by Governor Newsom. However, on August 31, 2020, implementation of the new law was halted when a referendum was filed with the California Secretary of State to repeal the new law. As of December 2020, the referendum had received the required number of voter signatures to place the item on the November 2022 state ballot. In the November 2022 state election, the voters of the State of California will decide whether to enact or repeal SB793.

With the delay and potential repeal of SB793, City Council listed as one of 17 priorities adopted on April 17, 2021 to “Present an ordinance to City Council for consideration regulating the sale of flavored tobacco in Pacifica.”

This report to Council provides information regarding this issue for City Council consideration. The City Manager is seeking direction from the Council whether the Council would like to consider at this time a draft ordinance prohibiting the sale of flavored tobacco products in

Attachment: Attachment A- 09-27-21 Staff Report (4877 : Introduction of an Ordinance Prohibiting the Sale of Flavored Tobacco and E-

Pacifica. This report provides information about this health issue, what other jurisdictions have done, legal costs to develop a draft ordinance, and other information relevant to the Council's consideration of this topic.

Definitions in City's Municipal Code

Discussion of a potential ordinance regarding flavored tobacco and E-Cigarette products requires definition of certain terms, including a definition of flavored tobacco products. As a baseline for a full discussion on the subject, below are some relevant definitions which currently exist in Chapter 15 of Title 4 (Smoking Prohibitions) and Chapter 31 of Title 5 (Tobacco Retailing) of the Pacifica Municipal Code relating to Tobacco:

Electronic Smoking Device

"Electronic smoking device" means an electronic and/or battery operated device, which can provide an inhalable dose of nicotine, cannabis, whether recreational or medicinal, or other vaporized liquids to the person inhaling the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for the use in the mitigation, treatment, or prevention of disease.

Tobacco or nicotine product:

"Tobacco or nicotine product" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco; and any electronic cigarette or other electronic device used to generate smoke; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

Tobacco Retailer:

"Tobacco Retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low cost samples of tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

The following definitions are not in the City's Municipal Code but are codified in Chapter 4.99 of Title 4 of the San Mateo County Code of Ordinances relating to regulation of flavored tobacco and may be helpful in the discussion of the development of an ordinance:

Flavored tobacco product: *Any tobacco product that contains a constituent that imparts a characterizing flavor.*

Constituent: *Any ingredient, substance, chemical or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packaging of the tobacco product.*

Characterizing Flavor: *A distinguishable taste or aroma, or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the*

tobacco product. Characterizing flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition that constitutes a characterizing flavor.

While the foregoing definitions are not determinative of what definitions may be used in any possible ordinance, they provide a basic understanding of what the relevant terms may mean.

Youth and Flavored Tobacco

Flavored tobacco products have been the subject of negative publicity as they are known to be attractive to minors. According to Tobacco Free Kids, a non-profit organization that works to reduce youth access to tobacco and reduce tobacco related deaths:

- Tobacco industry documents show that the tobacco companies have a long history of developing and marketing flavored tobacco products as “starter” products that attract kids.
- Flavors improve the taste and reduce the harshness of tobacco products, making them more appealing and easier for beginners to try the product and ultimately become addicted.
- Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating tobacco use.
- According to FDA’s Tobacco Product Scientific Advisory Committee (TPSAC), menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Flavors can create the false impression that a tobacco product is less harmful than it really is.

In the same publication, Tobacco-Free Kids provided the following statistics that were collected in a 2019 survey of middle and high school students:

- 81% of youth who have ever used tobacco products initiated with a flavored product.
- 72.3% of youth tobacco users have used a flavored tobacco product in the past month.
- At least two-thirds of youth tobacco users report using tobacco products “because they come in flavors I like.”

Health Issues Relating to Use of E-Cigarettes

Health issues have long been chronicled related to smoking of tobacco products and second-hand smoke, and more recently, smoking using e-cigarette devices (“vaping”).

Health issues related to tobacco E-cigarettes and ingestion of THC by vaping have gained national attention after a string of deaths and hospitalizations involving the use of these

products. The Center for Disease Control (CDC) is currently investigating the cause of these illnesses. Research into the causes of these illnesses has not concluded nor identified definitively a specific cause(s). However, the CDC reports illnesses at a much higher level occur as a result of consuming THC vaping products that are black market purchased than THC products purchased legally. While THC-only vaping products that contain cannabis oils tested at State approved facilities are legal to sell in legal cannabis retail operations, the CDC and FDA recommend that people should not use THC-containing e-cigarette, or vaping products, particularly from informal sources like friends, family, or in-person or online sellers.

A February 2019 publication by the Harvard Medical School stated advocates of vaping have promoted it as a way to help cigarette smokers to quit. The article indicated that although giving up nicotine products altogether might be the ultimate goal, there may be health benefits to a smoker who becomes a long-term vaper instead, though this remains unproven.

While the FDA has stated E-cigarettes are unhealthy, they have recommended smokers who have chosen to vape not return to cigarette smoking, but rather should seek FDA approved smoking cessation medications.

Legislation/Policy

On September 16, 2019, Governor Newsom instructed state regulators to “reduce youth vaping consumption” by finding ways to ban illegal and counterfeit vaping products. The Governor also set aside \$20 million for a vaping awareness campaign and instructed state health officials to develop signs warning against the hazards of vaping to be placed at retailers and on advertising for E-cigarettes and accessories. Governor Newsom has stated that he does not have the authority to ban flavored vaping products, but would work with legislators in 2020 to ban them. The effort to ban flavored vaping products emerged in 2020 and SB793 and was signed into law, but as stated above, is subject to a statewide vote in November 2022.

In November 2019, San Francisco voters defeated Measure C, which would have partially overturned San Francisco’s ordinance related to E-cigarettes and flavored tobacco. In San Francisco, certain e-cigarette sales are prohibited anywhere the sale of tobacco products are prohibited. In addition, flavored tobacco product sales are prohibited (including flavored E-cigarettes). Cannabis vaping products are legal to sell anywhere cannabis sales are permitted. Beginning in late January 2020, San Francisco suspended the sale of electronic cigarettes, except for those E-cigarettes that have gone through required premarket review by the FDA.

The Family Smoking Prevention and Tobacco Control Act (“Act”), passed by the United States Congress in October 2009, bans cigarettes with flavors other than menthol or tobacco. Flavored E-cigarettes, e-liquids, cigars, hookah, and chewing tobacco are unregulated. However, the Act also provides that every “new tobacco product” (defined to include any tobacco product not on the market in the United States as of February 15, 2007), must be authorized by the FDA in a premarket review before it may enter the marketplace in the United States. Where it can be shown that there is a lack of showing that permitting the sale of the product would be appropriate for the protection of the public health, the Act requires that the FDA deny the application for premarket review.

A result of a federal court ruling, E-cigarette manufacturers were required to submit applications to the FDA for product approval by September 9, 2020. The ruling allowed these products to remain on the market with a one-year grace period without being subject to FDA enforcement while applications were being reviewed.

On September, 9, 2021, the FDA announced it had processed 93% of the applications received, and had issued marketing denial orders for more than 946,000 flavored vaping products because their applications "lacked sufficient evidence that they have a benefit to adult smokers sufficient to overcome the public health threat posed by the well-documented, alarming levels of youth use of such products." A decision has not been made on the applications from Juul, the largest E-cigarette manufacturer. The FDA has advised they are processing the remaining applications, many of which are in the final stages of review.

San Mateo County Ordinances

The following San Mateo County jurisdictions prohibit the sales of flavored tobacco products:

1. Burlingame
2. East Palo Alto (Prohibits sale of all E-cigarettes)
3. Half Moon Bay
4. Menlo Park (Prohibits sale of all E-cigarettes)
5. Portola Valley
6. San Carlos
7. San Mateo (Prohibits sale of all E-cigarettes)
8. South San Francisco (Only 21+ years stores are allowed to sell e-cigarettes and flavored tobacco products)
9. Unincorporated San Mateo County (Prohibits sale of all E-cigarettes)

Legal Considerations

Under the California Constitution, a "county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (Cal Const art XI, §7). Additionally, cities are authorized by State law to enact local tobacco retail licensing ordinances and allows for the suspension or revocation of a license for a violation of any state tobacco control law. (Cal. Bus. & Prof. Code § 22971.3). As a result of the foregoing authority, a number of cities and counties in California have exercised their local legislative power to regulate businesses that sell flavored tobacco and E-cigarette products to address the significant health and safety concerns which arise from use of flavored tobacco and E-cigarettes.

While many cities and counties have adopted ordinances regulating sales of flavored tobacco and/or E-cigarettes, there have been some legal challenges to certain ordinances. As discussed above, the City and County of San Francisco received a referendum challenge, Measure C, which would have partially overturned San Francisco's ordinance related to E-cigarettes and flavored tobacco. Measure C was primarily funded by JUUL but prior to the November, 2019 election, JUUL decided to pull funding for the Measure and it failed. Additionally, the City of Livermore received a similar referendum challenge. Although the referendum had qualified for the March 3, 2020 ballot, the referendum backed by JUUL was withdrawn in October, 2019. JUUL has indicated that these withdrawals are due to a change in

new leadership causing the company to review its policies. Additionally, various tobacco retailers have sued cities that have adopted ordinances regulating flavored tobacco, including the City of Palo Alto, based on various causes of action including alleged violations of the U.S. and California Constitutions. It does not appear that any litigation to date has been successful in overturning these ordinances. However, in order to further reduce the risk of potential litigation exposure, any such ordinance regulating flavored tobacco or E-cigarettes will need to be carefully crafted with findings supporting the health and safety risks of these products.

Conclusion

Marketing flavored tobacco products towards minors and consumption of flavored tobacco products by minors has sparked many communities to adopt local ordinances prohibiting the sales of these products. The information provided in this staff report is intended to guide the Council's consideration of whether the City should develop an ordinance restricting the sales of certain flavored tobacco products. If the Council is interested in directing the City Manager to return with a draft ordinance prior to a state or federal action, then the following variables need to be clarified:

1. Should the ordinance be focused only on the prohibition of flavored tobacco sales (All flavored tobacco and flavored E-cigarette products)?
2. Should the ordinance prohibit all E-cigarette sales, both flavored and unflavored? Alternatively, should the ordinance prohibit E-cigarette sales except in only 21+ stores?
3. Should the ordinance prohibit cannabis "E-cigarette" products?
4. Other variables?

ALTERNATIVE ACTION:

Request further research/information from staff prior to providing direction regarding a potential ordinance. Council may also desire to accept the report and request no further action from staff.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

Consideration of a prohibition on the sale of flavored tobacco products and E-cigarettes in Pacifica resonates with the City Council Goal of "A Healthy and Compassionate Community."

FISCAL IMPACT:

The City Attorney's Office estimates that legal costs relating to preparation of an ordinance would vary depending on the variables identified by Council and range from \$6,000 (if Council directs staff to prepare an ordinance to only prohibit flavored tobacco) up to \$10,000 (if Council directs staff to also include in the ordinance a prohibition of cannabis e-cigarette products)

ORIGINATED BY:

Police

ATTACHMENT LIST:

None (TXT)



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

1/24/2022

SUBJECT:

Introduction of an Ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica

RECOMMENDED ACTION:

Move to waive the first reading of and introduce by title an ordinance of the City Council of the City of Pacifica adding Chapter 32, "Sale or Distribution of Electronic Cigarettes" and Chapter 33, "Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited" and amending Section 5-31.03, "Limits on Tobacco Retailer Licenses" within Chapter 31 of Title 5, "Public Welfare, Morals, and Conduct" of the Pacifica Municipal Code to Ban the Sale and Distribution of Flavored Tobacco Products, the Sale and Distribution of Electronic Cigarettes and to Prohibit the Sale of Tobacco Products at Pharmacies in the City of Pacifica

STAFF CONTACT:

Daniel Steidle, Chief of Police
650-738-7314
steidled@pacificapolice.org

BACKGROUND/DISCUSSION:

Concerns regarding health problems caused by smoking and second-hand smoke and the attractiveness of flavored tobacco products to minors has created public health policy discussions at the local, state and national level. In response, some local jurisdictions have adopted ordinances prohibiting the sale of flavored tobacco products.

At the request of Councilmembers Bier and O'Neill, staff presented this topic to City Council on January 13, 2020 seeking direction regarding whether to develop an ordinance prohibiting the sale of flavored tobacco products and electronic cigarettes (E-Cigarettes). At the time of the presentation, Senate Bill (SB) 793 was in the legislative process. SB793 provides that a tobacco retailer, or any of the tobacco retailer's agents or employees, shall not sell, offer for sale, or possess with the intent to sell or offer for sale, a flavored tobacco product or a tobacco product flavor enhancer. An exemption to this bill allows for the sale of hookah products, if the business is properly licensed and does not allow patrons under 21 years of age to enter the business. Direction from City Council was to wait for the outcome on SB793 before determining whether to adopt a local ordinance.

On August 28, 2020, SB793 was signed into law by Governor Newsom. However, on August 31, 2020, implementation of the new law was halted when a referendum was filed with the California Secretary of State to repeal the new law. As of December 2020, the referendum had received the required number of voter signatures to place the item on the November 2022 state

Attachment: Attachment B-01-24-22 Staff Report (4877 : Introduction of an Ordinance Prohibiting the Sale of Flavored Tobacco and E-

ballot. In the November 2022 state election, the voters of the State of California will decide whether to enact or repeal SB793.

With the delay and potential repeal of SB793, City Council listed as one of 17 priorities adopted on April 17, 2021 to “Present an ordinance to City Council for consideration regulating the sale of flavored tobacco in Pacifica.”

On September 27, 2021, staff presented to City Council a report on the consideration of development of an ordinance prohibiting the sale of flavored tobacco products and E-cigarettes. Staff requested direction regarding the City Council’s desire to proceed with an ordinance, and if so, what specific elements they wanted included in the ordinance. City Council directed staff to return with an ordinance containing the following:

- 1) Prohibition on the sale of flavored tobacco with an exemption for adult only business to sell hookah related tobacco products
- 2) Prohibition on the sale of E-cigarettes
- 3) Prohibition on the sale of all tobacco products at pharmacies

DISCUSSION

Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people each year.¹ It causes or contributes to many forms of cancer, as well as heart and respiratory diseases, among other health disorders. Tobacco use remains a public health crisis of the first order, in terms of the human suffering and loss of life it causes, the financial costs it imposes on society and the burdens it places on our health care system.

Youth and Flavored Tobacco

Flavored tobacco products have been the subject of negative publicity as they are known to be attractive to minors. According to Tobacco Free Kids, a non-profit organization that works to reduce youth access to tobacco and reduce tobacco related deaths:

- Tobacco industry documents show that the tobacco companies have a long history of developing and marketing flavored tobacco products as “starter” products that attract kids.
- Flavors improve the taste and reduce the harshness of tobacco products, making them more appealing and easier for beginners to try the product and ultimately become addicted.
- Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating tobacco use.

¹U.S. Department of Health and Human Services. The Health Consequences of Smoking-50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

- According to the Federal Food and Drug Administration's (FDA) Tobacco Product Scientific Advisory Committee (TPSAC), menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Flavors can create the false impression that a tobacco product is less harmful than it really is.

In the same publication, Tobacco-Free Kids provided the following statistics that were collected in a 2019 survey of middle and high school students:

- 81% of youth who have ever used tobacco products initiated with a flavored product.
- 72.3% of youth tobacco users have used a flavored tobacco product in the month preceding the survey.
- At least two-thirds of youth tobacco users report using tobacco products "because they come in flavors I like."

Flavored tobacco products promote youth initiation of tobacco use and help young occasional smokers to become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke and thereby increasing the appeal of tobacco products. As tobacco companies well know, menthol, in particular, cools and numbs the throat to reduce throat irritation and make the smoke feel smoother, making menthol cigarettes an appealing option for youth who are initiating tobacco use. Tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a "graduation strategy" to encourage new users to start with tobacco products with lower levels of nicotine and progress to products with higher levels of nicotine. It is therefore unsurprising that young people are much more likely to use menthol-, candy- and fruit-flavored tobacco products than adults, including not just cigarettes but also cigars and cigarillos.

Research also shows that use of menthol cigarettes has perpetuated disparities among different groups. According to the 2018 National Survey of Drug Use and Health (NSDUH): 85% of African American smokers, 50% of Hispanic smokers and 47% of Asian American smokers use menthol cigarettes, compared to 29% of White smokers; 51% of lesbian/gay and 46% of bisexual smokers use menthol cigarettes, compared to 39% of heterosexual smokers; 45% of smokers with severe psychological distress use menthol cigarettes compared to 39% of smokers with no past month serious psychological distress; 47% of smokers living in poverty use menthol cigarettes, compared to 36% of smokers with an income exceeding twice the Federal Poverty Threshold; and 60% of pregnant smokers use menthol cigarettes.²

Health Issues Relating to Use of E-Cigarettes

Health issues have long been chronicled related to smoking of tobacco products and second-hand smoke, and more recently, smoking using e-cigarette devices ("vaping").

Health issues related to tobacco E-cigarettes and ingestion of THC by vaping have gained national attention after a string of deaths and hospitalizations involving the use of these products. The Center for Disease Control (CDC) is currently investigating the cause of these illnesses. Research into the causes of these illnesses has not concluded nor identified definitively a specific cause(s). However, the CDC reports illnesses at a much higher level occur as a result of consuming THC vaping products that are black market purchased than THC products purchased legally. While THC-only vaping products that contain cannabis oils tested at

State approved facilities are legal to sell in legal cannabis retail operations, the CDC and FDA recommend that people should not use THC-containing e-cigarette, or vaping products, particularly from informal sources like friends, family, or in-person or online sellers.

A February 2019 publication by the Harvard Medical School stated advocates of vaping have promoted it as a way to help cigarette smokers to quit. The article indicated that although giving up nicotine products altogether might be the ultimate goal, there may be health benefits to a smoker who becomes a long-term vaper instead, though this remains unproven.

While the FDA has stated E-cigarettes are unhealthy, they have recommended smokers who have chosen to vape not return to cigarette smoking, but rather should seek FDA approved smoking cessation medications.

Youth and E-Cigarettes

Electronic smoking device (or “E-cigarette, vape, vape pen, e-hookah, etc.”) usage by youth, however, has been rising as these products become more and more prevalent. Usage by high school students increased 78% between 2017-2018 with 1 in 5 high school students currently using and 1 in 20 middle school students currently using the products.³ The devices were available in the U.S. marketplace in the mid-2000s⁴ and by 2014, the products were the most commonly used tobacco product among middle school and high school students.⁵ The Centers for Disease Control and Prevention also has reported a more than 800% increase in E-cigarette use among middle school and high school students between 2011 and 2015.

According to a 2021 FDA survey, more than 2 million U.S. youth currently use E-cigarettes (11.3% of high school students and 2.8% of middle school students).⁶ Among those youth, about 2 in 5 of them use E-cigarettes frequently while about 1 in 4 use E-cigarettes daily. These survey results show high rates of frequent and daily use which suggests many teens

have a strong dependence on nicotine. Of those youth that indicated E-cigarette use in the survey, nearly 85% of them used flavored E-cigarettes.

Almost 17.7 million (7 in 10) youths were exposed to advertisements for E-cigarettes in retail stores in 2016, while about 2 in 5 had exposure on the Internet or on television, and almost 1 in 4 had exposure through magazines and newspapers. E-cigarette advertising has an association with e-cigarette use among youths. The advertising themes and strategies used are similar to traditional cigarette advertising tactics that have been found to appeal to youths.⁷

A 2018 National Academy of Sciences, Engineering, and Medicine report found moderate evidence that E-cigarette use increases the frequency and intensity of smoking cigarettes in the future.⁸ This is significant because any use of E-cigarettes by young people, according to the U.S. Surgeon General, is not safe even if the young people do not move on to future cigarette smoking.⁹

² Delnevo, CD, et al., “Banning Menthol Cigarettes: A Social Justice Issue Long Overdue,” *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

³ Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students - United States, 2011-2018.

⁴ US Department of Health and Human Services. E-cigarette use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2016.

⁵ Arrazola RA, Singh T, Corey CG, et al. Tobacco use among middle and high school students-United States, 2011-2014. *MMWR Morb Mortal Wkly Rep* 2015.

⁶ FDA and Centers for Disease Control and Prevention (CDC) released findings from the 2021 National Youth

Tobacco Survey (NYTS).

⁷ Marynak K, Gentzke A, Wang TW, Neff L, King BA. Exposure to Electronic Cigarette Advertising Among Middle and High School Students - United States, 2014-2016. MMWR Morb Mortal Wkly Rep 2018.

⁸ Moritz, T. (2019, March 18). Vaping: It's All Smoke and Mirrors.

⁹ US Department of Health and Human Services. E-cigarette use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2016.

Proposed Ordinance

In accordance with the Council's direction, staff has prepared an ordinance to add Chapter 32 (Sale or Distribution of Electronic Cigarettes) and Chapter 33 (Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited) to Title 5 "Public Welfare, Morals, and Conduct" to the Pacifica Municipal Code.

The proposed ordinance would provide the following:

- 1) Prohibition on the sale and distribution of all flavored tobacco products within the City. There is an exemption for licensed tobacco retailers that are adult only (21 years and over) licensed retailers to sell flavored tobacco products for use with a hookah pipe or hookah Products.
- 2) Prohibition on the sale and distribution of E-cigarettes within the City.
- 3) Prohibition on the sale of all tobacco products at pharmacies within the City. This includes all businesses where pharmacies are located, regardless of whether the business sells other products in addition to prescription medication.

Per existing Pacifica Municipal Code section 5-31.02, tobacco retailers are required to possess a tobacco retail license from the City. Licenses are valid for a period of one year. In the proposed ordinance, prohibition on the sale of flavored tobacco products, E-cigarettes, and tobacco products at pharmacies would take effect upon next renewal of the permittee's tobacco retail license after the adoption of the ordinance.

The proposed ordinance would also make conforming changes to Section 5-31.03 of the Pacifica Municipal Code to indicate that no license may issue to authorize tobacco retailing at a pharmacy, as that term is defined.

Notices were sent to licensed tobacco retailers informing them of the elements of this proposed ordinance.

ALTERNATIVE ACTION:

If not introduced as presented, Council may choose to introduce this ordinance with amendments or decline to introduce this ordinance and provide staff with further direction

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

Consideration of a prohibition on the sale of flavored tobacco products and E-cigarettes in Pacifica resonates with the City Council Goal of "A Healthy and Compassionate Community."

FISCAL IMPACT:

The City Attorney costs for bringing this ordinance to adoption is \$6,000 - \$10,000.

Personnel costs relating to enforcement of this ordinance are expected to be minimal.

ORIGINATED BY:

Police

ATTACHMENT LIST:

Attachment A- 09-27-21 Staff Report (PDF)

ORDINANCE NO. (ID # 4855)

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA ADDING CHAPTER 32, "SALE OR DISTRIBUTION OF ELECTRONIC CIGARETTES" AND CHAPTER 33, "SALES OF FLAVORED TOBACCO PRODUCTS AND PHARMACY SALES OF TOBACCO PRODUCTS PROHIBITED" AND AMENDING SECTION 5-31.03, "LIMITS ON TOBACCO RETAILER LICENSES" WITHIN CHAPTER 31 OF TITLE 5 "PUBLIC WELFARE, MORALS, AND CONDUCT" OF THE PACIFICA MUNICIPAL CODE TO BAN THE SALE AND DISTRIBUTION OF FLAVORED TOBACCO PRODUCTS, THE SALE AND DISTRIBUTION OF ELECTRONIC CIGARETTES AND TO PROHIBIT THE SALE OF TOBACCO PRODUCTS AT PHARMACIES IN THE CITY OF PACIFICA

WHEREAS, tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people each year.¹ It causes or contributes to many forms of cancer, as well as heart and respiratory diseases, among other health disorders. Tobacco use remains a public health crisis of the first order, in terms of the human suffering and loss of life it causes, the financial costs it imposes on society and the burdens it places on our health care system; and

WHEREAS, according to the Federal Food and Drug Administration ("FDA"), nearly 80% of youth ages 12-17 and nearly 75% of young adults ages 18-25 who were currently tobacco users in 2014 reported that the first tobacco product they ever used was flavored;² and

WHEREAS, each day, about 2,500 children in the United States try their first cigarette; and another 400 children under 18 years of age become new regular, daily smokers. 81% of youth who have ever used a tobacco product report that the first tobacco product they used was flavored.³ Flavored tobacco products promote youth initiation of tobacco use and help young occasional smokers to become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke and thereby increasing the appeal of tobacco products. As tobacco companies well know, menthol, in particular, cools and numbs the throat to reduce throat irritation and make the smoke feel smoother, making menthol cigarettes an appealing option for youth who are initiating tobacco use. Tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a "graduation strategy" to encourage new users to start with tobacco products with lower levels of nicotine and progress to products with higher levels of nicotine. It is therefore unsurprising that young people are much more likely to use menthol-, candy- and fruit-flavored tobacco products than adults, including not just cigarettes but also cigars

¹ U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

² Villanti, A. C., Johnson, A. L., Ambrose, B. K., Cummings, K. M., Stanton, C. A., Rose, S. W., ... Hyland, A. (2017). Flavored Tobacco Product Use in Youth and Adults: Findings From the First Wave of the PATH Study (2013-2014). *American Journal of Preventive Medicine*.

³ Ibid.

and cigarillos. Data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle school and high school smokers report using flavored little cigars or flavored cigarettes. Further the Centers for Disease Control and Prevention has reported a more than 800% increase in electronic cigarette use among middle school and high school students between 2011 and 2015. Nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes are sold in thousands of flavors that appeal to youth, such as cotton candy and bubble gum; and

WHEREAS, According to Tobacco Free Kids, a non-profit organization that works to reduce youth access to tobacco and reduce tobacco related deaths:

- Tobacco industry documents show that the tobacco companies have a long history of developing and marketing flavored tobacco products as “starter” products that attract kids.
- Flavors improve the taste and reduce the harshness of tobacco products, making them more appealing and easier for beginners to try the product and ultimately become addicted.
- Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating tobacco use.
- According to the Federal Food and Drug Administration’s (FDA) Tobacco Product Scientific Advisory Committee (TPSAC), menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Flavors can create the false impression that a tobacco product is less harmful than it really is; and

WHEREAS, Tobacco-Free Kids conducted a 2019 survey of middle and high school students and determined the following based on those survey results:

- 81% of youth who have ever used tobacco products initiated with a flavored product.
- 72.3% of youth tobacco users have used a flavored tobacco product in the month preceding the survey.
- At least two-thirds of youth tobacco users report using tobacco products “because they come in flavors I like”; and

WHEREAS, research also shows that use of menthol cigarettes has perpetuated disparities among other groups. According to the 2018 National Survey of Drug Use and Health (NSDUH): 85% of African American smokers, 50% of Hispanic smokers and 47% of Asian American smokers use menthol cigarettes, compared to 29% of White smokers; 51% of lesbian/gay and 46% of bisexual smokers use menthol cigarettes, compared to 39% of heterosexual smokers; 45% of smokers with severe psychological distress use menthol cigarettes compared to 39% of smokers with no past month serious psychological distress; 47% of smokers living in poverty use menthol cigarettes, compared to 36% of smokers with an income exceeding twice the Federal Poverty Threshold; and 60% of pregnant smokers use menthol cigarettes⁴; and

⁴ Delnevo, CD, et al., “Banning Menthol Cigarettes: A Social Justice Issue Long Overdue,” Nicotine & Tobacco Research, 22(10): 1673-1675, 2020.

WHEREAS, by selling tobacco products, pharmacies reinforce positive social perceptions of smoking, convey tacit approval of tobacco use, and send a message that it is not dangerous to smoke; and

WHEREAS, the Tobacco and Education Research Oversight Committee for California, as well as the American Pharmacists Association, the California Pharmacists Association, and the California Medical Association have called for the adoption of state and local prohibitions of tobacco sales in drug stores and pharmacies; and

WHEREAS, electronic smoking device (or electronic cigarette (E-cigarette), vape, vape pen, e-hookah, etc.) usage by youth has been rising. Usage by high school students increased 78% between 2017-2018 with 1 in 5 high school students currently using and 1 in 20 middle school students currently using the products.⁵ The devices were available in the U.S. marketplace in the mid-2000s⁶ and by 2014, the products were the most commonly used tobacco product among middle school and high school students;⁷ and

WHEREAS, The Centers for Disease Control and Prevention also has reported a more than 800% increase in E-cigarette use among middle school and high school students between 2011 and 2015; and

WHEREAS, according to a 2021 FDA survey, more than 2 million U.S. youth currently use E-cigarettes (11.3% of high school students and 2.8% of middle school students).⁸ Among those youth, about 2 in 5 of them use E-cigarettes frequently while about 1 in 4 use E-cigarettes daily. These survey results show high rates of frequent and daily use which suggests many teens have a strong dependence on nicotine. Of those youth that indicated E-cigarette use in survey, nearly 85% of them used flavored E-cigarettes; and

WHEREAS, in 2016, it was estimated that 20.5 million (4 in 5) middle and high school students in the U.S. were exposed to advertisements for E-cigarettes from at least one source. This was a significant increase compared to 2014 and 2015 data. Furthermore, almost 17.7 million (7 in 10) youths were exposed to advertisements for E-cigarettes in retail stores in 2016, while about 2 in 5 had exposure on the Internet or on television, and almost 1 in 4 had exposure through magazines and newspapers. E-cigarette advertising has an association with e-cigarette use among youths. The advertising themes and strategies used are similar to traditional cigarette advertising tactics that have been found to appeal to youths;⁹ and

WHEREAS, a 2018 National Academy of Sciences, Engineering, and Medicine report found moderate evidence that e-cigarette use increases the frequency and intensity

⁵ Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students – United States, 2011-2018.

⁶ US Department of Health and Human Services. E-cigarette use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2016.

⁷ Arrazola RA, Singh T, Corey CG, et al. Tobacco use among middle and high school students—United States, 2011–2014.

⁸ FDA and Centers for Disease Control and Prevention (CDC) released findings from the 2021 National Youth Tobacco Survey (NYTS)

⁹ Marynak K, Gentzke A, Wang TW, Neff L, King BA. Exposure to Electronic Cigarette Advertising Among Middle and High School Students – United States, 2014-2016. MMWR Morb Mortal Wkly Rep 2018.

of smoking cigarettes in the future.¹⁰ According to a report by the Surgeon General, any use of E-cigarettes among young people is not safe even if the young people do not move on to future cigarette smoking;¹¹ and

WHEREAS, on January 13, 2020 and September 27, 2021 staff presented to City Council reports on the consideration of development of an ordinance prohibiting the sales of flavored tobacco products and E-cigarettes; and

WHEREAS, with the delay and potential repeal of SB793, City Council listed as one of 17 priorities adopted on April 17, 2021 to “Present an ordinance to City Council for consideration regulating the sale of flavored tobacco in Pacifica”; and

WHEREAS, a local prohibition against the sale and distribution of all electronic smoking devices and flavored tobacco is an effective means to reduce the availability of these products to youth, thereby protecting the public health and safety by discouraging tobacco initiation and continued use.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFICA DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Added. Chapter 5.32, “Sale and Distribution of Electronic Cigarettes” is hereby added to Title 5, “Public Welfare, Morals, and Conduct” of the Pacifica Municipal Code as follows:

“Sec. 5-32.01 – Definitions

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

- a) "Distribute" or "Distribution" means the transfer by any Person other than a common carrier, at any point from the place of manufacture or thereafter to a Person who sells or offers to sell the electronic cigarette or other electronic smoking device.
- b) "Electronic Cigarette" has the meaning set forth in Section 30121 of the California Revenue and Taxation Code, as may be amended from time to time.
- c) "Person" means any individual, partnership, cooperative association, private corporation, or any other legal entity.
- d) "Tobacco Retailer" is defined as set forth in subsection (i) of Section 5-31.01 of this Code.

¹⁰ Moritz, T. (2019, March 18). Vaping: It’s All Smoke and Mirrors.

¹¹ US Department of Health and Human Services. E-cigarette use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; 2016.

- e) "Tobacco Retailer License" "shall mean a Tobacco Retailer that has been issued a License pursuant to Section 5-31.02 of this Code.
- f) "Sell", "Sale" or "to Sell" mean any transaction where, for any consideration, ownership is transferred from one (1) Person or entity to another including, but not limited to any transfer of title or possession for consideration, exchange or barter, in any manner or by any means

Sec. 5-32.02 – Sale or Distribution of Electronic Cigarettes Prohibited.

- a) No Person, Tobacco Retailer, or other legal entity shall Sell or offer for Sale nor Distribute any Electronic Cigarette to a Person within the geographic boundaries of the City.
- b) For Tobacco Retailers that have a valid Tobacco Retailer License, the provisions of Section 5-33.02(a) shall take effect upon expiration of the Tobacco Retailer License in effect as of the effective date of this Ordinance.

Sec. 5-32.03 – Enforcement.

- a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- b) Violations of this chapter are subject to a civil action brought by the City Attorney, punishable by a civil fine payable to the city not less than One Hundred (\$100) Dollars and not exceeding One Thousand and no/100ths (\$1,000.00) Dollars per violation.
- c) Violations of this chapter may, in the discretion of the City Attorney, be prosecuted as infractions or misdemeanors.
- d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- e) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

Sec. 5-32.04 – Public Nuisance.

Any violation of this chapter is hereby declared a public nuisance.”

Section 3. Added. Chapter 5.33, “Sales of Flavored Tobacco Products and Pharmacy Sales of Tobacco Products Prohibited” is hereby added to Title 5, “Public Welfare, Morals, and Conduct” of the Pacifica Municipal Code as follows:

“Sec. 5-33.01 – Definitions

For the purposes of this chapter, the following definitions shall govern unless the context clearly requires otherwise:

- a) "Adult" shall mean any individual 21 years of age or older.
- b) "Adult-only retailer" shall mean any retailer or businesses that allows entry only by adults onto the entire premises of the business or retailer, or that require minors to be accompanied by a parent, guardian, or another adult in order to enter the entire premises of the business or the retailer. The definition of an "adult-only retailer" does not include any retailer or business that only prohibits minors from entering certain sections, divisions, or a part of the premises that are marked or otherwise restricted as adult only and allows minors to otherwise enter the remainder of its premises unaccompanied by a parent, guardian or another adult.
- c) "Characterizing flavor" shall mean a distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product. Characterizing flavors include, but are not limited to, tastes or aroma relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition that constitutes a characterizing flavor.
- d) "Constituent" shall mean any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.
- e) "Distinguishable" shall mean perceivable by either the sense of smell or taste.
- f) "Distribute" or "Distribution" means the transfer by any Person other than a common carrier, at any point from the place of manufacture or thereafter to a Person who sells or offers to sell the electronic cigarette or other electronic smoking device.
- g) "Flavored tobacco product" shall mean any tobacco product that contains a constituent that imparts a characterizing flavor.
- h) "Hookah Pipe" shall mean a type of water pipe used to smoke flavored tobacco products, with a long flexible tube for drawing aerosol through water.
- i) "Hookah Products" shall mean any component of a hookah pipe including, but not limited to, heads, stems, bowls, vases and hoses.

- j) "Labeling" shall mean written, printed, pictorial, or graphic matter upon any tobacco product or any of its packaging.
- k) "Packaging" shall mean a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold, or offered for sale, to a consumer.
- l) "Person" means any individual, partnership, cooperative association, private corporation, or any other legal entity.
- m) "Pharmacy" shall mean any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.
- n) "Sell", "Sale" or "to Sell" shall mean any transaction where, for any consideration, ownership is transferred from one (1) Person or entity to another including, but not limited to any transfer of title or possession for consideration, exchange or barter, in any manner or by any means.
- o) "Tobacco Product" shall have the same definition as set forth in subsection (h) of Section 5-31.01 of this Code.
- p) "Tobacco Retailer" shall have the same definition as set forth in subsection (i) of Section 5-31.01 of this Code.
- q) "Tobacco Retailer License" shall mean a Tobacco Retailer that has been issued a License pursuant to Section 5-31.02 of this Code.

Sec. 5-33.02 – Sale or Offer for Sale of Flavored Tobacco Products Prohibited.

- a) No Person, Tobacco Retailer, or other legal entity shall Sell, or offer for Sale nor Distribute, any Flavored Tobacco Product, except as provided in Section 5-33.02(c).
- b) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the Tobacco Product has or produces a Characterizing Flavor including, but not limited to, text, color, and/or images on the product's Labeling or Packaging that are used to explicitly or implicitly communicate that the Tobacco Product has a Characterizing Flavor.

- c) Tobacco Retailers that are Adult-Only Retailers that sell Flavored Tobacco Products for use with a Hookah Pipe or Hookah Products shall be exempt from the requirements of section 5-33.02(a).
- d) For Tobacco Retailers that have a valid Tobacco Retailer License, the provisions of Section 5-33.02(a) shall take effect upon expiration of the Tobacco Retailer License in effect as of the effective date of this Ordinance.

Sec. 5-33.03 – Sale or Offer for Sale of Tobacco Products by a Pharmacy Prohibited.

- a) No Pharmacy or Pharmacy employee or agent shall sell or offer for sale any Tobacco Product.
- b) No new Tobacco Retailer License may be issued to a Pharmacy after the effective date of this Ordinance.
- c) No Tobacco Retailer License may be renewed by a Pharmacy after the effective date of this Ordinance.
- d) The provisions of Section 5-33.03(a) shall take effect upon the expiration of the Pharmacy's Tobacco Retailer License in effect as of the effective date of this Ordinance.

Sec. 5-33.04 – Enforcement.

- a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.
- b) Violations of this chapter are subject to a civil action brought by the City Attorney, punishable by a civil fine payable to the City not less than One Hundred (\$100) Dollars and not exceeding One Thousand and no/100ths (\$1,000.00) Dollars per violation.
- c) Violations of this chapter may, in the discretion of the City Attorney, be prosecuted as infractions or misdemeanors.
- d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- e) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

Sec. 5-33.05 – Public Nuisance.

Any violation of this ordinance is hereby declared a public nuisance.

Sec. 5-33.06 – No Conflict with Federal or State Law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by federal or state law.”

Section 4. Amended. Section 5-31.03, “Limits on tobacco retailer licenses” of Chapter 31 “Tobacco Retailing” within Title 5, “Public Welfare, Morals, and Conduct” of the Pacifica Municipal Code is hereby amended by repealing and replacing Section 5-31.03 in its entirety to read as follows:

“Sec. 5-31.03. - Limits on tobacco retailer licenses.

- a) No license may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.
- b) No license may issue to authorize tobacco retailing at any location that is licensed under State law to serve alcoholic beverages for consumption on the premises (e.g., an "on-sale" license issued by the California Department of Alcoholic Beverage Control) and no license may issue to authorize tobacco retailing at any location offering food or alcoholic beverages for sale for consumption by guests or patrons on the premises. For example, tobacco retailing in bars and restaurants is prohibited. Restaurants that allow on-site consumption of alcoholic beverages that were brought to the premises by patrons shall also not be entitled to a license to engage in tobacco retailing.
- c) No license may issue to authorize tobacco retailing at a Pharmacy, as that term is defined in Section 5-33.01 of this Code.”

Section 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases be declared unconstitutional.

Section 6. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State Law.

Section 7. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its adoption and shall be published and posted as required by law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the _____ day of _____ 20____, by the following vote:

- AYES**, Councilmembers:
- NOES**, Councilmembers:
- ABSENT**, Councilmembers:
- ABSTAIN**, Councilmembers:

CITY OF PACIFICA

By: _____
Mary Bier, Mayor

ATTEST:

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

Michelle M. Kenyon, City Attorney

Attachment: Attachment B-01-24-22 Staff Report (4877 : Introduction of an Ordinance Prohibiting the Sale of Flavored Tobacco and E-

* * * * *

(ID # 4855) at 1/24/2022 7:00 PM City Council Regular Meeting

Attachment: Attachment B-01-24-22 Staff Report (4877 : Introduction of an Ordinance Prohibiting the Sale of Flavored Tobacco and E-



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

2/14/2022

SUBJECT:

Vision 2025 & Beyond – Fiscal Sustainability Analysis, Potential Revenue Options, and Ballot Measure Analysis & Communications Services

RECOMMENDED ACTION:

Receive, discuss, and provide direction to the City Manager on the updated 10 Year Financial Forecast and Options to Maintain the Current Level of City Services.

STAFF CONTACT:

Kevin Woodhouse, City Manager
(650) 738-7409
kwoodhouse@pacifica.gov

INTRODUCTION:

The Vision 2025 & Beyond - Fiscal Sustainability Analysis, Potential Revenue Options and Ballot Measure Analysis and Communication Services was scheduled for presentation at the City Council meeting held on January 24, 2022. The staff report was published as part of the agenda and was ready to be presented to the Council when a technical issue with the live stream broadcast forced the early adjournment of the meeting. This staff report serves to continue this item, already in progress, at the February 14, 2022 City Council meeting with the same materials.

At the December 13, 2021, City Council meeting, staff presented an update to the City Council on the Vision 2025 & Beyond Strategic Financial Sustainability Study. This study, which was identified by the City Council as a priority beginning in Fiscal Year 2019-20, has the following Purpose Statement as refined by the City Council on October 12, 2020:

The Purpose of the Pacifica Vision 2025 & Beyond project is to tell Pacifica’s story of the many priority infrastructure projects, and enhanced programs and services envisioned for Pacifica’s mid to long-term future that are equitable and inclusive and will help all Pacificans thrive, and to articulate the City’s financial opportunities, challenges, and strategies to achieve this vision and resiliency.

As presented in December 2021, the study includes these five components:

1. Financial Forecasting and Revenue Enhancement Strategies
2. Economic Opportunities Study
3. Pacifica Marketing Study & Marketing Plan
4. Public Engagement and Surveys
5. Public Information Final Report

At the December 2021 meeting, the Council received reports and focused on items II (Economic Opportunities Study) and III (Pacifica Marketing Study & Marketing Plan), provided input on the Statement of Work for the Economic Opportunities Study, and approved the City Manager’s

recommendation to release a Request for Proposals for this component in January, 2022. At the same meeting, the City Council, together with the Economic Development Committee in a joint study session, provided feedback on the Pacifica Marketing Study prepared by Creative Digital Agency (CDA) and approved the City Manager's recommendation to develop an agreement with CDA for a 2-year marketing plan and return to City Council in early 2022 for consideration of approval of that agreement.

Since that meeting, Staff has continued work on these two components of Vision 2025 & Beyond. The Request for Proposals (RFP) for the Economic Opportunities Study has been updated to include the suggestions and additions from the City Council. The RFP has been issued on January 28, 2022 and proposals are due on March 7, 2022. The Shop Pacifica program continues to move ahead in its "soft launch" phase, with almost \$2,000 being added to date to the Pacifica economy through Gift Card purchases that are starting to be redeemed by recipients at merchants in Pacifica (15 signed up to date).

Finally, at the December 2021 meeting, staff reported that the City's Chief Fiscal Sustainability Officer had begun working with City Staff, HdL (the City's Revenue Consultant), and Financial Consultants, to refine a preliminary 10-Year Financial Forecast to return to the City Council in early 2022 to present the forecast, alongside an initial assessment of Revenue Enhancement Strategies (including voter-approved revenue measures) that might be feasible to help maintain, or enhance, the current level of City services, as well as fund Capital Projects and infrastructure needs in Pacifica.

Therefore, the purpose of tonight's Vision 2025 & Beyond discussion is to present the refinements of the preliminary 10-Year Financial Forecast to clearly communicate the City's fiscal sustainability challenges and to discuss a variety of potential revenue measures that have been preliminarily evaluated for their revenue-generating capacity. **The City Manager is seeking City Council direction about which potential revenue measures should advance to the next phase of feasibility assessment, including engagement of a consultant for ballot measure analysis and communications services.**

BACKGROUND:

Updated 10 Year Financial Forecast

During the 2021-22 Budget process, the City Council was presented with a 10 Year Financial Plan. That plan has been updated by the Chief Fiscal Sustainability Officer for tonight's Vision 2025 & Beyond discussion and is attached to this report as **Attachment A**.

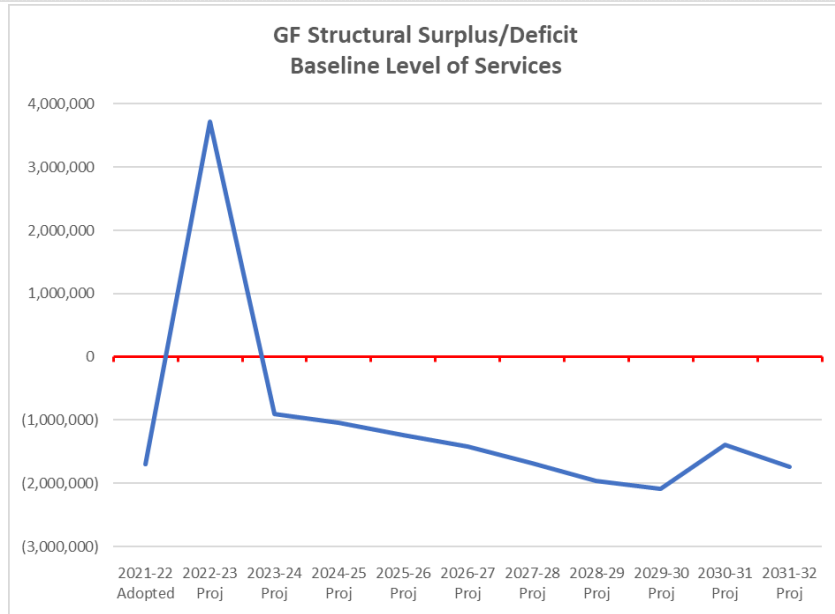
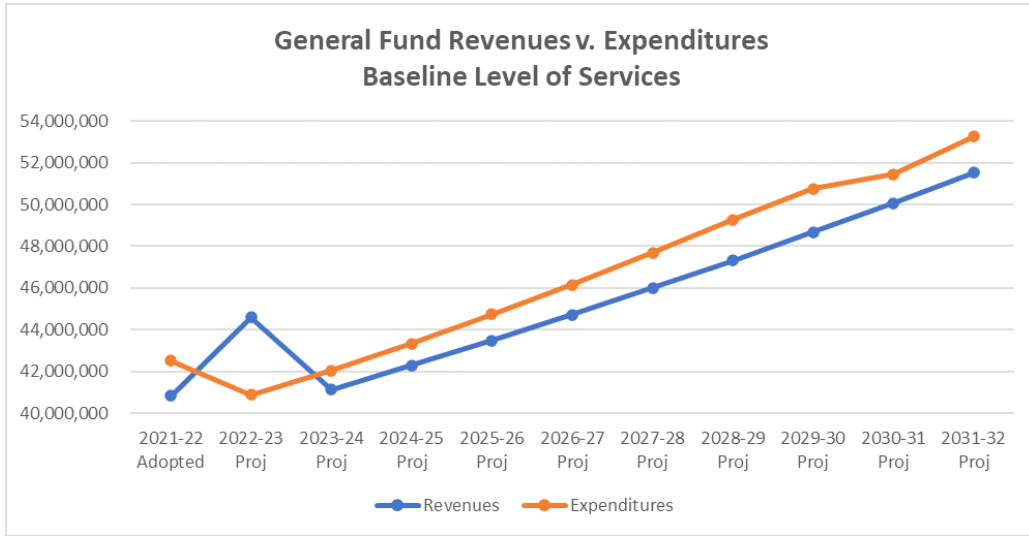
The updated plan considers current revenue and expenditure trends at the mid-year mark. It also adjusts for PERS Retirement and Year 2 labor union MOU expenses, removes limited-term positions in the budget, assumes annual debt service for the Civic Center Renovation project, does *not* assume any ongoing General Fund contribution towards the capital improvement program, and reflects a 14% increase in PERS unfunded liability from the prior year.

With these updates, the City's Operating Budget that covers ongoing services to the community will remain in balance during the current 2021-22 fiscal year and the upcoming 2022-23 fiscal year. This is in part due to the availability of American Recovery Plan Act (ARPA) funds that offset losses of City revenues during the Covid pandemic plus the payment of In Lieu Vehicle License Fees from the State. However, these funds will be spent by the end of the 2022-23 fiscal year resulting in a financial deficit in future years.

Projected Financial Deficit Starting in 2023-24 Fiscal Year

Starting in the third year of the financial forecast, the City will experience a shortfall in funds to maintain the current level of City Services. This shortfall is projected to be \$0.9 Million in 2023-

24, growing to \$1.1 Million the following year (2024-25) and reaches \$2.1 Million in FY 2029-30, as summarized in the charts and table below.



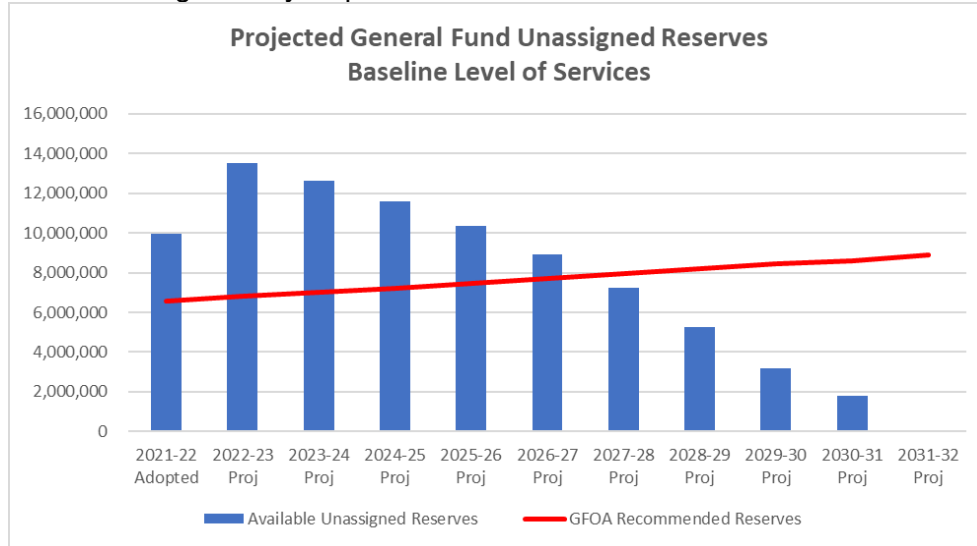
<u>Fiscal Year</u>	<u>Projected Deficit</u>
2023-24	905,502
2024-25	1,045,390
2025-26	1,238,878
2026-27	1,421,768
2027-28	1,688,929
2028-29	1,957,370
2029-30	2,082,106
2030-31	1,384,675
2031-32	1,742,239

Budget Deficit Impact on General Fund Reserves in Future Years

If the structural budget deficit beginning in the 2023-24 fiscal year remains unaddressed, the City’s unassigned General Fund Reserves will continue to shrink and eventually fall below the Government Finance Officers Association (GFOA) recommendation for government entities of

no less than two months of regular general fund operating expenditures.

Maintaining sufficient reserves is necessary for fiscal and operational sustainability, which becomes especially critical in the current uncertain economic situation. Therefore, staff always strives to go above the minimum recommendation for General Fund undesignated fund balance. The prospect of it falling below the minimum threshold guidelines presents a significant challenge to maintaining the City’s operations and is not sustainable.



ADDRESSING BUDGET CHALLENGES & PROJECTED DEFICIT

Actions and Strategies to Address Budget Challenges

The City of Pacifica has historically worked to reduce expenditures in the Annual Budget to live within existing revenue means. This has meant cutting positions and managing salary growth to the point where the organization and capacity for service provision is inadequate to meet the needs and desires of the community.

There are components of the Vision 2025 & Beyond study that will focus on revenue enhancement strategies through non-tax methods, such as economic development and marketing, including efforts to develop additional hotel capacity and increase visitation to improve Transient Occupancy Tax and Sales Tax revenues. In addition, Staff will be working on updating User Fees and Development Impact Fees in the City. This work will help improve the City’s financial sustainability in the years to come.

However, the reality is that, even with these non-tax revenue enhancement strategies, the City is facing a projected deficit in the near term. Continued revenue enhancements are needed to 1) maintain the current level of services, as well as 2) tackle organizational capacity and retention challenges, and 3) address neglected infrastructure needs and any additional operational costs.

To keep Pacifica structurally sustainable at a level of expected service delivery and capital improvement project funding envisioned by the community, it is anticipated the Council and the community will need to consider voter-approved revenue measures in the future as a necessary strategy.

POTENTIAL REVENUE MEASURES

Potential Revenue Measures

The December 2021 presentation about Vision 2025 & Beyond mentioned this next step of analyzing some of the City’s key revenues to determine what the financial impact would be of bringing certain revenues to be on par with other agencies in the region.

With the assistance of the City’s tax consultant, HdL, staff has identified several potential revenue sources that could be considered by the Council to address the City’s revenue shortfall in future years. They are summarized in the table below, followed by a more detailed description.

<u>Revenue Option</u>	<u>Annual Revenue (Net Increase)</u>
UUT - Broaden Base	3,100,000
UUT - Cut Rate to 5%, Broaden Base	2,000,000
Local Sales Tax @ .50c	2,600,000
Local Sales Tax @ .25c	1,300,000
Business License Update	500,000
TOT - 12% to 15%	350,000
TOT - 12% to 14%	280,000

Utility User Tax (\$2 Million to \$3.1 Million annually)

Cities may impose a Utility User Tax (UUT) on utility services including electricity, gas, water, sewer, and telecommunications. Utility companies are responsible for collecting the taxes and remitting them to the City. Utility user tax rates throughout the State range from 1 % to 11%.

The City of Pacifica has a Utility User Tax (UUT) of 6.5% that is charged on electricity and gas. In the 2019-20 fiscal year, the UUT generated \$1.7 Million in revenues.

Currently, the UUT is not collected on telecommunications (phone and cable TV), prepaid wireless, or water. In other cities, these utilities are also subject to UUT. If these categories were added to the UUT in Pacifica at the current 6.5% UUT rate, an additional \$3.1 Million in revenue would be received.

Alternatively, the City could broaden the categories of the UUT but lower the tax rate from 6.5% to 5%. This combination of broader categories but a lower tax rate would increase revenue by \$2 Million per year.

Local Sales Tax (\$1.2 Million to \$2.4 Million annually)

The City of Pacifica currently receives one percent of the sales and use taxes from the State. This generates \$2.6 Million per year in revenues.

Cities may impose sales tax rates to be added to the statewide "base". The add on rates are "transactions and use taxes" and are allocated to the jurisdiction where the taxed product is received. Over 100 of the 482 cities in California have enacted local transactions and use taxes of up to one percent. Under state law, the maximum combination of transactions and use tax rates in any location may not exceed two percent.

According to estimates provided by HdL, if Pacifica were to adopt a Local Add-On Sales Tax (Transactions & Use Tax) of one-half cent it would generate approximately \$2.6 Million per year.

A quarter cent Local Add On Sales Tax would generate approximately \$1.3 Million per year in Pacifica.

Business License Tax (\$500,000 annually)

The Business License Tax (BLT) is charged to anyone doing business in a City. It is a common revenue used to fund City services throughout California with over 450 of the 482 cities in California levying a BLT. The BLT recognizes the link between City services and infrastructure and the use of these by local businesses.

Pacifica requires all businesses operating within the City to obtain a business license and pay business license tax per section 3-1.101 of the City's Municipal Code. This revenue is locally controlled and funds essential services. The City currently issues over 2,100 business licenses annually and, over the last five fiscal years, has generated an average of \$440,000 in business license tax revenues per fiscal year.

HdL has done some initial analysis of the City's Business License Tax Ordinance. This includes suggestions on updating the language of the ordinance, reducing the number of tax categories from 7 to 4, and updating the tax rates. The current tax structure has been in place since 1984 and is complex. There are seven different classifications with different rates that are not structured along industry lines. As a result some businesses pay a flat \$40, plus 30c per one thousand dollars of annual gross receipts over \$25,000, while other business license tax classifications have the business pay a minimum of \$100, plus 77c per one thousand dollars of annual gross receipts over \$25,000. The recommendation to charge different rates based on business activity would simplify the number of business classifications, improve equitability and increase business tax revenue. Less complexity in the tax structure may also lead to increased business attraction and retention. By reforming the tax structure, the City will make it easier for businesses to correctly report their taxes and provide better fiscal stability to the City and make it more in-line with the neighboring cities that have recently revisited their business license tax structure.

The proposed changes are estimated to generate up to an additional \$500,000 per year in business license tax revenue.

Transient Occupancy Tax (\$280,000 to \$350,000 annually)

Transient Occupancy Tax (TOT) (also known as a Hotel Tax) is charged as a percentage of a room rate to people who occupy a hotel, motel, inn, or other forms of transient lodgings (short-term rentals) for thirty (30) days or less. The tax is collected by the lodging operator and is remitted to the City by the lodging operator. It is a revenue that has been used to fund City services throughout California and has been adopted in 430 of the 482 cities in the State. Pacifica's rate is currently 12%, totaling approximately \$1.7 Million per year in TOT revenue.

Many cities raised their TOT rates from 12% to 14% over the past 4 years. TOT rates have also gone beyond 14% in two local cities - Half Moon Bay (15% effective on July 1, 2022) and Palo Alto (15.5%). Staff is also aware that additional cities are considering TOT rate increases and other revenue measures to address their projected budget shortfalls at their next elections.

If Pacifica increased its TOT tax rate from 12% to 14%, that change would bring in an additional \$280,000 per year in revenue. Increasing the TOT tax rate from 12% to 15% would bring in an added \$350,000 per year.

Other Revenue Measures

In addition to the revenue options detailed above, the Council may also consider other revenue measures to address the City's projected budgetary deficit or other priority service level

enhancements. These options could include a General Obligation Bond to fund one or multiple major infrastructure projects, such as for street rehabilitations, new libraries, and the Beach Boulevard Infrastructure Resiliency Project. The City Council may identify other needs and measures to achieve those needs, such as an idea raised by Councilmember O'Neill about a special hotel tax to help fund playing field improvements in collaboration with the Pacifica School District, so the City Manager is seeking input on any of these other types of ideas.

General Taxes and Special Taxes

The provisions of the State Constitution adopted as part of Proposition 13 in 1978, and Proposition 218 in 1996 define local taxes as either "General Taxes" or "Special Taxes". This language requires that *"local governments may not impose, increase, or extend: (1) any general tax, unless approved by a majority vote at a general election; or (2) any special tax, unless approved by a two-thirds vote."*

Therefore, whether a measure is a General Tax or Special Tax is a critical point to analyze in preparing for the feasibility of a voter-approved ballot measure. The UUT, BLT, TOT, and Local Sales Tax measures described above can be structured as General Taxes requiring majority vote only. Such measures also have to occur in a General Election. The next General Election in Pacifica will be held in November 2022, followed by November 2024.

RESTORING CITY SERVICES, ENHANCING SERVICES & CAPITAL PROJECT NEEDS

Given the size of the City's projected financial shortfall starting in 2023-24 to maintain the current level of City Services, Staff has not yet explored the added cost of restoring City Services cut in prior years, enhancing the current level of City services, or funding major infrastructure and Capital Improvement Project needs. The Vision 2025 & Beyond study process will include public engagement about what types and levels of City services and capital projects the City Council and the community envision for Pacifica's future. This vision for Pacifica's future will inform what types of voter-approved revenue measures, combined with non-tax revenue enhancement strategies, will comprise the best financial sustainability strategy that is acceptable to the community.

ALTERNATIVES TO POTENTIAL REVENUE MEASURES

Based on staff's projections, the ongoing need to continue the current level of City services for the Pacifica community and maintain the minimum level of reserves for the next ten years of the financial outlook is estimated at \$1.9 million to \$2.3 million per year.

This Financial Outlook projection was prepared to reflect the current level of services and operations. The projection does not take into account challenges that face Pacifica today. These challenges include the City's organizational capacity being severely hampered by limited staffing resources that are significantly leaner than other comparable agencies and compensation levels that are lower than other comparable agencies. Exceptionally lean staffing and compensation levels below median of comparable agencies do not make for a sustainable organizational model.

If voter-approved revenue measures are not approved in the future, whether or not in combination with non-tax revenue enhancements, to close the upcoming gap in revenues compared to projected expenses, the City most likely will be faced with repeating its history of service and personnel reductions. Since the City is already very lean, such reductions likely will require very noticeable structural service-level changes.

NEXT STEPS

At tonight's meeting, the City Manager is seeking the Council's direction on which potential revenue measures should advance to the next phase of feasibility assessment. Once Staff has received that direction, work will continue advancing this matter for discussion with the Council and the community. That process will include the following steps:

1. Further work on assessing the feasibility of placing one or more revenue measures on the November 2022 ballot.
2. Retaining a firm to work with the City on educational outreach and public engagement on the potential revenue measure.
3. Returning to the City Council for a decision on moving ahead with a revenue measure - most likely in April.
4. If the Council moves ahead with a revenue measure, developing the proposed ordinance(s) and ballot measures on a timeline to meet County ballot requirements - likely in May or June.

ALTERNATIVE ACTION:

The City Council may decide to direct staff to take alternative actions to address the projected City budget deficit starting in the 2023-24 fiscal year. These may include:

1. One or more of the alternatives and options described earlier in the **Alternatives to Potential Revenue Measures** section of this report.
2. The City Council may want to pursue additional revenue options to address needs beyond the current level of services described in the **Restoring City Services, Enhancing City Services & Capital Project Needs** section of the report.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

This item advances the Vision 2025 & Beyond program and furthers the City Council's Strategic Goals and the City's efforts towards **Fiscal Sustainability**.

FISCAL IMPACT:

Funding to continue work on the Vision 2025 & Beyond study is included in the 2021-22 budget. As work commences to further develop any potential revenue measure for the November 2022 ballot, including retaining a firm to assist with education, outreach, and polling, staff will assess whether there is a need for additional funding for this work at that time.

ORIGINATED BY:

City Manager's Office

ATTACHMENT LIST:

Attachment A - Long-Term Financial Forecast (PDF)

City of Pacifica
 Long Term Financial Forecast Table and Assumptions
 General Fund

Attachment A

REVENUE	2021-2022 Adopted Budget	2022-2023 Projected	2023-2024 Projected	2024-2025 Projected	2025-2026 Projected	2026-2027 Projected	2027-2028 Projected	2028-2029 Projected	2029-2030 Projected	2030-2031 Projected	2031-2032 Projected
Property Tax	\$ 13,968,964	\$ 14,527,723	\$ 15,108,831	\$ 15,713,185	\$ 16,341,712	\$ 16,995,381	\$ 17,675,196	\$ 18,382,204	\$ 19,117,492	\$ 19,882,191	\$ 20,677,479
Sales Tax	2,559,413	2,610,601	2,688,919	2,769,587	2,852,674	2,938,255	3,026,402	3,117,194	3,210,710	3,307,032	3,406,243
Transient Occupancy Tax	1,750,423	1,767,927	1,812,125	1,857,429	1,903,864	1,951,461	2,000,247	2,050,254	2,101,510	2,154,048	2,207,899
Other Taxes	5,439,306	7,595,259	8,235,736	8,441,629	8,652,670	8,868,987	9,090,711	9,317,979	9,550,928	9,789,702	10,034,444
Department/Program Revenues	10,540,342	10,751,149	10,966,172	11,185,495	11,409,205	11,637,389	11,870,137	12,107,540	12,349,691	12,596,684	12,848,618
Transfer In-Other	2,150,898	2,151,000	2,151,000	2,151,000	2,151,000	2,151,000	2,151,000	2,151,000	2,151,000	2,151,000	2,151,000
Excess ERAF	88,000	88,000	88,000	88,000	88,000	88,000	88,000	88,000	88,000	88,000	88,000
Grants	133,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
ARPA	4,205,718	5,015,305									
Total Annual Revenue	\$ 40,836,064	\$ 44,606,964	\$ 41,150,784	\$ 42,306,324	\$ 43,499,126	\$ 44,730,472	\$ 46,001,694	\$ 47,314,170	\$ 48,669,331	\$ 50,068,657	\$ 51,513,683
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EXPENDITURES	2020-2021 Adopted Budget	2022-2023 Projected	2023-2024 Projected	2024-2025 Projected	2025-2026 Projected	2026-2027 Projected	2027-2028 Projected	2028-2029 Projected	2029-2030 Projected	2030-2031 Projected	2031-2032 Projected
Salaries And Benefits	\$ 27,055,654	\$ 28,163,609	\$ 29,097,230	\$ 30,166,374	\$ 31,292,731	\$ 32,480,239	\$ 33,733,140	\$ 35,055,999	\$ 36,453,732	\$ 37,931,631	\$ 39,495,399
Material/Supplies/Maintenance	4,388,613	4,445,165	4,499,230	4,555,470	4,612,414	4,670,069	4,728,445	4,787,550	4,847,395	4,907,987	4,969,337
Contract Services	5,992,909	6,147,052	6,289,228	6,446,459	6,607,620	6,772,811	6,942,131	7,115,684	7,293,576	7,475,916	7,662,814
Debt Service	1,959,943	1,986,495	2,030,598	2,043,411	2,085,239	2,089,121	2,146,907	2,172,307	2,016,734	997,798	988,373
Op. Transfers Out	139,727	140,000	140,000	140,000	140,000	140,000	140,000	140,000	140,000	140,000	140,000
Total Annual Operating Expenditures	\$ 39,536,846	\$ 40,882,321	\$ 42,056,286	\$ 43,351,714	\$ 44,738,003	\$ 46,152,240	\$ 47,690,623	\$ 49,271,541	\$ 50,751,437	\$ 51,453,332	\$ 53,255,922
Capital Transfers	\$ 3,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total General Fund Expenditures	\$ 42,536,846	\$ 40,882,321	\$ 42,056,286	\$ 43,351,714	\$ 44,738,003	\$ 46,152,240	\$ 47,690,623	\$ 49,271,541	\$ 50,751,437	\$ 51,453,332	\$ 53,255,922
GF Structural Surplus/Deficit	(1,700,782)	3,724,643	(905,502)	(1,045,390)	(1,238,878)	(1,421,768)	(1,688,929)	(1,957,370)	(2,082,106)	(1,384,675)	(1,742,239)
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Projected Ending Fund Balance	\$ 14,800,591	\$ 18,525,234	\$ 17,619,731	\$ 16,574,342	\$ 15,335,464	\$ 13,913,696	\$ 12,224,767	\$ 10,267,397	\$ 8,185,291	\$ 6,800,616	\$ 5,058,377
Non-Spendable and Assigned	\$ 9,111,980	\$ 9,081,832	\$ 9,199,229	\$ 9,328,771	\$ 9,467,400	\$ 9,608,824	\$ 9,762,662	\$ 9,920,754	\$ 10,068,744	\$ 10,138,933	\$ 10,319,192
Unassigned Fund Balance	\$ 5,688,612	\$ 9,443,402	\$ 8,420,503	\$ 7,245,570	\$ 5,868,064	\$ 4,304,873	\$ 2,462,105	\$ 346,643	\$ (1,883,453)	\$ (3,338,317)	\$ (5,260,816)
Unassigned balance as % of Op. Exp.	14.4%	23.1%	20.0%	16.7%	13.1%	9.3%	5.2%	0.7%	-3.7%	-6.5%	-9.9%
Total Available Reserves (Unassigned + 10% Policy Designation)	9,942,296	13,531,634	12,626,131	11,580,742	10,341,864	8,920,096	7,231,167	5,273,797	3,191,691	1,807,016	64,777
Available balance as % of Op. Exp	25.1%	33.1%	30.0%	26.7%	23.1%	19.3%	15.2%	10.7%	6.3%	3.5%	0.1%

Attachment: Attachment A - Long Term Financial Forecast (4886 : Vision 2025 & Beyond - Financial

LONG TERM FINANCIAL FORECAST ASSUMPTIONS

The long-term financial model features a set of assumptions for both revenues and expenditures based on conservative projections. The scenario presented represents conservative levels of revenue based on information available now. These projections are preliminary, and staff will further refine the figures presented in this report once new financial information becomes available and FY 2021-22 Mid-Year Budget Review work is done in the next couple of months.

Revenue Assumptions

1. **Property Tax** assumes a 4% annual increase, which is in line with the past years' collections and consistent with the anticipated increases in the assessed market value of recently sold properties.
2. **Sales Tax** assumes a 2% increase for FY2022-23 based on recent projections by HdL projections (City's Sales Tax advisor) and a 3% in the following years considering local economic recovery from the pandemic and continuing growth in online sales.
3. **Transient Occupancy Tax** assumes a modest 1% increase for the next fiscal year and a 2% increase after that, assuming a gradual return to pre-pandemic travel.
4. **Other Taxes** include Business License and Utility Users Taxes (UUT), cannabis operations tax, and Vehicle License Fees (VLF). Cannabis Tax includes additional revenues of \$0.8M in the upcoming year, based on projected receipts from two additional marijuana businesses. Staff assumed a 2% increase in this category per year and also included the \$2.1M in VLF reimbursement from the State expected in FY 2022-23 and another \$2.6M in the following year.
5. **Departmental or Program revenues** include building, planning and other permits, recreation revenues, and rentals. This category is projected to increase by 2% based on the current service activity level that is anticipated to continue.
6. No changes were assumed for the General Fund portion of **Excess ERAF**, which will continue funding the Disaster Fund as per previously approved Council policy, leaving only \$88K in General Fund to provide local non-profit grants, nor any new ongoing **Grants** are anticipated. The **Operating Transfer In/Out** category also remains the same. However, this figure is likely to change once the new Cost Allocation Plan is complete.

Expenditures Assumptions

1. **Salaries and Benefits (S&B)** projections include the same full-time equivalent count citywide and assume an ongoing 2% annual increase in the employee compensation in the future years, consistent with the current Memoranda Of Understanding (MOU) terms and provisions. Other S&B assumptions include the following:
 - a. FY 2022-23 includes an additional increase (\$185K above the Revised FY21-22 Budget level) due to implementing the new MOU agreements.
 - b. FY 2022-23 assumptions restores the amended FY 2021-22 Budget cuts (including \$279K cost-savings resulting from the budgeted delay in filling vacancies) to make the FY2021-22 impacts of new MOU provisions cost-neutral.

- c. The Projections also include an anticipated increase in the City's contribution towards the unfunded liabilities of \$0.6M for FY2022-23 and \$0.4M in FY2023-24 as per CALPERS Actuarial Reports.
 - d. The FY2023-24 projections remove all Limited-Term positions, including those funded by ARPA.
 - e. The FY2023-24 Projections eliminate the one-time 1% Bonus pay funded by ARPA that part of the new labor agreements that went into effect in FY2021-22.
2. **Materials, Supplies, and Maintenance Category** assumes a very modest 1.25% increase that partially accounts for inflation.
 - a. FY 2022-23 assumptions restore the amended FY 2021-22 Budget reductions, including \$136K operational cost-savings measures implemented by departments this year to make the FY2021-22 impacts of new MOU provisions cost-neutral.
 - b. FY 2022-23 Projections include reductions related to one-time COVID prevention and sanitation uses of \$120K funded by ARPA
 3. **Contractual Services Category** assumes a 2.5% annual increase applied to most City contracts to account for regular CPI increases and inflation.
 - a. FY 2022-23 assumptions restore the amended FY 2021-22 Budget reductions, including \$173K in departments' operational cost-savings measures to make the FY2021-22 impacts of new MOU provisions cost-neutral.
 - b. FY 2022-23 Projections are reduced by \$460K related to Economic recovery, homelessness, and other one-time uses funded by ARPA
 4. **Debt Service Expense Category** is projected in accordance with the City's updated debt service schedule.
 7. **Operating Transfers Category** remains the same for the future years. However, this figure is likely to change once the new Cost Allocation Plan is complete. In addition, this category will be further refined during the budget development process when some changes to the FY 2022-23 internal service cost become available (e.g., insurance premiums, etc.)
 5. **Capital Transfers Category.** The Financial Outlook does not assume any ongoing General Fund contribution towards the Capital Improvement Program (CIP). However, some General Fund contribution for CIP is likely to be required every year based on the Council's strategic priorities and discretion.