

Public Comments

Agenda Item – Closed Session A.

Written Comments Received By 12pm on 8/22/2022



August 22, 2022

City Council Meeting

From: Christine Boles [REDACTED]
Sent: Monday, August 22, 2022 10:44 AM
To: _City Council; Coffey, Sarah; Public Comment
Subject: public comment closed agenda item A, "significant exposure to litigation"

[CAUTION: External Email]

Dear Mayor Bier, Council and Staff,

I am very disturbed to see the closed session meeting on the agenda, item A, regarding potential litigation with the North Coast County Water District. As you remember at the appeal hearing on August 8, 2022 the reason we are even in this predicament is that staff did not bother discussing this Safe Parking space with the NCCWD. In fact the NCCWD was told the opposite by staff, that no RV parking was even being considered adjacent their buildings on Francisco and Clarendon.

The NCCWD is an essential partner agency to our very survival as a city. It's shocking to me based on what is written in their attorney's letter of August 18 that staff and the city attorney appear to continue recommending fighting them instead of working to try to diffuse the situation. Can we not just pick another location on city property to accept this one space while we continue to work with the water district to review other possibilities on their property?

We have no money, we have a looming structural deficit that is growing larger by the day as we continue to spend money on attorneys. And in this case in particular, it is especially egregious as we taxpayers are paying the attorneys on both sides.

We residents and taxpayers and the unhoused are the ones suffering here while the city appears to posture and defend their poorly thought out processes and decisions.

A tolling agreement extends the water district's time to bring forth a lawsuit. Please explain to us why we would not want to sign that, giving us more time for real negotiations?

And again, can we please have some reflection on what brought us here so that we can try to avoid unnecessary lawsuits in the future? Is staff so overworked that they cannot do their jobs to properly vet these kinds of issues ahead of time with our partner agencies? Are we getting inadequate legal advice (are we paying the city attorney enough?) or is the council ignoring the city attorney's advice?

If I can be helpful, I am happy to reach out to the water district staff, with whom I have a very good working relationship, just let me know.

--

Christine Boles, Architect

Candidate for Pacifica City Council, District 2

Caring for the People and Environment of Pacifica

www.ChristineforPacifica.com



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From: Vicki Sundstrom [REDACTED]
Sent: Monday, August 22, 2022 11:38 AM
To: Public Comment; Bier, Mary; Bigstych, Tygarjas
Subject: Fwd: City Council Meeting - 8/22 - Closed Session Litigation

[CAUTION: External Email]

Yet more litigation related to the RVs/safe parking situation.

I am very concerned about Councils' and staffs' inability to manage keeping Pacifica out of litigation.

The water district clearly has been a partner in all the dialog from the get go and now they are talking about suing us.

We still have issues with the Coastal Commission and while council and staff may not appreciate the work the Coastal Commission does, unless they plan on personally funding the litigation and fines, it's in the best interest of the residents to comply with their requirements. (see email from 8/8/2022)

It's time to have a public meeting on the extent of this issue, the mismanagement and ultimate resolution. How do some of the staff members even have jobs still?

5:30 PM - CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION –
Significant exposure to litigation pursuant to Government Code section
54956.9(d)(2)(e)(5): (One Case- See Attachment A)

----- Forwarded message -----

From: Vicki Sundstrom [REDACTED]
Date: Mon, Aug 8, 2022 at 12:15 PM
Subject: City Council Meeting - 8/8 - Agenda item 9
To: Public Comment <publiccomment@pacificagov.gov>

For the public record - here is the link to the Coastal Commission Agenda and related hearing -

<https://www.coastal.ca.gov/meetings/agenda/#/2022/8>

It's quite detailed in stating that they are finding against the City of Pacifica and that the City was told of the compliance issues before implementing the program.

If City Staff and City Council knowingly take on risks that cost us legal fees and fines, they should pay for them and not pass the costs onto the tax payers.

Screenshot from Bradford way appeal to CCC

In this case, these five factors, considered together, support a conclusion that the appeal of the City's approval of a CDP for this project does raise a substantial issue of conformance with public access policies of the Coastal Act and certified LCP. Thus, and for all the reasons stated herein, the Commission finds that Appeal Number A-2-PAC-22-0029 raises a substantial issue of conformance with the certified City of Pacifica LCP and the public access policies of the Coastal Act.

Screenshot for Pedro Point appeal to CCC

In this case, these five factors, considered together, support a conclusion that the appeal of the City's approval of a CDP for this project does raise a substantial issue of conformance with public access policies of the Coastal Act and certified LCP. Thus, and for all the reasons stated herein, the Commission finds that Appeal Number A-2-PAC-22-0031 raises a substantial issue of conformance with the certified City of Pacifica LCP and the public access policies of the Coastal Act.

Screenshot from appeal of the OVO in Pedro Point - City staff guided Planning commissioners -

Nonetheless, during the May 16 hearing, City/Applicant repeatedly told the Planning Commissioners that anything other than a "yes" vote on the three CDPs at issue (including any attempt to continue that hearing to try to obtain additional information on important environmental issues, such as potential black-water spills and discharges that could flow into the nearby Pedro Point Field waterway/culvert, a documented home to the California red-legged frog) would "imperil" the city's legal position and threaten the *Geary* settlement. *E.g.*, Audio at 159:50-200:40, 2:21:30- 2:22:06, 2:26:05- 2:27:03.² This is inaccurate. Again, the *Geary* settlement and the related Court-ordered injunction merely require City/Applicant to allocate 13 spaces within city limits to OSV residents. Specifically, the locations "may be subject to change by the City as long as thirteen spaces with an average length of thirty (30) feet are maintained by the City as part of the [Safe Parking Program]." *See* Settlement Agreement at p. 4, ¶6(a)(6)(attached). The Settlement Agreement also provides that, if the Coastal Commission denies a permit application, City/Applicant can simply relocate the affected spaces. *Id.* The injunction says essentially the same thing. *See* order granting stipulated injunction, also attached. Nonetheless, the Commissioners took City/Applicant's admonitions to heart, repeatedly expressing their belief that their votes were merely *pro forma*, and that they had no choice but to approve the three permits, including CDP-438-22, despite their misgivings. *E.g.*, Audio at 2:28:52 – 2:32:19; 3:08:01-3:08:45; and, most notably, Commissioner Ferguson's comments at 3:44:26-3:46:08 re the *pro forma* nature of the vote and the detrimental effect of CDP-438-22 on coastal access. Therefore, to the extent that valid Planning Commission approval is a prerequisite to the final approval of this CDP, I respectfully submit that it *does not* exist here.³

Thank you.

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From: Vicki Sundstrom [REDACTED]
Sent: Monday, August 22, 2022 11:47 AM
To: Bier, Mary; Public Comment; Bigstych, Tygarjas
Subject: Re: Public comment record for RV lawsuit.

[CAUTION: External Email]

Yet more litigation related to the RVs/safe parking situation.

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a

Pacifica City Council
540 Crespi Drive
Pacifica, CA 94044

Re: Tolling Agreement

Dear Mayor Bier and Members of the Pacifica City Council:

The North Coast County Water District Board of Directors appreciates the City Council's vote to continue its consideration of the District's appeal of the coastal development permit proposed adjacent to our headquarters on 2400 Francisco Boulevard, and to direct City staff to coordinate with the District to evaluate the feasibility of alternate sites. Our Board feels this is a great step for our agencies to collaborate together to develop a workable solution for everyone involved.

After the August 8 appeal hearing, the District's legal counsel sent a draft tolling agreement to the City Attorney. The tolling agreement preserves the District's rights and maintains the "status quo" during the time that the CDP appeal is continued and we work together on an alternative site. This week, the City Attorney's office informed our legal counsel that the City will not enter into a tolling agreement. From the perspective of our Board members who attended the City Council appeal hearing, the Council's direction to staff, while not included in the formal action, contemplated entering into a tolling agreement to ensure collaboration and as a gesture of good faith that both parties are committed to resolving this dispute informally.

The District's appeal raised issues with the City's adoption and implementation of the Temporary Safe Parking Program, along with the City's issuance of the Francisco Boulevard CDP. The statute of limitations challenging the City's adoption of the TSPP expires at the end of this month, and that is why a tolling agreement is needed.

As the District has repeatedly indicated, we want to cooperate with the City to establish alternative sites that will decrease impacts on the District while improving the TSPP program overall. The District's proposed sites have the added benefit of taking sites out of the Coastal Zone, which would address concerns raised by the Coastal Commission. The District is not willing, however, to waive its CEQA claims regarding the City's implementation of the TSPP.

The District strongly urges the City Council to direct City staff to enter into a tolling agreement with the District. The Board does not want to have to file a writ to preserve its rights, however at the August 17 Board meeting, the Board directed our legal counsel to file a writ challenging the TSPP program if a tolling agreement is not entered into by August 25, shortly before the statute of limitations expires.

Attachment A: Pacifica City Council Letter (5105 : Closed Session - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED

Vicki Sundstrom
Fairmont

On Fri, Aug 19, 2022 at 8:37 AM Bier, Mary <mbier@pacifica.gov> wrote:

Hello Vicki,

I will request that your comment be put into public record. Thank you for letting me know.

Mary

Mary K. Bier
Mayor
City of Pacifica
Email: bierm@ci.pacifica.ca.us
www.cityofpacifica.org

The City of Pacifica is located in the unceded ancestral homeland of the Ramaytush Ohlone People. To learn more about the Ohlone People, please visit their website: <https://www.ramaytush.org/>

From: Vicki Sundstrom [REDACTED]
Sent: Friday, August 19, 2022 8:14 AM
To: Bier, Mary <mbier@pacifica.gov>
Cc: Coffey, Sarah <scoffey@pacifica.gov>
Subject: Public comment record for RV lawsuit.

[CAUTION: External Email]

Good morning Mary,

I submitted the first email in this thread in response to the City Council Meeting Agenda item 9 on 8/8. The RV ban related lawsuit. The email basically puts on record that staff knowingly designated RV spots where they would be in violation with the Coastal Commission - resulting in more legal action from that body.

The comment didn't make the Pacifica public record - it was submitted a little past 12 and I understand that I was late. I've followed up twice now with Sarah Coffey about when it would be and I haven't heard back. I don't think it's asking too much to acknowledge having received the emails and explaining when it would be.

I'd like to understand why this hasn't been done, when it will be and why our City Clerk has been negligent in responding. Is this something you can speak to Mary?

Regards,

Vicki Sundstrom

----- Forwarded message -----

From: **Vicki Sundstrom** [REDACTED]
Date: Tue, Aug 16, 2022 at 3:54 PM
Subject: Re: City Council Meeting - 8/8 - Agenda item 9
To: Coffey, Sarah <scoffey@pacificagov.gov>

Hello Sarah,

Checking on this again.

Thanks

Vicki

On Tue, Aug 9, 2022 at 9:05 PM Vicki Sundstrom [REDACTED] wrote:
Hi Sarah - I was looking thorough the pdf online and don't see this on the public record. Any reason it wasn't?

Vicki

----- Forwarded message -----

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Date: Monday, August 8, 2022
Subject: City Council Meeting - 8/8 - Agenda item 9
To: Public Comment <publiccomment@pacificagov.gov>

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Public Comments

Oral Communications

Written Comments Received By 12pm on 8/22/2022



August 22, 2022

City Council Meeting

From: The Maxwells [REDACTED]
Sent: Monday, August 22, 2022 10:43 AM
To: Public Comment
Subject: Oral Communications for Meeting 8/22/22
Attachments: OSV Letter to Council.docx

[CAUTION: External Email]

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Dear Councilmembers,

Since five of the thirteen designated OSV spots are under formal appeal and the remaining spots have been the source of many negative situations for the neighborhood residents, it is time for the Council to reconsider the haphazard placement of these “homes” in their constituents’ neighborhoods.

Right off the bat the City of Pacifica’s Ordinance tried to claim an exemption from CEQA with the following, “Existing Facilities exempts the operation, permitting, leasing, or licensing of existing public facilities involving negligible or no expansion of the use beyond that existing at the time of determination of exemption. In this case the public facility, parking areas on existing streets, will continue to be used for that purpose.” The city paid for and took out a section of the walking path on the east side of Lundy to accommodate Oversized vehicles. Without removing the pathway, the OSV’s would have stuck out in the roadway. The eastside walkway was used heavily by many people to get safely to the Sharp Park intersection to cross the road. The westside of Lundy is extremely dangerous to cross, with cars exiting at a high rate of speed for Sharp Park Road. The city has created a very dangerous situation for everyone walking in that area.

The City Council needs to re-evaluate city owned properties for the duration of the Safe Parking Program, which we have been told can last up to three years or until the litigants are placed into housing. As I have stated numerous times, the decommissioned wastewater treatment plant on Palmetto is the most humane and ideal location. The Resource Center, who oversees the program, is in close proximity. Not only do they provide food and clothing they also have a shower for them to use. The Pacifica Library with internet and Wi-Fi is across the street, as well as a laundry mat, food markets and cafes. Bus lines and the fishing pier is located there too. Porta Potties could be set up on site if needed. The Community Enforcement Officer would only have to visit one location to check in on the OSV community, rather than driving around to various parts of town. Since the area is fenced it would provide some security for the residents and give them an opportunity to be part of a community, as opposed to being hidden away on frontage roads off highways, where they are vulnerable. One homeless shelter I visited had picnic tables outside for the residents to use for meals, play cards or just enjoy the fresh air. That would be an easy item to provide at the WTP site. It is also the location where they are supposed to dispose of their trash and blackwater. Most of the cities that I have spoken with are trying to place the OSV's in one locale to monitor and provide onsite services, such as counseling. They would also have the benefit of safety in numbers.

Again, your solution to scatter the residents throughout the city of Pacifica where services are not available is illogical and not very compassionate. Placing the OSV residents in residential neighborhoods, where they face justified animosity by tax paying residents, was not a good plan.

Brenda Maxwell