

Public Comments

Agenda Item 3

Written Comments Received By 12pm on 1/24/2022



January 24, 2022
City Council Meeting

From: [Coffey, Sarah](#)
To: [Public Comment](#)
Subject: FW: Consent Item 3, Agenda - Jan 24, 2022 (Mon) - City Council
Date: Thursday, January 20, 2022 4:25:32 PM

From: [REDACTED]
Sent: Thursday, January 20, 2022 4:24 PM
To: Coffey, Sarah <scoffey@pacificacounty.gov>
Subject: RE: Consent Item 3, Agenda - Jan 24, 2022 (Mon) - City Council

[CAUTION: External Email]

City Council Meeting Jan. 24, 2022: Consent Item 3 "Funding for Vegetation Management & Wildfires"

Dear City Council Mayor and Councilpersons,

Consent Item 3 is an important item which needs your approval. Several people I know, my sister and former City engineer Ernie Renner, lost their homes during Santa Rosa's "Copper Fire" several years. A friend of mine in Ventura had to evacuate from a small neighborhood similar to the Vallemar neighborhood, where I live, which took him and his wife over 2 hours to drive less than a mile to safety while attempting to evacuate. Some vacate property we had in Lower Lake, California, was wiped out along with nearby dwellings.

I suggest the following:

1. Use some of the \$200,000 funding dedicated for vegetation reduction to reduce and/or eliminate the thick, overgrown vegetation and create fire breaks on City-owned "paper streets" such as Vespero Ave. and Mariposa Walk in Vallemar which are covered with unmanaged pine and eucalyptus trees and dead Scotch Broom shrubbery; there are similar hazardous conditions on other "paper streets" located in East Rockaway, East Sharp Park, Pedro Point and other neighborhoods in Pacifica.
2. Secondly, the City should post signs limiting parking along streets and roads that are may become evacuation routes in the event wildfires should occur (Public Works and Fire should decide the best signage statements). Some parts of Reina del Mar Ave., in Vallemar for example, are narrow making it difficult or impossible for 2 cars to pass each other, and will likely become a roadblock during an emergency, prohibiting fire trucks from reaching their goal.

Thank you,
Ken Miles
[REDACTED]

Pacifica

From: Sarah Coffey <NoReply@IQM2.com>
Sent: Wednesday, January 19, 2022 10:00 PM
Subject: Full Agenda - Jan 24, 2022 (Mon) - City Council

Join this City Council meeting via Zoom: <https://zoom.us/j/92690013329> or via alternative methods listed below. Please note the Coronavirus Disease (COVID-19) Notice within the Full Agenda Packet for important details regarding meeting format and public participation.
7:00pm Regular Meeting.

Please see the attached Full Agenda document for the following meeting:

City Council
Regular Meeting
Monday, January 24, 2022 7:00 PM
Dial-in: 1-669-900-6833 | WebinarID: 926 9001 3329 - Alt 1:
<https://www.cityofpacifica.org/LiveStream>, Alt 2: Cable Channel, 26 _

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Document Modified: 1/19/2022 9:58 PM

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Public Comments

Agenda Item 9

Written Comments Received By 12pm on 1/24/2022



January 24, 2022
City Council Meeting

From: Coffey, Sarah
Sent: Friday, January 21, 2022 8:52 AM
To: Public Comment
Subject: FW: Item 9. Tobacco ordinance. Letter from San Mateo County Tobacco Education Coalition.
Attachments: Pacifica TEC Letter for Jan 24.pdf

From: Steidle, Daniel <steidled@pacificapolice.org>
Sent: Friday, January 21, 2022 8:37 AM
To: Woodhouse, Kevin <kwoodhouse@pacifica.gov>; Wehrmeister, Tina <twehrmeister@pacifica.gov>; Michelle Kenyon [BWS Law] <mkenyon@bwslaw.com>; Bazzano, Denise <DBazzano@bwslaw.com>
Cc: Coffey, Sarah <scoffey@pacifica.gov>
Subject: FW: Item 9. Tobacco ordinance. Letter from San Mateo County Tobacco Education Coalition.

FYI, Received by the SMCO Tobacco Education Coalition. This was sent to Council.

Dan

Daniel Steidle
Chief of Police
Pacifica Police Department
2075 Coast Highway
Pacifica, CA 94044
650-738-7314
steidled@pacificapolice.org



-It is the mission of the men and women of the Pacifica Police Department to protect and serve the members of our community with the highest level of commitment, ethics and professionalism

From: Tricia Barr [REDACTED]
Sent: Friday, January 21, 2022 8:09 AM
To: mbier@pacifica.gov; tbigstyck@pacifica.gov; svaterlaus@pacifica.gov; moneill@pacifica.gov; sbeckmeyer@pacifica.gov; Steidle, Daniel <steidled@pacificapolice.org>; brookse@ci.pacifica.ca.us
Cc: Blythe Young <Blythe.Young@heart.org>
Subject: Item 9. Tobacco ordinance. Letter from San Mateo County Tobacco Education Coalition.

[CAUTION: External Email]

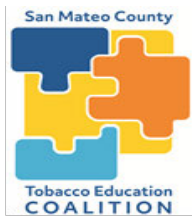
Dear Mayor, City Council, Police Chief, and City Attorney,

Please see the attached letter on behalf of the San Mateo County Tobacco Education Coalition.

Please feel free to reach out to discuss further or with any questions.

Best regards,
Tricia Barr (and Blythe Young)

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January 20th, 2022

Dear Mayor, Council, Police Chief, and City Attorney:

The San Mateo County Tobacco Education Coalition has been working diligently with San Mateo County jurisdictions to create comprehensive flavored tobacco sales restrictions. Thank you for taking action on this important initiative, we appreciate the time spent to get to this point.

The current draft would:

- Prohibit sales of all flavored tobacco products, except that hookah can be sold in stores where you must be 21+ to enter
- Prohibit sales of all tobacco/nicotine e-cigarettes
- Require tobacco-free pharmacies

The Coalition recommends the following non-substantive changes that align with best practices used within the County and throughout the Bay Area:

- Prevent additional tobacco retailers taking advantage of the hookah exemption for 21+ businesses by adding language to cap the number of businesses the exemption applies to and limit permit transfers such as:
"No person or tobacco retailer shall sell or distribute any flavored hookah product, except those existing 21+ businesses with a valid tobacco retailer's permit as of January 24, 2022. Such exception cannot be transferred or assigned to a subsequent owner of a qualifying business. At no point shall this exception be interpreted to allow for on-site consumption of any tobacco products."
- Establish a universal implementation date for all Pacifica retailers – the current proposal for implementation upon license renewal would create differing implementation dates for each retailer creating an unfair retail environment and increases the difficulty in enforcing the flavored tobacco restriction.

The following substantive change is for consideration if there is political will:

- Remove the exemption for flavored tobacco products used with hookah to align with other comprehensive policies throughout San Mateo County.

Either now, or when the Master Fee Schedule is revisited for the 2022-23 year:

- Review permit fees to ensure they are covering the cost of administration, compliance checks, and enforcement. The current fee for tobacco retailer licenses in Pacifica is \$87 per year. Selling addictive, regulated tobacco products is a privilege. If you choose to revisit your fees, here are local examples:
 - [San Francisco](#) (\$111 application fee and \$383 annual permit fee), and
 - [Santa Clara County](#) (\$347 application fee and \$434 annual permit fee), and
 - [Alameda County](#) (\$940 annually)
 - San Mateo County tobacco retailer permit fee is currently \$153 per year. We are working with the Board of Supervisors to revisit these fees.

Thank you for your leadership,

Tricia Barr and Blythe Young
San Mateo County Tobacco Education Coalition Co-Chairs

From: fog zone [REDACTED]
Sent: Sunday, January 23, 2022 4:25 PM
To: Public Comment
Cc: Vaterlaus, Sue
Subject: Meeting date 1/24/2022 agenda item #9 submitter: Samer Jweinat

[CAUTION: External Email]

Hello Pacifica City Council members, I hope this reaches you at a good time. My name is Samer Jweinat, owner of Fog Zone Smoke Shop in Pedro point. Thank you for the email notifying us of the meeting pertaining to the future of flavored tobacco in Pacifica; we greatly appreciate the heads up. I'm aware this will not be read at the meeting on Monday January 24th but still wanted to voice a couple of points here so we don't use up other speakers' time during the meeting. Sorry if this seems direct but frankly the abolishment of flavored tobacco in pacifica will ruin our business and livelihood as well as cause much distress to ourselves and many adults not only in pacifica but other cities across the peninsula. This market constitutes 80% of our income, without it we could not survive. When I say we, I mean myself, my employees' and our families will suffer as a result of this. This is not a guilt tactic or exaggeration, but the truth. I will have to lay off both of my employees, one of which has been with me since 2016.

In the last city council meeting, during October of last year, there was great concern over flavored tobacco getting in the hands of minors. Since then we have put up signage stating people under the age of 21 are not allowed in our store. I'm more than willing to work alongside the council in any way necessary to prevent youth from purchasing any adult products. We would be happy to buy an ID scanner to verify customer ages and anything else the council decides is necessary at our expense.

I saw in the Agenda Summary Report for Monday the 24th on Page 15 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". 30 days is nowhere close to enough time to sell a portion of our flavored tobacco inventory. I would request that if this ban is enacted you could give us until January 2022 to sell our inventory and give my employees and their families time to find other employment and adjust, as you know retail shops are extremely hurt by the COVID19 pandemic and business is down and products are up in cost. Without a ban, we are barely keeping our heads above water, passing of this ban would sink us.

Locals and other customers will bring their business to other cities and online. We get many out of towners coming from areas where flavored tobacco is banned to get our products and in turn spend a day at the beach and support not only ourselves but the businesses around us. Every day we get people coming in surprised that we carry the vapes they used to use telling us that they relapsed on cigarettes because they had no alternatives. Banning it in pacifica will make them go to other towns and stimulate their local economy instead of our own.

In summation, this ban is not just going to affect responsible users of flavored tobacco who are looking for other alternatives, but myself, members of communities across the Peninsula and my employees who count on the revenue they produce. It is with great respect that I send this letter to request a reconsideration of this ban. Again we are more than willing to adopt any system the council sees fit, in order to allow the continuation of flavored tobacco sales in Pacifica.

Sincerely and with respect-Samer Jweinat

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From: admin apca.us <admin@apca.us>

Sent: Saturday, January 22, 2022 7:49:23 PM

To: Bier, Mary <mbier@pacifica.gov>

Cc: Bigstyk, Tygarjas <tbigstyk@pacifica.gov>; Vaterlaus, Sue <svaterlaus@pacifica.gov>; moneil@pacifica.gov <moneil@pacifica.gov>; Beckmeyer, Sue <sbeckmeyer@pacifica.gov>

Subject: Pacifica, CA - Flavor Ban & E- Cigarette Device Ban

[CAUTION: External Email]

Good Evening, Mayor Mary Bier and City Council Members,

Please find attached a letter from Bamby Aujla, Chairman of the American Petroleum and Convenience Store Association (APCA), urging you to oppose the ban on sales of flavored tobacco products & e- cigarettes products.

Don't hesitate to reach out to me if you have any questions.

With Warm Regards

Amritpal Hayer

Admin



Email: admin@apca.us

Web: www.apca.us

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January 22nd, 2022

The Honorable Mary Bier

Mayor of Pacifica
170 Santa Maria Ave
Pacifica, CA 94044

Dear Mayor Mary Bier and Members of the City Council:

I am writing to you today on behalf of the American Petroleum and Convenience Store Association (APCA) representing owners of 1,400 businesses who are providing jobs, essential services, and products to Californians. Each day, 165 million people visit their favorite neighborhood market resulting in sales that allow the average convenience store to collect \$1.28 million in property, payroll, and sales taxes for local, state, and federal governments every year.

We appreciate City Council efforts to consider agenda item #9 adding Chapter 33 and amending Chapter 31 City Code Section 5-31.03 of the Pacifica City Municipal Code:

- Ban Flavored Tobacco Products exempting age restricted hookah businesses.
- Ban E-Cigarette Smoking Devices.
- Ban All Tobacco Products in Pharmacies.

Like you, we are responsible community members who believe tobacco products are not for young people. We understand the city council's intent behind introducing an ordinance to ban the sales of flavored tobacco products within the city limits; however, the Pacifica business owners we represent do not believe this ban will achieve the desired result.

The youth cigarette smoking rate in our state has decreased considerably. In 2019, California reported its lowest high school cigarette use rate at 2%, down from 15% in 2002. According to the Center for Disease Control (CDC), the number of teens using [vape is higher but also decreasing on both a national and state level](#). The CDC's [2020 National Youth and Tobacco Survey](#) confirms that teens turn to vape to impress their friends and look "cool." The city's proposed flavored tobacco sales ban will not stop these young people from buying e-cigs, or vapes, from social sources like friends, older family

members, or the black market. It will, however, hurt responsible businesses who sell these products legally to adults, not kids, and who are desperately trying to survive in a fragile economy.

Despite being designated essential businesses during this health and economic crisis, COVID-19 related closures significantly impact our industry and the people who work in it. As we have seen across the U.S., well-meaning yet uninformed local legislators further hurt businesses by passing flavored tobacco sales bans. These ordinances, although well-intentioned, do not stop teens or adults from using these products. The sales shift from law-abiding retailers to criminals who sell these products illegally and who do not pay local taxes and certainly do not check IDs.

California is home to 4.1 million small businesses, representing 99.8% of all companies in the state and employing 7.2 million workers. That is nearly 49% or half of the state's total workforce. Small businesses, including convenience stores and tobacco shops in Pacifica, will play a vital role in building back the economy. Suppose store sales decrease because a line of products popular with adult customers is banned; this city council has impacted stores' revenues. Owners will have to adjust payrolls. The community will lose jobs. Taxes on tobacco products, fuel, and other ancillary grocery items will decrease.

The ordinance you are proposing is a governmental overreach and will damage businesses and their owners and employees in Pacifica as customers in Pacifica will not stop buying flavored tobacco products. They will just travel to other cities that have not banned these items.

The voters of California will decide on this issue when a proposed statewide ban of flavored tobacco products appears on the November ballot in 2022. Let the democratic process work and enforce laws already on the books. Rather than ban the sales of all flavored tobacco products, we urge council members to continue to allow responsible retailers who obey age-verification laws to sell FDA-approved tobacco products. Local businesses are your partners. Please support them.

We appreciate your consideration of our comments on this issue and urge you to oppose any ordinance that would restrict our ability to sell flavored tobacco and e-cigarettes products and devices in our stores to adults over the age of 21. We are responsible retailers who provide jobs and essential goods.

Sincerely



Bamby Aujla
Chairman, APCA

From: Coffey, Sarah
Sent: Monday, January 24, 2022 9:20 AM
To: Public Comment
Subject: FW: Flavored tobacco agenda item tonight
Attachments: Pacifica_TRL flavors adult only hookah exemption 1-21-22 cc.pdf

From: Jen Grand-Lejano [REDACTED]
Sent: Monday, January 24, 2022 9:18 AM
To: _City Council Group <citycouncil@pacifica.gov>; Coffey, Sarah <scoffey@pacifica.gov>
Subject: Flavored tobacco agenda item tonight

[CAUTION: External Email]

Dear Mayor Bier and Pacific City Councilmembers,

Thank you for considering strong policies to protect the health of our youth. We urge you to adopt a comprehensive tobacco retailer licensing (TRL) policy to end the sale of all flavored tobacco products, including menthol cigarettes, flavored shisha tobacco and flavored e-cigarettes at all retailers, and to end the sale of all tobacco products in pharmacies. Together, these provisions go far to protect the lives of our young people from the predatory marketing of the tobacco industry.

Jen Grand-Lejano

Government Relations Director, CA - Northern California
[REDACTED]

American Cancer Society Cancer Action Network, Inc.
fightcancer.org | 1.800.227.2345



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January 21, 2022



The Honorable Mary Bier
Members of the Pacifica City Council
540 Crespi Drive
Pacifica, CA 94044

Dear Mayor Bier and Members of the Pacifica City Council:

The American Cancer Society Cancer Action Network's (ACSCAN) mission is to end suffering and death from cancer, and we are committed to continuing that mission in the City of Pacifica. We are deeply concerned about the availability of flavored tobacco products, which is contributing to the growing epidemic that is plaguing our communities here in Northern California and nationwide. Thank you for considering strong policies to protect the health of our youth. We urge you to adopt a comprehensive tobacco retailer licensing (TRL) policy to end the sale of all flavored tobacco products, including menthol cigarettes, flavored shisha tobacco and flavored e-cigarettes at all retailers, and to end the sale of all tobacco products in pharmacies. Together, these provisions go far to protect the lives of our young people from the predatory marketing of the tobacco industry.

The proposed ordinance ends the sale of certain flavored tobacco products, which is a good first step but falls short of best practice in the Bay Area. **It is vital to remove the proposed exemptions for flavored shisha tobacco at adult only stores.** The enforcement provisions should be strengthened by adding license suspension and revocation for violations, and universal implementation date added. We highly recommend the city consider adopting the sample language linked [here](#) that was drafted by the Public Health Law Center.

Flavored shisha use is on the rise among youth. Among individuals who were not current smokers, those who had tried hookah were more likely to report intent to try cigarettes soon¹, and more than one in five high school students in one study first learned about flavored shisha by seeing a hookah bar in their community². A single shisha tobacco smoking session (40 to 45 minutes) exposes its users to 25 times the tar, 125 times the smoke, 2.5 times the nicotine, and 10 times the carbon monoxide as compared to a single cigarette³.

Shisha tobacco comes in hundreds of flavors, which increase the likelihood of tobacco initiation among people who don't smoke, and encourages the continued use of flavored shisha among people who use tobacco regularly. There is no cultural argument for protecting the sale of flavored shisha. Any flavored tobacco product that is exempt will become the "go-to" product for youth. Four out of five youth who have ever used a tobacco product started with a flavored tobacco product, and when asked why, say because they come in flavors they like. The Tobacco Industry knows flavors hook new users.

¹ Heinz, A. et al. (2013). A comprehensive examination of hookah smoking in college students: Use patterns and contexts, social norms, and attitudes, harm perception, psychological correlates and co-occurring substance use. *Addictive Behaviors* 38, 2751-2760.

² Smith JR, Novotny TE, Edland SD, et al. Determinants of Hookah Use Among High School Students. *Nicotine Tob Res* 2011; 13(7): 565-572.

³ Primack et al., 2016

Additionally, we've learned from experience that exempting adult-only stores is problematic and weakens what could be a strong policy. All places where tobacco can be sold, including adult-only tobacco shops, should be required to have a TRL. Research shows that smoke shops have higher rates of sales to persons under age. Smoke shops should not be exempted from a TRL.

Tobacco-free pharmacies is a natural and necessary next step. Tobacco products, which are still the leading cause of preventable death in California, should not be sold in pharmacies where residents seek health promoting products. We urge you to join the 50 other jurisdictions across the state that have chosen to end the sale of all tobacco products in their pharmacies.

We recommend a tobacco retailer license be codified in the ordinance with fees sufficient enough to fund enforcement of existing and new tobacco laws, coupled with escalating penalties for retailers with repeat violations. The proposed ordinance has basic enforcement, which we recommend you strengthen by including specific mechanisms to suspend the license for first violation and license revocation after repeated violations. Without a strong TRL as an enforcement mechanism, the proposed ordinance before you falls short of best practice.

The City Council needs to make the health of Pacifica youth a priority and join our neighbors in the 117+ communities throughout California who have adopted strong policies to end the sale of flavored tobacco products. We urge you adopt a comprehensive tobacco retailer licensing ordinance that ends the sale of all flavored tobacco products at all locations, strengthens enforcement with license suspension and revocation and a universal implementation date, and ends the sale of tobacco in pharmacies.

Sincerely,



Jen Grand-Lejano

Government Relations Director, Northern California
American Cancer Society Cancer Action Network

From: Jaime Rojas Jr <[REDACTED]>
Sent: Monday, January 24, 2022 11:52 AM
To: Public Comment
Subject: City Council Meeting Comment - Agenda #9
Attachments: Letter on Pacifica CA Tobacco Ordinance (January, 2022).pdf

[CAUTION: External Email]

Dear Mayor and Councilmembers,

Please find attached a letter from the National Association of Tobacco Outlets in opposition to agenda #9. Should you have any questions, please do not hesitate to contact us.

We thank you for your consideration.

Regards,

Jaime Rojas

--

National Association of Tobacco Outlets
Legislative Consultant



10808 Foothill Blvd. Ste. 160-516
Rancho Cucamonga, CA 91730
Tel: 213.400.8664
www.RCGcommunications.com

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January 24, 2022

Mayor Mary Bier
Members of the Pacifica City Council
City of Pacifica City Hall
170 Santa Maria Avenue
Pacifica, CA 94044

RE: Proposed Flavored Tobacco Products and Electronic Smoking Devices Ban

Dear Mayor Bier and Councilmembers:

As the Executive Director of the National Association of Tobacco Outlets (NATO), a national retail trade association that represents more than 60,000 retail stores throughout the country including many Pacifica retail stores, I am writing to submit our comments and concerns regarding the Tobacco Retail Ordinance proposal on your January 24, 2022, agenda that would ban the sale of all flavored tobacco products, including the sale of menthol cigarettes, mint and wintergreen smokeless tobacco products, flavored cigars and flavored pipe tobacco, and all electronic smoking devices. We would ask that the City Council not adopt this ordinance for the reasons explained below.

Three Studies Find that Banning Flavored Tobacco Products Is Associated with Increased Youth and Young Adult Smoking

According to a growing number of studies, the banning of all flavored tobacco products can result in increasing the number of underage youth and young adults that return to smoking cigarettes.

Study No. 1: University of Memphis School of Public Health, Science Direct-Addictive Behavior Reports (June 2020): The first study, funded by the National Institute of Drug Abuse of the National Institutes of Health, investigated the impact of the City of San Francisco flavored tobacco ban ordinance after the ban was in force for nearly a year, finding that flavored tobacco product use was reduced, but *cigarette smoking among 18-24-year-olds increased by over 35%*. The study also found that most consumers of flavored tobacco find other sources for these products.

Link: <https://www.sciencedirect.com/science/article/pii/S2352853220300134?via%3Dihub>

Study No. 2: Yale School of Public Health Study, JAMA Pediatrics (May 2021): The second study regarding San Francisco's flavored tobacco ban ordinance was funded by the National Institute on Drug Abuse of the National Institutes of Health and the US Food and Drug Administration Center for Tobacco Products. It compared youth smoking rates among high school students in the San Francisco School District

to the smoking rates of high school students in seven other metropolitan school districts located in cities that did not have a flavored tobacco ban.

According to the study, the smoking rate for San Francisco high school students under the age of 18 increased from 4.7% in 2017 before the adoption of the city's ordinance to 6.2% in 2019, the year after the ordinance was enacted. This is a 32% increase in underage youth cigarette smoking rates in the San Francisco school district. At the same time, the underage smoking rates in the other metropolitan school districts that are located in cities which did not have a flavored tobacco product sales ban continued to decline and averaged 2.8% as of 2019.

Link: https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248?utm_source=twitter&utm_campaign=content-shareicons&utm_content=article_engagement&utm_medium=social&utm_term=052421&s=03#.YKwb0ZyP66Y.twitter

Study No. 3: Milken Institute School of Public Health at George Washington University, Nicotine & Tobacco Research (July 31, 2021): A third study, funded by the US National Cancer Institute, found similar impacts from flavored vapor bans on young adult tobacco users. The study compiled young adult smoking rates in six major metropolitan cities that enacted a flavored tobacco product ban. The study abstract included the following findings:

Moreover, if vape product sales were restricted to tobacco flavors, 39.1% of users reported being likely to continue using e-cigarettes but 33.2% were likely to switch to cigarettes. *If vape product sales were entirely restricted, e-cigarette users were equally likely to switch to cigarettes versus not (~40%).*

Link: <https://doi.org/10.1093/ntr/ntab154>

Low and Declining Use Rates of Traditional Tobacco Products Require Caution in Flavor Bans: According to California's Healthy Kids Survey for 2020-2021 in Jefferson Union High School District, only 5% of 11th graders had *ever* smoked a whole cigarette and only 1% had done so, even once, in the past 30 days; only 1% had *ever* tried smokeless tobacco and 0% currently use smokeless tobacco. (Contrast this with the same survey's finding that 8% of 11th graders currently used alcohol, 2% were currently binge drinkers, and 7% currently used marijuana.) The same survey found that in 2021, 5% of 11th graders currently used e-cigarettes, consistent with the CDC's recent findings that nationally, current e-cigarette use among high schoolers dropped about 60% from 2019 to 2021. See *E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021*, US Department of Health and Human Services, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, October 1, 2021, Vol. 70, No. 39. This means that the empirical data showing very low and declining underage use rates of traditional products and e-cigarette products in the high school district that includes Pacifica and the national trend of a 60% drop in e-cigarette use does not support the wholesale banning of all flavored tobacco products that legal age adults prefer to use.

FDA Intends to Ban Menthol Cigarettes and Flavored Cigars: The City of Pacifica should not pursue a flavored tobacco ban ordinance because the Food and Drug Administration announced in April that the agency intends to publish a rule banning the sale of menthol cigarettes and all flavored cigars. With such a sweeping regulation, the city council should pause and allow the FDA's proposed regulation process which the agency intends to ban some of the same flavored tobacco products that would be prohibited under the proposed ordinance.

FDA Actions on Electronic Cigarettes and Other Nicotine Products: The FDA has taken significant actions that have resulted in the removal of a substantial number of flavored electronic nicotine delivery system (ENDS) products from the market. These strong measures should be allowed to work to further reduce youth access to and use of electronic nicotine vapor products.

Specifically, in February 2020, the FDA adopted a ban on the sale of all flavored cartridge-based and pod-based electronic cigarettes, except for tobacco and menthol flavored products. This action removed hundreds of ENDS products from the market. In addition, the FDA required that manufacturers of all electronic cigarette products file what is known as a pre-market tobacco product application (PMTA) with the agency by September 9, 2020, to keep their products on the market. The FDA was required to process those PMTAs within one year. That year elapsed in September 2021, and the Food and Drug Administration has thus far completed about 99% of the reviews of the Pre-Market Tobacco Applications it received by its September 2020 deadline. Most of the applications are for electronic smoking devices and products used with them. The FDA has thus far rejected about 7 million electronic smoking devices and has granted exactly *one* application for an e-cigarette, Vuse Solo, and for two tobacco-flavored cartridges used with that device.

By granting these applications, for the first time the FDA has stated that electronic smoking devices and modern oral nicotine products, including non-tobacco flavored versions of the latter, could protect public health. As the FDA is still working on the remaining 1% of applications (covering about 55,000 products) filed by the September 2020 deadline, it would be premature for the City to issue a blanket ban on all flavored tobacco products and all electronic smoking devices as the FDA may well grant marketing approval of other products, some of which may be flavored, that are “appropriate for the protection of the public health.” The City’s ban on those products would work against the public health benefits of those products.

Voters Want to Decide Whether Flavor Bans Make Sense: California Senate Bill 793, which would have banned most flavored tobacco products statewide, has been referred to the November ballot to let the voters decide whether to allow the statewide flavor ban bill to go into effect. Voters want their say on flavor bans. We respectfully suggest that deferring action until the voters have spoken is in the best interests of Pacifica and its retailers.

Store Closures and Layoffs May Follow the Proposed Ban: Our convenience store members recently experienced losses of up to 45% in gasoline sales and 20% or more in grocery, snack, beverage, and tobacco product sales during the recent market disruptions, significant numbers because convenience stores usually rely on tobacco product sales for approximately 36% of in-store sales. Tobacco specialty stores that rely on tobacco product sales for up to 90% of total sales will be devastated by the loss of hundreds of products. Additionally, retailers have recently found it difficult to attract and retain employees and combined with the effects of inflation, stores payroll costs continue to rise.

If Pacifica retailers must remove hundreds of products from their shelves, it will be very difficult to compete with retailers in neighboring localities or with illicit sellers who do not care to whom they sell their products. Employee layoffs and even store closures are real possibilities.

NATO and its Pacifica retail members share everyone’s interest in keeping tobacco and electronic smoking devices out of the hands of persons under 21 years old but banning all these products makes no sense from a health standpoint or economic point of view. Indeed, Pacifica’s retailers are exemplary in keeping tobacco products out of the hands of underage persons; according to the FDA, Pacifica retailers have a near-perfect 92% compliance record, by refusing to sell to underage persons, with the last violation over six years ago

(see attached spreadsheet.) Why would the City Council want to harm these responsible retailers and chase their customers to other jurisdictions or to illicit markets?

We urge the City Council not to move forward with the proposed ban on flavored tobacco products and on electronic cigarette products. Thank you for your consideration.

Sincerely,

Thomas A. Briant

NATO Executive Director

Public Comments

Oral Communications

Written Comments Received By 12pm on 1/24/2022



January 24, 2022
City Council Meeting

From: Nancy Tierney [REDACTED]
Sent: Sunday, January 23, 2022 4:02 PM
To: Public Comment
Subject: City Council Meeting January 24 2022: Oral Communications

[CAUTION: External Email]

Letter to City of Pacifica City Council

January 24, 2022 Meeting

Regarding General Plan, DEIR and Sharp Park Specific Plans

Mayor, Council Members and Staff:

My name is Nancy Tierney and I live in the Lower Manor District. I'd like to comment on the process for reviewing the recently released Draft General Plan Update, the Draft Environmental Impact Report and the Sharp Park Specific Plan. Over the past couple of weeks I have read much of the General Plan and parts of the DEIR and SPSP. With a background in campus and facilities planning, I am fairly well versed in complex planning documents and jurisdictional requirements and review processes.

On Thursday January 20, I attended the program "History of Pacifica Open Space" hosted by the Pacifica Environmental Family. The organizers provided an amazing history of proposed developments since the early 1960s, up and down the coast and on the hillsides. The projects featured housing, a marina, a convention center, and two major roadways—the 380 connector and the Highway 1 tunnel (Devil's Slide). The numerous citizen initiatives to stop these ill-conceived projects, in some cases bolstered by federal support, were impressive. Love of the natural Pacifica environment drove all of these efforts. The takeaway message is that our plans should reflect community priorities and respect our environment.

On Saturday January 22, I attended a workshop to review the City of San Mateo General Plan. The current focus is on evaluating three land use and circulation alternatives. The workshop addressed the differences in the alternative scenarios and answered participant questions. [Over 50 people attended the workshop. A second workshop is scheduled January 27.] Our two cities are very different but there is much to be learned from their process. All documents can be found on a dedicated, easy to navigate website: www.StriveSanMateo.org

Taking a similar approach, it would be helpful for the public to be able to discuss the options presented in the DEIR, a city center in Sharp Park, or several town centers, in the end reflecting Pacifica's history and geography. I encourage the Council and Staff to pursue more rigorous public engagement in discussing these important documents, drawing on the models I mentioned. I look forward to participating and doing whatever I can to engage members of our community.

Nancy Tierney

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