



**CITY OF PACIFICA  
CITY COUNCIL MINUTES**

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

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

**May 16, 2017 (TUESDAY)  
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Mayor Mike O'Neill called the meeting to order on May 16, 2017 at 5:30 PM

**5:30 PM CLOSED SESSION**

PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2) Conference with Legal Counsel - Anticipated Litigation - Significant Exposure to Litigation (one potential case)

Call to Order

Mayor O'Neill called the meeting to order at 7:30 p.m.

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

**7:30 PM OPEN SESSION**

1. Direction to Staff Regarding Mandatory Mediation Process for Rent Disputes  
**PROPOSED ACTION:** Direction to Staff.

City Attorney Kenyon presented the staff report.

Mayor O'Neill thought Planning had done some research in checking into other aspects on this subject.

Planning Director Wehrmeister continued the staff report.

Mayor O'Neill asked confirmation that mandatory mediation means you have to do the mediation, but binding mediation results are binding on both parties.

Planning Director Wehrmeister stated that mandatory mediation means that the parties are required to enter the mediation process but the outcome, binding binds the parties to the decision and non-binding is that the outcome is optional.

City Attorney Kenyon stated that both programs can be mandatory, meaning that the landlords and tenants were mandated to participate in the program. The binding mediation program results in a written decision where there is a determination as to what is the allowable rent increase. A non-binding mandatory mediation results in no decision, simply ends after a point where there is an actual mediation session and, if the parties reach agreement at the conclusion of that, the result is a written agreement between the parties, not a written decision from the mediator.

Mayor O'Neill asked if it would become an enforceable contract.

City Attorney Kenyon agreed that it would be come an enforceable contract between the parties just as any other written contract would be.

Mayor O'Neill concluded that any dispute would be handled by the two people in the contract.

City Attorney Kenyon stated that it would be how they want to handle their dispute and the city would not be involved.

Councilmember Vaterlaus asked how long a binding program would take.

Planning Director Wehrmeister stated that, as explained, the binding program was similar to a rent stabilization program and would take.

Councilmember Martin referred to mention Concord and San Leandro, and she asked if she heard that their cost included a mediator and a rent review panel that would have some say in the final outcome after mediation.

Planning Director Wehrmeister stated that she was not clear as to what the rent review board or panel's exact role was in the process.

Councilmember Martin stated that, in the 4-6 month time period to get a binding mediation program up and running and the estimate based on 15,000 rentals, she thought it sounded impossible for them to implement anything in time for it to have any effect in Pacifica now. She asked if that was correct.

Planning Director Wehrmeister stated that, if the goal was to try to have some mediation process effective very soon for the interim period between the present time and the November election, it would be very difficult to get a binding program any sooner than a couple of months before the election.

Mayor O'Neill stated that they probably should hear from the public as they are going into deliberation.

Mayor O'Neill opened public comments.

**Kath Moresco, Pacifica**, stated she was speaking about the mediation process. She thought that was a very good idea to help people come together and speak, but she thought the mandatory mediation was the same as rent control and that will be on the ballot in November and she suggested that it not be implemented as it would be a moot point if the ballot measure was enacted or failed.

**Tom Thompson, Pacifica**, stated that he was a property owner and member of the Rent Advisory Task Force. He thought that the damage has already been done. He stated that the Council has gone over the rent control issue and has done substantial damage with it. He thought it was safe to say what nobody else will say, the recent huge rent increases are a direct result of the actions of the City Council and he felt they needed to own up to that. He stated that there will be a November ballot and the harm already done will be ferreted out in November. He stated that Pacificans either want rent control or they don't. He stated that this issue of mediation would have likely been a big part of the Rent Advisory Task Force recommendations. He stated that unfortunately, they have already effectively killed the Rent Advisory Task Force and by doing that, they went back on their word when they formed the Advisory Task Force. He stated that, since any binding mediation was another form of rent control, he thought Council owes it to the voters to decide if they want rent control or not. If they don't, maybe the Rent Advisory Task Force can reconvene.

**Carolyn Jaramillo, Pacifica**, stated that she was sorry the temporary ordinance that protects the renters from now until the election has been made null and void. She hoped there will be enough renters and people affected by the ballot directly to vote in November. She objects strongly against any notion that, because they have worked to get protections for renters that they have caused an increase in rents. She stated that is not the case. She stated that the rent increase was caused because landlords wished to raise the rent, not that they were trying to protect the renters.

**Gina Zari, San Mateo**, stated that she agreed with Mr. Thompson that the reason for the massive rent increases was because of the action of the Council. She stated that she has talked to several property owners, approximately seven, who have told her directly that, if rent control fails passage in November, they will roll their rents back to the rates prior to Council bringing up rent control. She thought that was probably a better avenue at this point. She was happy to reach out to the property owners and ask them, should the measure fail passage in November, if they will be willing to roll rents back to the rates prior to this Council bringing the issue up again. She thought that would be the most effective way to handle the situation. She stated that no one wants to see renters displaced, but they should take this as a lesson that, when you bring up an issue this serious, there will be consequences. She stated that, when you see massive rent increased of 30, 40 or 50%, that should tell you something. She stated that it wasn't that property owners are bad people, but that they were way under market. She agreed that they might be making a poor choice and doing something that was insensitive but they have lives too and they have retirements and they have issues. She stated that there are literally chemo treatments being paid for by rents, and really serious issues. She asked that they look at the fact that they are way under market, probably more than 30-50% under market, and are trying to make sure they don't get stuck there and not being able to support their families or a roof on the building. They panic and she thought it was fair to consider that side of it. She stated that they have been charitable for many years.

Mayor O'Neill closed public comments.

Mayor pro Tem Keener thought, because of the timeframe for binding mediation, that was off the table.

Councilmember Digre stated that she would be for binding mediation but, with the cost and timeline, she didn't think there was much they can do.

Mayor pro Tem Keener agreed that, while he would be for it, the timeline gives it no chance.

Councilmember Martin agreed that binding would be their only hope of getting some people temporary relief but they didn't have the time or money to make that happen before the election. She agreed that would make it be off the table. She referred to the non-binding options, stating she was not opposed to them but asked how long it would take them to "spin" something up.

Planning Director Wehrmeister stated that, for the contractor organized mediation process, they could get something up in about a month.

Councilmember Martin stated that she would talk about what she thought that was and staff could correct her if needed. She stated that a non-binding mediation program would be mandatory for all units whose rents would have been increased.

Planning Director Wehrmeister stated that, if they got direction to prepare an ordinance, these were some of the details the City Attorney would need in order to craft an ordinance because there were various provisions that could be worked in.

Councilmember Martin stated that she would be interested in that. She assumed a landlord and tenant would come together, and the tenant would state not being happy about a rent increase. A contractor negotiator would sit down with them and try to help them come to some agreement. She stated that there may or may not be a cost to the tenant or landlord at the end of the year, per unit.

City Attorney Kenyon stated that it was up to Council, mentioning programs where the cost is borne entirely by the landlord or split between landlord and tenant, and some where the party requesting the mediation pays for the cost of the process.

Councilmember Martin would expand on it by saying that, if they don't come to an agreement and the landlord doesn't have to adjust rent and tenant does not have any protections. She was interested if there was a rent review panel that would have some say in the decision, but nothing binding. She thought about, if the rent stabilization measure does not pass, does this offer tenants some protection. She thought it was an option for a tenant or landlord to voice concerns, including added information beyond rent specifically. She would be in favor of a non-binding mediation program if they didn't have a sunset but revisit it after they figure out what happens in November. She acknowledged that it was a perceived protection, but she thought it was something rather than nothing. As a tenant, she would want to see something rather than nothing. She was open to discussing that as an option.

Mayor pro Tem Keener asked if they have any idea of how frequently the non-binding program was successful with the mediation coming to a successful agreement between tenant and landlord.

City Attorney Kenyon stated that she will introduce Asst. City Attorney Deepa Sharma, who has done some preliminary research and, while not confirmed, has heard from some of the jurisdictions that, on average, maybe 20-30% resolution that comes out of non-binding mediation.

Councilmember Vaterlaus stated that Concord has non-binding and said they have 50 requests at a cost of \$600 each. She didn't know the details, but she questioned who would pay the \$600. She realized that it could be written into the ordinance, but she thought it was a lot.

Planning Director Wehrmeister stated that their program was recently adopted and she read that the 50 mediation requests annually for a cost of \$600 was what they used in making their fiscal impact estimate for their City Council. She didn't think they have a year of data for running the program and they don't know for sure. Based on that estimate, they established an annual fee. She stated that part of the reason their program was more expensive was that they have a registration program at the kickoff in order to get all of their 8,100 units registered and the fee paid.

Councilmember Vaterlaus stated that, according to the information, they have a rent review panel also.

Planning Director Wehrmeister responded affirmatively.

Councilmember Digre referred to the non-binding one, and asked, while the mediation was going on, would they have to specify whether the tenant pays or not during the mediation.

City Attorney Kenyon stated that was another detail for which they would need to get direction. She stated that there were a range of approaches. Some programs require the tenant to pay the rent if below 5% and some require tenant to pay all of the rent regardless of the increase and some programs do not require the tenant to pay any amount of the increase until the process is concluded.

Mayor pro Tem Keener stated he was not in favor of the non-binding arbitration because it is not binding. He can't see putting staff through another writing exercise to come up with an ordinance that is not binding. He felt they have a vote coming in November, yes or no, and they had hoped to have an interim ordinance to protect tenants in the meantime but they don't and he felt that was the best they can do. He didn't think non-binding arbitration will improve matters.

Mayor O'Neill stated that he would be open to a non-binding mediation but his count didn't show a majority for anything.

Councilmember Digre was okay with the non-binding, but she asked what the cost was per negotiation.

Councilmember Vaterlaus stated that it was \$600 per case.

Planning Director Wehrmeister stated that amount was what Concord's staff reported to their Council when preparing the fiscal analysis. Pacifica has not received direction yet to prepare the mediation ordinance and have not spent staff time in researching it. She stated that, if they get that direction, they will come back with something more detailed for Pacifica.

Councilmember Digre stated that she would want to address the issue of the tenant having to pay. She did think that would need to be talked about, not just blanket say they have to pay the rent.

Councilmember Vaterlaus finds this similar to rent control and she felt the costs were exorbitant and she would be happy to talk to many landlords who have raised the rents on people, because she finds it horrible that they have done it and she would like to personally mediate with landlords and tenants, acknowledging that she was not a certified mediator. She was not in favor.

Mayor O'Neill stated that they have two not in favor of an urgency ordinance for different reasons and two that would be open to it. He stated that, while Councilmember Digre has concerns, she hasn't stated where she would go.

Councilmember Digre stated that, for both mandatory and non-mandatory, they need four votes,

Mayor O'Neill agreed and stated that, since there are two against it, the direction is no mandatory mediation.

City Attorney Kenyon concluded that they will not be drafting and bringing back for Council consideration any sort of binding or non-binding mediation program or ordinance.

**2. 2017-2018 Proposed Budget for Public Safety - Police and Fire Departments**  
**PROPOSED ACTION:** No action required - information only.

Asst. City Manager Hines presented the introductory staff report.

Police Chief Steidle presented the police department budget.

Mayor pro Tem Keener asked if the expenditures were for 2017-18.

Asst. City Manager Hines responded affirmatively.

Mayor pro Tem Keener referred to mention of savings from utility payments, asking for information on that.

Asst. City Manager Hines explained that they look at each department's budget. They are allocated a certain amount each month to pay for the utility bills for lights, etc., and they look at each department's budget and they found that the previous year in a couple of the utility areas the PD was slightly over budgeted and they marked down that budget to help them offset the increase in salaries. He stated that they look for every opportunity they can.

Mayor O'Neill referred to the two part-time community service officers, and asked if they had said they were non-benefitted.

Police Chief Steidle responded affirmatively.

Mayor O'Neill stated that, looking between last year's and this year's budget, there was a 13% increase. He asked for an explanation of that.

Police Chief Steidle stated that, as the fiscal year was not over yet, that was his projection that they will spend in their salaries.

Mayor O'Neill stated that in 2017-18, they were projecting a 13% increase.

Police Chief Steidle stated that they were coming in under what they thought they were for this fiscal year. He stated that 67.5% was what they raised it last year, as they have to give them raises as well. He stated that was his projection and they came in under budget but he was sticking with the 67.5% this year and they should make it within that.

Asst. City Manager Hines explained that, while the chief was scheduling 67.5%, if the actual expenditures are lower, then the difference between actual and budgeted expenditures falls to the fund balance and he will get to use that at another time, but now he was budgeting conservatively rather than have to come back in February and ask for additional authority.

Councilmember Digre asked about traffic signals.

Police Chief Steidle said no. He stated that they write the grant to purchase traffic equipment such as the lighted display signs that tell people what their speeds are that they use for traffic education or traffic enforcement.

Mayor O'Neill stated that, in the budget, they have funded FTE37, and he asked how many actuals they have.

Police Chief Steidle asked if he meant how many are filled.

Mayor O'Neill responded affirmatively.

Police Chief Steidle stated that, now, they are 34, with three vacant police officer positions they are trying to fill now.

Mayor O'Neill concluded that they were vacant, not on medical leave.

Police Chief Steidle clarified that there are three vacant and now he has two out on long term medical. He stated that, if he was talking about the actual number of employees present, he was down by five, all sworn officers.

Mayor O'Neill asked if FTE was sworn officers, not evidence clerks, etc.

Police Chief Steidle stated that FTE was full time employee, and of the 37 full time employees, he only has 34 on payroll because of three open police officer positions and the two are on payroll but out on long term medical.

Fire Chief Myers presented the fire department budget.

Asst. City Manager Hines continued the staff report.

Mayor pro Tem Keener asked if he was saying they will be reimbursed for expended funds.

Asst. City Manager Hines responded affirmatively.

Mayor pro Tem Keener concluded that we haven't yet and it shows up only on the amended 2016-17 figures and isn't carried over.

Fire Chief Myers explained the process and continued with the staff report.

Asst. City Manager Hines concluded the staff report.

Mayor pro Tem Keener asked if it was a reserve fund under the General Fund.

Asst. City Manager Hines responded that it was and when you see the all funds list, there will be a proposed new reserve. He stated that the fire chief mentioned there may be a fire equipment reserve and, if that exists, he will highlight it and make sure Council is aware of any changes. He stated that there is a need for replacement of fire equipment, but the General Fund was not able to provide any additional assistance and they took a more conservative approach with the vacancies. He stated that they will see what happens at the end of the calendar year and see if they need to return in February for the mid-year.

Mayor O'Neill referred to the public education community outreach, and pointed out mention of the annual Brisbane Community Wildfire Awareness event, and he asked what that was.

Fire Chief Myers stated that Brisbane suffered a 400-acre wildland fire in 2006. They were in a difficult situation to evacuate, sort of like an Oakland Hills perspective. He stated that we don't have that same element in Pacifica, but they participate with them and make that awareness to get people to reduce the weeds, mentioning that they have a vegetation management program. It was a small area, but it could be a big issue, and they do that annually to assist the city.

Mayor O'Neill acknowledged that it does make sense.

Fire Chief Myers stated that he hasn't forgotten, and they took the Mayor's suggestion and put in the fact that people choke and they are training people on how to assist people with that problem.

Asst. City Manager Hines suggested that the Mayor might note that two members of the Council are part of the JPA Board.

Mayor O'Neill agreed, stating that he and Councilmember Digre were part of the JPA and they will be at the annual meeting of June 15. He thanked them for doing a good job and keeping the insurance rates down.

Fire Chief Myers stated that they just went through the insurance services office rating review and Pacifica went from 4 to 3. He thought that it was good, although it won't return something to people who are buying their insurance but was bragging rights.

Mayor O'Neill concludes that 5 is bad and 1 is good.

Fire Chief Myers stated that 10 was bad, and 1 was very expensive and he would never suggest spending the money to be a 1. He stated Daly City was a 2 and the other two cities are 3, and it was a good spot to be in.

Mayor O'Neill thanked him and Chief Steidle for his efforts. He asked if we are shorthanded in the fire department.

Fire Chief Myers stated that they have one long term person out and we were probably having salary savings because it was something where it was taking a different course. It will be a vacancy, but they will have vacancies coming up. He stated that they will have two promotions and will create some vacancies with people who may potentially retire.

## **ADJOURN**

Mayor O'Neill adjourned the meeting at 8:45 p.m.



Transcribed by Barbara Medina, Public Meeting Stenographer.

Respectfully submitted,

Kathy O'Connell, City Clerk

APPROVED: 5-0; 6/12/17

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Mike O'Neill, Mayor