

MINUTES
CITY OF SAN CLEMENTE
COASTAL ADVISORY COMMITTEE MEETING
Thursday, October 13, 2011 @ 7:00 p.m.
Community Center, Ole Hanson Fireside Room
100 N. Seville, San Clemente, CA 92672

1. CALL TO ORDER/ PLEDGE OF ALLEGIANCE

Committee Member Hart called the meeting to order at 7:01 p.m. Committee Member Brown led the Pledge of Allegiance.

2. ROLL CALL

Present: Don Brown, Dagmar Foy, Bill Hart, Robert Jordan, Ken Nielsen, Peter Salgado

Absent: Susan Ambrose

Staff Present: Tom Bonigut, Assistant City Engineer
Eileen White, Recording Secretary

3. NOMINATION AND ELECTION OF CHAIR AND CHAIR PRO TEM

Committee Member Jordan nominated Bill Hart to continue as Chair and the motion was seconded by Committee Member Nielsen. There were no other nominations. Bill Hart was elected to continue serving as Chair on a vote of 5-0-1, with new Committee Member Foy abstaining.

Committee Member Nielsen nominated Peter Salgado to serve as Chair pro tem and the motion was seconded by Bill Hart. Committee Member Jordan nominated Ken Nielsen to continue as Chair pro tem and the motion was seconded by Committee Member Brown. Peter Salgado was elected to serve as Chair pro tem on a majority vote of 4-1-1, with Committee Member Jordan voting for Ken Nielsen and Committee Member Foy abstaining.

4. APPROVAL OF MINUTES

A. Minutes of the July 14, 2011, Regular Meeting

MOVED BY COMMITTEE MEMBER JORDAN, SECONDED BY COMMITTEE MEMBER SALGADO, AND CARRIED 4-0-2, WITH COMMITTEE MEMBERS BROWN AND FOY ABSTAINING, to receive and file the minutes of the July 14, 2011, meeting with the following revisions:

Page 2, 7th paragraph, first sentence, insert "Commission" between "California" and "Conference;" At the end of the sentence, insert "pertaining to the Coastal Commission"

5. **PUBLIC INPUT** - None

6. **OLD BUSINESS** - None

7. **NEW BUSINESS**

A. Potential Plastic Bag Ordinance

A memo by Mary Vondrak, Environmental Analyst, providing an update regarding a potential ordinance to ban single-use plastic bags.

Tom Bonigut, Assistant City Engineer, reviewed the staff report, an update on the City's proposed Single Use Plastic Bag Ordinance. San Clemente and several other cities have been trying to pass local legislation to ban the use of plastic bags within their respective city limits, and efforts to pass a statewide ban are continuing. Ongoing attempts from opposing groups to thwart cities' efforts to ban plastic bags include legislation calling for cities to first perform California Environmental Quality Act (CEQA) review requiring a costly Environmental Impact Report (EIR) and claims of unconstitutionality under Proposition 26 which requires 2/3 voter approval for new taxes. In the coming months the settlement of California Supreme Court lawsuits will set precedent for the future of plastic bag ordinances in California. Staff is concerned that pursuing the citywide ban at this time could potentially expose the City to litigation and there are no funds budgeted to cover the approximate \$50,000 cost of an EIR if an EIR is pursued. Staff recommended the Committee direct staff to continue to monitor the legal proceedings and keep the Committee informed.

In response to questions Assistant City Engineer Bonigut speculated that a Proposition 26 2/3 vote, if required, could be placed on a regular ballot for a nominal cost which would include City staff and attorney time; advised that there seems to be local support for a ban, noted that a Mitigated Negative Declaration or Negative Declaration could be completed with minimum staff cost; confirmed this Committee voted to forward \$2,500 to support the efforts of Santa Monica to spearhead the idea of plastic bag bans; advised additional research would be necessary to assess the legality of a ban under Proposition 26; agreed he could revise the City's original draft of the proposed ban to ensure it complies with the model ordinance, and bring it back to the Commission for their consideration; and updated the Committee regarding ongoing lawsuits and settlements.

Committee Member Salgado volunteered to complete the Mitigation Negative Declaration or Negative Declaration in order to save the staff time cost.

Public Comment:

Angela Howe, attorney for Surfrider Foundation, advised the City of Laguna Beach was currently planning to perform a Mitigated Negative Declaration to support a plastic bag ban proposal, which would not include restaurants, citywide; noted the City of Huntington Beach, at 200,000 residents, may have to perform an EIR due to potential CEQA requirements; explained the paper bag charge requirement was necessary to ensure the ban does not encourage the use of paper bags, which are perceived as worse for the environment; speculated that Proposition 26 regulations would not apply in this instance because the fee is not technically a tax placed by the City; encouraged the City to be the first city in Orange County to go ahead with its plastic bag ban because legal arguments against bans are not holding up in court and/or weak, and because banning plastic bags is a forward-thinking tool to protect the sea environment. In addition, she encouraged staff and Committee Members to attend a Surfrider Foundation forum on the issue planned for November 13.

In response to questions, Attorney Howe explained the paper bag fee is a necessary deterrent to counter negative environmental impacts from the plastic bag ban, such as the public choosing to use paper over plastic because of the ban, and additionally supports the environmental organizations dedicated to saving rain forests.

Chair pro tem Salgado supported moving ahead with the City's Plastic Bag Ban Ordinance because due to recent court decisions there seems to be minimum risk for the City in terms of lawsuit exposure due to CEQA requirements, and Proposition 26 arguments can be countered with putting the measure on the ballot for public vote.

Committee Member Nielsen supported moving ahead with the City's Plastic Bag Ban Ordinance because, as a commercial fisherman, he sees firsthand the negative impacts caused by plastic bags in the ocean; commented that the alternative, reusable bags, are readily available, convenient, and low priced.

Chair Hart supported fine-tuning the City's original draft of the Plastic Bag Ban Ordinance and then moving ahead to continue leading coastal cities to protect their environments as shown in the past with the beach smoking ban, polystyrene ban, etc. He referred to Stephanie Dorey, who despite having no background in politics developed into an activist, City Councilmember, mayor, and community leader in environmental conservation. He acknowledged the City's prudence in waiting up to this point, opined that litigation efforts from the opposition have been proven to be scare tactics, and supported going ahead with the plastic bag ban.

Committee Members recommended that staff revise the City's original draft of the plastic bag ordinance to be consistent with the Green Cities California model ordinance; address recent lawsuit decisions, CEQA issues, and comments made this evening; and remain prudent with regard to potential liability exposure of the City. They encouraged staff to make the ordinance the most defensible and iron-clad it could be to ensure the City is in a strong position, and do further research to include options and potential expansion and/or addition of other potentially environment harmful products. Staff agreed to email the draft ordinance to Committee Members for their reference and comment, and to seek Council direction on whether to prepare a final draft ordinance for Committee and Council consideration.

MOVED BY CHAIR HART, SECONDED BY COMMITTEE MEMBER FOY, AND UNANIMOUSLY CARRIED to recommend that staff come back with recommendation or range of recommendations for an ordinance to ban use of single-use plastic bags, based roughly on the City's original ordinance and updated to reflect the processes that will make the ordinance most defensible in the face of legal challenges.

B. Street Sweeping Update

A memo by David Dendel, Maintenance Services Manager, providing an update on the City's street sweeping program.

Tom Bonigut, Assistant City Engineer, reviewed the staff report, an update on Street Sweeping Services provided by Cannon Pacific Services (CPS). Based on the information gathered during a recent data collection program performed by CPS on the number of cars parked and most debris collected per route, staff has selected three target areas for consideration of pilot programs. Included in the staff report were grafts, reports, and collection study results. Staff recommended the Committee provide input and receive and file the report.

In response to questions, Assistant City Engineer Bonigut advised the three target areas chosen for pilot programs are similar to each other, thereby providing the most neutral starting point for most accurate comparable results; noted streets in Talega are private and therefore required to be cleaned to the same standards as the City's.

Committee Member Nielsen stated that street sweeping is the best way to keep trash, brake dust, etc., from reaching the ocean. Cars parked along the street prevent street sweeping vehicles from effectively cleaning the streets, leading to trash/debris left behind that can slowly make its way to drains and the ocean. He recommended posting and providing citing on all public streets within the City to prevent cars from parking on the streets on street sweeping days, which will be the most effective action the City can take to prevent debris from reaching the ocean. In addition, he questioned whether

selectively posting “no parking” signs and citing residents living in the Neighborhood Pride areas exposed the City to litigation based on selective enforcement, and suggested the City use existing and future fine revenues to support the expanded postings.

Chair Hart supported the test strategies as proposed by the City, with the intent of providing information that may eventually provide the momentum to justify posting the entire City. He agreed that selectively enforcing and citing certain areas could be considered discrimination on some level.

Assistant City Engineer Bonigut advised that cost is a key consideration for posting the entire City. In addition to the cost of the signs, the routes would have to be redesigned to allow for adherence to narrowly defined sweeping time periods, and may indicate the need for additional vehicles/manpower in order to meet the narrowed time windows. Before the Committee makes a recommendation to the City Council to post the entire City, he suggested that if directed by Council, staff work with the street sweeping contractor to develop route schedules, determine impacts, determine plan costs, etc., to determine if a proposal to post and cite all public streets is logical and/or feasible. He noted that grant funds were not available because this is a mandated program.

MOVED BY CHAIR PRO TEM SALGADO, SECONDED BY COMMITTEE MEMBER BROWN, AND UNANIMOUSLY CARRIED to recommend that staff investigate the cost and logistics to post “no parking on street sweeping days” signage on all public streets within the City, calculate the street sweeping ticket fines to fund the postings, and present the results to the CAC for consideration of recommendation to City Council.

C. Corps of Engineers Shoreline Erosion Study

A verbal presentation by Tom Bonigut, Assistant City Engineer, providing an update on the current status of the Corps of Engineers Shoreline Erosion Study.

Tom Bonigut, Assistant City Engineer, summarized the staff report, an update on the current status of the Corps of Engineers Shoreline Erosion study, including information concerning funding acquisitions and California Coastal Commission (CCC) approval process timeline. He invited all to attend the November CCC meeting in Oceanside, agreed to forward copies of the monitoring plan to Committee Members, and agreed to email additional/new information as it becomes available. Staff recommended the Committee hear the report and provide input.

D. Pharmaceutical Waste Disposal

A memo by Danna McIntosh, Environmental Services Coordinator, providing information on disposal of pharmaceutical waste.

Tom Bonigut, Assistant City Engineer, summarized the memo, an update on the current status and guidelines of pharmaceutical disposal. He noted the information will be uploaded to the City's website; advised staff continues to explore ways to expand the City's door to door collection services to include pharmaceutical waste. Staff recommended the Committee receive and file the report.

Report received and filed.

E. Poche Update

A memo by Tom Bonigut, Assistant City Engineer, providing an update on the Poche Beach treatment system and County's permitting efforts.

Tom Bonigut, Assistant City Engineer, reviewed the staff report, an update on the Poche Beach treatment system including information on performance monitoring, alternate discharge, potential for facility operation year-round, and the statuses of necessary permits. Staff recommended the Committee receive and file the report.

Chair Hart endorsed the need for additional data; questioned whether residents using Poche Beach will be given an opportunity to provide input on potential to operate the system year round; questioned whether the County had any suggestions about what to do with the constant deposits of bird fecal matter in the pond.

In response to questions, Assistant City Engineer Bonigut advised that significant amounts of data are being collected at this time, and results of the alternate discharge plan are pending. Staff will have a much clearer picture of the system's potential once additional sampling and data collection results are received.

Report received and filed.

8. COMMUNICATIONS

A. Bacterial Monitoring Report Dated October 3, 2011

B. August and September 2011 Environmental Programs Update

Committee Members received and filed Items 7A & 7B as submitted by staff.

9. ITEMS FROM STAFF

A. Potential Future Agenda Items

A memo by Tom Bonigut, Assistant City Engineer, on scheduling of potential future Coastal Advisory Committee agenda items.

Committee Members added the following topics for future meetings:

- December 2011, Plastic Bag Ordinance Review and Recommendation
- January 2012, Street Sweeping Program Update.

10. ITEMS FROM COMMITTEE MEMBERS

Chair pro tem Salgado recommended staff increase advertising/promoting the Water Smart Grass Replacement Program to encourage the public to receive the economic benefits of removing grass and replacing with water saving plants.

Committee Member Nielsen announced a Watershed Task Force-supported clean-up at Max Berg Park on November 5; clarified the purpose of the event is to encourage those living in the Neighborhood Pride areas to bring their unwanted items to the park for disposal rather than leaving items strewn around the neighborhood; encouraged Committee Members to contact him for volunteer opportunities.

Committee Member Brown announced the Planning Commission's efforts to review the Draft General Plan Update are ongoing.

Chair Hart invited all to attend the Watershed Task Force meetings on the second Tuesday of every month; noted the great attendance at events, proactive actions, and volunteer spirit of the high school students; suggested a Citizen's Blue Ribbon Committee or Task Force, with the CAC and Parks Division staff actively engaged, should be formed to address issues related to the Beach Trail, including dog waste disposal, bicyclists' use, general etiquette, overcrowding etc. Watershed Task Force members have also expressed interest, and he stated a preference to develop solution-oriented rather than punishment-oriented resolutions.

11. ADJOURNMENT

MOVED BY COMMITTEE MEMBER BROWN, SECONDED BY COMMITTEE MEMBER JORDAN, AND UNANIMOUSLY CARRIED to adjourn at 9:24 p.m. to an Adjourned Special Meeting to be held on Tuesday, November 8, 2011, at 7:00 P.M., in the Second Floor Conference Room, located at the Community Development Building, 910 Calle Negocio, San Clemente, California, for the purpose of meeting in joint session with the City Council and all City Commissions and Committees.

Respectfully submitted,



Bill Hart, Chair

Attest:



Tom Bonigut, Assistant City Engineer