

**MINUTES OF THE MEETING
OF THE CITY OF SAN CLEMENTE
COASTAL ADVISORY COMMITTEE**

Thursday, January 8, 2004

@ 7:00 p.m.

**Community Center, Ole Hanson Fireside Room
100 N. Seville
San Clemente, CA 92672**

1. PLEDGE OF ALLEGIANCE

Committee Member Nesa Ortega led the Pledge of Allegiance.

2. ROLL CALL

Present: Ken Nielsen, William Hart, James Burror, Garrett Waters, Nesa Ortega

Absent: Michael Barnes, Dennis Hannan
(In Chairman Barnes' absence, Committee Member Nielsen led the meeting)

Staff present: Bill Cameron, City Engineer
Kelly Main, Associate Planner
Jim Pechous, Associate Planner
Bruce Wegner, Beaches, Parks and Recreation Director
Bill Humphreys, Marine Safety Chief

3. APPROVAL OF MINUTES.

CAC Minutes of December 11, 2003

MOTION BY COMMITTEE MEMBER BURROR, SECONDED BY COMMITTEE MEMBER HART, CARRIED (5-0-0), to table approval of the minutes of December 11, 2003, until the next regular meeting of the CAC on Thursday, February 12, 2004.

4. PUBLIC INPUT

None.

5. OLD BUSINESS

None.

6. **NEW BUSINESS**

- A. Coastal Bluffs and Canyons Program Update (full packet was distributed to Committee members only. Original is on file at the City Clerk's office for review.)

This topic was re-ordered to come before "Strategic Planning for 2004" to accommodate City staff members Kelly Main and Jim Pechous who presented this update.

Ms. Main introduced herself and Mr. Pechous and introduced the subject of a process initiated by City Council last year to evaluate the City's standards in regard to development on Coastal Canyon and Bluff lots. She referred to a memo she had sent, addressed to City Council and City Manager George Scarborough, dated December 18, 2003, entitled "Coastal Bluffs and Canyons Ordinances". This memo had several attachments, including the "San Clemente Coastal Bluffs and Canyons Management Guidelines", a Proposed Work Program Zoning Amendment (including Municipal Codes) for Standards for Coastal Canyon and Bluff Lots, and a copy of the minutes from the City Council Meeting of May 6, 2003, during which this subject was discussed. These items were previously distributed to CAC members in their meeting packets.

Ms. Main said that the presentation tonight was to introduce the CAC to the kickoff of this project, and to provide them with the staff's summary of possible problems with the ordinance concerning Coastal Bluffs and Canyons development, and to hear the CAC's input about the effort in regard to establishing the Zoning Amendment for this ordinance. She explained that the proposed amendment would amend the existing municipal ordinance, and involves informal public workshops inviting the public to discuss the issue. Following that is a formal public hearing process in which City Planning will make an official recommendation to the City Council in regard to the ordinance, which the City Council then either approves or changes. She asked that the CAC contribute their input and advice to this process.

Ms. Main referred to the place in the memo that gave the status of some items for which City Council had given direction to staff. Ms. Main said that in regard to nineteen drainage improvements, the Engineering division is currently working on a memo to the City Manager which will be copied to the CAC members.

Secondly, Ms. Main introduced the important issue of "Non-conforming structures and facilities built in canyons". She said that a distinction had been made in our codes for new development vs. existing development. She said the distinction between the two is important in regard to structures and development in coastal canyons because our existing city zoning ordinance is so restrictive, it prevents almost any new development on such lots (please see Ms. Main's memo for details). She said our current code prohibits any new development on a large portion of canyon lots, in the setback area toward the canyon, and in the canyon itself. Ms. Main feels that most residents are in support of this in order to preserve our canyons.

Ms. Main said another issue is what can be done in regard to asking owners to remove existing hard structures from the canyon, and she asked what the CAC had decided in that regard. Committee Member Hart said the CAC has had discussion regarding pre-existing development vs. new development, maintenance or repair, etc., and he said the CAC's recommendation was to not take a firm stand on that, and he believes they referred it to City Council. Ms. Main said City Council had directed staff to ask the City Attorney to begin writing an ordinance to address the issue of maintenance and/or possible removal of structures. Committee Member Hart said he had attended that City Council meeting and cited two things from it: 1) the term "removal" was used to encourage but not force owners to remove structures, and 2) Council Member Joe Anderson made a strong recommendation to take the Coastal Bluffs and Canyons guidelines (submitted by the CAC) and make it into an ordinance. Committee Member Hart said he remembers the whole council being in favor of this. Committee Member Ortega asked what Council recommended in regard to Maintenance/Removal, and Committee Member Hart said he remembers that removal would be encouraged, but not forced; implying that maintenance would be allowed. City Engineer Cameron said he felt that Council was concerned about enforcing the removal of any structures with value; they felt they may not want to do that, and referred the matter to the City Attorney.

Ms. Main said the City Attorney was now creating a memo outlining options in regard to non-conforming structures, such as maintenance issues, repair, etc. She said when this memo was finished it would be sent to City Council and the CAC to get their input on what should become municipal code, as, she said our current code does not address the issue of non-conforming bluff/canyon structures. She said current code allows for the repair of legal non-conforming structures. She said some of the existing canyon structures did not require permits, so it is nearly impossible to tell which are "legal" and which are not. She said the City Attorney would work with City Council to clarify the differences.

Committee Member Hart asked Ms. Main about the structures that didn't require City permits; he said that nearly all of them required a California Coastal development permit, but he felt that in most cases, such a permit was not obtained. Therefore, many of these structures are illegal from that standpoint, and what could the City do in this regard? Ms. Main acknowledged this and added that some structures were built before the 1977 Coastal Act. Mr. Hart estimated that most of the existing structures were probably built after the Coastal Act. Ms. Main agreed that these issues must be addressed. She said that City Council has asked staff to develop ordinances related to non-conforming structures. She said staff is addressing this issue, and it may turn out not to matter when these structures were built—but they are still reviewing this and would like to receive input from the CAC.

Ms. Main said City Council had also asked staff to establish standards for all new construction and facilities, and also pointed out the city's municipal code prohibiting all new canyon development. She said the code's definition of new development (please refer to the memo) is all-encompassing. Therefore, it was

felt that no other standards were needed. Subsequently, however, staff has looked at implementing standards for landscaping, drainage issues, etc., in the canyons.

Committee Member Ortega asked if the City had any authority over fuel modification for fire safety. Committee Member Hart felt they did; he said he had attended a meeting with the Fire Authority, Mayor Susan Ritschel, and the California Coastal Commission where they formed a policy for a one year exemption. Ms. Main said this is not a permanent exemption, but that an exception, temporarily allowed by the coastal commission can be granted when fire hazard danger is high, as in Fall 2002, but that, for instance, it could not be granted in Fall 2003, when fire hazard danger was low. Ms. Main said her understanding from the Fire Authority was that this one year exception could be implemented again whenever the fire hazard was again high.

Ms. Main said that during the process of implementing a Zoning Amendment for Coastal Canyons and Bluffs, the City would try to align their regulations with those of the California Coastal Commission and the Orange County Fire Authority.

Committee Member Burror asked if a distinction would be made between public and private property. Mr. Cameron said the City only owns only a small portion of the bluffs, and that the rest of the coastal canyon area is owned by private individuals. He also mentioned that the City and County have a few easements in the coastal canyon areas, such as for drainage. Committee Members Burror and Ortega thought that this easement issue should be addressed when considering an ordinance. Committee Member Ortega also cited fuel modification as an important issue; for instance, canyon property owners cannot do fuel modification to protect their houses from fire, and can't get fire insurance. Ms. Main said that her memo addressed fuel modification and said that owners were able to do fuel modification without Coastal Commission approval, although she thinks that now Anne Blemker of the Coastal Commission is giving guidelines to owners seeking permits from the Coastal Commission for fuel modification-type projects.

Committee Member Hart, along with Associate Planner Pechous defined the land from the curve of the first public road to the ocean, as an area where any development is highly regulated by the Coastal Commission. Ms. Main said the City also provides regulations for inland canyons outside of the coastal zone, which are not regulated by the Coastal Commission, and these areas have fuel modification issues as well. Ms. Main said that inland canyons could be affected by the outcome of an ordinance; but the main focus now is on the coastal canyons and bluffs. Ms. Main referred to her memo when she spoke of the "informal process" of reviewing new proposed development on coastal canyons that the City has. She said the City's criteria are limited in regard to determining, for instance, granting an exception for fuel modification purposes or for drainage

pipes; the current City code (dated 1992) allows no new development in coastal canyons. Ms. Main said that before 1992 our City code allowed a lot more than the Coastal Commission did, therefore the effort in 1992 was to try to align the two codes together. This resulted in a few minor problems with over-regulating small structures.

Ms. Main said the City will establish a workshop program for the proposed Coastal Canyons and Bluffs Zoning Amendment, and asked for dates from the CAC on which to hold the first workshop. Ms. Main said that every property owner on the canyons and bluffs would be notified of the workshops, and a general notice would be printed in the Sun Post. She also asked for suggestions from the CAC on how to notify as many residents as possible. Committee Member Hart suggested writing a letter to the local Surfrider chapter. Committee Member Nielsen asked if the letter sent to residents could clearly state what would be discussed, and how important attendance would be if the residents want to have a say in this process, and want to know how they would be impacted by it. Ms. Main mentioned that in a workshop no decision is made, unlike in a public hearing, but that it is important to notify all those of the workshop who would be notified of the public hearing. Chief Humphreys mentioned that an educational brochure regarding development on coastal bluffs and canyons would be mailed in the spring; he said that the public workshop would be prior to that and this brochure would augment the public process.

At the end of the staff presentation, there was a Q&A period and Committee Member Hart asked for clarification about the 19 drainage sites to be investigated. He said the CAC had discussed guidelines, but it was strictly at the urging of City Council that an ordinance be made. Committee Member Hart said he was glad that Planning staff was engaged full time in the Coastal Bluffs and Canyons project as this issue deals with land issues. He said he would have liked Planning staff to attend the prior CAC meetings concerning the Coastal Bluffs and Canyons guidelines. He said the goal of the guidelines the CAC proposed was to try to align the City policy, and enforcement and direction to property owners with the Coastal Commission's policy. He said in light of the fact that there is no LCP implementation plan, the CAC wanted to give property owners the same guidelines the Coastal Commission would apply. He cited the meeting in which Anne Blemker of the Coastal Commission attended, and she told the CAC that the Coastal Commission was positioned to help San Clemente get through the LCP implementation plan, and she encouraged it. Committee Member Hart feels that the City and the Coastal Commission now have more aligned approval processes.

Committee Member Hart stated that the process regarding the Coastal Canyons and Bluffs guidelines followed this path: 1) CAC submitted the guidelines, 2) City Council gave a directive based on this document, to turn it into an ordinance, 3) There was a side-debate on 19 drainage sites, some of which were probably non-conforming, 4) City Council requested that these 19 sites be evaluated and recommendations made on each one; some would probably be left alone. Committee Member Hart said in some cases the drainage sites were causing erosion; in some cases there were broken pipes, but that many were fine. 5) The

issue was next given to staff, 6) Staff decided that 1992 City ordinance should continue to be applied instead of using the recommended guidelines. However, problems were discovered in the 1992 ordinance, so that now staff was trying to come up with an entirely new ordinance. Committee Member Hart said he'd like to go back to the original Coastal Bluffs and Canyon Guidelines and use it to make the ordinance. Ms. Main commented that the 1992 ordinance has been in effect since 1992 and it applies only to new development, not existing structures. Committee Member Hart said that the 1992 City ordinance is not aligned with the Coastal Commission policy, and it was the CAC's goal with the guidelines to more closely align the two policies. He cited the disallowance of drainpipes in the City code as an example of the disparity. Mr. Pechous said what probably happened was, while the City was trying to do their implementation ordinance in 1992, the Coastal Commission would not let the City follow their policy exactly; they said the City's code must be more restrictive than the Coastal Commission's code. Mr. Pechous said the City Planner at that time adopted the implementation ordinance as city code in 1992, in regard to Coastal Bluffs and Canyons, and that the code was more restrictive than that of the Coastal Commission. Staff and CAC members agreed that the Coastal Commission has changed over the past 10 years, and that the new guidelines address that fact.

Committee Member Hart summarized that the City's 1992 code is perhaps too strict in some ways, not strict enough in others, includes inconsistencies, and is no longer in synch with today's Coastal Commission's policies. He said he felt that City Council gave a directive to City staff to make the Coastal Canyons and Bluffs Guidelines document submitted by the CAC into an ordinance, and he feels that this was side-tracked by the 1992 code. Committee Member Ortega commented that existing code must be considered when making a new ordinance, and that the City Attorney would have to work out the details. Committee Member Hart agreed and said he is anxious to see an ordinance established to eliminate the continual violations of code by owners on coastal bluffs and canyons, and he is happy to see that we are going forward with public workshops and the public process. Ms. Main stated that in the public workshop, people will be made aware of City code, as they may not have been aware that structures on the canyons and bluffs have different regulations than those built in town.

Committee Member Ortega reminded the CAC members that when they were debating ordinance vs. guidelines, the existing structures that most concerned them were those creating damage to the bluffs, or presenting a safety problem.

Committee Member Burror asked how the railroad fits into this picture. City Engineer Cameron said the railroad precedes the City of San Clemente, and so the City has no control over what the railroad does. The CAC agreed that the railroad easement will not play a part in the proposed Coastal Canyons and Bluffs Zoning Amendment; that it is to primarily regulate private property.

The CAC members thanked Ms. Main and Mr. Pechous for their presentation. The CAC decided to agendize the Public Workshop at the next regular CAC meeting to be held on Thursday, February 12, 2004.

B. Strategic Planning for 2004

Chief Humphreys summarized the list of priorities the CAC had made during their September 2003 meeting, and there was discussion of some of the items, as follows:

In regard to getting an update from USACOE on their progress, Chief Humphreys said that he and Director Wegner are scheduling a meeting with the USACOE for January 21st or 22nd to get an update and to schedule the USACOE to appear at a CAC meeting.

In regard to Marine Safety Building replacement or repair, Chief Humphreys is involved in the process of trying to get verbiage from a soon-to-be-passed federal legislation written into the USACOE's report. This would increase the value of recreational benefits, as well as increase the amount of credit the City would receive for its beaches and would help support Federal interest in a beach replenishment project in San Clemente.

The committee decided to include the following in their letter listing their priorities to the City Council:

1. Use proposed guidelines to help implement new policies, rather than write these policies from scratch
2. Coastal Bluffs and Canyons proposed Zoning Ordinance
3. Further implementation of URMP, including further public education, etc. (here the CAC members all agreed that they found city staff's Senior Civil Engineer Brandi Outwin's report on this subject to be excellent).

7. **COMMUNICATIONS**

A. Parks and Recreation Commission Minutes from November 11, 2003

Received and filed.

B. Bacteriological Monitoring Report

Received and filed.

8. **ITEMS FROM STAFF**

None.

9. **ITEMS FROM COMMITTEE MEMBERS**

Committee Member Burror stated that on February 12, 2004, at the American Society of Civil Engineers luncheon, the Project Manager of the Poche UV project will present an overview of that program, at Dave and Buster's in Irvine.

Committee Member Hart stated that he really enjoyed the new Dog Park, and he complimented Director Wegner and his department on the good work they did with limited funds. He said he was also impressed for the most part with the cleanliness of the park. Secondly, Committee Member Hart requested binders for the new CAC 2004 year.

Committee Member Nielsen stated that at Surfrider's meeting next Wednesday, a world-renowned shark expert would be speaking. Secondly he said he spoke to Ken Shift of So. California Coastal Resources Project, and they will do a study on the effects of bacteria and kelp on swimmers.

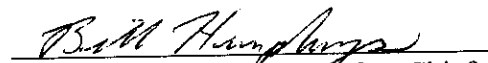
10. ADJOURNMENT

MOTION BY COMMITTEE MEMBER ORTEGA, SECONDED BY COMMITTEE MEMBER HART, CARRIED (5-0-0) to adjourn at 9:30 pm to a regular meeting to be held on Thursday, February 12, 2004, at 7:00 pm, in the Fireside Room, at the Community Center, 100 N. Seville, San Clemente, California.

Respectfully submitted,


Michael Barnes, Chair

Attest:


Bill Humphreys, Marine Safety Chief