

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

Thursday, March 13, 2003

@ 7:00 p.m.

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

1. PLEDGE OF ALLEGIANCE

Committee Member Peggy Vance led the Pledge of Allegiance.

2. ROLL CALL

Present: Ken Nielsen, William Hart, Michael Barnes, Dennis Hannan, Peggy Vance

Absent: Greg Hulsizer, Nesa Ortega

Staff present: Bill Humphreys, Marine Safety Captain
Mary Colletti, Recording Secretary

3. APPROVAL OF MINUTES

MOTION BY COMMITTEE MEMBER HANNAN, SECONDED BY COMMITTEE MEMBER VANCE, CARRIED (5-0-0) to approve the minutes of February 13, 2003 as amended.

4. PUBLIC INPUT

San Clemente Resident Wendy Morris informed the Committee that the Railroad, starting on Monday and for the next month, would be dumping riprap along the beach. Ms. Morris called Ms. Valdez, at Metrolink, for locations of the dumping. Ms. Valdez was in charge of notifying adjacent property owners about the dumping, but Ms. Morris told the Committee that she was never notified although she is an adjacent property owner. Ms. Valdez was surprised to hear this, as she said they contracted a company to hand-deliver the notices. Ms. Morris said their past dumping procedure was to use a bulldozer in an area piled high with riprap, and push those rocks out to the ocean to make room for new riprap. In this method the footprint of the revetment is made larger and, if dumped on sand, removes either towel space or, if it lands in the water, we lose our state land's property. Ms. Morris thought they should have a permit since they are increasing the size of the revetment. Ms. Valdez stated that they are only maintaining what is currently there, but Ms. Morris disagrees. She believes they are increasing the revetment size.

Committee Member Hannan replied that the railroads do not need local or state permits as it is their property. Ms. Morris said that when they dump onto 'wet' sand it is state land's property, not the railroad's. Committee Member Hannan stated that they shouldn't be dumping beyond their right of way. Ms. Morris said it's now in dispute whether this area is their property. Committee Member Hannan stated that the riprap and revetments don't cause erosion, as the waves don't get to the rocks because of the sand in front of them. He said Mayor Dorey and the Committee are trying to get sand put on our beach, but don't have any big donors. Ms. Morris believes the railroad owes us some sand to mitigate the rock dumping. Committee Member Hannan said that, as a coastal geologist, the thing he objects to the most is that the rock is not sized or placed, it is just dumped. He said eventually, surfers and swimmers will be in danger of colliding with the rocks in the water. He said he hoped the City could influence the Railroad to build designed revetments.

Committee Member Hannan also said he was worried that the dumping the Railroad plans to do in areas where it looks unnecessary may be in preparation to building two rails.

Chairman Hart said that perhaps the City Manager could call the head of Metrolink to ask them to rethink their strategies and/or run these strategies by the City's Engineering department. Chairman Hart said that perhaps there are areas where riprap is worn thin, but that in areas like Lost Winds, Boca del Canon, etc., where there is no riprap, and the tracks are well behind sand dunes, he questions the necessity for dumping there. Chairman Hart feels that a call from the City Manager to Metrolink is the best we can do in this short time frame.

Committee Members Hannan and Nielsen suggested that the Coastal Advisory Committee send a memo to the City Manager of their recommendations on this issue. Chairman Hart suggested the Committee discuss this during "Items for Commissioners" in this meeting. Committee Member Barnes commented that the Army Corps of Engineers told Metrolink that the placement of riprap on the beach is accelerating erosion, but that the Army Corps received no response from Metrolink.

San Clemente resident Jim Donlin said that Surfrider had spoken to their attorney and asked the attorney to send a letter to the head of the SCRRA to inform them that Surfrider was considering litigation in this matter. He said that if you make the footprint larger, that constitutes development which puts it "out of bounds". Mr. Donlin said the letter will include a request for Metrolink's detailed plans for the project. He said that Surfrider is working with the head of the Coastal Commission on this issue.

Resident Michael Metcalfe said that this is an emergency and could cause irreversible harm to our beach, and he wants the City and this Committee to act immediately. He recommends that the City Attorney file a writ for an injunction against it. He challenged this Committee to act in this emergency.

Chairman Hart said that since this item wasn't agendaized, it should be discussed under Items for Commissioners. He invited the public audience present to remain for that portion of this meeting.

Resident Jim Donlin suggested that concerned residents go direct to the City Manager, and Chairman Hart agreed.

Mr. Donlin next spoke on the Street Sweeping issue, for which he had attended the previous Coastal Advisory Committee meeting. He said he was happy with the discussion from the previous meeting and requested that this Committee agendize the topic of normalizing street sweeper parking regulations throughout the City.

Chairman Hart replied that the City has a timeline in regard to presenting the street sweeping issue, and a related staff study on parking enforcement, to the City Council. Chairman Hart hopes that this Committee will be able to make formal recommendations to the City Council before it becomes an action item for the City Council, but is not yet clear if that will happen as he is not sure of the timeline.

Mr. Donlin asked if this Committee could make a recommendation, separate from that of the City's, directly to the City Council. Chairman Hart felt this could probably be done, and that this Committee could agendize the item and come up with recommendations. Chairman Hart said he plans to get a better idea of the City Council's timeline on this issue, and this can be voted on by this Committee at the end of this meeting.

5. **OLD BUSINESS**

The agenda was re-ordered to place New Business before Old Business.

A. Draft Sand Replenishment Policy or Ordinance

Committee Member Hannan distributed his draft of the Sand Replenishment Policy or Ordinance to the Committee members and staff present.

The following is a discussion by the Committee of the most significant points posed during this meeting (please refer to the resulting draft of the "Opportunistic Beach Sand Nourishment Policy" for complete details).

Committee Member Barnes said his biggest concern is the percentage of fines. Chairman Hart said the permit being applied for specifies no more than 25% fines, and this Committee authorized a permit request based on this, with room to negotiate that figure. He said that Chris Webb, from Moffat and Nichols, was insistent that there may not be a lot of material available with fines below 25%.

Committee Member Barnes said he wants to choose a percentage scientifically defensible, and very protective of the beach. Therefore, he'd like to be conservative, and start with a percentage of fines lower than 25%. He summarized all of the information this Committee has reviewed in regard to the Draft Sand Replenishment Policy or Ordinance, as follows:

The consensus of this Committee is that sand with no more than 10% fines may be placed in the surf zone, and sand with no more than 5% fines may be placed on the beach. Chairman Hart thanked Committee Member Barnes for combining all of the information the Committee has received into one report. Chairman Hart stated that a Committee vote may be required to decide whether a policy or an ordinance is written.

In regard to chemical compatibility, Committee Member Hannan said that under "Chemical Compatibility", there are methods for toxicity testing. He said there are four ways to test material for adverse effect on various biological animals. Chairman Hart said that there should be a trigger, based on some basic guideline, which will trigger more testing. Committee Member Barnes said that the Army Corps of Engineers may specify a procedure for this, but he will need to do more research to see what the trigger is. Committee Member Hannan said that the chemical testing is most important in regard to ocean animals. Committee Member Hannan suggested adding Toxicity Testing. Committee Member Nielsen said such testing could be very expensive. The Committee agreed to omit such specific verbiage for now from the policy, as they felt the current language of Committee Member Hannan's draft covered this point sufficiently, and would allow the opportunity to do further testing if necessary on suspect material that may be offered.

Committee Member Hannan suggested that the City may wish to review sand color, based upon source and volume of sand to be placed. Committee Member Nielsen said according to San Diego Association of Governments (SANDAG), it's not necessary to be overly concerned with color. Committee Member Hannan said one has to be conscious of the difference between wet color and dry color of sand. The Committee's consensus was that the color should be a "reasonable match".

In regard to "turbidity", the general consensus of the Committee was that this was not a significant point to include in the policy, as it is covered under monitoring, sampling and testing aspects of the proposed policy. The Committee felt likewise about the Design Scenarios, which they felt was covered under the "Site Characterization" section of the proposed policy. Therefore, the Committee eliminated these two items from the proposed policy.

Committee Member Nielsen said that the report he distributed to the Committee members entitled "Marine Resources Surveys/Monitoring for Beach Replenishment Activities" (which will be incorporated into the Policy) came directly from SANDAG and all of the processes listed in the report are processes that have been done or are being done now by SANDAG.

In regard to surfing resources, Committee Member Barnes said that surfing is a resource in California, and we need to make sure we don't destroy and breaks. He thinks we should try to monitor this. Committee Member Hannan believes that if you put sand at the head of the cell, the sand will distribute naturally and will not destroy any surfing spots. Chairman Hart said that works in theory, but he feels that surf spots should be physically monitored for adverse affects. By Committee consensus, a paragraph was added to the proposed policy to allow for monitoring of surf spots to avoid adverse effects.

In regard to Committee discussion about whether a policy would have “the teeth” an ordinance would have, Captain Humphreys said that “the teeth” will be in the process. That is, no sand replenishment project can be done without permission from the City, the City Council, the California Coastal Commission and the Coastal Advisory Committee. Committee Member Hannan agreed and said that the Coastal Commission writes policies or guidelines as opposed to ordinances, in order to have flexibility depending on the resources available.

MOTION BY COMMITTEE MEMBER BARNES, SECONDED BY COMMITTEE MEMBER NIELSEN, CARRIED (5-0-0) to write the “Opportunistic Beach Sand Replenishment Policy” as a policy, as opposed to writing it as an ordinance.

6. NEW BUSINESS

Public Signage Board at Mariposa

Marine Safety Captain Humphreys summarized this topic which was brought up at the last Coastal Advisory Committee by San Clemente resident Michael Metcalfe. As proposed by Mr. Metcalfe, a sign would be placed at a beach access point near Mariposa where the public and the City could post notices of meetings, etc. Captain Humphreys brought the project to Beaches, Parks and Recreation Director Bruce Wegner. Director Wegner was concerned due to past experience they’ve had with signage boards. Director Wegner said the First Amendment would not allow the City to control what is placed on the board. Therefore, the City would have no right to remove possible objectionable notices. Captain Humphreys brought the signage issue to the City Attorney who concurred. He stated the City would be prohibited from performing in “content-based regulation” which is illegal in an open public forum, and would be protected by the First Amendment. He said it could also be an “unattractive nuisance”. Captain Humphreys posed the question of who would monitor the paper buildup of notices and how do you track how long something has been posted without removing new notices along with old ones, and what staff time would be required to do so? He also said that the California Coastal Commission would have to approve the sign. The City Attorney also said that the environment is a family-oriented beach and there could be graphic material placed on the board is objectionable.

Chairman Hart asked if the City Attorney discussed any way that content could be regulated. Captain Humphreys said that the City Attorney said there was a slim possibility of creating a “limited public forum”, but it can only be done by an ordinance which would state what type of notices would be allowed, and the City Attorney would have to do research into whether this would apply in this case. Captain Humphreys said he and Director Wegner had discussed the possibility of getting permission from a private property owner to post a sign. Chairman Hart suggested the possibility of posting notices informally in the area with relaxed enforcement, with the risk that anything could be torn down at any time in the process of keeping the city clean.

Resident Michael Metcalfe presented his proposal with a picture of the proposed site. He agreed that staff’s comments had merit. He said that he had spoken to the City’s Planning department who suggested this signboard be incorporated into the City’s proposed Coastal Trail. Mr. Metcalfe spoke to Kathryn Stovall Dennis, the liaison for the Coastal Trail design and she said signs are

controversial, but that it was not a bad idea. She suggested Mr. Metcalfe ask this Committee to approve the sign concept, and based on that she would try to incorporate it into the Beach Trail design. He emphasized that this idea grew out of a desire to have a "neighborhood signboard", monitored by the neighborhood, as opposed to a signboard where official notices would be posted. He felt that the neighborhood would use good common sense in controlling posted notices. Mr. Metcalfe cited an example of the public signboard posted at the library, and said he'd never heard of any problems with it. He requested that the Committee approve this concept.

Committee Member Nielsen said he lives in that area, and he believes the neighbors would take good care of the sign, but that if it became bothersome (i.e. graffiti, etc.) he'd want to remove it immediately. Committee Member Barnes said he'd like to give the community a place to post notices in one place, which would help keep the city free of postings all over on trees, etc. He felt it would be a good way to post beach conditions, water conditions, and public notices, and he'd like to designate a signboard for public postings. He feels that those offended would just remove the offensive notice.

Committee Member Vance said she'd go by what people in the area thought; if they had no objection to it, she felt it would be a good idea.

Chairman Hart said he'd met with Director Wegner and Captain Humphreys to discuss this issue. He said they discussed First Amendment rights, and said that when it becomes a sanctioned City sign, certain laws and protections have to be considered, so that this seemingly "easy" idea becomes much more complicated. Chairman Hart said the three of them discussed the Community Center signboard, and they found there was staff on site there that monitored it. Therefore, he felt this could not compare to putting a public signboard at a beach access point. He said the beach access in question is probably on private property and that a property owner may not mind having a signboard planted in the ground on his property. Chairman Hart felt the neighborhood could police the signs. He said that if this project were to move forward, there should be an escape clause to have the sign removed at the first sign of trouble. Committee Member Barnes suggested a three month trial. Committee Member Hannan agreed, and said it would not be difficult to remove such a sign. Chairman Hart said if cooperative property owners could not be found, he'd like to send the request through City channels and try to get it approved as a "pilot project".

Committee Member Nielsen suggested that the sign could be placed in the public right-of-way in that area, where there is no sidewalk. Resident Metcalfe said he'd be willing to ask the property owners for approval. Mr. Metcalfe suggested postponing any action for another month while the property owners were contacted.

Chairman Hart suggested continuing this item due to the complexities of the issue. Chairman Hart suggested again that it be proposed as a pilot project with a three month trial period. Committee Member Nielsen said he'd like a better-looking sign than the usual steel pole and plywood.

Resident Donlin stated that he believes there is an ordinance prohibiting signage on private property, and Chairman Hart agreed that there are many city ordinances regarding signage. He said that in terms of selective enforcement, this could go both ways; a sign could stay up without liability to the City, or it could be taken down without violating First Amendment rights because it wasn't supposed to be there in the first place.

Committee Member Vance asked if this Committee could approve the sign in concept and recommend approval by appropriate City agencies.

MOTION BY COMMITTEE MEMBER VANCE, SECONDED BY COMMITTEE MEMBER NIELSEN, CARRIED (5-0-0) to recommend to appropriate City of San Clemente agencies, the approval of the concept of a public sign, installed, maintained and funded by neighborhood volunteers, to be placed in the public right-of-way, and, contingent upon a 3 month and a 6 month evaluation of the signage, to be removed immediately should there be any resulting problems at the end of either evaluation period.

7. COMMUNICATIONS

Parks and Recreation Commission Minutes, January 14, 2003

Received and filed.

Bacteriological Monitoring Report

Received and filed.

Committee Member Nielsen asked why T-Street has been posted on this report for the past 3-4 weeks. Captain Humphreys responded this was not unusual for the rainy season. He said that if there is a high bacteria count, followed by a rain that boosts the count, and if there are 3 "high counts" in a row, the Orange County Health Departments switches from doing the daily test to the "30 day Mean Test", and then it's hard to get a clear rating based on the average sample. Chairman Hart said this was counter-productive, as no one would take those results seriously.

8. ITEMS FROM STAFF

9. ITEMS FROM COMMITTEE MEMBERS

A. Railroad Riprap Dumping:

Committee Member Hannan asked to agendaize this item and try to obtain some information (i.e., a map), and figure out a way to monitor what the Railroad is doing in regard to dumping riprap along the beach. He is concerned they are dumping in unnecessary areas in with a long-term

agenda in mind of preparation for their proposed double-tracking. He'd like to get a map from the City with the public right-of-way marked on it. Chairman Hart said the right-of-way is 50 feet each direction of the center line, plus or minus a few feet. He thinks the railroad is probably not pushing beyond the right-of-way with the revetment, but that there is an uncertain point of law in regard to who owns the tidewater—it's supposed to be State Lands. He feels the revetment is now sitting in that zone. He also wondered if State Lands could overrule the rights of the railroad, which are governed by federal law. Captain Humphreys stated that the Railroad's plans are to continue with their current maintenance process. He said the Army Corps of Engineer's (Corps) is doing the economic analysis right now for the Feasibility Study, and they must determine whether the potential harm of erosion in San Clemente, economically, is greater than the cost to do sand replenishment. The Corps used the railroad as their justification; if the railroad did a different, more expensive revetment to protect from storms, the cost analysis over the next 50 years will be different. The Corps studied what the cost to the City would be over the next 50 years if the Corps does not bring any sand to San Clemente. Captain Humphreys said he met with the railroad representatives, the Corps, and City staff, and the Railroad pointed to a stockpile of 4,000 tons of rock near San Onofre which they plan to use in future years to protect the railroads.

Chairman Hart asked that this Committee authorize the Chairman to write a letter to Metrolink expressing this Committee's concern over their riprap dumping process and the locations they've chosen, and to protest the fact that they are doing this without any coordination with the City. He feels this is an issue that the Coastal Advisory Committee should be doing something about.

In response to a question regarding who is responsible for maintenance and operations for Metrolink, Chairman Hart clarified for resident Jim Donlin that Metrolink and Southern California Regional Rail Authority (SCRRA) are one and the same agency. He also told him that Orange County Transportation Authority (OCTA) is the landowner, and the railroads are the tenants. Chairman Hart said he's fairly certain that Metrolink has the responsibility for maintenance in Orange County.

B. 303(d) List

Committee Member Barnes distributed the 303(d) list of January 13, 2003, which is issued by the Regional Water Quality Control Board and lists any surface or ocean waterways that aren't meeting their standards for clean water. For "Pacific Ocean Shoreline San Clemente", they listed Poche Beach, Ole Hanson Beach Club, Pico Drain, the City beaches at El Portal, Mariposa, Linda Lane, Lifeguard Headquarters, the Pier, T-street, Riviera and Cypress Shores" as not meeting their standards for clean water. He said this list is available on the San Diego Regional Water Quality Board's website.

C. Street Sweeping

Committee Member Nielsen requested that street sweeping be agendized for the Committee's next meeting, and suggested asking either Public Works Director David Lund or Maintenance Services Manager Mark Somerville to speak in regard to what changes, if any, were made to the street sweeping plans after they were reviewed by City Council. Mr. Nielsen would like to make

a recommendation, and Chairman Hart said he'd like to see the Public Works department attend the Coastal Advisory Committee meeting prior to their bringing the plan to City Council so that this Committee can give them their recommendation in advance of the City Council meeting. The Committee members agreed.

D. Senior Civil Engineer Tom Bonigut's Replacement

Committee Member Nielsen suggested that the person who replaces Senior Civil Engineer Bonigut should replace Captain Humphreys as the City's representative to the Coastal Advisory Committee.

E. Resignation of Committee Members Thomas and Hulsizer

Chairman Hart belatedly thanked former Coastal Advisory Committee Members Bill Thomas and Greg Hulsizer for their service contributions to this Committee. He said that Mr. Hulsizer's term is up in July and due to work constraints he has resigned. He's not sure if the City process requires the Committee to recruit a new member for now, or await the end of Mr. Hulsizer's term. Chairman Hart stated that the Committee thanks Mr. Hulsizer for his tremendous contribution. He said Mr. Hulsizer joined this Committee's predecessor, the Beach Ad Hoc Committee, and he has been a tremendous service to the Committee.

10. ADJOURNMENT

MOTION BY COMMITTEE MEMBER BARNES, SECONDED BY COMMITTEE MEMBER VANCE, CARRIED (5-0-0) to adjourn at 10:20 p.m. to the regular meeting to be held on Thursday, April 10, 2003 at 7:00 p.m. in the Fireside Room, at the Community Center, 100 N. Seville, San Clemente, CA.

Respectfully submitted,



William Hart, Chair

Attest:



Bill Humphreys, Marine Safety Captain