

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular Meeting – April 5, 2000

A Regular Meeting of the San Clemente City Council was called to order on April 5, 2000 at 6:05 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

#### PRESENT

DAHL\*, DIEHL, EGGLESTON, MAYOR RITSCHERL

\*Arrived at 6:07 p.m.

#### ABSENT

BERG

#### STAFF PRESENT

Mike Parness, City Manager; Jeff Oderman, City Attorney; Myrna Erway, City Clerk; Joanne Baade, Deputy City Clerk.

#### CLOSED SESSION

MOTION BY COUNCILMEMBER DIEHL, SECOND BY MAYOR PRO TEM EGGLESTON, CARRIED 3-0, to recess to Closed Session at 6:05 p.m. to consider the following:

- 1) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, pursuant to GC Section 54956.9(a):

Name of Case: Extra Space v. San Joaquin Hills Transportation Corridor Agency, OCSC #788526

- 2) CONFERENCE WITH LABOR NEGOTIATOR, pursuant to GC Section 54957

Agency Negotiator: City Manager

Unrepresented Employee(s): City Manager

Annual Performance Evaluation.

The Council, City Manager, City Attorney, Community Development Director and City Clerk were in attendance. *Note: Because of time constraints, the Closed Session was limited to Closed Session #1 and Closed Session #2 was deferred to later in the meeting. See Page 14 of these minutes for the action to recess to Closed Session to discuss Item #2.*

**MEETING RECONVENED**

Council reconvened at 7:00 p.m., with all members present.

\* \* \*

**INVOCATION**

Pastor Gary Wilson, of the New Life Christian Fellowship, gave the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Ritschel led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

None.

2. MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to waive reading in full of all Resolutions and Ordinances.

3. **CONSIDERATION OF AGENDIZING ITEMS REQUIRING IMMEDIATE ACTION**

None.

4. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve the Consent Calendar with the removal of Items A, K and O.

B. MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to receive and file:

- (1) Parks and Recreation Commission minutes of February 8, 2000 and February 29, 2000.
- (2) Human Affairs Committee minutes of December 8, 1999.
- (3) Planning Commission minutes of February 29, 2000 and March 14, 2000.
- (4) Zoning Administrator meeting minutes of March 21, 2000.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve Handwrite No. 722986 and Wire Transfer No. 3102000 and Warrant Nos. 722863 through 722985 for the period 2-28-00 through 3-3-00 in the amount of \$921,628.31; approve Warrant Nos. 722987 through 723139 for the period 3-6-00 through 3-10-00 in the amount of \$749,072.60; approve Wire Transfer No. 3242000 and Warrant Nos. 723140 through 723253 for the period 3-13-00 through 3-17-00 in the amount of \$1,797,851.62; for a total Warrant Register of \$3,468,552.53.

**Payroll Register**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve Warrant Nos. 305789 through 305842 (Automatic Deposit Advises 111854 through 111995) for the period 2-21-00 through 3-5-00 in the amount of \$196,252.35.

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve Warrant Nos. 305843 through 305901 (Automatic Deposit Advises 111996 through 112138) for the period 3-6-00 through 3-19-00 in the amount of \$196,851.64; for a total Payroll Register of \$393,103.99.

**D. Equipment Purchase – Digital Display Unit**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to:

1. Authorize the purchase of a Canon DX-3600U Digital Display Unit for \$4,190.
2. Approve a transfer of \$4,190 from the General Fund, Account 001-203-47250 to the Data Processing Fund, Account 063-000-39204.
3. Approve a supplemental appropriation of \$4,190 in Account 063-241-45450.

**E. Wall of Recognition 2000**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to ratify the selection of the Year 2000 recipients to be honored on the Wall of Recognition as recommended by the Wall of Recognition Committee.

**F. Marblehead Elementary School Site Water Acreage Fees**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve a reduced Water Acreage Fee Charge of \$64,816.50 for Marblehead Elementary School to reflect shared usage of school facilities with adjacent park facilities.

G. **Easement for Public Use and Public Utility Purposes - Tract 15058 (Sunstone) on Calle Amanecer at Calle Negocio**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to:

1. Accept the easement for public use and public utility purposes.
2. Authorize the City Clerk to submit the easement deed to the Orange County Recorder's Office for recordation. D-374

H. **Notice of Completion - Rehabilitation of Main and Frontera Sewer Pump Stations**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to:

1. Accept the Main and Frontera Pump Stations Rehabilitation, Project Nos. 17605 and 05601, from Olsson Construction.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Main and Frontera Pump Stations Rehabilitation, Project Nos. 17605 and 05601. Contract C98-82

I. **Contract Award - Project Management Services**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve, and authorize the Mayor to execute, Contract C99-33 by and between the City of San Clemente and C-TECH, providing for project management services on a time-and-materials basis.

J. **Revision of Lease Term on Xerox Copier**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to:

1. Approve the lease of a new Xerox DC 255 copier for a sixty-month term.
2. Authorize the Budget Officer to execute the lease documents.

L. **Contract Award – Strategic Document Imaging Implementation Plan**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve, and authorize the Mayor to execute, Contract C00-28 by and between the City of San Clemente and CMS Imaging, providing for the preparation of a Strategic Document Imaging Implementation Plan, in the amount of \$20,400.

M. **Agreement and Grant of Easement for Ingress and Egress to 501 North El Camino Real**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to adopt Resolution No. 00-13 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AN AGREEMENT AND GRANT OF EASEMENT FOR INGRESS AND EGRESS TO 501 N. EL CAMINO REAL.

N. **Contract Award – Camino de los Mares Street Rehabilitation**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to:

1. Approve the plans and specifications for the Camino de los Mares Street Rehabilitation (from Avenida Vaquero to Camino Vera Cruz), Project No. 18138.
2. Approve, and authorize the Mayor to execute, Contract C00-27 by and between the City of San Clemente and PALP, Inc., dba Excel Paving Company, providing for completion of the Camino de los Mares rehabilitation project, in the amount of \$549,480.
3. Adopt Resolution No. 00-18 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING PROGRAM SUPPLEMENT TO ADMINISTERING AGENCY – STATE AGREEMENT FOR FEDERAL AID PROJECTS NO. 12-5274.

**P. Contract Award – Employment Services as City Controller**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve, and authorize the Mayor to execute, Contract C00-26 by and between the City of San Clemente and Dean Porter, providing for contract employee services as Controller, for an amount not to exceed \$40,000.

**Q. Notice of Completion – Replacement/Installation of Pier Electrical Switchgear Panel**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to:

1. Accept the replacement/installation of the Pier Electrical Switchgear Panel, Project No. 17802, from the contractor, Delta Wye Electrical, Inc. AC-122
2. Authorize the City Clerk to submit the Notice of Completion to the County Recorder for recordation.

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

**A. City Council Minutes**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM EGGLESTON, CARRIED 3-1 (COUNCILMEMBER DIEHL VOTING NOE), to agendize consideration of the City's participation as an Associate Member in ETRPA (El Toro Re-Use Planning Authority) for the Council meeting of April 19, 2000.

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve the Council minutes of March 1, 2000 as written and approve the March 15, 2000 minutes with the clarification that while Council conceptually approved the Billabong Pro Surf Contest, it did not take action to approve the closing of Avenida Victoria or the lower parking lot in the Pier Bowl area.

**K. Proposed Area Code Changes**

Assistant to the City Manager Reinsimar related a change in the Staff Recommendation, noting that Staff is now recommending that Council approve Alternative 1-B (instead of 5-C) since Alternative 1-B would enable Laguna Niguel to be serviced by one area code.

MOTION BY MAYOR RITSCHER, SECOND BY MAYOR PRO TEM EGGLESTON, CARRIED 4-0, to approve, and authorize the Mayor to execute, a letter to the California Public Utilities Commission, supporting Alternative 1-B. The letter to the Public Utilities Commission is to convey the City's frustration with frequent changes in area codes, request that long-range alternatives be considered, and stress the significant impact that is caused by frequent modifications to area codes.

**O. Cooperation and Reimbursement Agreement – Relocation and Reconstruction of Pacific Bell Telephone Communication Lines**

City Attorney Oderman explained that in addition to the Cooperation and Reimbursement Agreement, there are several implementing agreements that also require the Mayor's signature and Council action, i.e., a Consent to Common Use Agreement, Joint Use Agreement and a Quitclaim Deed.

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to approve, and authorize the Mayor to execute, the following:

1. Contract C00-25 by and between the City of San Clemente and Pacific Bell, a cooperation and reimbursement agreement for the relocation and reconstruction of telephone communication lines.
2. Consent to Common Use Agreement by and between the City of San Clemente and Pacific Bell.
3. Joint Use Agreement by and between the City of San Clemente and Pacific Bell.
4. Quitclaim Deed for Parcel 101908-1.

5. **PUBLIC HEARINGS**

A. **Year 2000 Development Allocation Process**

Public Hearing to consider public input for projects competing for allocations in the Year 2000 RDEB Allocation sequence under the provisions of Chapter 15.44 (Ordinance No. 922, Measure B) of the City's Municipal Code and to certify the point assignments, ratings and rankings and award allocations for the five eligible projects.

City Planner Hare reviewed the contents of the Administrative Report.

Mayor Ritschel opened the Public Hearing.

Jim Johnson, Lusk Company, commended Staff for their efforts and suggested that development allocations be awarded as follows:

Marblehead Coastal	100 Allocations
Talega Village	72 Allocations
Forster Ranch	145 Allocations
Kaufman & Broad	67 Allocations
Talega F2, F3 and F4	116 Allocations.

Pat Hayes, Talega Associates, thanked Staff for their hard work and thanked Jim Johnson for his generosity in allowing Talega to obtain additional units this year; concurred with the allocations as presented by Mr. Johnson.

David Hutchins, Kaufman & Broad, thanked Staff for their exemplary level of professionalism; stated that Kaufman & Broad looks forward to building a nice community in San Clemente.

Ken Nishikawa, Laing Forster Ranch, concurred with the recommendation presented by Mr. Johnson.

Carol Ignacek, San Clemente, stated she resides above Plaza Pacifica where the 67 Kaufman & Broad homes are to be built; questioned the affect of the La Pata Initiative on the subject development allocations.

City Attorney Oderman stated the City has not yet received verification that initiative petitions are qualified for the ballot; explained that the City has a mandatory duty under Measure B, which was also adopted by initiative, to complete the process in a timely fashion; explained that the projects in question, with the possible exception of Villa Pacifica, are covered by statutory development agreements which, in his opinion, would not be affected by the initiative even if were adopted and determined to be valid; conveyed his opinion that the initiative is invalid for many reasons and would never become law even if approved by the voters.

There being no others desiring to speak to this issue, the Public Hearing was closed.

MOTION BY COUNCILMEMBER DIEHL, SECOND BY MAYOR PRO TEM EGGLESTON, CARRIED 4-0, to adopt Resolution No. 00-19 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AFFIRMING THE PROJECT POINT ASSIGNMENTS, PROJECT RANKINGS AND RECOMMENDATIONS OF THE RESIDENTIAL DEVELOPMENT EVALUATION BOARD AND AWARDDING YEAR 2000 DEVELOPMENT ALLOCATIONS, with allocations as follows:

Marblehead Coastal	100 Allocations
Talega Village	72 Allocations
Forster Ranch Area 4	145 Allocations
Kaufman & Broad	67 Allocations
Talega F2, F3 and F4	<u>116 Allocations</u>
	500 Allocations.

6. **ORAL COMMUNICATIONS**

None.

7. **UNFINISHED BUSINESS**

None.

8. **NEW BUSINESS**

None.

9. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

(1) **Consideration of whether to waive potential conflict of interest of Rutan and Tucker LLP regarding the Pageant of the Masters.**

City Attorney Oderman explained that Rutan and Tucker provides City Attorney services for both the City of San Clemente and the City of Laguna Beach; explained that although his firm does not possess a legal conflict of interest with respect to the Pageant of the Masters issue at this point in time, he believes it would be advisable for Council to determine whether it would prefer to retain another attorney to represent the City in this matter; related that the City Manager informed him this afternoon that some parties (e.g., the Pageant Association) have concerns about his firm representing the City; stated he understands the concerns and does not wish to become the issue in this matter and, therefore, requested that Council find another attorney to represent the City concerning the Pageant of the Masters.

Following discussion, MOTION BY MAYOR RITSCHER, SECOND BY MAYOR PRO TEM EGGLESTON, CARRIED 4-0, to not utilize Rutan and Tucker with respect to the Pageant of the Masters issue and authorize Staff to enter into an agreement with an attorney recommended by Jeff Oderman. The Agreement is to be submitted to Council for ratification at a subsequent meeting.

D. Council Members

- (1) Consideration of Council position on Orange County Division California League of Cities issues.

None.

- (2) Consideration of Council position on legislative issues.

None.

- (3) Orange County Fire Authority Status Update.

None.

- (4) Coastal Animal Services Authority Status Update.

Councilmember Dahl reported on animals available for adoption at the San Clemente Animal Shelter; stated that ARF recently conducted a Walk-a-Thon at the Dana Point Harbor and raised \$40,000; explained that rattlesnakes are abundant this year and asked citizens to exercise caution in crossing grassland areas.

Mayor Pro Tem Eggleston noted that a television program is aired on Friday evenings on Channel 31 that publicizes pets available for adoption at the San Clemente Animal Shelter.

- (5) Transportation Corridor Agencies Status Report.

Councilmember Diehl stated that only two additional cities need to take action in order to confirm the addition of Rancho Santa Margarita to the Foothill/Eastern Transportation Corridor, noting that the remaining cities are expected to take affirmative action next week.

- (6) Consideration of City Manager Compensation.

Council noted that it did not have time to consider the issue of City Manager compensation during the Closed Session prior to the Council's General Session this evening; noted that Council will recess to Closed Session to discuss this item later in the meeting.

(7) Councilmember Items.

Mayor Ritschel reported that she testified on behalf of Pat Bates' Assembly Bill 1248 (Beach Restoration Act), which was heard by the Natural Resources Committee in Sacramento on April 3, 2000; reported that the bill passed the Natural Resources Committee and will move on to the Appropriations Committee; stated the bill will hopefully provide \$35 million in State funding next year for beach replenishment projects.

10. RESOLUTIONS/ORDINANCES

A. Ordinance No. 1241 (Second Reading) – Regulation of Street Vendors

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to adopt Ordinance No. 1241 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING A NEW CHAPTER 5.52 REGARDING THE LICENSING AND REGULATION OF STREET VENDORS, with the modification that Section 5.52.010, Definitions, Subsection A, be modified to read as follows:

“The term ‘vending from a vehicle on a public street in a residential zone’ shall mean the sale or offer for sale or trade of any goods or merchandise whatsoever, including food products, whether prepared or otherwise, from any *motorized or non-motorized* vehicle, *push cart, or other similar conveyance* which is either parked, stopped, or standing upon any public street, alley, parkway, sidewalk, or other public property within any residential zone in the City of San Clemente or located upon any public street at any location where either side of the portion of such public street upon which such vehicle is located abuts or is contiguous to any lot or parcel of property which is zoned and used for residential purposes. Vending, however, shall not include the door-to-door sale or provision of goods or services delivered by a vehicle.”

*\*Italics indicates added verbiage.*

**MEETING RECESSED**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to recess at 7:53 p.m. to a meeting of the Redevelopment Agency.

**MEETING RECONVENED**

Council reconvened at 7:55 p.m., with all members present except Councilmember Berg.

**CLOSED SESSION**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to recess to Closed Session at 7:55 p.m. to consider the following:

- 1) CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager

Unrepresented Employee(s): City Manager

Annual Performance Evaluation.

The Council was in attendance.

**MEETING RECONVENED**

Council reconvened at 8:27 p.m., with all members present except Councilmember Berg.

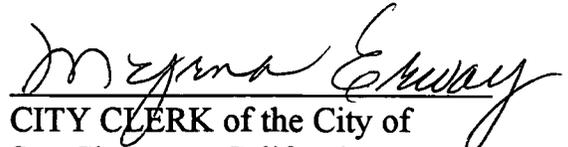
**ADJOURNMENT**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-0, to adjourn at 8:27 p.m. to a Joint Council/Redevelopment Agency Board of Directors Meeting to be held on Thursday, April 6, 2000 at 6:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, for the purpose of receiving a presentation on the Long-Term Financial Plan.

A subsequent Joint Council/Redevelopment Agency Board of Directors Meeting will be held on Saturday, April 8, 2000 at 8:30 a.m. in the Council Chambers for the purpose of conducting a workshop on the Long-Term Financial Plan.

An additional Joint Council/Redevelopment Agency Board of Directors Meeting will be held on Wednesday, April 12, 2000 at 6:30 p.m. in the Ole Hanson Room of the Community Center, located at 100 N. Seville, San Clemente, for the purpose of considering the Vital Few Priorities.

The next Regular Council Meeting will be held on Wednesday, April 19, 2000 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 6:00 p.m. The General Session will begin at 7:00 p.m.

  
CITY CLERK of the City of  
San Clemente, California

  
MAYOR of the City of  
San Clemente, California

CITY OF SAN CLEMENTE  
AFFIDAVIT OF POSTING ORDER  
OF ADJOURNMENT OF MEETING

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS.  
CITY OF SAN CLEMENTE )

I, MYRNA ERWAY, declare as follows:

That I am the City Clerk of the City of San Clemente; that at a Regular Meeting of the City Council held on April 5, 2000, said meeting was adjourned to the time and place specified in the Notice of Adjournment attached hereto; and that on April 6, 2000 at the hour of 9:00 a.m., a copy of said order was posted at a conspicuous place near the door at which said meeting was held.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 6, 2000 at San Clemente, California.

  
MYRNA ERWAY  
City Clerk

**NOTICE OF ADJOURNMENT**

**EXCERPT FROM THE MINUTES OF THE CITY COUNCIL**

**MEETING OF APRIL 5, 2000**

A Regular City Council meeting was held in the Council Chambers, located at 100 Avenida Presidio, San Clemente on April 5, 2000.

ROLL CALL PRESENT: DAHL, DIEHL, EGGLESTON, MAYOR RITSCHEL

ROLL CALL ABSENT: BERG

**Adjournment**

The City Council adjourned to a Joint Council/Redevelopment Agency Board of Directors Meeting to be held on Thursday, April 6, 2000 at 6:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, for the purpose of receiving a presentation on the Long-Term Financial Plan.

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MYRNA ERWAY  
City Clerk