

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting - February 2, 1994

A Regular Meeting of the San Clemente City Council was called to order on February 2, 1994 at 7:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

PRESENT ANDERSON, BENEDICT, HAGGARD, LORCH, MAYOR DIEHL

ABSENT NONE

STAFF PRESENT Michael Parness, City Manager; Myrna Erway, City Clerk; Jeff Oderman, City Attorney; Jim Holloway, Community Development Director; Bill Cameron, City Engineer; Joanne Baade, Deputy City Clerk.

INVOCATION

Pastor Doug Baker, of San Clemente Evangelical Free Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Diehl led the Pledge of Allegiance.

1. **SPECIAL PRESENTATION**

A. **Commendation to Duke Family - Graffiti Removal**

Mayor Diehl presented a commendation to the Duke Family in recognition of the community pride they demonstrate by removing graffiti in the San Clemente and Capistrano Beach areas.

2. MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to waive reading in full of all Resolutions and Ordinances.

3. **PUBLIC HEARINGS**

None.

4. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to approve the Consent Calendar with the removal of Items B(2), D, F, G, H, and I.

A. **City Council Minutes**

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to approve the City Council minutes of January 5, 1994, January 12, 1994 and January 19, 1994.

B. MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to receive and file:

(1) Community Design Commission Action Minutes of January 25, 1994.

C. **Warrant Register**

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to approve Handwrite Nos. 607233-607236 and Warrant Nos. 607237 through 607379 for the period 1-10-94 through 1-14-94 in the amount of \$1,637,789.32; approve Handwrite Nos. 607380-607381 and Warrant Nos. 607382 through 607523 for the period 1-17-94 through 1-21-94 in the amount of \$879,784.70; for a total Warrant Register of \$2,517,574.02.

Payroll Register

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to approve Handwrite No. 207581 and Warrant Nos. 207582 through 207857 for the period 1-3-94 through 1-16-94 in the amount of \$254,535.81; for a total Payroll Register of \$254,535.81.

E. Notice of Completion - Seismic Upgrade of Fire Station No. 3

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to:

1. Accept the Seismic Upgrade of Fire Station No. 3, Project #13801, from the contractor, SEDCON Engineers and Contractors, Inc.
2. Authorize the City Clerk to file a Notice of Completion with the County Recorder. (Contract #C93-27)

J. Notice of Completion - Marblehead Park Development

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to:

1. Accept the Marblehead Park Development, Project No. 11442, from the contractor, Valley Crest Landscape, Inc.
2. Authorize the City Clerk to record a Notice of Completion with the County Recorder. (Contract #C92-36)

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

B(2). Planning Commission Action Minutes of January 18, 1994

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER ANDERSON to call up for review Time Extension for AB 91-38, 354 Paseo de Cristobal. Following clarification by Staff that the Time Extension request has already been scheduled for Public Hearing before the City Council on February 16, 1994, the motion was withdrawn.

MOTION BY COUNCILMEMBER LORCH, SECOND BY MAYOR PRO TEM HAGGARD, CARRIED 5-0, to receive and file the Planning Commission Action Minutes of January 18, 1994.

D. Metrolink Station Cooperative Agreement

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to continue consideration of the Metrolink Station cooperative agreement to the March 16, 1994 City Council meeting.

F. Rejection of Bids - Retaining Wall Projects at City South Yard Storage Building on Avenida Vista Bahia and the Reservoir No. 4 Site on Avenida Salvador

This item was deferred to the Council Meeting of February 16, 1994 at the request of Staff.

G. Contract Award - City South Yard Maintenance Building on Avenida Vista Bahia

This item was deferred to the Council Meeting of February 16, 1994 at the request of Staff.

H. Contract Award - Retaining Wall at the Reservoir No. 4 Site on Avenida Salvador

This item was deferred to the Council Meeting of February 16, 1994 at the request of Staff.

I. Notice of Completion - 222 Trafalgar Lane Storm Drain Reconstruction

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM HAGGARD, CARRIED 5-0, to:

1. Accept the 222 Trafalgar Lane Storm Drain Reconstruction project from the contractor, United Builders (Project No. 13334).
2. Authorize the City Clerk to file a Notice of Completion with the County Recorder. (Contract #C93-51)
3. Direct the City Engineer to report to Council regarding remedial improvements necessary to protect the City's investment in the drainage facility.

5. ORAL COMMUNICATIONS

Privatization/Contracting of City Services

Dennis Reed, Parks Supervisor, voiced concern with the proposal to contract for parks maintenance services; commented on improvements made to the parks system since 1986; stated the issue of privatization is a people issue as well as a monetary issue; relayed that the City's Parks Maintenance staff is angry, frustrated and hurt by Council's decision of January 12, 1994.

Howard Barhite, President of the San Clemente City Employees Association, suggested that the City will not save a considerable amount by contracting services; reviewed concessions made by City employees to save funds during the last three years; voiced concern with the impact on employees who will lose their jobs; relayed his belief that contracting will result in a short-term gain and a long-term loss.

Rick Heil, San Clemente resident and member of the Golf Course Committee, commented on the excellent job done by the City's Parks Maintenance staff; voiced concern that periodic contractor turnovers may result since contractors may withdraw from the contract with 60-days notice; noted that reinstatement of an in-house Parks Maintenance Division will necessitate significant start-up costs.

800 Megahertz System/Newly Hired Senior Accountant - Possible Conflict of Interest

Karoline Koester, San Clemente, stated that San Clemente will join with other Orange County cities and the County of Orange in funding an 800 megahertz radio system for law enforcement; stated the County will enter into an \$86 million contract with Motorola for the subject system and urged that the public be notified of the details of the contract as they become available; questioned whether the newly hired Senior Accountant could have a conflict of interest since he was previously employed by the firm that the City contracts for auditing services.

City Manager Parness clarified that the County of Orange and cities within the County committed to funding the 800 megahertz program in 1988; voiced concern that the current communications system (which primarily provides for police, fire and public works dispatching services) is out-dated and dysfunctional; explained that the selection of the contractor has been coordinated at the County level with input from committees; stated that San Clemente has been reserving money for numerous years in anticipation of its contribution to the payment of this system.

City Manager Parness stated that although he cannot foresee a conflict of interest as a result of the newly hired Senior Accountant's former employment with the City's auditing firm, he will investigate the situation.

City Attorney Oderman explained that the subject circumstance does present the potential for a conflict of interest since the Senior Accountant will have received payment from the City's auditing firm in excess of \$250 within the last twelve months; explained, therefore, that the employee would not be permitted to participate in any decisions that would have a financial effect on the auditing firm for a one-year period, adding that the City will ensure that this situation does not occur.

6. **UNFINISHED BUSINESS**

A. **Presentation by the City Clerk Concerning Brown Act Amendments that take Effect on April 1, 1994**

City Clerk Erway reviewed amendments to the Brown Act that take effect on April 1, 1994. A hard copy of the City Clerk's presentation, entitled "The 1994 Ralph M. Brown Act - Significant Amendments Effective April 1, 1994", is on file in the City Clerk's Department.

Karoline Koester, San Clemente, requested and received clarification relative to Brown Act requirements pertaining to public reporting of actions taken in Closed Session and urged strict adherence thereto; received clarification that audio recordings of San Clemente's Council Meetings are currently retained for seven years, which exceeds legal requirements.

During the course of discussion, Council noted that ambiguity exists in the Brown Act as to the definition of a "meeting." City Attorney Oderman agreed to determine, and report back to Council, as to the legislative history of the definition of "conferences or similar gatherings"; stated he will ascertain whether the discussion concerning gangs that was held at Our Lady of Fatima church last year would constitute a meeting that is subject to the Brown Act.

MEETING RECESSED

Council recessed at 8:30 p.m. and reconvened at 8:40 p.m., with all members present.

7. NEW BUSINESS

A. Request for Removal of City-Owned Parkway Tree at 231 Avenida Princesa

Report from the Beaches, Parks and Recreation Director concerning a request to remove a mature City-owned Eucalyptus globulus, Blue Gum, located within the public right-of-way at 231 Avenida Princesa.

Beaches, Parks and Recreation Director Wegner reviewed the contents of the Administrative Report.

Scott Hunt, on behalf of Mike Gillen, stated the subject tree is approximately ten feet in circumference and approximately 100' in height; stated the girth of the tree has damaged the curb and has encroached 9" into the street; voiced concern that the tree is leaning toward Mr. Gillen's home and opined the tree should be removed since it poses a threat to the public's health and safety.

Dick Rodriguez, Rod's Tree Service (City's tree contractor), estimated that the subject tree is 50' in height with a head spread of 40' in diameter; stated the tree is healthy and, in view of the size of the tree, has done little damage because the roots have grown downward instead of running laterally; opined the tree could be root pruned successfully; opined it is unlikely, though not impossible, that the subject tree will fall; stated the tree is between 40 and 60 years old, with a life expectancy of 100 to 200 years; suggested that the cost to relocate the tree would be in excess of \$100,000 and the cost to replace the tree would be approximately \$200,000 to \$300,000.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM HAGGARD to:

1. Deny the request from the property owner (Mr. Gillen) at 231 Avenida Princesa to remove the Eucalyptus globulus parkway tree.
2. Approve a Policy and Procedure pertaining to the removal of City-owned trees.
3. Adopt Resolution No. 94-05 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RESCINDING RESOLUTION NO. 44-79.

SUBSTITUTE MOTION BY COUNCILMEMBER LORCH to 1) deny the request from the property owner (Mr. Gillen) at 231 Avenida Princesa to remove the Eucalyptus globulus parkway tree at the present time; 2) disapprove the proposed Policy and Procedure pertaining to the removal of City-owned trees; and 3) defer action on Resolution No. 94-05 to accommodate coordination between the Resolution and Ordinance to allow Council to review requests for the removal of street trees on a case-by-case basis. The Substitute Motion died for lack of a second.

THE ORIGINAL MOTION CARRIED 3-2 (COUNCILMEMBERS BENEDICT AND LORCH VOTING NOE).

B. Request for Proposal - Classification/Compensation Study

Report from the Human Resources Manager concerning a Request for Proposal for a comprehensive classification and compensation study for all City classes.

Human Resources Manager Kulp reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER ANDERSON to defer action on the Request for Proposal for the Classification/Compensation Study to the Council meeting of February 16, 1994, to allow a Closed Session to be agendized and conducted prior to acting on the RFP issue.

Following clarification by City Manager Parness that the methodology issues that will be discussed at the February 16, 1994 Council meeting will not affect the Request for Proposal issue in question, COUNCILMEMBER ANDERSON WITHDREW HIS SECOND AND THE MOTION SUBSEQUENTLY DIED.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE), to authorize the City Manager to release a Request for Proposal in order to conduct a comprehensive classification/compensation study of all City classes.

8. REPORTS

A. Commissions and Committees

None.

Councilmember Benedict left the dais at 9:30 p.m.

B. City Manager

(1) Geotechnical Inspection Services - Water Reclamation Plant and Animal Shelter

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM HAGGARD, CARRIED 4-0, to agendize a request to amend the contract between the City of San Clemente and Leighton and Associates to provide for extended geotechnical inspection services at the Water Reclamation Plant and Animal Shelter, since the need to take action arose subsequent to the posting of the agenda.

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 3-1 (COUNCILMEMBER LORCH VOTING NOE), to:

- 1) Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract #C93-41 by and between the City of San Clemente and Leighton and Associates, providing for additional geotechnical services estimated at \$20,000.
- 2) Approve a supplemental appropriation of \$20,000 to Account 056-471-45300-000-14065, Sewer Fund Administration, Improvements Other Than Buildings.

Councilmember Benedict returned to the dais at 9:37 p.m.

(2) Storm 93 - Local Emergency Update

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 5-0, to adopt Resolution No. 94-06 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TERMINATING THE EXISTENCE OF A LOCAL STATE OF EMERGENCY IN THE CITY OF SAN CLEMENTE, AND RESCINDING RESOLUTION NO. 93-09.

C. City Attorney

(1) Cooperative Agreement between City of San Clemente and City of Dana Point re Slope Repair at Coast Highway/La Ventana

City Attorney Oderman reviewed the contents of his report, dated January 27, 1994, which is on file in the City Clerk's Department.

Lyn Harris Hicks, San Clemente, noted that Pacific Coast Highway is identified as an evacuation route in the event of a problem at the San Onofre Nuclear Generating Station; recommended that the City request that the Federal Government take efforts to re-open Pacific Coast Highway to facilitate an evacuation in the event of an earthquake. A copy of Ms. Hicks communication is on file in the City Clerk's Department.

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, to:

1. Approve, and authorize the Mayor to execute, Contract #C94-04 by and between the City of San Clemente and the City of Dana Point concerning slope repair at Coast Highway/La Ventana.
2. Approve, and authorize the Mayor to execute, a Loan Agreement by and between the City of San Clemente, City of Dana Point and seven La Ventana Homeowners. Contract #C94-04

SUBSTITUTE MOTION BY COUNCILMEMBER LORCH to approve, and authorize the Mayor to execute, Contract #C94-04 by and between the City of San Clemente and the City of Dana Point concerning slope repair at Coast Highway/La Ventana, and to vote separately on the Loan Agreement by and between the City of San Clemente and the La Ventana Homeowners to allow amendments to be made thereto. The Substitute Motion died for lack of a second.

THE ORIGINAL MOTION CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE).

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) Consideration of Council position on SCAG Issues

Mayor Pro Tem Haggard advised that the Regional Advisory and Planning Council (RAPC) met last month to consider SCAG's Regional Comprehensive Plan; advised that RAPC has made a series of recommendations which each city is being asked to consider and forward to the California League of Cities for submittal to SCAG.

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to agendize the Regional Advisory and Planning Council (RAPC) recommendations on SCAG's Regional Comprehensive Plan for the Council meeting of February 16, 1994.

9. RESOLUTIONS/ORDINANCES

None.

MEETING RECESSED

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to recess to a meeting of the Redevelopment Agency at 9:50 p.m.

MEETING RECONVENED

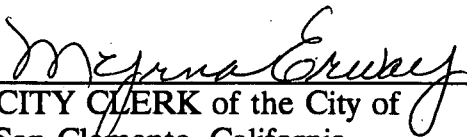
Council reconvened at 10:05 p.m. with all members present.


10. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to adjourn at 10:05 p.m. to an Adjourned Regular Meeting to be held on February 4, 1994 at 8:00 a.m. in the Community Center, Ole Hanson Room, located at 100 North Seville, San Clemente, California; for the purpose of meeting with Senator Craven.

A Joint Council/Commissions/Committees meeting will be held on February 10, 1994 at 7:00 p.m. in the Multi-Purpose Room of the Community Center, located at 100 N. Seville, San Clemente, California.

The next Regular Meeting will be held on February 16, 1994 at 7:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.


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 City Council meeting held on February 2, 1994, the meeting was adjourned to the time and place specified in the ORDER OF ADJOURNMENT attached hereto; and that on February 3, 1994 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 February 3, 1994 at San Clemente, California.


MYRNA ERWAY
City Clerk

