

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting - September 18, 1991

A Regular Meeting of the City Council of the City of San Clemente, conducted in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, was called to order by Mayor Diehl at 6:35 p.m.

PRESENT ANDERSON, BENEDICT, HAGGARD, LORCH, MAYOR DIEHL

ABSENT NONE

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

CLOSED SESSION

Council recessed to Closed Session at 6:35 p.m. to discuss 1) a matter of personnel; and 2) matters of pending litigation, Wedaa v. City of San Clemente, Summerfield v. City of San Clemente, Cray v. City of San Clemente and Mallory v. City of San Clemente, pursuant to GC Section 54956.9(a). The City Manager, City Attorney, Personnel/Risk Manager and City Clerk were in attendance.

MEETING RECONVENED

Council reconvened at 7:05 p.m., with all members present.

INVOCATION

Pastor Bruce Warner, Palisades United Methodist Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Diehl led the Pledge the Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Rideshare Week Proclamation**

Mayor Diehl presented a proclamation to Maria Lopez, Program Coordinator for the South County Transportation Management Association, declaring September 23-27, 1991 as Rideshare Week.

B. **Certificate of Achievement - Excellence in Financial Reporting**

Mayor Diehl presented a Certificate of Achievement for Excellence in Financial Reporting to Dean Porter, Finance Director.

C. **Rancho Mission Viejo Land Conservancy**

Carla McGuire, Manager of Rancho Mission Viejo Land Conservancy, reported on the status of the Rancho Mission Viejo Land Conservancy and announced an event, entitled "Explore the Land", which is scheduled for October 12, 1991.

Marie Patterson, South Coast Audobon, commented on the biological value of the Rancho Mission Viejo Land Conservancy.

D. **Water Conservation - Update Report**

Utilities Manager Morehead reported on the Incremental Interruption Conservation Plan, which was implemented by the Metropolitan Water District in response to the drought situation; explained the IICP was designed to curtail the demands for water in a systematic manner and promote water conservation practices; stated the IICP has proven to be successful, although some problems and shortfalls were experienced; reviewed a chart which demonstrated San Clemente's performance in meeting the MWD's water allocation program; reviewed San Clemente's water rate structure and the water conservation ordinance which were enacted as a result of the water shortage; noted the Santa Margarita Water line, which was expected to be completed in November 1990, is now anticipated to be completed in the Spring of 1991; stated it is probable that the Santa Margarita Water line will be available in time to ensure sufficient water supply to San Clemente; stated San Clemente's efforts in conserving water have been successful and opined that a continued effort to conserve water will likely enable San Clemente to have sufficient water over the next year.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to discontinue the City's water conservation publicity program until such time as it becomes necessary to reinstitute the program. The public will be kept informed on the water situation via announcements on the PEG channel and articles in the City's Quarterly Report.

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

3. **PUBLIC HEARINGS**

None.

4. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to approve the Consent Calendar with the removal of Items 4-A (City Council minutes of September 4, 1991), 4-B(3), D, E, F, and J.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to approve the City Council minutes of August 21, 1991.

- B. MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to receive and file:

- (1) Departmental Activities Report - July 1991 and August 1991.
- (2) Parks and Recreation Commission minutes of August 13, 1991 and August 27, 1991.
- (4) Community Design Commission minutes of August 27, 1991.

C. Warrant Register

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to approve Warrant Nos. 104352 through 104492 (Voids 104349-104351) for the period 8-26-91 through 8-30-91 in the amount of \$782,670.72; approve Warrant Nos. 104497 through 104660 (Handwrites 104493-104494) (Voids 104495-104496) for the period 9-2-91 through 9-6-91 in the amount of \$1,081,690.52; for a total Warrant Register of \$1,864,361.24.

Payroll Register

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to approve Payroll Warrant Nos. 67877 through 68268 (Handwrites 67868-67873) (Voids 67874-67876) for the period 8-19-91 through 9-1-91 in the amount of \$371,213.66; for a total Payroll Register of \$371,213.66.

G. Pier Tackle Concession Lease Extension

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to direct the City Attorney to 1) prepare an updated lease extension for a 5-year period of the Pier tackle concession (City Contract C87-72) that prohibits the sale of bird feed; and 2) return the lease extension to the Council for approval.

H. San Clemente Garden Club Flower Show

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to:

1. Authorize City co-sponsorship of the Garden Club Flower Show to be held at the Community Center on April 24, 25 and 26, 1992.
2. Authorize a reduction of the Community Center facility rental fee to a total of \$400.

I. Landscape Rodent Control Contract

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to approve, and authorize the Mayor to execute, City Contract #C91-34 by and between the City of San Clemente and Animal Pest Management Services, Inc., providing for landscape rodent control at a not-to-exceed cost of \$9,600.

K. Agreement with Shorecliffs Mobilehome Park Re City Participation in a State Financing Program

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to approve, and authorize the Mayor to execute, City Contract #C91-35 by and between the City of San Clemente and Shorecliffs Mobilehome Park Association concerning City participation in a State-financing program.

L. Avenida Vista Hermosa Interchange - Engineering Services Contract Addendum No. 8

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to:

1. Approve the Avenida Vista Hermosa Interchange engineering services contract Addendum No. 8, for an amount of \$17,089.65, to provide for additional services to finalize the environmental document.
2. Approve, and authorize the Mayor to execute, Amendment No. 3 to Contract No. C88-24, by and between the City of San Clemente and Robert Bein, William Frost and Associates (RBF) for the preparation of the environmental and preliminary engineering studies for the Avenida Vista Hermosa Interchange.

M. Agreement for Sharing Cost of State Highway Electrical Facilities

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to adopt Resolution No. 91-115 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AN AGREEMENT FOR COST SHARING OF STATE HIGHWAY ELECTRICAL FACILITIES IN THE CITY OF SAN CLEMENTE.

N. Contract Change Order Nos. 74, 83, 84, 85 and 86 to Water Reclamation Plant Expansion Contract C-2

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to approve, and authorize the Mayor to execute, Change Order Nos. 74, 83, 84, 85 and 86 to Water Reclamation Plant Expansion Contract C-2 (City Contract #C88-15).

O. Abandoned Vehicle Abatement Program

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to adopt Resolution No. 91-116 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING A SERVICE AUTHORITY FOR ABANDONED VEHICLE ABATEMENT.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

A. City Council Minutes of September 4, 1991

The minutes of the City Council meeting of September 4, 1991 were removed from the agenda.

B(3). Planning Commission Minutes of August 6, 1991

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to call up Interpretation 91-59 (Section 5.17, Front Yard Setback Averaging), for Council review.

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to receive and file the balance of the Planning Commission minutes of August 6, 1991.

D. Contract Extension - Phase I Pilot Curbside Recycling Agreement

Following discussion, MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 4 to City Contract #C87-62, the Solid Waste Collection Agreement, by and between the City of San Clemente and San Clemente Commercial, for the extension of Phase I Pilot Curbside Recycling Collection Services through June 30, 1992.

E. **Ambulance Invoicing by Independent Agency**

This item was removed from the agenda.

F. **Use of Funds from PacTel Cellular to Install Radio-Controlled MaxiCom Irrigation System at San Gorgonio Park**

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

1. Approve an estimated revenue of \$13,000 to Account No. 041-000-36730, Contributions from Developers, in the Lighting and Landscaping Fund.
2. Approve an offsetting appropriation of \$13,000 to Account No. 041-626-45500, General Machinery and Equipment, in the Lighting and Landscaping Fund.

SUBSTITUTE MOTION BY COUNCILMEMBER LORCH to double the amounts involved from the leasing party, died for lack of a second.

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

J. **Modification and Replacement of Jail Fixtures**

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to approve a supplemental appropriation of \$23,000 to Account #004-215-45500, General Machinery and Equipment, in the Asset Forfeiture Fund to facilitate the modification and replacement of jail fixtures.

Council requested a written report citing the categories which qualify for expenditure of Drug Asset Forfeiture funds, including the suitability of using Drug Asset Forfeiture monies to fund a new police facility.

ORAL COMMUNICATIONS**Water Conservation - Budget Savings**

Kathy Brocklehurst, 304 Avenida Monterey, thanked Council for electing to save the \$10,000 originally budgeted to publicize the City's water conservation program.

Water Conservation - Reclaimed Water Reservoir

Alvin White, 1202 Charco, spoke in support of the City constructing a water reservoir which would utilize recycled water.

City Engineer Cameron responded that the City is not considering recycling storm drain water at this point in time; explained that San Clemente does not have areas to capture storm drain water and noted that the cost to build dams and pumping stations would be significant; noted also that the City is subject to stringent State water quality regulations for ground water basins; stated the City is attempting to develop an economical plan that would facilitate reclaimed water for irrigation purposes as well as potable water for human use.

MEETING RECESSED

Council recessed at 8:25 p.m. and reconvened at 8:40 p.m., with all members present.

6. UNFINISHED BUSINESS

A. Seapointe Villas Pedestrian Easement

Report from the Interim Director of Beaches, Parks and Recreation concerning reconsideration of the permanent abandonment or temporary closure of the public pedestrian easement to the beach through the common area of the Seapointe Villas Homeowners Association.

Marine Safety Captain Hughes reviewed the contents of the Administrative Report; displayed a video which demonstrated conditions associated with the easement.

Albert Rosenstein, 256 Avenida Montalvo, reviewed the history of the easement; questioned why the easement has become an issue after ten years of public use; read a segment of the Real Estate Law of California relating to the establishment of an easement by prescription; opined it is illegal to take an easement from the people.

Lyn Harris Hicks, 3968 Calle Ariana, stated her family has used the subject easement for four generations; stated the City and Coastal Commission required the property developer to maintain the easement since it had been used by the community for a significant amount of time; opined it is not hazardous to traverse the easement; commented the subject easement represents the only public access to the Riviera beach.

Frisby Lockard, 269 Lobeiro, noted the development of the nine-unit condominium project was contingent upon the maintenance of a public easement; stated his grandchildren and he frequently use the subject beach access.

MOTION BY COUNCILMEMBER BENEDICT, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to direct Staff to study, and possibly survey residents in the area, to ascertain the potential cost and feasibility of neighborhood participation in improving the pedestrian easement.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to direct the City Attorney to report on the issue of prescriptive rights and to conduct a factual investigation of the easement as necessary.

7. **NEW BUSINESS**A. **Tract 12864 - Pacific Shores, Rancho San Clemente (Dividend Development Corporation) - Determination Re Completeness of Improvements**

Report from the City Engineer concerning a determination as to whether improvements are incomplete and bonds are to be forfeited at Tract 12864, Dividend Development Corporation.

City Engineer Cameron reviewed the contents of the Administrative Report; relayed that since Staff has notified Dividend Development Corporation that it is in default, significant work has been performed to complete the improvements; noted a tentative agreement has been reached between Dividend Development Corporation and the Pacific Shores Homeowners Association; stated Staff's recommendation concerning this issue remains unchanged.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 5-0, to:

1. Determine that Dividend Development Corporation has not completed the landscaping improvements for Tract 12864 as required by the Subdivision Improvement Agreement and the Amendment, dated April 18, 1990.
2. Concur with the method established between Dividend Development Corporation and the Pacific Shores Homeowners Association, as outlined in the letter from the homeowners' association attorney, dated September 9, 1991, and on file in the City Clerk's Department.
3. In the event the conditions are not completed by October 1, 1991, direct that the City Attorney enforce the Subdivision Agreement and direct a demand on Bond #U1660903, Faithful Performance for landscaping.

B. Amended Subdivision Improvement Agreement for Tract 14000, Forster Ranch - Centex Homes

Report from the City Engineer concerning an Amended Subdivision Improvement Agreement for Tract 14000, Centex Homes, in Forster Ranch.

City Engineer Cameron reviewed the contents of the Administrative Report; narrated a video presentation which demonstrated examples of landscape slope treatments in the City.

Following discussion, MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER BENEDICT to approve, and authorize the Mayor to execute, an Amended Subdivision Improvement Agreement, by and between the City of San Clemente and Centex Real Estate Corporation for Tract 14000.

MOTION TO AMEND BY COUNCILMEMBER LORCH to modify the last sentence of Section 1.15 to read in its entirety as follows: "Approved alternative erosion control and landscaping materials may be used in lieu of hydroseeding." The Motion to Amend died for lack of a second.

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

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 4-1 (COUNCILMEMBER BENEDICT VOTING NOE), to direct Staff to prepare a report showing the feasibility of requiring developers to deposit a certain amount of money into homeowners' association maintenance funds to provide funding for maintaining landscaping and/or to replace plants which fail to survive.

8. **REPORTS**A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

- (1) **Consideration of agendizing a resolution relative to telecommunications software and equipment. (Councilmember Lorch)**

This agenda item was tabled.

- (2) **Resolution No. 91-117 - Southern California Regional Airport Authority (SCRAA) - Membership of Board of Directors (Mayor Diehl)**

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to adopt Resolution No. 91-117 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA REQUESTING THAT THE SOUTHERN CALIFORNIA REGIONAL AIRPORT AUTHORITY (SCRAA) NOT ACCEPT THE ORANGE COUNTY CITIES AIRPORT AUTHORITY (OCCAA) AS THE ORANGE COUNTY REPRESENTATIVE ON THE SCRAA BOARD OF DIRECTORS.

- (3) Consideration of scheduling a date to interview and make selections to fill vacancies on City Commissions/Committees (Mayor Diehl)

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 5-0, to schedule an Adjourned Regular Meeting to be held on October 9, 1991 at 6:00 p.m. to interview and make selections to fill vacancies on the Planning Commission, Parks and Recreation Commission and Golf Course Committee.

- (4) Consideration of agendizing the Hughes, Heiss and Associates report findings of concern to Councilmember Lorch as well as the implementation procedures (Councilmember Lorch)

This agenda item was tabled.

Councilmember Lorch noted the San Clemente Historical Society will be hosting a fund-raising event on September 27, 1991; stated the Rail Master Plan public hearings will be included in the Community Calendar that is broadcast on the PEG channel.

9. RESOLUTIONS/ORDINANCES

None.

CLOSED SESSION

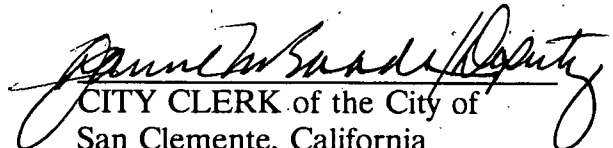
MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to recess to Closed Session at 9:55 p.m. to discuss a matter of pending litigation, United States v. Potlatch Corporation, pursuant to GC Section 54956.9(a). The City Manager, City Attorney and City Clerk were in attendance.


MEETING RECONVENED

Council reconvened at 10:00 p.m., with all members present.

10. ADJOURN

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to adjourn at 10:00 p.m. to 6:30 p.m. on October 2, 1991 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 September 18, 1991 said meeting was adjourned to the time and place specified in the ORDER OF ADJOURNMENT attached hereto; and that on September 19, 1991 at the hour of 11:00 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 September 19, 1991 at San Clemente, California.


MYRNA ERWAY
City Clerk

