

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting - April 3, 1991

A Regular Meeting of the San Clemente City Council was called to order on April 3, 1991 at 7:00 p.m. in the Council Chambers, 100 Avenida Presidio, San Clemente, California by Mayor Diehl.

PRESENT ANDERSON, BENEDICT, HAGGARD, LORCH, MAYOR DIEHL

ABSENT NONE

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

INVOCATION

Mayor Diehl gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Diehl led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Week of the Young Child**

Mayor Diehl presented a proclamation to Cynthia Meyers, Owner/Director of The Stepping Stone Preschool, designating the week of April 7 to April 13, 1991 as "Week of the Young Child".

B. **Telecommunicators Week**

Mayor Diehl presented a proclamation to Denise Garcia, Dispatcher, and Jerry Reckinger, Communications Coordinator, designating the week of April 14 to 20, 1991 as "Telecommunicators Week."

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

3. PUBLIC HEARINGS

A. Tentative Tract Maps 13683, 13684, 13685, 13686 and 13935; Site Plan Reviews 90-50, 90-51, 90-52, 90-54 and 90-133, Talega Champion Hills Specific Plan

Continued Public Hearing to consider a request by the Arvida Company to develop 338 single-family homes and three holes of a golf course in the City portion of Talega Valley.

Associate Planner Pechous reviewed the contents of the Administrative Report.

Mayor Diehl opened the Public Hearing.

Kevin Canning, The Arvida Company, provided an overview of the project; opined the action before Council contains sufficient safeguards to address the City's concerns; acknowledged the responsibility of The Arvida Company to demonstrate a fiscal balance to the City; requested the proposed Condition relating to the project's fiscal impact be modified to read as follows:

"In conjunction with Specific Plan Condition No. 1, prior to City Council approval of any final map, the landowner of record shall demonstrate through utilization of the City's Fiscal Impact Model: a) a fiscal balance (i.e., no negative fiscal impact) with each successive phase of development, based on a phasing plan; and b) feasibility of the establishment and implementation of a Community Facilities District or other financing mechanism. The above shall be subject to the review, satisfaction and approval of the City.

"In the event that any negative fiscal impacts are identified and/or the phasing plan is determined to be unrealistic based on market conditions, the City may require that the landowner of record enter into an agreement with the City to guarantee mitigation of potential negative fiscal impacts, prior to the approval of any final maps."

**Script type indicates suggested added verbiage.*

Bruce Young, Southern California Ecumenical Council, 31891 Via Pato, Trabuco Canyon, voiced concern with the shortage of church sites in the southern portion of Orange County; distributed a memorandum from the Community Redevelopment Agency of the City of Los Angeles concerning the proposed Hollywood social needs plan.

Glenn Roy, 111 Avenida Granada, opined the division of the Talega Valley project into two projects (one within the City and one within the County) violates CEQA Regulation No. 15050(c); noted that Councilmember Haggard serves on the Board of Directors of the Boys and Girls Club and suggested that she may possess a conflict of interest with respect to this project since The Arvida Company donated \$150,000 to the Boys and Girls Club; questioned where the project's bicycle trails will be located.

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

The following information was provided in response to questions raised during the Public Hearing:

1. Kevin Canning, The Arvida Company, noted that churches are permitted in any zone within the Talega Valley Specific Plan; stated it is probable that a church will be developed as one of the first non-residential developments within the project.
2. City Planner Barnes stated it was the property owner's desire to maintain the jurisdictional boundaries of the City and County; explained that although the City was of the opinion that a single EIR should be completed on the entire project, the County's legal counsel determined that it was appropriate to prepare separate EIR's for the City and County components of the plan; stated CEQA requirements have been honored.
3. City Attorney Oderman stated that Councilmember Haggard's position as a member of the Board of Directors of the Boys and Girls Club does not create a conflict of interest with respect to this project; noted that a \$150,000 donation was made by The Arvida Company to the Boys and Girls Club and not to Councilmember Haggard as an individual.
4. Kevin Canning reviewed the 17+ miles of bicycle and equestrian trails that are planned.

City Attorney Oderman opined that the introductory language that Mr. Canning suggested be added to the condition of approval that addresses fiscal balance would not create an inconsistency between the condition and the Specific Plan; noted that it is Council's discretion as to whether the language should be included.

Councilmember Haggard suggested that the second paragraph of the condition of approval that addresses fiscal balance be modified to read as follows:

"In the event that any negative fiscal impacts are identified and/or the phasing plan is determined to be unrealistic based on market conditions, the City may require that the landowner of record enter into an agreement with the City to guarantee mitigation of potential negative fiscal impacts within six months from the date of approval of the tentative tract maps. Should the agreement not be reached, approval will be revoked and any allocations that may have been awarded will be null and void."

Kevin Canning stated it is difficult to agree to the modified condition since it states requirements that are beyond The Arvida Company's control.

City Attorney Oderman noted that Council possesses the discretion to disapprove the application in its entirety because of the inability to make a determination on the fiscal impact issue; stated that since Council possesses the discretion to deny, it possesses the discretion to condition the project as proposed; stated the condition is not beyond The Arvida Company's control.

Staff responded to Council inquiries as follows:

1. The CMP pipe is temporary and is included as a portion of The Arvida Company's grading improvement; reenforced concrete pipe is required for permanent facilities.
2. Staff believes the project complies with the Hillside Development Ordinance; stated the Planning Commission determined that the project complies with the City's General Plan and applicable ordinances and approved the project by a unanimous vote.

MOTION BY COUNCILMEMBER BENEDICT, SECOND BY COUNCILMEMBER HAGGARD, to adopt Resolutions Nos. 91-26, 91-27, 91-28, 91-29 and 91-30 (Resolution titles are specified below), with the modification that a condition be added to all resolutions to read:

"In conjunction with Specific Plan Condition No. 1, prior to City Council approval of any final map, the landowner of record shall demonstrate through utilization of the City's Fiscal Impact Model: a) a fiscal balance (i.e., no negative fiscal impact) with each successive phase of development, based on a phasing plan; and b) feasibility of the establishment and implementation of a Community Facilities District or other financing mechanism. The above shall be subject to the review, satisfaction and approval of the City.

"In the event that any negative fiscal impacts are identified and/or the phasing plan is determined to be unrealistic based on market conditions, the City may require that the landowner of record enter into an agreement with the City to guarantee mitigation of potential negative fiscal impacts within six months from the date of approval of the tentative tract maps. Should the agreement not be reached, approval will be revoked and any allocations that may have been awarded will be null and void."

Resolution No. 91-26 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT 13683 AND SITE PLAN REVIEW 90-50.

Resolution No. 91-27 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT 13684 AND SITE PLAN REVIEW 90-51.

Resolution No. 91-28 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT 13685 FOR THREE HOLES OF A GOLF COURSE AND SITE PLAN REVIEW 90-133.

Resolution No. 91-29 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT 13686 AND SITE PLAN REVIEW 90-52.

Resolution No. 91-30 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT 13935 AND SITE PLAN REVIEW 90-54.

MOTION TO AMEND BY COUNCILMEMBER LORCH to incorporate the exhibits as presented by Staff as part of the conditions of approval or with approval of the tentative maps. The Motion to Amend died for lack of a second.

MOTION TO AMEND BY COUNCILMEMBER LORCH to add a condition of approval to require that the minimum street width be 32' and that parking be restricted on those streets to one side of the road. The Motion to Amend died for lack of a second.

MOTION TO AMEND BY COUNCILMEMBER LORCH to modify Condition No. 22-A of Resolution No. 91-26 (and corresponding conditions in Resolutions Nos. 91-27, 91-28, 91-29 and 91-30) to delete the sentence which reads: "The CC&R's shall prohibit the trimming of any tree required by the landscape and irrigation plan in such a manner so as to reduce the otherwise natural height of the tree." The Motion to Amend died for lack of a second.

MOTION TO AMEND BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to modify the first sentence of Condition No. 38 of Resolution No. 91-26 (and corresponding conditions in Resolutions Nos. 91-27, 91-28, 91-29 and 91-30) to read as follows: "Prior to the issuance of grading permits, the owner or his/her designee shall submit a detailed landscape and irrigation plan for on- and off-site landscaping, including but not limited to, medians and parkways, prepared by a registered landscape architect, in compliance with all pertinent requirements including, but not limited to, the City's Landscape Guidelines, any applicable Specific Plans and the City's Master Landscape Plan for Scenic Corridors, for review and approval of the City."

MOTION TO AMEND BY COUNCILMEMBER LORCH to modify Condition No. 42-B of Resolution No. 91-26 (and corresponding conditions in Resolutions Nos. 91-27, 91-28, 91-29 and 91-30) to read: "A City or district-wide emergency storage capacity equivalent to five days water storage based on calculations approved by the City Engineer." The Motion to Amend died for lack of a second.

MOTION TO AMEND BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to modify Condition No. 72 of Resolution No. 91-26 (and corresponding conditions in Resolutions Nos. 91-27, 91-28, 91-29 and 91-30) to read: "Pursuant to the Talega Valley Specific Plan, no grading of Knob Hill beyond the grading limits shown on Tentative Tract Maps 13683 and 13684 shall be allowed without prior review and approval of the City."

THE ORIGINAL MOTION, as modified to include revisions to Conditions Nos. 38 and 72 of Resolution No. 91-26 (and corresponding conditions in Resolutions Nos. 91-27, 91-28, 91-29 and 91-30), CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE). The modified conditions shall read as follows:

The first sentence of Condition No. 38 of Resolution No. 91-26 (and corresponding conditions in Resolutions Nos. 91-27, 91-28, 91-29 and 91-30) shall read as follows:

"Prior to the issuance of grading permits, the owner or his/her designee shall submit a detailed landscape and irrigation plan for on- and off-site landscaping, including but not limited to, medians and parkways, prepared by a registered landscape architect, in compliance with all pertinent requirements including, but not limited to, the City's Landscape Guidelines, any applicable Specific Plans and the City's Master Landscape Plan for Scenic Corridors, for review and approval of the City."

Condition No. 72 of Resolution No. 91-26 (and corresponding conditions in Resolutions Nos. 91-27, 91-28, 91-29 and 91-30) shall read as follows:

"Pursuant to the Talega Valley Specific Plan, no grading of Knob Hill beyond the grading limits shown on Tentative Tract Maps 13683 and 13684 shall be allowed without prior review and approval of the City."

MOTION BY COUNCILMEMBER LORCH that the Talega Valley Specific Plan Amendment effort be completed and submitted to Council for review prior to any additional tentative maps being processed by the City. The Motion died for lack of a second.

Council requested a tray memo from Staff relative to the status of the Talega Valley Specific Plan Amendment.

MEETING RECESSED

Council recessed at 8:25 p.m. and reconvened at 8:30 p.m., with all members present.

B. Gateway Village Plaza - SPR 89-140, CUP 89-139, Variance 90-24

Public Hearing to consider a request to allow a 77,000 square foot shopping center on the southeast corner of Avenida Pico and Avenida Presidio.

Community Development Director Holloway reviewed the history of the Gateway Village Plaza; noted the Planning Commission approved the project by a three-to-one vote; analyzed the project in terms of its mix of commercial uses, scale of the project, site plan and architecture; offered suggestions to enhance the market image and customer amenities of the project; reviewed the design aspects of the project through the aid of slides.

Mayor Diehl opened the Public Hearing.

Jay Natelson, President of the Natelson Company (City's consultant to review the City's General Plan and long-term economic development strategy) spoke in support of consolidating the subject site with the San Clemente High School site to accommodate a regional shopping center; opined such action would likely increase the value of both sites, improve the flexibility of design, and optimize the revenue-producing potential of the properties.

Gary Wiggle, Keisker and Wiggle Architects, responded to issues raised by the Community Development Director; provided an overview of the project, focusing on project amenities; stated the project includes traditional Spanish architecture; opined the natural topography of the property precludes a consolidation of the subject site with the high school site; suggested that a site merger would render the land suitable for an RDA project; noted the project will likely produce in excess of \$100,000 per year in sales tax revenue.

Jim Keisker, Keisker and Wiggle Architects, cited problems encountered by neighborhood shopping centers when they are situated on interior sites; reviewed the architectural features of the project and plan revisions made in response to City suggestions; reviewed the results of the viewshed analysis, focusing on the proposed screening of the mechanical equipment.

Jim Hill, 4115 Calle Mayo, noted the project has been reviewed at length by City Commissions and Staff; opined that project approval should not be withheld in order to integrate the Gateway Village Plaza land with the potential availability of the San Clemente High School property.

Dale Feutz, Community Design Commission, 120 W. Avenida San Antonio, relayed the Commission's opinion that the style of the project should reflect a classic interpretation of Spanish Colonial Revival architecture; explained the Commission's denial of the project was based on concerns for the massiveness of the grocery store element, vast amount of flat roof area, need for integration of additional open space, as well as Staff's concerns relating to land use.

Sandy DonRussello, 59 Maracay, voiced concern with the amount of traffic that will be generated from the project as well as the likelihood of light intrusion into surrounding neighborhoods; questioned the justification for a height variance; voiced concern the project projects a massive appearance and utilizes contemporary architecture; urged that the project be redesigned and reduced in mass.

Don Kindred, 2404 Camino Galeon, President of the Chamber of Commerce, reiterated the Chamber's support for the project; noted the need to facilitate economic development.

Ed Heard, Treasurer of the Rancho San Clemente Master Association, 642 Via Umbroso, referenced his letter dated April 2, 1991, which is available on file in the City Clerk's Department; spoke on the need for the center and the resultant revenue to the City; recommended that the project be approved at this time.

Hal Brice, 793 Salvadore, voiced concern with the design of the project; opined the proposed grocery store is too large for the site.

During the ensuing discussion, Staff responded to questions raised during the Public Hearing relative to: 1) Impracticality of formulating an RDA around the subject site, as well as the difficult and time-consuming process of forming an RDA around the subject site if combined with the high school site; 2) traffic generation and associated mitigation measures; and 3) Planning Commission's findings in determining that a height variance is justified.

In answer to Council inquiry, Gary Wiggle noted that if Council approves the subject project, it will take approximately six months until a building permit can be obtained; suggested, therefore, that this six-month period could serve as an opportunity for an agreement to be reached relative to a merger of the San Clemente High School site and the subject site, while still allowing the Applicant to proceed with the subject project. In response to Council inquiry, Mr. Tsuma (Applicant) indicated an unwillingness to accept such a provision as a condition of approval.

Ed Kweskin, 118 W. Avenida Valencia, on behalf of the Applicant, pointed out that the six-month timeframe to possibly reach an agreement will exist irrespective of whether it is included as a condition of approval; stated Mr. Tsuma is willing to discuss the possibility of a site merger until building permits are obtained.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR DIEHL to continue the Public Hearing on SPR 89-140, CUP 89-139 and Variance 90-24 (Gateway Village Plaza) to the Council meeting of April 17, 1991. Staff was directed to meet with the Applicant in an attempt to resolve details associated with a six-month period in which to potentially reach an agreement on joint development of the property in question and San Clemente High School site prior to building permits being issued on the subject project. Staff is to prepare resolutions and appropriate conditions of approval for Council consideration at its meeting of April 17, 1991.

Toby Tsuma, Applicant, 2240 Avenida Salvador, concurred with a two-week continuance of this agenda item, based upon the motion on the floor.

THE MOTION CARRIED 5-0.

MEETING RECESSED

Council recessed at 10:25 p.m. and reconvened at 10:30 p.m., with all members present.

C. **California Vehicle Code and San Clemente Municipal Code Enforcement in the Casablanca, Bella Vista and Montego Developments**

Public Hearing to consider requests from the Casablanca Condominium Association, Bella Vista Homeowners Association and the Montego at Rancho San Clemente Homeowners Association for the enforcement of the CVC and the SCMC on specific streets. This request, if adopted, would give the San Clemente Police Department the right and power, but not the obligation, to enforce the CVC and SCMC within the subject neighborhoods.

City Engineer Cameron reviewed the contents of the Administrative Report.

Mayor Diehl opened the Public Hearing and there being no one desiring to speak to this issue, the Public Hearing was closed on the issues relating to CVC and SCMC enforcement in the Bella Vista and Montego Developments.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to continue the portion of the Public Hearing that relates to enforcement of the California Vehicle Code and San Clemente Municipal Code within the Casablanca Development to the Council Meeting of May 1, 1991.

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

1. **Adopt Resolution No. 91-31 entitled A RESOLUTION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPLYING THE PROVISIONS OF THE CALIFORNIA VEHICLE CODE AND THE CITY OF SAN CLEMENTE MUNICIPAL CODE TO CERTAIN PRIVATE ROADS OPEN FOR PUBLIC USE (BELLA VISTA DEVELOPMENT, TRACT 12357).**
2. **Adopt Resolution No. 91-32 entitled A RESOLUTION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPLYING THE PROVISIONS OF THE CALIFORNIA VEHICLE CODE AND THE CITY OF SAN CLEMENTE MUNICIPAL CODE TO CERTAIN PRIVATE ROADS OPEN FOR PUBLIC USE (MONTEGO DEVELOPMENT, TRACT 12426).**

D. Marblehead Inland Park Master Plan

Public Hearing to consider approving the Marblehead Inland Park Master Plan.

Park Planner Beck presented an overview of the Marblehead Inland Park Master Plan.

Mayor Diehl opened the Public Hearing and there being no one desiring to speak to this issue, the Public Hearing was closed.

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

1. Approve the Marblehead Inland Park Master Plan.
2. Adopt Resolution No. 91-39 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 91-16 AND A NEGATIVE DECLARATION RELATING THERETO FOR THE MARBLEHEAD INLAND PARK MASTER PLAN.

MOTION TO AMEND BY COUNCILMEMBER LORCH, SECOND BY MAYOR PRO TEM ANDERSON, FAILED 1-4 (MAYOR PRO TEM ANDERSON, COUNCILMEMBERS BENEDICT AND HAGGARD, AND MAYOR DIEHL VOTING NOE), to direct staff to delete the 5' retaining wall along Vista Hermosa.

AMENDED MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE) to:

1. Approve the Marblehead Inland Park Master Plan.
2. Adopt Resolution No. 91-39 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 91-16 AND A NEGATIVE DECLARATION RELATING THERETO FOR THE MARBLEHEAD INLAND PARK MASTER PLAN.
3. Direct staff to consider a decorative wall treatment, with or without landscaping, to improve the aesthetics associated with the retaining wall along Vista Hermosa.

4. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to approve the Consent Calendar with the removal of Items 4-D, 4-E, 4-G, 4-H, and 4-I.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to approve the City Council minutes of March 6, 1991.

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

- (1) Planning Commission minutes of March 5, 1991.
- (2) Community Design Commission minutes of February 26, 1991.
- (3) Human Resources Committee minutes of January 28, 1991.

C. Warrant Register

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to approve Warrant Nos. 100094 through 100272 (Voids 100090-100093) for the period 3-11-91 through 3-15-91 in the amount of \$1,819,621.28; Warrant Nos. 100275 through 100460 (Voids 100273-100274) for the period 3-18-91 through 3-22-91 in the amount of \$299,778.36; for a total Warrant Register of \$2,119,399.64.

Payroll Register

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to approve Payroll Warrant Nos. 63072 through 63454 (Voids 63068-63071) for the period 3-4-91 through 3-17-91 in the amount of \$346,915.35; for a total Payroll Register of \$346,915.35.

F. Final Tract 14341 - Parcel 1 of Parcel Map 88-115 (1044 and 1046 Calle Recodo - Rancho San Clemente Business Park)

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

1. Approve, and authorize the City Engineer and City Clerk to execute, Final Tract Map 14341.
2. Accept the Landscape Bonds.
3. Approve, and authorize the Mayor to execute, the Subdivision Improvement Agreement by and between the City of San Clemente and Curtis-Weber San Clemente Company.

J. **Public Works Mutual Aid Agreement with Los Angeles and Orange Counties/Coordinator Appointment**

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

1. Adopt Resolution No. 91-35 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE PUBLIC WORKS MUTUAL AID PROGRAM FOR EMERGENCY SERVICES.
2. Approve, and authorize the Mayor to execute, the Public Works Mutual Aid Agreement with the Counties of Los Angeles and Orange. (City Contract #C91-09)

K. **Endorsement of Measure J - Sales Tax for New County Jail**

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to adopt Resolution No. 91-37 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ENDORSING MEASURE J.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**D. Governing Documents for Orange County Cities Risk Management Authority**

Personnel/Risk Manager Kulp responded to Council inquiries concerning the function and governing documents for the Orange County Cities Risk Management Authority.

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, **FAILED 1-4** (Mayor Pro Tem Anderson, Councilmembers Benedict and Haggard and Mayor Diehl voting noe) to continue consideration of the governing documents for the Orange County Cities Risk Management Authority to the Council Meeting of April 17, 1991.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, **CARRIED 4-1** (COUNCILMEMBER LORCH VOTING NOE), to adopt Resolution No. 91-33 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING THE "JOINT POWERS AGREEMENT FOR THE ORANGE COUNTY CITIES RISK MANAGEMENT AUTHORITY"; THE "BYLAWS FOR THE ORANGE COUNTY CITIES RISK MANAGEMENT AUTHORITY"; AND THE "GENERAL LIABILITY INSURANCE PLAN DOCUMENT FOR THE ORANGE COUNTY CITIES RISK MANAGEMENT AUTHORITY".

E. Compensation Plan for Executive, Management and Confidential Employees

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE), to:

1. Adopt Resolution No. 91-34 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ASSIGNING NEW COMPENSATION SCHEDULES FOR ALL EXECUTIVE, MANAGEMENT AND CONFIDENTIAL CLASSES OF EMPLOYMENT IN THE CITY SERVICE AND AMENDING THOSE SECTIONS OF RESOLUTION NO. 89-117 AND ANY OTHER RESOLUTIONS IN CONFLICT THEREWITH OF THE CITY'S COMPENSATION PLAN THAT PERTAINS TO THE EXECUTIVE, MANAGEMENT AND CONFIDENTIAL EMPLOYEE COMPENSATION SCHEDULES.
2. Approve, and authorize the City Manager to execute, other agreed-to benefit changes by and between the City of San Clemente and the Executive, Management and Confidential employees.

G. Park Acquisition and Development Fee Modifications - Consultant Retainment

In response to Council inquiry, Parks and Recreation Manager Wegner explained the functions that would be performed by Kiley Company; reviewed the variations between Kiley Company's duties and the services that BSI was contracted to provide.

City Attorney Oderman clarified that it is not necessary, from a legal standpoint, for an MIA appraiser to determine the average residential land value within the City, although it is necessary to retain a competent professional; opined the retainment of an MIA appraiser is probably the most cost-effective option in terms of ensuring credibility and accuracy.

Council requested that more-substantial documentation, and possibly utilization of a competitive process, be utilized in conjunction with future requests for the retainment of consultants.

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

1. Approve, and authorize the City Manager to execute, an agreement by and between the City of San Clemente and Kiley Company, Real Estate Appraisers, for a not-to-exceed fee of \$10,000 to provide professional real estate appraisal services to determine the average residential land value within the City of San Clemente. (City Contract #C91-08)
2. Approve a supplemental appropriation of \$10,000 to Account No. 001-627-43690, Other Professional Services, in the Park Acquisition and Development Fund.

H. **Authorization to Bid - Camino de Estrella/I-5 Interchange and Camino de los Mares Improvement Projects**

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

1. Approve the plans and specifications for the Camino de Estrella/I-5 Interchange and Camino de los Mares Improvement Projects.
2. Authorize Staff to advertise the project for competitive bidding.

I. **Return of Fees - Richmond American (Tract 12883 - Rancho San Clemente)**

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

1. Approve the return of excess fees, in the amount of \$81,600, to Richmond American.
2. Approve a supplemental appropriation of \$81,600 to Account No. 034-821-44090 in the Public Safety Construction Fund.

5. ORAL COMMUNICATIONSAquarium

Curt Mettling, 423 Avenida Granada #48, spoke in support of developing an aquarium in the City; noted the aquarium could revitalize the downtown area and bring revenue to the City; requested that the issue be agendized for a future Council Meeting to enable the preliminary plans and artist's rendering to be presented.

Council directed staff to prepare a tray memo on impacts and implications associated with an aquarium in the City as well as location options. Council will subsequently decide if the item is to be agendized for a future Council meeting.

6. UNFINISHED BUSINESS

None.

7. NEW BUSINESSA. Amendment to RDEB Development Allocation Application - Incorporation of RDEB Criteria

Report from the Community Development Director concerning amending the RDEB Development Allocation Application to incorporate the recently adopted RDEB criteria.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE) to adopt Resolution No. 91-36 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING THE DEVELOPMENT ALLOCATION APPLICATION, EXHIBIT D, OF THE RDEB CRITERIA.

B. Solid Waste Management Anti-Scavenging Ordinance

Report from the Public Services Director concerning adoption of an anti-scavenging ordinance to protect recyclable materials and recycling containers from theft and vandalism.

Interim Solid Waste Management Coordinator Morgan reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to introduce Ordinance No. 1048 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 22B AND SECTION 1-7 OF THE CODE OF THE CITY OF SAN CLEMENTE REGARDING SOLID WASTE REDUCTION AND RECYCLING.

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

None.

B. City Manager

None.

C. City Attorney

City Attorney Oderman requested Closed Sessions to discuss 1) a matter of pending litigation, Weeda v. City of San Clemente, pursuant to GC Section 54956.9(a); and 2) an item of potential litigation, pursuant to GC Section 54956.9(b)1.

D. Council Members

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

Mayor Diehl reported that the Orange County Division of the California League of Cities adopted two resolutions at its March 14, 1991 General Meeting, i.e., 1) Resolution 1-91 which supports SB 169 to repeal county authorized jail booking fees and property tax administration charges in SB 2557; and 2) Resolution 2-91 which reinstates support for the Master Property Tax Transfer Agreement negotiated between the County of Orange and the Orange County Division.

Mayor Diehl advised that the Orange County Division will consider the following resolutions at its April 11, 1991 General Meeting:

1) Resolution 3-91, sponsored by the Division Water Resources Committee, which embodies recommendations made by the Committee to the Resolutions Committee on legislation dealing with current water issues. Mayor Diehl expressed his intent to support Resolution 3-91.

2) Resolution 4-91, sponsored by the City of La Habra, to urge the State League Board of Directors to arrange for an alternative site for the Annual League of Cities Meeting to be held October 13-16, 1991 in San Francisco, in response to that city's offer of sanctuary to individuals opposed to the Persian Gulf War. Mayor Diehl voiced his opinion that a letter of censure should be sent to the San Francisco Board of Supervisors as opposed to penalizing the citizenry of San Francisco by encouraging that an alternate site be arranged for the Annual League of Cities Meeting. Council concurred with Mayor Diehl's position.

(2) SB 2557 - Protection of City Finances from State Budget Process

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 5-0, to adopt Resolution No. 91-38 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA SUPPORTING THE REPEAL OF SB 2557 AND THE PROTECTION OF CITY FINANCES FROM THE STATE BUDGET PROCESS.

Councilmember Haggard announced that one of the final hearings on the Draft Environmental Impact Report for the Air Quality Management Plan will be held on April 29, 1991 at 4:00 p.m. at the Hall of Administration in the Board Hearing Room.

9. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1045 (Second Reading) - Residential Development Control**

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to adopt Ordinance No. 1045 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A NEGATIVE DECLARATION AND AMENDING SECTIONS 38-6 AND 38-7 OF THE CODE OF THE CITY OF SAN CLEMENTE RELATING TO RESIDENTIAL DEVELOPMENT CONTROL.

B. **Ordinance No. 1047 (First Reading) - Mobile Source Air Pollution Reduction Ordinance**

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to introduce Ordinance No. 1047 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 22B OF THE CODE OF THE CITY OF SAN CLEMENTE BY ADDING NEW SECTIONS 22B-50 THROUGH 22B-51 RELATING TO MOBILE SOURCE AIR POLLUTION REDUCTION.

MEETING RECESSED

Council recessed to a meeting of the Redevelopment Agency at 11:55 p.m.

MEETING RECONVENED

Council reconvened at 11:57 p.m., with all members present.

CLOSED SESSION

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to recess to Closed Session at 11:57 p.m. to discuss 1) a matter of pending litigation, Weeda v. City of San Clemente, pursuant to GC Section 54956.9(a); and 2) a matter of potential litigation, pursuant to GC Section 54956.9(b)1. The City Council, City Manager, City Attorney, Interim Assistant City Manager and the City Clerk were in attendance.

MEETING RECONVENED


Council reconvened at 12:18 a.m., with all members present.

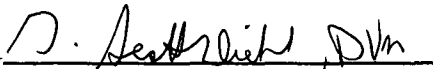
CITY TREE DESTRUCTION/REMOVAL - ROGER NUNN

MOTION BY MAYOR DIEHL, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 3-2 (COUNCILMEMBERS BENEDICT AND LORCH VOTING NOE), to authorize that a civil action suit be filed against Roger Nunn, 119 Barcelona, for destruction and removal of a City tree from a City right-of-way, in the event the City is not compensated for the value of the tree by April 12, 1991.

ADJOURNMENT

There being no further business, Council adjourned at 12:20 a.m. The next Regular Meeting will be held on April 17, 1991 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