

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting - April 17, 1991

A Regular Meeting of the San Clemente City Council was called to order on April 17, 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; James Holloway, Community Development Director; Myrna Erway, City Clerk; 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. **Federation Day Proclamation**

Mayor Diehl presented a proclamation to Betty Wooldridge (President), Virginia Nichols, and Nellie Blodgett of the San Clemente Woman's Club, declaring April 24, 1991 as Federation Day.

B. **Arbor Day/Earth Day Proclamation**

Mayor Diehl presented a proclamation to Lynn Harris Hicks, declaring April 23, 1991 as Arbor Day/Earth Day.

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**
 - A. **Avenida Vista Hermosa/I-5 Interchange - Draft Initial Study/Environmental Assessment**

Public Hearing to consider recommending that Caltrans accept the proposed Draft Initial Study/Environmental Assessment for the proposed Avenida Vista Hermosa/Interchange Project and address certain concerns.

Traffic Engineer Hindiyeh reviewed the contents of the Administrative Report; reviewed public meetings held to date concerning the Vista Hermosa/I-5 interchange and commented that Caltrans will conduct a Public Hearing on the IS/EA at St. Andrew's Church on April 22, 1991; explained the purpose of this meeting is to provide input to Caltrans to aid in their final decision on the Draft Initial Study/Environmental Assessment.

Mayor Diehl opened the Public Hearing.

Al Fisher, Branch Chief of Environmental Planning of Caltrans, reviewed the environmental review process utilized in connection with the Avenida Vista Hermosa/I-5 Interchange; noted the public comment period will close on May 7, 1991 and responses to comments raised will be included in the environmental document; stated the environmental document will be used to determine whether or not the interchange would have significant impacts; noted that studies to date indicate that no significant impacts would result from the interchange; stated that once Caltrans determines that no significant impacts would be encountered, the Federal Highway Administration will be requested to make a finding of no significant impact on the project.

Fred Talarico, STA Planning, Inc., 550-C Newport Center Drive, Newport Beach (City's environmental consultant) provided an overview of the procedures utilized, and factors considered, in preparing the Initial Study/Environmental Assessment for the Avenida Vista Hermosa/I-5 interchange; noted the Environmental Assessment was prepared pursuant to NEPA and the Initial Study was prepared pursuant to the Environmental Quality Act.

Ronnie Howell, 247 Via San Andreas, opined the expansion of the Avenida Pico Interchange would provide a viable alternative to the Vista Hermosa Interchange since it is already zoned Commercial/Industrial and hence would not impact residential areas.

Bob Schafer, Secretary, Association of Shorecliff Residents, 213 Via Ballena, noted a petition was previously presented to the City opposing the Vista Hermosa interchange and presented an additional 320 signatures; opined expanding the Pico interchange versus the Vista Hermosa interchange would decrease the impact on neighboring residential areas and the Shorecliffs Junior High School.

Ginger Page, 215 Via Ballena, opined the issue of hydrology was inadequately addressed in the IS/EA; voiced concern with the amount of drainage into Cascadita Canyon; commented the Vista Hermosa interchange project should be deferred until such time as the hydrology issue is adequately assessed.

Janis Sinco, 2711 Via Montezuma, stated she is a registered nurse and Treasurer of the Association of Shorecliff Residents; spoke on the negative affects of diminished air quality, noise and traffic on the health and learning potential of students who attend schools located in close proximity to freeways.

Tom Padberg, 617 Calle Hidalgo, voiced concern that although the Vista Hermosa interchange has been included in City plans for many years, public input was not solicited until recent months; opined that public input should be solicited on projects at the time of initial concept.

Gary McDaniel, 2221 Via Gavilan, voiced concern that the Vista Hermosa interchange would generate noise and pollution and would increase the likelihood of a South Orange County airport.

Roger Hudson, 2907 Calle Frontera, opined the traffic situation on Frontera will be compounded as a result of the Vista Hermosa interchange.

Jim Hill, 4115 Calle Mayo, spoke in support of the Vista Hermosa interchange to provide access to the Marblehead Coastal development which will bring revenue to the City; noted the Vista Hermosa interchange would not be paid for by citizens; voiced concern that widening Pico would require the removal of several businesses, thereby reducing City income and increasing the City's budgetary shortfall.

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

During the ensuing discussion, responses were offered to comments raised during the Public Hearing as follows:

1. Traffic Engineer Hindiyeh explained that the Vista Hermosa interchange project does not impact Cascadita Canyon; noted that problems associated with drainage underneath the I-5 and inadequacy of the culvert should be addressed independently of the interchange issue. Larry Wilson, Vice President of Transportation Planning for Robert Bein, William Frost and Associates, confirmed that no drainage will be directed to Cascadita Canyon that would not go there otherwise.
2. Fred Talarico noted the project would not violate any of the State's air quality standards; noted, additionally, that the project will be reviewed by the California Air Resources Board; stated the project would not violate State or City standards relating to noise.
3. Traffic Engineer Hindiyeh explained that the project was initially addressed in conjunction with the 1982 General Plan; reviewed previous opportunities provided for public input on the project.
4. Traffic Engineer Hindiyeh noted that a re-design of Avenida Pico was considered, however, it was discontinued as an alternative early in the process since it did not meet the project's objectives; explained the goals of the project are to 1) provide access for all traffic from new development in the inland portion of the City as well as Marblehead Coastal; and 2) improve emergency vehicle response times.
5. Traffic Engineer Hindiyeh relayed that all traffic studies, and the City's Traffic Circulation Model, indicate that the Vista Hermosa interchange would reduce the flow of traffic on Frontera and other residential streets in that area.

Following discussion, MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER BENEDICT, to adopt Resolution No. 91-40 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THAT CALTRANS ACCEPT THE PROPOSED DRAFT INITIAL STUDY/ENVIRONMENTAL ASSESSMENT FOR THE PROPOSED AVENIDA VISTA HERMOSA INTERCHANGE PROJECT AND ADDRESS THE LISTED CONCERNS.

In response to Council inquiry, Al Fisher, on behalf of Caltrans, clarified that if Caltrans determines that the environmental document is adequate and creates no significant impacts based upon CEQA and NEPA criteria, the next step would be for the City to proceed with the plans and specifications for the project; noted that Caltrans serves as the lead agency on all major projects on State facilities.

Andrea Simm, of Robert Bein, William Frost & Associates, clarified that Caltrans' designation as the lead agency and City of San Clemente's designation as a responsible agency was established in a cooperative agreement that was authorized by the City Council of San Clemente in August of 1990.

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

MEETING RECESSED

Council recessed at 8:20 p.m. and reconvened at 8:25 p.m., with all members present, except Councilmember Lorch who returned at 8:29 p.m.

B. Revised Site Plan - Single-Family Residence at 3830 Vista Blanca

Public Hearing to consider a revised site plan to determine permissible encroachment beyond a restricted use line at 3830 Vista Blanca (Tract 10225, Lot 112) within the Cypress Cove Subdivision.

City Attorney Oderman reviewed the historical and legal background of the Revised Site Plan, as contained in the City Attorney's memorandum, dated April 12, 1991, and on file in the City Clerk's Department; explained the Revised Site Plan intrudes over the Restricted Use Line fairly significantly, however, the entire residence would be situated above the bluff.

Community Development Director Holloway reviewed the variations between the original Site Plan and the Revised Site Plan; reviewed the location of the Restricted Use Line as it relates to the footprint of the proposed structure; noted the structure proper would be situated completely on the upper pad and would not cascade over the upper edge of the secondary bluff.

In response to Council inquiry, City Attorney Oderman 1) noted the Applicant would be required to submit proof of homeowner association approval prior to the issuance of building permits; and 2) reviewed the history of the Restricted Use Line as it relates to an original lack of clear definition, adding that Council determined in 1989 that all legitimate planning issues, e.g., bluff preservation, view, stability, and compatibility/character of the neighborhood, represent legitimate considerations in limiting development within the restricted use area.

Mayor Diehl opened the Public Hearing.

John Pitkin, legal counsel on behalf of the Applicant, 23332 Millcreek, Laguna Hills, presented an aerial photograph of the property in question as well as surrounding properties, which included a superimposed Restricted Use Line that was added by a surveyor; stated Mr. Weeda's lot is actually a transitional lot between one tract which includes the Restricted Use Line and a second tract which does not include a Restricted Use Line; reviewed the proximity of surrounding properties to the Restricted Use Line, adding that other homes have encroached over the Restricted Use Line and, in many cases, the encroachment extends to the tip, or over the tip, of the main coastal cliff; suggested the slope, which the Restricted Use Line follows, appears to be a manufactured slope, rather than the original bluff; noted Coastal Commission approval was granted for the original residence; stated approximately one-half of the square footage of the original structure has been eliminated; stated the current residence would be restricted to less than one-half of the lot, adding that

the Applicant desires to make recreational use of the lower platform; opined the plan as proposed is reasonable.

Stephen Coontz, legal counsel on behalf of property owners in the Cypress Cove and Cypress Shore Development, 32222 Camino Capistrano, San Juan Capistrano, presented a photograph of the Weeda property with an overlay which demonstrated the Restricted Use Line and grade break as they relate to the boundaries of the proposed residence; stated the development would extend 39' beyond the Restricted Use Line on one side and 21' beyond the Restricted Use Line on the other side, which represents a more significant encroachment than any other home in the area; opined the proposed residence would extend the bluff line by approximately 20' on the southerly side; noted that homeowners in Cypress Shore have no homeowner control over the site, even though Cypress Shore residents will be significantly affected by the development; objected to the mass of the development, intrusion over the bluff, and incompatibility of the setback with neighboring development.

Patrick Murphy, President of Cypress Shore Homeowners Association, 4028 Calle Isabella, spoke on the importance of ensuring that the development is in the best interest of the homeowners of both Cypress Cove and Cypress Shore; stated the Cypress Shore Homeowners Association is willing to engage in a cooperative effort to facilitate a residence that is compatible with the area.

R. B. Alexander, 3832 Vista Azul, stated that intrusion of the development over the bluff will negatively affect neighboring residents; felt development should take place in accordance with pre-existing rules; relayed that he does not object to the proposal provided it is situated completely on the flat pad.

Dr. Tony Ferrer, 3832 Vista Blanca, stated the Applicant was aware of the Restricted Use Area upon purchase; opined Council approval of development within the Restricted Use Line would represent an injustice to adjacent residents; recommended that the Applicant be allowed to build on the restricted area, provided the encroachment does not surpass 15' on the ocean side of the lot and 5' on the opposite side.

Norm McAdoo, 3820 Calle Tiara, voiced concern with the impact of the project on residents of Cypress Shore; stated the residents of Cypress Shore voted to maintain its 14' height restriction so as not to impair the views of Cypress Cove residents; opined the subject residence should be limited to the flat pad.

Mr. Pitkin rebutted that the exact measurements of the residence and the means by which it fits the topography of the site are contained within the Site Plan; stated it is Mr. Weeda's intent to not intrude onto the main bluff; stated the proposal as submitted is reasonable and in the best interest of the City; requested that Council approve the Revised Site Plan.

City Attorney Oderman noted that a factual conflict appears to exist relative to the location of the residence in relationship to the bluff; questioned whether the Applicant would be willing to retract the structure from the bluff in the event the Site Plan demonstrates that the residence would spill over the bluff. Mr. Pitkin stated he is willing to discuss this question with Mr. Weeda.

MEETING RECESSED

Council recessed at 9:45 p.m. and reconvened at 9:55 p.m., with all members present.

Mr. Pitkin stated the dimensions of the structure were agreed upon as a result of settlement discussions involving the City's legal counsel; stated it was agreed that a structure which followed the top of the slope would represent a suitable location for the residence and a reasonable way to settle the litigation; explained that Mr. Weeda is not willing to negotiate with neighbors who desire to limit the size of his house; stated the Site Plan represents an actual representation of the tentative agreement reached with Layne Melzer, the City's legal counsel; opined the revision is reasonable, represents a radical revision of the footprint of the structure from the original proposal, and completely eliminates the structure from the lower portion of the lot; stated the Applicant cannot retract the structure any farther from the bluff in light of the cost of the lot, design of the residence, and situation with respect to the pending litigation; commented that Mr. Melzer's report indicates that the Site Plan, as submitted, is in keeping with the character of the bluff and desire for bluff preservation in the area.

City Attorney Oderman clarified that Mr. Melzer and he recommended that Mr. Weeda consider retracting the structure to preclude its extension beyond the top of the bluff; noted that Mr. Melzer and he were assuming that the current plan would situate the residence behind the top of the bluff, but noted that neither he nor Mr. Melzer are engineers and hence are not qualified to specify the exact location of the structure in relationship to the topography of the lot.

CLOSED SESSION

MOTION BY MAYOR DIEHL, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to recess to Closed Session at 10:05 p.m. to discuss a matter of pending litigation, Weeda v. City of San Clemente, pursuant to GC Section 54956.9(a). The City Manager, City Attorney, Community Development Director and City Clerk were in attendance.

MEETING RECONVENED

Council reconvened at 10:15 p.m., with all members present.

In answer to Council inquiry, Mr. Pitkin consulted with Mr. Weeda and subsequently agreed to a two-week continuance to allow the structure to be staked on the property; requested that a decision be reached in two weeks.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 5-0, to continue the Public Hearing on the Revised Site Plan for the single-family residence at 3830 Vista Blanca to the Council meeting of May 1, 1991. Staff, in cooperation with the Applicant, is to stake the footprint of the structure on the property and demonstrate the structure boundaries on an aerial map.

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

Continued 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.

Mayor Diehl advised that the City Manager, City Attorney and he met with the Applicant (Toby Tsuma) and Don Adkinson, attorney for Mr. Tsuma, on two occasions; explained that due to the complexity of the issues, a condition was not developed relating to potential joint development of the subject property and the San Clemente High School site.

Community Development Director Holloway advised that Staff has prepared appropriate conditions of approval as per Council's direction of April 3, 1991.

Mayor Diehl opened the Public Hearing.

Karoline Koester, 604 Via Pavon, spoke in support of the proposal; opined the developer should be allowed to proceed since the project complies with City requirements; stated the proposal represents a suitable use of the property; noted the project will generate City revenue.

Frank Denison, 504 Monterey Lane, stated the 5th Amendment to the Constitution concludes that private property cannot be taken for public use without just compensation; stated the City's only responsibility is to ensure that the property is developed in accordance with established building codes and laws.

C. L. Snider, 303 Calle Rica, spoke in support of the project, noting the plaza is needed and will bring revenue and employment opportunities to the City; commented the proposal will improve the site; suggested that neighborhood residents will oppose relocation of the high school.

Don Adkinson, legal counsel for Mr. Tsuma, concurred with the proposed conditions of approval; stated the Applicant is amenable to an additional condition that would withhold the issuance of a building permit for a six-month period to allow the City to potentially develop a land-assembling proposal; stated the Lucky market lease will be jeopardized absent assurance that the development will proceed.

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

Responses to Council inquiries were provided as follows:

1. City Planner Barnes advised that the lighting proposal is acceptable to both the Planning Commission and Staff.
2. City Planner Barnes clarified that the requested variance relates only to height.
3. During the course of discussion, Jim Keisker, Bill Ayres, and Don Adkinson responded to Council inquiries concerning the dimensions of the crib and perimeter walls, proposed landscaping, sidewalk widths, setbacks, easements, and grading. Additionally, Jim Keisker confirmed that bicycle racks will be included in the project.
4. Traffic Engineer Hindiye explained that a bus stop would necessitate an 8' indentation in the parkway along Avenida Pico, which would impact some of the landscape but would not impact any of the proposed structures; noted the

Applicant's architect is willing to accommodate the design of the bus stop within the existing Avenida Pico parkway.

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

1. Adopt Resolution No. 91-41 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING USE PERMIT 89-139, GATEWAY VILLAGE PLAZA.
2. Adopt Resolution No. 91-42 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING SITE PLAN REVIEW 89-140, GATEWAY VILLAGE PLAZA, with an additional condition to provide that building permits shall not be issued until after October 17, 1991.
3. Adopt Resolution No. 91-43 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING VARIANCE 90-24, GATEWAY VILLAGE PLAZA.

MOTION TO AMEND BY COUNCILMEMBER LORCH to modify Resolution No. 91-42 to obtain compliance with the 50-foot Scenic Highways setback for buildings. The Motion to Amend died for lack of a second.

MOTION TO AMEND BY COUNCILMEMBER LORCH to eliminate the crib wall at the rear of the project and replace it with a smaller wall with a maximum height of 5' and 2:1 slope. The Motion to Amend died for lack of a second.

MOTION TO AMEND BY COUNCILMEMBER LORCH to modify the first sentence of the last paragraph of Condition of Approval No. 1 for Resolution No. 91-42 to read: "Any deviation from the approved site plan, floor plans, elevations, landscape plan, materials or other approved submittal shall require that, prior to the issuance of building permits, the owner or his/her designee shall submit for review and obtain the approval of the City ~~Planner or his/her designee~~ of the modified plans and any other applicable materials as required by the City." (Note: Strike-out type represents suggested deleted verbiage.) The Motion to Amend died for lack of a second.

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

D. Abandonment 88-02, GPA 89-99, ZA 89-98 - Townsend Property

Public Hearing to consider abandoning certain public rights-of-way within the vacant parcel that is located across from City Hall and bounded by Avenida Presidio, La Esperanza and the northbound ramp of I-5, and denying GPA 89-99 and ZA 89-98 which would redesignate the property from open space to commercial.

City Planner Barnes reviewed the contents of the Administrative Report; explained the subject rights-of-way represent street easements that are no longer necessary due to the construction of the I-5; noted the Planning Commission, at its meeting of March 5, 1991, voted to recommend approval of AB 88-02 and denial of the proposed General Plan Amendment and Zone Change; stated Staff has included conditions of approval that would require the City to be compensated for the abandoned rights-of-way based on precedent set in previous cases; stated the issue of possible compensation for the abandoned rights-of-way requires a policy determination of the City Council.

Mayor Diehl opened the Public Hearing.

Robert Fraser, Attorney on behalf of the Applicant, 1212 N. Ross, Santa Ana, reviewed the history of the parcel, noting the design of the I-5 rendered the subject easements unnecessary; relayed Mr. Townsend's position that the rights-of-way in question have already been informally abandoned; stated his client is the successor in interest to the individuals who originally dedicated the subject area for use as a public street and hence should not be required to compensate the City for the abandonment.

Bill Ayer, South Coast Engineering, 420 N. El Camino Real, explained his position that the dedication of street rights-of-way to the public does not constitute the deeding of land to the City of San Clemente; noted the City has not maintained the property in question; opined the City does not possess an equity in fee title and, therefore, compensation for a purchase of real estate is not warranted.

Michael Townsend, Applicant, 200 S. Barrington #301, Los Angeles, stated that prior to his purchase of the property, a representative of the City's Engineering staff informed him that the release of each easement would cost \$150; voiced concern with his inability to make meaningful progress in developing the parcel, noting the financial burden associated with delays; stated he purchased the entire property, including the underlying fee.

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

City Attorney Oderman reviewed the negotiations that the City had with Caltrans in attempting to acquire the subject parcel in the early 1980's, noting that Caltrans set an extremely high cost on the property, which resulted in a break-down of negotiations; acknowledged that some public agencies take the position that compensation for abandonments is warranted while others do not; explained that San Clemente has required compensation for abandonments in the past, albeit not in all occasions; stated that no law exists that requires the City to receive compensation or that forbids the City from requiring compensation; agreed that once property is abandoned, it reverts back to the underlying fee owner or the adjacent owner, but added that the City is not legally compelled to abandon property even if no contemplated use for the property exists; stated the City possesses the discretion to require compensation as a condition to approving the abandonment.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT to:

1. Adopt Resolution No. 91-44 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING ABANDONMENT 88-02, TOWNSEND, ABANDONING CERTAIN PUBLIC RIGHTS OF WAY, SUBJECT TO FINDINGS AND CONDITIONS OF APPROVAL.
2. Adopt Resolution No. 91-45 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING GENERAL PLAN AMENDMENT 89-99 FOR LOT 180, BLOCK M, TRACT 898.
3. Adopt Resolution No. 91-46 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING ZONING AMENDMENT 89-98 OF LOT 180, BLOCK M, TRACT 898.

MOTION TO AMEND BY COUNCILMEMBER BENEDICT, SECOND BY MAYOR DIEHL, FAILED 1-4 (COUNCILMEMBERS ANDERSON, HAGGARD, LORCH AND MAYOR DIEHL VOTING NOE), to delete Condition No. 1 of Resolution No. 91-44 which reads as follows:

"Prior to the transfer of ownership, the City Manager or his designee shall negotiate the sales price of the City property at a fair market value. If the Applicant desires, he or she may fund the cost for an appraisal of the property to help establish the sales price for the abandoned property. If the established sales price is determined to be unacceptable to the Applicant or the City prior to any transfer, then Abandonment 88-02 shall be null and void."

Council proceeded with Agenda Items 3-F and 3-E, respectively, at this point in the meeting to allow Mr. Fraser and Mr. Townsend the opportunity to determine whether or not they wish to consent to Condition No. 1. Council consequently resumed discussion of this agenda item as follows:

Mr. Fraser requested that the following conditions be added to Resolution No. 91-44:

1. That the price to be negotiated shall be the reasonable market value of the rights abandoned.
2. That the City Attorney and the attorney for Applicant will agree on the definition and guidelines determining market value and, if necessary, a definition of what rights are being abandoned.
3. That failing agreement within four months between Applicant and the City, the whole of these proceedings will be vacated, annulled and set aside and all of the portions of the abandonment and conditions.

City Attorney Oderman indicated that he is satisfied with the verbiage proposed by Mr. Fraser.

THE MOTION ON THE FLOOR, AS AMENDED TO INCLUDE THE THREE CONDITIONS SUGGESTED BY MR. FRASER, CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE).

E. Tentative Tract Map 14442, Hayden/Lange - 110 East Avenida Palizada

Public Hearing to consider a request for a one-lot subdivision for the purposes of creating seven office condominiums within an existing building located at 110 E. Avenida Palizada.

Mayor Diehl declared a potential conflict of interest with respect to this matter inasmuch as his accountant is Hayden Narey & Persich. Robert Hayden stated for the record that he has no interest in the firm of Hayden Narey & Persich.

City Planner Barnes reviewed the contents of the Administrative Report; indicated that Condition No. 9, relating to sewer and water improvement plans, was determined to not be pertinent to the project and hence recommended its deletion.

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

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to adopt Resolution No. 91-47 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 14442 FOR THE PURPOSES OF CONVERTING AN EXISTING OFFICE BUILDING INTO SEVEN CONDOMINIUMS, with the deletion of Condition No. 9 which reads as follows:

"Prior to final tract approval, the owner or his/her designee shall submit for review and obtain the approval of the City Engineer or his/her designee of the following improvement plans prepared by a registered civil engineer:

- "a. A sewer plan specific to the project which reflects consistency with the City's Sewer Master Plan, which includes existing and proposed sewer laterals, mains, and sapling manholes for each unit.
- "b. A water plan specific to the project which reflects consistency with City's Water Master Plan, which includes all existing water mains, proposed water services for each unit, and individual water meters for each unit, and the location of backflow prevention devices for the irrigation."

Council directed that policy standards associated with the conversion of office buildings into condominiums be incorporated as part of the zoning update.

F. Shorecliffs Mobile Home Park - TPM 90-266 - 189 Mira Adelante

Public Hearing to consider Tentative Parcel Map 90-266 and a waiver of both the Tentative Tract and Final Map for the further subdivision of Parcel #1 to allow the Shorecliffs Mobile Home Park, located at 189 Mira Adelante, to be converted into condominiums.

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to continue the Public Hearing to the Council Meeting of May 1, 1991.

4. CONSENT CALENDAR

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to approve the Consent Calendar with the removal of Items 4-A (March 19, 1991 City Council minutes), 4-I, and 4-L.

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 20, 1991 and March 27, 1991.

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

- (1) Departmental Activities Reports - February and March, 1991.
- (2) Planning Commission minutes of March 19, 1991.
- (3) Parks and Recreation Commission minutes of March 12, 1991.

C. Warrant Register

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to approve Warrant Nos. 100465 through 100709 (Handwrites 100461-100462) (Voids 100463-100464) for the period 3-25-91 through 3-29-91 in the amount of \$866,592.32; approve Warrant Nos. 100714 through 100819 (Voids 100710-100713) for the period 4-1-91 through 4-5-91 in the amount of \$370,968.94; for a total Warrant Register of \$1,237,561.26.

Payroll Register

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to approve Payroll Warrant Nos. 63463 through 63831 (Handwrites 63455-63456) (Voids 63457-63462 and 63832) for the period 3-18-91 through 3-31-91 in the amount of \$353,087.65; for a total Payroll Register of \$353,087.65.

D. Bid Awards - Water Conservation Retrofit Kit Installations and Retrofit Kits

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

1. Accept the bid of Volt Energy System for retrofit kit installations in the amount of \$47,800.
2. Accept the bid of Niagra Conservation Corporation for the purchase of retrofit kits in the amount of \$62,200.

E. Contract Award - Construction of Avenida Pico Reclaimed Water Pump Relocation

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to approve, and authorize the Mayor to execute, a contract by and between the City of San Clemente and Hunter Corporation to construct the Avenida Pico Reclaimed Water Pump Relocation project, in the amount of \$233,000, contingent upon deposit of funds to the City by Arvida/JMB Partners. (City Contract #C91-10)

F. **Bid Request - Ole Hanson School Sidewalk Project from Avenida Palizada to Avenida de la Paz**

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

1. Approve the plans and specifications for the construction of the Ole Hanson Elementary school sidewalk.
2. Authorize Staff to advertise the project for competitive public bidding.

G. **Bid Request - Storm Drain Projects**

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

1. Approve the plans and specifications for the South El Camino Real and West San Antonio/Paseo de Cristobal and Esplanade/520 West Avenida de los Lobos Marinos Storm Drain Improvements, Project No. 18-90.
2. Authorize Staff to advertise the project for competitive public bidding.

H. **Bid Request - Reservoir #6 - Painting and Cathodic Protection**

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

1. Approve the plans and specifications for the Reservoir #6 Painting and Cathodic Protection Project No. 4-91.
2. Authorize Staff to advertise the project for competitive bidding.

J. Draft Proposed Five-Year Outer Continental Shelf (OCS) Program

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

1. Adopt Resolution No. 91-48 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN RESPONSE TO THE MINERAL MANAGEMENT SERVICE DRAFT PROPOSED COMPREHENSIVE 5-YEAR OUTER CONTINENTAL SHELF NATURAL GAS AND OIL RESOURCE MANAGEMENT PROGRAM FOR 1992-1997.
2. Direct Staff to forward copies of Resolution No. 91-48 to the appropriate government agencies.

K. Appointment of City Representatives to OCCRMA

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to adopt Resolution No. 91-49 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPOINTING REPRESENTATIVES TO THE ORANGE COUNTY CITIES RISK MANAGEMENT AUTHORITY AND RESCINDING RESOLUTION NO. 34-81.

M. Water Well Project Update and Appropriation Request

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

1. Authorize the City Clerk to file a Notice of Completion for the Well Head construction project with the County Recorder. (City Contract #C90-24 - Taymech Corporation, Contractor)
2. Approve a supplemental appropriation of \$27,740 to Account No. 052-456-45300 (Improvements Other Than Buildings) in the Water Fund Acreage Fee Reserve.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**A. City Council Minutes**

MOTION BY COUNCILMEMBER DIEHL, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 4-0-1 (COUNCILMEMBER LORCH ABSTAINING), to approve the City Council minutes of March 19, 1991.

I. Pavement Management System Inventory Update

In response to Council inquiry, Traffic Engineer Hindiyeh explained the need to update the Pavement Management System Program every two years. Community Development Director Holloway went on to explain that the City's allocation of Measure "M" money will be approximately \$250,000 per year; noted updated pavement management data are needed to qualify for both Proposition 111 and Measure "M" funding.

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

1. Approve, and authorize the Mayor to execute, an agreement by and between the City of San Clemente and Pavement Management Systems, Inc. to update the City's Pavement Management System Program. (City Contract #C88-31)
2. Approve an appropriation transfer of \$23,590 from Account No. 001-614-43470 (Maintenance of Other Facilities), to Account No. 001-411-43890 (Other Contractual Services).

L. Setting of Public Hearing to Consider Abandonment of Marblehead Inland Park Site

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 4-1 (COUNCILMEMBER LORCH VOTING NOE), to adopt Resolution No. 91-50 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DECLARING ITS INTENTION TO CONSIDER THE ABANDONMENT OF A PARK SITE WHICH WAS DEDICATED AS PART OF LOT 54, TRACT 10882, LOCATED ON THE UNDEVELOPED SITE AT AVENIDA FACETA AND VIA TURQUEZA AND NEAR AVENIDA VISTA HERMOSA WITHIN MARBLEHEAD INLAND, PLANNING AREA 5 AND SETTING A PUBLIC HEARING.

5. ORAL COMMUNICATIONS

None.

6. UNFINISHED BUSINESS

None.

7. NEW BUSINESS

None.

8. REPORTS

A. Commissions and Committees

None.

B. City Manager

(1) Selection of Meeting Date/Time to Interview and Make Selections to City Commissions and Committees

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to schedule an Adjourned Regular Meeting for June 17, 1991 at 6:30 p.m. in the Council Chambers to interview and make selections to City Commissions and Committees.

City Manager Parness recommended, with Council concurrence, a process for screening the applications. Council requested a report from Hughes/Heiss prior to June 17, 1991.

C. City Attorney

(1) Lawsuit Settlement - City of San Clemente v. Mission Insurance

MOTION BY COUNCILMEMBER HAGGARD, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 5-0, to authorize a settlement in the litigation entitled City of San Clemente v. Mission Insurance, in the amount of \$3,600.

D. Council Members

(1) Selection of Time/Location for Adjourned Regular Council Meeting of April 24, 1991

MOTION BY MAYOR DIEHL, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 3-2 (COUNCILMEMBERS HAGGARD AND LORCH VOTING NOE), to schedule an Adjourned Regular Meeting for April 24, 1991 at 6:30 p.m. at the Ole Hanson Beach Club, 105 Avenida Pico, San Clemente, California.

(2) Request by Vietnam Vets Reunited for Flag-Raising Ceremony in Recognition of POW's and MIA's

Council directed Staff to contact Vietnam Vets Reunited to schedule a time for a flag-raising ceremony in recognition of POW's and MIA's.

9. RESOLUTIONS/ORDINANCESA. Ordinance No. 1048 (Solid Waste Management Anti-Scavenging Ordinance) -
Second Reading

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

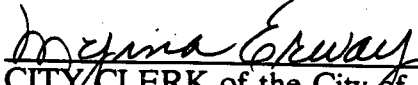
B. Ordinance No. 1047 (Mobile Source Air Pollution Reduction Ordinance) -
Second Reading

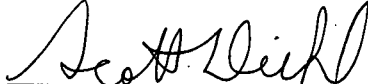
MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER HAGGARD, CARRIED 5-0, to adopt Ordinance No. 1047 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 22B OF THE CODE OF THE CITY OF SAN CLEMENTE BY ADDING NEW SECTIONS 22B-50 THROUGH 22B-51 RELATING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

10. ADJOURN

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER BENEDICT, CARRIED 5-0, to adjourn at 12:15 a.m. to an Adjourned Regular Meeting to be held on April 24, 1991 at 6:30 p.m. at the Ole Hanson Beach Club, 105 Avenida Pico, San Clemente, California.

The next Regular Council Meeting will be held on May 1, 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

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 April 17, 1991 said meeting was adjourned to the time and place specified in the ORDER OF ADJOURNMENT attached hereto; and that on April 18, 1991 at the hour of 10:30 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 18, 1991 at San Clemente, California.


MYRNA ERWAY
City Clerk

