

CITY OF SAN CLEMENTE

CITY COUNCIL MINUTES

ADJOURNED REGULAR COUNCIL MEETING - AUGUST 10, 1988

An Adjourned Regular Meeting of the City Council of the City of San Clemente, conducted in the Council Chambers, Civic Center Building, 100 Avenida Presidio, was called to order by Mayor Lorch at 7:55 p.m.

PRESENT Council Members - LIMBERG, MECHAM, RICE, VEALE,  
MAYOR LORCH

ABSENT Council Members - NONE

ALSO PRESENT Greg Hulsizer, Acting City Manager; Myrna Erway, City Clerk; Jeff Oderman, City Attorney; Jim Holloway, Community Development Director; Bill Cameron, City Engineer; Joanne Baade, Deputy City Clerk; and certain other staff members present in the audience.

PLEDGE OF ALLEGIANCE

Mayor Lorch led the Pledge of Allegiance.

1. ITEMS FROM COUNCIL

A. MEASURE E

Rick Anderson, 610 Avenida Victoria, urged Council to enable the electorate to vote again on Measure E; felt Measure E should be re-written to make it workable; presented a petition, signed by 687 individuals, requesting that Measure E be repealed.

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Norman Ream, 511 East San Juan, opposed amendment to Measure E; felt the City Attorney should submit a statement indicating he does not have a conflict of interest before participating in further discussions relative to the Measure; voiced concern with the political perspectives being relayed to the Planning Commission by some Councilmembers.

The following individuals spoke in opposition to modification and/or repeal of Measure E:

C. L. Snider, 303 Calle Rica  
Steve Kingston, 4011 Calle Abril  
Lew Elia, 163 West San Antonio  
Millie McEnroe, 218 West Cordoba  
Jim Hill, 4115 Calle Mayo  
Peter Bunge, 102 Calle Balboa  
Joe Barton, 620 Calle Vicente  
Lucile Taylor, 202 Avenida Santa Margarita  
Karoline Koester, 604 Via Pavon  
Dan Morganelli, 609 Calle Real

The following individuals spoke in support of clarification of Measure E:

Tom Davis, representing the Chamber of Commerce  
Larry Swanson, 812 Calle Dulcinea  
Mary Jo Doherty, 3909 Calle Andalucia  
John Tengdin, 2859 Calle Heraldo

Tom Padberg, 617 Calle Hidalgo, questioned the authority of the City Manager to retain legal counsel to modify Measure E.

City Attorney Oderman responded the Brown Act was not violated when Council took action on July 20, 1988 to direct the City Manager to agendaize for the next meeting the possible retainer of legal counsel to suggest modifications to clarify Measure E; stated the direction given by Council was misrepresented in the Orange County Register; noted it was within the City Manager's technical authority to retain legal counsel since the contract did not exceed established budgetary limitations; opined, however that it would have been preferable for the matter to have been brought back to Council for final action; advised the issue will be

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agendized for the meeting of August 17, 1988, at which time Council can decide whether or not to ratify the contract.

Norman Ream, 511 East San Juan, reiterated his opinion that Council violated the Brown Act by virtue of its July 20, 1988 action.

Jim Faith, 3328 Calle La Veta, on behalf of the Veterans of Foreign Wars, read a resolution, adopted by Post 7142, entitled "Elected Representatives' Challenge to Peoples' Decision to have Measure E become a Law." This Resolution, adopted by Post 7142 on August 8, 1988, is on file in the City Clerk's Department.

Frank Nauret, 17-W Cornelio, on behalf of the Veterans of Foreign Wars, read a resolution, adopted by Post 7142, entitled "Resolution to Citizens' Right to Vote on Issues." This Resolution, adopted by Post 7142 on August 8, 1988, is on file in the City Clerk's Department.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to receive and file the petition presented by Rick Anderson (which requested repeal of Measure E), with no further action.

COUNCIL RECESSED AT 9:25 P.M. AND RECONVENED AT 9:50 P.M., WITH ALL MEMBERS PRESENT.

2. PUBLIC HEARINGS

A. EIR 84-02, TALEGA VALLEY ENVIRONMENTAL IMPACT REPORT; GPA 88-02, TALEGA VALLEY GENERAL PLAN AMENDMENT; AND SP 84-02, TALEGA VALLEY SPECIFIC PLAN

Continued Public Hearing to consider certification of an Environmental Impact Report as adequate and complete, and approval of a General Plan Amendment and approval of the Talega Valley Specific Plan.

Council received a letter, dated August 10, 1988, from the Talega Valley Partnership, requesting modifications to Conditions of Approvals Nos. 12 and 20.

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Associate Planner Philbrick reviewed revisions to the Conditions of Approval which were prompted as a result of concerns voiced at the July 14, 1988 Public Hearing (Note: The revised Conditions are described in Administrative Reports, dated July 21, 1988 and August 4, 1988. Both reports are on file in the City Clerk's Department); noted the applicant has submitted revised language to Condition No. 12 relating to the Reserve Area/Ecological Conservancy, adding that staff objects to the proposed deletion of verbiage requiring City membership on the Conservancy Board; requested deletion of Condition No. 20 (pertaining to the Conservancy easement); presented a revised land use plan, which relocates Planning Areas away from sensitive environmental locales and reclassifies the area previously known as the "Future Development Area" as Planning Area 25C (Low Density Residential); recommended that Condition No. 17-B (Nob Hill Grading) be deleted; stated the Golf Course Committee concurs with the imposition of Condition No. 24 (which requires public access to the Champion Hills Golf Course and prohibits future conversion to an equity membership course without prior approval by the City); reviewed his memorandum, dated August 10, 1988, which proposes revisions to Condition No. 27k (pertaining to the drainage plan), Condition No. 27l (pertaining to the retention basin and drainage channel maintenance), Condition No. 52 (pertaining to transferring the final draft of the Specific Plan into the city's word processing system at the applicant's expense), and Condition No. 5a and 5b (pertaining to the Traffic Model); noted the Applicant has concurred with the modified conditions contained in the August 10, 1988 memorandum.

Bill Phillips, representing Talega Valley Partnership, reviewed modifications made to the Talega Valley Specific Plan; stated Condition No. 12 contains an offer of dedication which the City may accept in the event the Conservancy fails; felt formation of the Conservancy Board membership is premature at this point in time; urged Council approval of the Specific Plan.

Council suggested the possibility of O'Neil family representation on the Conservancy Board.

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Marie Patterson, representing the Audobon Society, spoke on the importance of the Conservancy; urged further study to ascertain the best means of maintaining the Conservancy as an ecological preserve.

Tom Lynch, 341 Calle Dorado, Chairman of the Golf Course Committee, read and presented a communication from the Golf Course Committee, dated August 10, 1988, which stated the revised verbiage of Condition 24 has resolved the major Committee concerns pertaining to public access and the future of the course; questioned 1) whether new owners would be required to meet the same conditions; 2) whether there would be a possibility of reduced greens fees for San Clemente residents; and 3) whether specific starting times could be allocated to the public.

Mayor Lorch closed the Public Hearing, there being no others desiring to speak to this issue.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER VEALE, CARRIED 5-0, to adopt Resolution No. 88-62 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA CERTIFYING EIR NO. 88-02 AS ADEQUATE AND COMPLETE.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER VEALE, CARRIED 5-0, to adopt Resolution No. 88-63 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA ADOPTING GENERAL PLAN AMENDMENT NO. 88-02.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, to adopt Resolution No. 88-64 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING THE TALEGA VALLEY SPECIFIC PLAN (SP 84-02), with the understanding that revised language on Condition No. 12 (Reserve Area/Ecological Conservancy) will be prepared and submitted to Council for approval within 30 days.

SUBSTITUTE MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to defer consideration of the Talega Valley Specific Plan until later in the meeting to enable staff to prepare verbiage for Condition No. 12 (Reserve Area/Ecological Conservancy).

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MOTION BY COUNCILMEMBER LIMBERG, SECOND BY COUNCILMEMBER MECHAM, CARRIED 5-0, to direct staff to label all maps on display as official exhibits and retain them on file in the City Clerk's Department.

COUNCIL RESUMED DISCUSSION OF THE TALEGA VALLEY SPECIFIC PLAN AT 12:20 A.M. AS FOLLOWS:

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to adopt Resolution No. 88-64 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA ADOPTING THE TALEGA VALLEY SPECIFIC PLAN (SP 84-02), with revisions as follows: (Note: The following Conditions refer to the original Condition Numbers as contained in the Administrative Report. The numerical sequence may or may not change in the final Resolution as a result of additions/deletions:)

1. Condition No. 12 (Reserve Area/Ecological Conservancy) shall be amended as per the City Attorney's revised wording (as distributed at the Council meeting), with the addition of the following sentence: "The Conservancy as established shall assure the continued appropriate representation of the City of San Clemente as approved by the City Council of San Clemente."
2. Condition No. 17-B (pertaining to transferring dwelling units out of Planning Areas 25 (City) or 69 (County), shall be deleted.
3. Condition No. 5a and 5b (pertaining to the Traffic Model) shall be modified as per the memorandum from Associate Planner Philbrick to the Acting City Manager, dated August 10, 1988.
4. Condition 27k (pertaining to the drainage plan) shall be modified as per the memorandum from Associate Planner Philbrick to the Acting City Manager, dated August 10, 1988.
5. Condition 27l (pertaining to the retention basin and drainage channel maintenance) shall be modified as per the memorandum from Associate Planner Philbrick to the Acting City Manager, dated August 10, 1988.

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6. A new Condition No. 52 shall be imposed (as per the memorandum from Associate Planner Philbrick to the Acting City Manager, dated August 10, 1988). This condition provides that the final draft of the Specific Plan shall be transferred into the city's word processing system at the applicant's expense.
7. Condition No. 20 (pertaining to the Conservancy Easement) shall be deleted.
8. A new Condition 50.128 shall be added to read as follows: "Wherever the word "hotel" appears in the text of the Specific Plan, it shall be replaced with the phrase "Resort Hotel/Conference Center."

3. ORDINANCES FOR ADOPTION

A. ORDINANCE NO. 977 - SECOND READING

MOTION BY COUNCILMEMBER LIMBERG, SECOND BY COUNCILMEMBER MECHAM, CARRIED 5-0, to adopt Ordinance No. 977 entitled ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING APPENDIX A OF THE CODE OF THE CITY OF SAN CLEMENTE BY ADDING SECTION 5.56 REGARDING SECOND RESIDENTIAL UNITS IN RESIDENTIAL ZONES.

B. ORDINANCE NO. 978 - SECOND READING

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER RICE, CARRIED 5-0, to adopt Ordinance No. 978 entitled ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING ORDINANCE NO. 922 (MANAGED GROWTH ORDINANCE.)

C. ORDINANCE NO. 979 - SECOND READING

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 4-1 (MAYOR LORCH VOTING NOE), to adopt Ordinance No. 979 entitled ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING A SECOND AMENDMENT TO SETTLEMENT/DEVELOPMENT AGREEMENT NO. 81-1.

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4. ITEMS FROM CITY ATTORNEY

City Attorney Oderman requested a Closed Session to discuss 1) pending litigation (Marblehead v. City of San Clemente - Measure E lawsuits) pursuant to Government Code Section 54956.9(a); 2) pending litigation (El Camino Investments Co. v. City of San Clemente) pursuant to Government Code Section 54956.9(a).

CLOSED SESSION

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to recess to Closed Session at 11:10 p.m. to discuss 1) pending litigation (Marblehead v. City of San Clemente - Measure E lawsuits) pursuant to Government Code Section 54956.9(a); 2) pending litigation (El Camino Investments Co. v. City of San Clemente) pursuant to Government Code Section 54956.9(a). The Acting City Manager, Attorney Dan Spradlin, of Rourke and Williams, were in attendance. City Attorney Oderman was in attendance during the portion of the Closed Session relating to El Camino Investments Co. v. City of San Clemente.

MEETING RECONVENED

Council reconvened at 12:20 a.m., with all members present.

TALEGA VALLEY SPECIFIC PLAN (CONTINUED DISCUSSION)

Council resumed discussion on the Talega Valley Specific Plan. See Page 6 of these minutes for a continuation of the discussion on this agenda item.

CLOSED SESSION

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to recess to Closed Session at 12:35 a.m. to discuss pending litigation (El Camino Investments Co. v. City of San Clemente) pursuant to Government Code Section 54956.9(a). The Acting City Manager and City Attorney Oderman were in attendance.



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MEETING RECONVENED

Council reconvened at 12:55 a.m., with all members present.

MEASURE E - POLICE RESPONSE STANDARDS

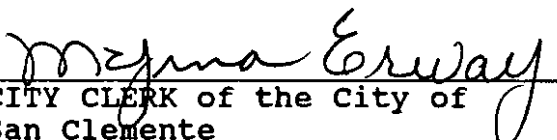
City Attorney Oderman advised that he was not present at the Closed Session during the discussion of the Marblehead lawsuit; opined that the police response provisions in Measure E cannot be interpreted and implemented in a manner that would survive scrutiny under the decision of the United States Supreme Court in Nollan v. California Coastal Commission; opined he cannot interpret the standards in a manner that would make them constitutional and able to be applied.

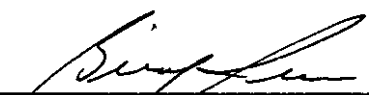
MOTION BY COUNCILMEMBER LIMBERG, SECOND BY COUNCILMEMBER MECHAM, CARRIED 4-1 (MAYOR LORCH VOTING NOE), to direct the staff to not institute implementation procedures in regard to police response time as described by City Attorney Oderman in this case.

ADJOURNMENT

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to adjourn at 1:00 a.m. to August 17, 1988 at 6:00 p.m. for the purpose of conducting Human Resources Committee and Golf Course Committee interviews/selections.

The next Regular Council Meeting will be held on Wednesday, August 17, 1988 at 7:00 p.m.

  
 CITY CLERK of the City of  
 San Clemente

  
 MAYOR of the City of  
 San Clemente

AFFIDAVIT OF POSTING ORDER  
OF ADJOURNMENT OF MEETING

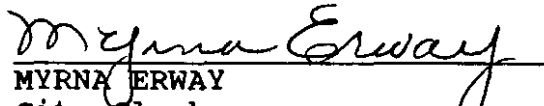
STATE OF CALIFORNIA    )  
COUNTY OF ORANGE     ) SS.  
CITY OF SAN CLEMENTE )

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 August 10, 1988 said meeting was adjourned to the time and place specified in the ORDER OF ADJOURNMENT attached hereto; and that on August 11, 1988 at 11:30 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 August 11, 1988 at San Clemente, California.

  
MYRNA ERWAY  
City Clerk

NOTICE OF ADJOURNMENT  
EXCERPT FROM THE MINUTES OF THE  
CITY COUNCIL  
MEETING OF AUGUST 10, 1988

ROLL CALL:       PRESENT:   LIMBERG, MECHAM, RICE, VEALE, MAYOR  
  LORCH

                   ABSENT:   NONE

ADJOURNMENT

Council adjourned to Wednesday, August 17, 1988 at 6:00 p.m. for the purpose of considering appointments to the Human Resources Committee and Golf Course Committee.

The Regular Meeting of August 17, 1988 will commence at 7:00 p.m.


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MYRNA ERWAY  
CITY CLERK