

CITY OF SAN CLEMENTECITY COUNCIL MINUTESAUGUST 5, 1987

A 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 Veale at 7:10 p.m.

PLEDGE OF ALLEGIANCE

Mayor Veale led the Pledge of Allegiance.

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

*Arrived at 7:20 p.m.

ABSENT Council Members - NONE

ALSO PRESENT James B. Hendrickson, 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.

1. Cable Television Franchise Renewal

Report from the City Clerk recommending a temporary extension of the cable television franchise.

City Clerk Erway stated the extension request is for 90 days, rather than 120 days as indicated in the Administrative Report.

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER LIMBERG, to adopt Resolution No. 87-50, entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, EXTENDING THE EXISTING FRANCHISE OF TIMES MIRROR CABLE TELEVISION OF ORANGE COUNTY, INC. FOR 90 DAYS SUBJECT TO CERTAIN TERMS AND CONDITIONS.

Councilmember Lorch read a statement, dated August 5,

1987, which commended Mayor Veale, Councilmember Meham and staff on their negotiation efforts; indicated concurrence with the proposed 90-day franchise extension; highlighted some of the final negotiation factors that he requests the Negotiating Team pursue.

John Mitchell, 315 Acebo Lane, spoke in opposition to any further franchises being granted to Times Mirror Cable, due to his belief that the company exercises little or no control over the actions of its subcontractors; requested establishment of penalties for personal abuse to the public from either Times Mirror Cable or its subcontractors.

THE MOTION CARRIED 4-0.

2. Marblehead Coastal Land Use Plan and Coastal Element - PUBLIC HEARING

City Manager Hendrickson reviewed the proposed hearing schedule for the Marblehead Coastal Land Use Plan and Coastal Element.

John Dean Lusk presented an audio/visual program which summarized the background of the Marblehead Coastal and Marblehead Inland properties and provided an overview of the current development plans for the Marblehead Coastal site.

Don Steffensen, Executive Vice President of the Lusk Company, noted for the record that he has presented Council and the City Clerk with Marblehead Coastal Background Materials (Volumes A, B, and C), as well as the Draft (dated May 12, 1987) and Revised Draft (dated June 12, 1987) of the Marblehead Coastal Land Use Plan and Coastal Element; stated the Lusk Company generally concurs with the Planning Commission's recommendations, with the following exceptions: 1) the recommendation that the Lusk Company dedicate an additional 5.7 gross acres for the Civic Center site; 2) the recommendation that the Lusk Company incur the cost of improving the bluff-top park; and 3) the contention of the Planning Commission and staff that a shortage of open space exists in the proposed plan. Mr. Steffensen presented Council with a letter, dated August 5, 1987, which contains the Lusk Company's comments relative to the resolutions adopted by the Planning Commission.

Associate Planner Wilcox narrated a slide presentation which reviewed the major features and characteristics of the Marblehead Coastal site, and depicted park treatments utilized in the vicinity.

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City Planner Barnes summarized the actions taken by the Planning Commission re the Marblehead Coastal Land Use Plan and Coastal Element; advised the major issues raised by the Planning Commission and staff included the following: 1) establishment of an appropriate development review process; 2) General Plan Consistency; 3) grading of bluffs; 4) filling in of major canyons; 5) open space; 6) parks; 7) land use mix; 8) view corridors; 9) size of public facility site; 10) circulation pattern and 11) grading.

Mayor Veale opened the Public Hearing.

Don Caresio, 2207 Calle Cidra, spoke in support of the Richard M. Nixon Presidential Archives, noting that it will attract tourism; requested clarification of the type of commercial development that is proposed; spoke in support of a community center.

Adele Donato, 119 E. Lobos Marinos, presented a petition, signed by 500 residents, supporting the Richard M. Nixon Presidential Archives and the Marblehead Coastal Project; presented Council with a letter, dated August 5, 1987, which referenced the tax revenue and prestige the project would bring to the City.

Eleanor Yutzi, 308 San Pablo, urged that the natural canyons, flora and fauna be maintained. Mayor Veale read Ms. Yutzi's letter to the Editor of the Daily Sun Post, dated August 3, 1987.

Joe Anderson, 1804 Ave. Salvador, read a letter on behalf of the Chamber of Commerce (dated August 5, 1987) in support of the Richard M. Nixon Presidential Archives; stated the Marblehead Coastal project will bring substantial revenue to the City.

Floyd Cate, 205 Via Montego, urged approval of the Marblehead Coastal Plan as submitted; recommended that the current City Hall property be appraised and traded for the additional civic center acres needed on the Marblehead site.

W. Walton Wright, 326 Redwood Avenue, Brea, commented the proposed grading will have a significant effect on the natural topography and vegetation of the coastal bluffs; urged preservation of the habitats and rare plant species in the area.

Celia Kutcher, 34681 Calle Los Robles, Capistrano Beach, spoke in support of reducing the amount of grading to allow the preservation of the Dudleva

Blochmana, which is a small succulent plant that is rare in California.

Glen Roy expressed concern with the proposed intensity of grading; requested a three-dimensional model which would depict the land topography as it now exists and as it is proposed; questioned how the traffic on Via Cascadita will be impacted; opined that the project is not consistent with the City's General Plan.

COUNCIL RECESSED AT 9:10 P.M. AND RECONVENED AT 9:25 P.M.
WITH ALL MEMBERS PRESENT.

Millie McEnroe, 218 W. Ave. Cordoba, questioned whether the City's sewer system, circulation system and schools can accommodate the commercial and residential units which are proposed.

Council members voiced concerns and requested staff follow-up on the following items:

- . Status of widening El Camino Real to two lanes in each direction.
- . Additional information on street alignment options.
- . Viability of the closeness of the Vista Hermosa and Pico interchanges and how they interrelate on I-5 and El Camino Real.
- . Pedestrian access plans for Vista Hermosa.
- . Preliminary landscaping plans for Vista Hermosa.
- . Requested to be provided with the residential density calculations for the project.
- . Possibility of phasing and expanding the road system.
- . Provision of easements to allow for future street widening, if needed.
- . Detail relating to the type of uses proposed for the "General Commercial" and "Highway Commercial" designations.
- . Concern relating to the proposed intensity of grading.
- . Plans for the continuity of area pedestrian and bike

- . Off-site mitigation of vegetation within the City.
- . Preservation of more of the North Canyon.
- . Investigation of other bluff treatments.
- . Clarification of the term "Conceptual Grading Plan."
- . Requested a true scale topo of the Marblehead Coastal property.
- . Concern relating to the cutting of flat pads.
- . Desire to alter the grading to preserve some of the high land features, (i.e. swales and irregular land forms) or as an alternative, development of a grading plan which would re-establish the area character.
- . Desire for the bluff-top park to emulate the character of Pines Park.
- . Desire to maintain more of the bluffs where the land stability is sufficient.
- . Desire to retain natural preserves.
- . Clarification as to whether approval of Phase I would limit Council's options in Phase II.
- . Options to resolve the issue pertaining to amount of open space.
- . Requested validation of property values within the Marblehead Coastal property to assure the value coincides with park and library credits.
- . Requested information as to the type of commercial development used to predicate the Fiscal Impact Report.
- . Requested data relating to possible off-site impacts.
- . Requested that staff stress quality development.

Mayor Veale advised that letters have been received from Orange County Supervisor Thomas F. Riley, dated August 4, 1987; Assemblyman Robert Frazee, dated July 31, 1987; and Senator Marian Bergeson, dated July 31, 1987, in support of the Richard M. Nixon Presidential Archives. Additionally, Mayor Veale noted that a letter was

received from Arthur Marks, retired San Clemente Street Superintendent, dated August 3, 1987, which addressed grading of the cliffs along El Camino Real from Avenida Pico north to Camino Capistrano.

Council continued the Public Hearing on the Marblehead Coastal Land Use Plan and Coastal Element to August 19, 1987 at 7:00 p.m. The following meeting on this item will be held on August 26, 1987.

CLOSED SESSION

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to recess to Closed Session at 11:05 p.m. for purposes of discussing 1) pending litigation (Vitale v. City of San Clemente) pursuant to Government Code Section 54956.9(a), 2) potential litigation pursuant to Government Code Section 54956.9(b)(1), and 3) matters of personnel. The City Manager and City Attorney were in attendance.

MEETING RECONVENED

Council reconvened at 11:25 p.m., with all members present.

1. Vitale v. City of San Clemente

City Attorney Oderman announced the settlement of the Vitale v. City of San Clemente lawsuit; summarized the terms of the Settlement as follows: 1) Mr. Vitale, his attorneys, and his insurance company are to receive a total of \$400,000 from Mead Reinsurance for the damages caused to Mr. Vitale's two homes; 2) Mr. Vitale is releasing the City from all liability, including future damages caused by renewed movement of the landslide mass; 3) Mr. Vitale will execute a notice which is to be recorded with the County Recorder which will put all future purchasers on notice of the waiver of claims against the City; 4) Mr. Vitale will execute a Right of Entry, which will authorize the City or someone else to enter into the property to effectuate a repair; and 5) the City will dismiss its Cross-Complaints for indemnity and contribution against Mr. Vitale.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to confirm settlement of the Vitale v. City of San Clemente lawsuit.

2. Personnel - Matter of Kelson McDaniel

City Attorney Oderman reviewed that legal counsel for Kelson McDaniel has contended that Rutan and Tucker has a conflict of interest in its representation of the City in the matter of Kelson McDaniel; advised the City has

received an independent written opinion from the lawfirm of Burke, Williams and Sorensen, dated July 30, 1987, which concludes that Rutan and Tucker does not have a conflict of interest in this matter and, accordingly, Rutan and Tucker will continue to represent the City.

3. Salary and Wage Negotiations

City Manager Hendrickson reviewed the terms of the San Clemente Police Officers' Association Memorandum of Understanding.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve the San Clemente Police Officers' Association Memorandum of Understanding as presented, to be effective for the period July 21, 1987 through December 31, 1989.

Mayor Veale recommended, with Council concurring, that the September 16, 1987 Council meeting convene at 6:00 p.m. for the purpose of commemorating Constitution Day, which is September 17, 1987.

ADJOURNMENT

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER RICE, CARRIED 5-0, to adjourn at 11:35 p.m. to August 12, 1987 at 6:00 p.m. for purposes of discussing a matter of pending litigation, pursuant to Government Code Section 54956.9(a).

Megana Ewary
CITY CLERK of the City
San Clemente, California

Stally A. Veale
MAYOR of the City of
San Clemente, California

AFFIDAVIT OF POSTING ORDER
OF ADJOURNMENT OF MEETING

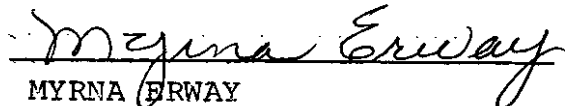
STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF SAN CLEMENTE)

I, MYRNA ERWAY, declare as follows:

That I am the City Clerk of the City of San Clemente; that at the regular meeting of the City Council held on August 5, 1987 said meeting was adjourned to the time and place specified in the ORDER OF ADJOURNMENT attached hereto; and that on August 6, 1987 at the hour of 9:00 a.m. a copy of said order was posted at a conspicuous place near the door at which said meeting was held.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 6, 1987 at San Clemente, California.


MYRNA ERWAY
CITY CLERK

