

CITY OF SAN CLEMENTECITY COUNCIL MINUTESREGULAR MEETING - JANUARY 21, 1987

A 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 Veale at 7:00 p.m.

INVOCATION

Rev. Denver Clark, First Baptist Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Veale led the Pledge of Allegiance.

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

ABSENT Council Members - NONE

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

1. SPECIAL PRESENTATIONS

None.

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

3. PUBLIC HEARINGS

A. Tentative Tract Map 12378, Lincoln Properties -
File No. 105.1

Public Hearing to consider a request to allow a one lot subdivision of 12 acres for condominium purposes, located in Planning Area 10 of the Rancho San Clemente Specific Plan.

Senior Planner Barnes advised that Condition No. 12 is not relevant to this project and should be deleted; relayed the applicant's and staff's concerns with Condition No. 16, which provides that tenants residing in affordable units at the time the affordability agreement expires will be permitted to maintain occupancy of the unit in perpetuity.

Staff responded to Council inquiries as follows:

1. The fact that the affordable units were funded through a County bond for 30 years, does not mean that the affordable units must remain in effect for 30 years. Staff advised that the bond agreement with the County would guarantee affordability during a 10 year period.
2. City Attorney Oderman clarified that the existing affordable housing agreement between the City and the applicant provides that the term of the affordability requirement is 10 years; the City does not have the option to extend the affordability requirement after the 10 year period has elapsed.
3. The condominiums would need to go through the vacancy rate determination when they are sold.
4. City Attorney Oderman advised the time period for compliance with the Condominium Conversion Ordinance has previously been determined at the time the conversion is approved; noted there is some justification for applying the Ordinance at the time rental units are taken out of circulation.

John Withers, representing Lincoln Properties, stated that Lincoln Properties has submitted this application to make an option available to their company and investors to convert the apartments to condominiums after 10 years if the market so warrants; felt that the addition of Condition No. 15 makes Conditions 12 and 13 moot; requested that Condition 16 be replaced with a condition requiring Lincoln Properties to meet with staff to develop a tenant assistance agreement which addresses the City's concerns; stated they intend to develop another apartment site within Rancho San Clemente.

Mayor Veale opened the public hearing.

Mary Erickson, representing the League of Women Voters, presented a letter, dated January 21, 1987, which relayed the League's concern with the proposed conversion, inasmuch as they felt it would reduce the

rental stock and would place a hardship on persons who cannot afford to purchase a condominium.

The public hearing was closed, there being no others desiring to speak on this issue.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, to deny Tentative Tract Map 12378.

John Withers, stated that he would be amenable to a condition requiring that the Condominium Conversion Ordinance be applied at the time the units were offered for sale; indicated willingness to continue the affordability requirement at the time the units were offered for sale; urged continuance of Tentative Tract Map 12378 to allow for amendments and suggestions.

THE MOTION CARRIED 5-0.

4. CONSENT CALENDAR

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve the Consent Calendar.

A. MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve City Council minutes of January 7, 1987 Adjourned Regular Meeting; January 7, 1987 Regular Meeting; January 9, 1987 Adjourned Regular Meeting.

B. MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to receive and file the following:

- (1) Planning Commission minutes of December 16, 1986 Regular Meeting; December 16, 1986 Special Meeting.
- (2) Community Design Commission Minutes of December 29, 1986.
- (3) Parks and Recreation Commission Minutes of November 25, 1986.
- (4) Golf Course Committee Minutes of December 2, 1986.
- (5) Departmental Activities Report - December 1986.

- C. Authorization to Advertise Bids - City Hall Rework
File No. 40.2

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve the plans and specifications for City Hall remodeling and authorize staff to advertise for bids for the remodeling of City Hall.

- D. City Hall Upper Parking Lot Resurfacing - Project
No. 2-87 - File No. 40.2

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve plans and specifications for the resurfacing of the upper parking lot at City Hall, Project No. 2-87 and authorize proceeding with the advertisement of bids.

- E. Golf Course Pro-Shop Lease Extension With Revised
Terms - File No. 58

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve and authorize the Mayor to execute a concession agreement between Mr. David Cook and the City of San Clemente for the operation of the Golf Course Pro-Shop concession.

- F. Claim For Damages - Filed By Thomas and Helen
Palacios, Sandra Palacios and Diana Fajardo - File
No. 42

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to deny the claim for damages filed by Thomas and Helen Palacios, Sandra Palacios and Diana Fajardo in the amount of \$5,000,000, based on insurance adjuster's recommendation.

- G. Claim For Damages - Filed by Kathleen Gayle Ster-
ling - File No. 42

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to deny the claim for damages filed by Kathleen Gayle Sterling in the amount of \$26,297, based on insurance adjuster's recommendation.

5. WARRANT REGISTER

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve Warrant Nos. 62126 through 62334 excluding Payroll Warrant for the period 1-5-87 through 1-9-87 (Voids 62129 through 62132) in the amount of \$784,254.72; Warrant Nos. 62011 through 62125 for period 12-29-86 through 1-2-87 (Voids 62007 through 62010) in the amount of \$213,988.10; Payroll Warrant No. 62300 for period 12-29-86 through 1-11-87 in the amount of \$205,756.61; for a total Warrant Register of \$1,203,999.43.

6. UNFINISHED BUSINESS

A. Tentative Tract Map No. 12864 - Dividend Development - File No. 105.1

Report from the Acting Community Development Director concerning a request to subdivide approximately 42 acres into 141 residential lots within Planning Area 21.

City Manager Hendrickson reviewed the background of the subject application; advised that the City received a letter on January 20, 1987 from Dividend Development requesting that the application be referred back to the Planning Commission.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER RICE, CARRIED 5-0, to refer Tentative Tract Map No. 12864 back to the Planning Commission for reconsideration.

B. Wastewater Treatment Plant Expansion, Contract C-1, Agreement with John Carollo Engineers for Construction Period Services - File No. 96

Report from the Acting Community Development Director concerning City entering into an agreement for engineering services, known as "Task Order No. 3 - Construction Period Services for the Wastewater Treatment Plant Contract C-1" with John Carollo Engineers.

City Engineer Cameron reviewed the contents of the Administrative Report, specifically responding to concerns voiced by Council at the last meeting; stated it is important for the City to make a decision to retain Carollo Engineers tonight since the City has a valid contract with Steven P. Rados, Inc. to construct the Los Molinos Pump Station, Public Services Building

and interim capacity and there are currently areas where the contractor needs interpretations or decisions.

City Engineer Cameron responded to Council inquiry, stating that the City will provide a full-time inspector and part-time Project Engineer on the project, will use special materials testing companies and geo-technical consultants as needed, in addition to John Carollo Engineers; felt that sufficient resources will be available to do the project.

Councilmember Lorch stated that there is much data available on the Wastewater Treatment Plant expansion that he would like to review; relayed that one of his major concerns lies with the ultimate cost of the reconstruction project, which is estimated at \$42 million; urged that Council hold a workshop to obtain additional data relating to the design and cost figures; requested that Council reconsider Contract C-1 at its next meeting and that staff investigate the expenditures made to date by the contractor; stated Council could then determine if it desires to put the subject contract on hold, as well as the management overhead activity, until the review of the project has been completed.

Councilmember Limberg stated that the City has been involved with the project for four years; stated the City has already made a commitment.

Councilmember Mecham stated that he wouldn't be prepared to defer action on the issue currently before Council because of the input offered by staff, and concern that the Wastewater Treatment Plant needs to be revamped.

MOTION BY COUNCILMEMBER LORCH, SECOND BY COUNCILMEMBER RICE, to re-consider Contract C-1 at the City Council meeting of February 4, 1987.

Councilmember Mecham stated it would not be fiscally responsible for the Council to take the action proposed.

Mayor Veale stated that she also has concern for the ultimate Wastewater Treatment Plant, but feels that the interim capacity is needed in the near future; stated the subsidiary pump stations are important to the entire system and need to be re-done; the City has made a decision and the contractor, in good faith, is preparing to complete the project; felt that the reputation of the City needs to be considered.

THE MOTION FAILED 2-3 (MAYOR VEALE AND COUNCILMEMBERS LIMBERG AND MECHAM VOTING NOE.)

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, to approve and authorize the Mayor to execute a contract entitled "Task Order No. 3 - Construction Period Services for the Water Reclamation Plant," with John Carollo Engineers on a time and materials basis, in an amount not to exceed \$186,314.

Councilmember Mecham supported a workshop; stated that the City has a contract and a design and should proceed with the project; stated if it were later determined that the City should take another direction, the process can be stopped.

Councilmember Limberg supported a workshop; felt the City has made a commitment which should be honored.

Councilmember Rice felt that the issue should be deferred for two weeks, and that a workshop should be held to assure that the City is not overpaying for the project.

Mayor Veale advised that she met with a specialist in this field and was advised that it is not unusual for a design engineer to conduct the supervision of the contract; felt that the work proposed is necessary; supported a workshop.

THE MOTION CARRIED 3-2 (COUNCILMEMBERS LORCH AND RICE VOTING NOE.)

Mayor Veale requested Council and the public to provide the City Manager with questions that they would specifically like to have answered at the workshop. Council agreed to establish a date for the workshop at the next Council meeting.

7. NEW BUSINESS

A. Interpretation of R.V. Ordinance re Boat at 3925 Calle Abril - File No. 106

Report from the Director of Fire Protection relating to the interpretation of the R. V. Ordinance.

Director of Fire Protection Dailey reviewed the contents of the Administrative Report, and responded to Council inquiries as follows:

1. The front yard of the property at 3925 Calle Abril is completely paved, with the only landscaping being mature shrubbery.

CITY COUNCIL MINUTES
JANUARY 21, 1987
PAGE 8

2. When staff first inspected the site, the boat was situated immediately adjacent to the house and was fairly visible from the driveway at one angle; the boat has since been moved next to the trees and is now barely visible.

In discussion, Council expressed the following concerns:

1. Visibility of the boat from the homes situated higher on the hill.
2. The ballot measure pertaining to R.V. parking, which was submitted to the voters in November, 1984, indicated the majority of the voters were opposed to the use of front yards as parking lots.
3. The Cypress trees are planted in the City's easement for sidewalks, so would not constitute a legal screening situation.
4. Recommendation that the R.V. Ordinance be revised to better address visual considerations.

MOTION BY COUNCILMEMBER LIMBERG, SECOND BY COUNCILMEMBER MECHAM, CARRIED 5-0, to continue consideration of the interpretation of Section 5.44 of Ordinance No. 794 regarding recreational vehicle parking/storage to the meeting of February 18, 1987 and to direct staff to consult with neighboring cities including Newport Beach and Laguna Beach relative to ways in which they address the concerns expressed by Council.

B. Avenida Del Mar Beautification, Phase II, Project 6-86
File No. 100

Report from the Acting Community Development Director pertaining to work administered by Artistic Landscape in connection with the Avenida Del Mar Beautification Project (Project No. 6-86), Phase II.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to accept the work from Artistic Landscape for the Avenida Del Mar Beautification, Phase II and authorize the City Clerk to record a Notice of Completion for Contract No. 514.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to approve extra work charges from Artistic Landscape in the amount of \$12,958.97.

C. Assessment District 85-1 (Wastewater Treatment Plant Expansion) Apportionment Procedure - File No. 27

Report from the Acting Community Development Director relating to apportioning assessments for Assessment District 85-1, adopting a procedure for apportionment, and authorizing Willdan Associates to perform the apportionment process.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, to adopt Resolution No. 87-04 entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ESTABLISHING A FEE FOR PROCESSING LAND AND ASSESSMENT DIVISION APPLICATIONS PURSUANT TO THE PROVISIONS OF THE IMPROVEMENT BOND ACT OF 1915 BEING DIVISION 10 OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA.

Following clarification, THE MOTION CARRIED 3-2 (COUNCILMEMBERS LORCH AND RICE VOTING NOE).

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 3-2 (COUNCILMEMBERS LORCH AND RICE VOTING NOE), to adopt the procedure for apportionment, as contained in the Administrative Report.

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 3-2 (COUNCILMEMBERS LORCH AND RICE VOTING NOE), to authorize Willdan Associates to perform the apportionment process in accordance with Willdan's letter of August 19, 1986. Willdan will receive \$45.00 of the \$60.00 collected per parcel apportioned.

8. ORAL COMMUNICATIONS

None.

9. REPORTS

A. Commission and Committee

None.

B. City Manager

Finance Director Porter provided an overview of the Comprehensive Annual Financial Report. It was noted that the report has received an award for Outstanding Financial Reporting from the California Society of Municipal Finance Officers.

C. City Attorney

City Attorney Oderman requested a Closed Session concerning Aalbersberg, et al. vs. City of San Clemente, pursuant to Government Code Section 54956.9(a).

D. Council Members

1. Alternatives available to City re on-going development projects during General Plan Update (Councilmember Lorch).

Councilmember Lorch discussed his concern that the City may be approving commercial projects that in the near future may be affected by General Plan and Zoning Ordinance update revisions; recommended that Council discuss possible options, such as holding projects in abeyance for 30-90 days.

Councilmember Meham pointed out that the City in the past instituted an 18-month moratorium on all housing construction in the backcountry while the City re-drafted the General Plan.

City Attorney Oderman stated that the City has existing tools to assure that no commercial development will occur that will be contrary to City standards because all commercial development requires some discretionary approval; stated a moratorium ordinance must meet certain requirements of the Government Code, i.e., 1) it must receive a 4/5 vote of the Council, 2) must be for a limited duration of time, and 3) Council must make a finding that there is a current and immediate threat to health, safety or welfare; stated that at such time as the Council identifies the scope of work for the General Plan update, the Council could consider a moratorium; felt that until such time as the issues are identified, it would be inappropriate to institute a blanket moratorium.

Councilmember Lorch commented that a site plan review is not necessary for approved uses and suggested that perhaps every project should be reviewed at some point--possibly when ownership changes or when a major construction activity is planned.

Mayor Veale requested that Councilmembers provide the City Manager with their specific concerns pertaining to this issue.

Mike Burke, representing the Lusk Company, voiced concern about imposing a blanket moratorium which would impede the Marblehead coastal property development.

2. Discussion of alternatives to address citizen concerns re Via Alegre and Via Ballena slope failures in Shorecliffs area (Councilmember Lorch)

City Manager Hendrickson provided an overview of the City's posture concerning the Via Alegre and Via Ballena slope failures, advising that the City has retained a soils analyst and consultant (Leighton & Associates) to review the report of Estrella Properties as well as the recommended mitigation measures; stated the City believes the issue is a private property matter and should be addressed between the homeowners and Estrella Properties.

City Attorney Oderman stated the City does not have a legal responsibility for the damage that has occurred; commented on the authority of the City to seek a public nuisance remedy; discussed problems associated with the expenditure of City funds to stabilize the slope, inasmuch as the cost could only be recovered by filing a lien on the property and the potential for City liability would be created in the event future slope failures were to occur.

City Attorney Oderman responded to Council inquiry, stating that since there has been no determination as to responsibility for the slide or instability of the ground, he does not believe the City would have the authority to declare Estrella Properties to be the responsible party and therefore require them to repair the damage to the adjoining properties as a condition to development in an unrelated area.

R. Simkins, 235 Via Ballena, stated the subject issue is a problem of the entire City; stated he intends to pursue a lawsuit against Estrella Properties on a personal basis; urged City cooperation.

John Shackelford, 239 Via Ballena, urged City assistance in helping residents re-establish their houses.

Dr. Donald Cole, 245 Via Ballena, urged that Council offer assistance in this issue if it sees a direct relationship between the Tri-Lock Drainage Channel, Estrella Properties, and the slopes.

Ginger Page, 215 Via Ballena, discussed the need to repair the Cascadita Channel; felt the City is empowered to declare the situation to be a public nuisance.

Bettul Parrish, 208 Via Alegre, stated she hasn't been able to live in her home for four months.

Patty Nugent, 214 Via Alegre, stated they have hired attorneys, talked to Estrella Properties, and are now turning to the City in hopes something can be done.

Cathy Snooks, 14342 Albers, Van Nuys, advised that she is the owner of the property at 237 Via Ballena; urged that Council agendaize Cascadita Canyon issue for a public hearing on February 18, 1987, along with the Tri Lock Drainage Channel; stated the damage to her home exceeds its value; requested Council's help.

Fred Ojeda, 241 Via Ballena, urged Council's cooperation in saving the neighborhood; stated he owned his home for twenty-one years and did not incur problems until Estrella altered the water table at the bottom of the slope; urged Council to declare the situation a public nuisance.

Lee Hambleton, 216 Via Alegre, stated the Cascadita Channel's drainage has been neglected; urged Council to take action before more damage occurs.

Dan Millington, 243 Via Ballena, stated the City has the authority to declare Cascadita Channel and the slopes a public nuisance; stated the issue affects the health, safety and welfare of City residents.

CLOSED SESSION

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LORCH, CARRIED 5-0, to recess to Closed Session at 9:50 p.m., pursuant to Government Code Section 54956.9(b)(1) to discuss whether a Closed Session is appropriate. The City Manager, Acting Community Development Director, and City Attorney were in attendance.

RECONVENE

Council reconvened at 10:15 p.m., with all members present. City Attorney Oderman announced that Council determined that a Closed Session was justified to discuss potential litigation filed against the City, pursuant to Government Code Section 54956.9(b).

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER LIMBERG, CARRIED 5-0, to authorize a subcommittee, consisting of Mayor Veale and Councilmember Lorch, to meet with the affected homeowners to discuss alternatives and possible solutions relative to the citizen concerns for the Via Alegre and Via Ballena slope failures in the Shorecliffs area.

3. Mayor Veale requested an update on the Pageant site be provided to Council at its February 4, 1987 meeting.
4. Councilmember Lorch requested clarification of the Parks and Recreation minutes of November 25, 1986 pertaining to submittals on the Capital Improvement Program. Staff responded.
5. Councilmember Mecham requested a status report on the timeframe associated with processing development applications. Staff responded that Council can expect to receive the recommendations of the RDEB Board in April, 1987.

10. RESOLUTIONS/ORDINANCES

- A. MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER RICE, CARRIED 5-0, to adopt Ordinance No. 934, entitled AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING ZONE AMENDMENT 86-07 RELATING TO THE PROPERTY LOCATED AT 302-320 N. EL CAMINO REAL (KEHOE BUILDING).

CLOSED SESSION

MOTION BY COUNCILMEMBER MECHAM, SECOND BY COUNCILMEMBER RICE, CARRIED 5-0, to recess to Closed Session at 11:40 p.m. to

CITY COUNCIL MINUTES
JANUARY 21, 1987
PAGE 14

discuss Aalbersberg, et al. vs. City of San Clemente, pursuant to Government Code Section 54956.9(a). The City Manager, City Attorney, and Acting Community Development Director were in attendance.

RECONVENE

Council reconvened at 11:50 p.m., with all members present.

ADJOURN

Council adjourned at 11:50 p.m. The next Regular Meeting will be held Wednesday, February 4, 1987 at 7:00 p.m.

Miyona Erway
CITY CLERK of the City of San
Clemente

Wally A. Veale
MAYOR of the City of
San Clemente