

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular Meeting - February 6, 2007

An Adjourned Regular Meeting of the San Clemente City Council was called to order on February 6, 2007 at 5:02 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

PRESENT

ANDERSON, DONCHAK, EGGLESTON,
KNOBLOCK, MAYOR DAHL

ABSENT

NONE

STAFF PRESENT

George Scarborough, City Manager; Jeff Oderman,
City Attorney; Myrna Erway, City Clerk; Joanne
Baade, Deputy City Clerk

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CLOSED SESSION

City Attorney Oderman requested that Council recess to Closed Session to discuss the two items listed on the agenda; explained that Closed Session Item B relates to legal questions that have arisen based upon correspondence received from the Applicant for the sign exception permit for Marblehead Coastal; advised that he has made the determination that the correspondence is sufficient to constitute "anticipated litigation".

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to recess to Closed Session at 5:02 p.m. to discuss the following:

- A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Section 54956.9:

Name of Case: Fennell v. City of San Clemente, OCSC Case #05CC13472

Closed Session items continued on next page

- B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, pursuant to Government Code Section 54956.9(b):

Significant exposure to litigation, pursuant to Government Code Section 54956.9(b): One Potential Case

City Manager Scarborough, City Attorney Oderman, Assistant City Manager Gudgeirsson and City Clerk Erway were in attendance during the entire Closed Session. Attorney Thomas E. Francis and Risk Technician Hannah Walker were in attendance during Closed Session Item A. Public Works/Economic Development Director Lund, Community Development Director Holloway and Contract Planner Nagel were in attendance during Closed Session Item B.

MEETING RECONVENED

Council reconvened at 6:32 p.m., with all members present.

FINANCIAL SESSION

- A. **Long-Term Financial Plan, FY 2006/07 Second Quarter Financial Report and Proposed Mid-Year Adjustments**

Assistant City Manager Gudgeirsson narrated a PowerPoint presentation entitled "2007 Long Term Financial Plan Introduction & Overview" and responded to Council inquiries. A hard copy of Mr. Gudgeirsson's presentation is on file with the City Clerk.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to receive and file the Second Quarter Financial Report and authorize the recommended mid-year budget adjustments for FY 2006-07.

The General Session commenced at 7:00 p.m.

INVOCATION

David Keehn, Orange County Fire Authority Chaplain, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Eggleston led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

None.

2. MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to waive reading in full of all Resolutions and Ordinances.

3. **CONSIDERATION OF AGENDIZING ITEMS REQUIRING IMMEDIATE ACTION**

Grant of a Conservation Easement for the Bellota Landslide Repair Project

City Attorney Oderman explained that the subject easement would provide partial mitigation for the loss of natural open space within the Bellota canyon that was caused by the Bellota landslide repair; advised that the restoration area (i.e., 9.4 acres of City-owned property near the Vista Hermosa/La Pata Park) was not identified until the last few days; stated that Staff is attempting to obtain a Department of Fish and Wildlife Service permit prior to the February 15, 2007 deadline to begin clearing and grubbing the canyon.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to add the following item to the agenda since there is a need to take immediate action and the need for action came to the attention of the City subsequent to the agenda being posted:

Grant of a Conservation Easement for the Bellota Landslide Repair Project

City Engineer Cameron reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to authorize the Mayor to execute the grant of a Conservation Easement for the Bellota landslide repair project to mitigate the taking of federally endangered California gnatcatcher in favor of the Department of Fish and Game or the United States Fish and Wildlife Service.

4. **ORAL COMMUNICATIONS (PART ONE)**

Parking of Cars Over Sidewalks in the Neighborhood Pride Area

Ken Nielsen, San Clemente, noted that hundreds of thousands of dollars in block grant monies were used to fund new sidewalks in the Neighborhood Pride area; voiced concern that cars are continuing to park across sidewalks, thereby impeding usage by pedestrians; stated that the sidewalks are now continuous, yet the prohibition against parking over sidewalks is not being enforced; requested that Council agendaize this issue for a future meeting.

Council requested that this topic be agendaized for a future meeting to enable the streets in question, and the City's enforcement policy, to be reviewed. City Manager Scarborough stated that he will request that the Sheriff's Department prepare a report concerning this issue.

5. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve the Consent Calendar with the removal of Items B(3) and D.

A. **City Council Minutes**

None.

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

- (1) Human Affairs Committee minutes of September 7, 2006, November 8, 2006 and December 13, 2006.
- (2) Zoning Administrator Meeting Minutes of January 24, 2007.

C. **Warrant Register**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve Wire Transfers Nos. 435 and 436, Warrant Nos. 781541 through 781724 for the period 1-8-07 through 1-12-07 in the amount of \$1,255,846.42; approve Wire Transfer No. 437 and Warrant Nos. 781725 through 781874 for the period 1-15-07 through 1-19-07 in the amount of \$2,529,079.05; for a total Warrant Register of \$3,784,925.47.

Payroll Register

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve Warrant Nos. 318712 through 318762, Automatic Deposit Advises 144574 through 144793, for the period 1-1-07 through 1-14-07 in the amount of \$352,927.40; for a total Payroll Register of \$352,927.40.

E. **Notice of Completion - Pico Pressure Reducing Station Pipe Realignment**

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

1. Accept the Pico Pressure Reducing Station Pipe Realignment, Project No. 26404.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Pico Pressure Reducing Station Pipe Realignment, Project No. 26404. (Contract C06-36)

F. **Authorization to Apply for a Preserve America Grant to Develop a Uniform Way-Finding Program**

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

1. Authorize the Mayor to sign the City's Preserve America grant application.
2. Adopt Resolution No. 07-08 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE FILING OF AN APPLICATION FOR A PRESERVE AMERICA GRANT FOR THE PURPOSES OF DESIGNING AND PLANNING A UNIFORM WAY-FINDING PROGRAM TO DIRECT PEOPLE TO THE CITY'S DOWNTOWN, MUNICIPAL PIER, NORTH BEACH AND CULTURAL FACILITIES.

G. **La Pata Extension Utility Services Agreement**

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

1. Waive City Policy and Procedure No. 201-2-3-(6.3) Professional Services Selection Process which requires staff to obtain requests-for-proposals from at least five contractors and interviewing at least three.
2. Authorize the City Manager to enter into an agreement with Utilities Specialists in the amount of \$12,500.
3. Authorize the City Manager to amend the agreement as needed for a not-to-exceed total of \$20,000. (AC-298)
4. Approve a transfer of \$20,000 from the Council Contingency Reserve Account 001-203-44900 to Other Professional Services in the Gas Tax Fund Account 012-861-43690-000-38301.

H. **Final Parcel Map 2005-167 - Sinclair Condos, 238 West Avenida Marquita**

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

1. Approve the Parcel Map as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map.
2. Authorize the City Engineer to execute the Parcel Map.
3. Authorize the City Clerk to execute and submit for recordation the Parcel Map with the County of Orange Recorder's Office.

I. **Amendment to City Manager Employment Agreement**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve, and authorize the Mayor to execute, the Second Amendment to Employment Agreement (Contract C03-37) by and between the City of San Clemente and George Scarborough.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

B(3). **Planning Commission Minutes of January 24, 2007.**

Council referenced the portion of the Planning Commission minutes of January 24, 2007 relating to CUP 06-570. The subject application is a request to allow the sale of full alcohol for on-site, indoor and outdoor consumption at an existing restaurant (Adele's) at the San Clemente Inn.

In response to Council inquiry, Adele Lux, Applicant, advised that she is currently permitted to sell wine indoors and outdoors, but noted that she has not yet sold wine outdoors because of the cold weather.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to receive and file the Planning Commission minutes of January 24, 2007.

D. Emergency Purchase - Traffic Signal Controller Cabinet

Council requested that Staff advise as to the date that the traffic signal at El Camino Real and Camino San Clemente is expected to become operational.

MOTION BY MAYOR DAHL, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to:

1. Approve the emergency purchase of one stainless steel (P-44 type) traffic signal controller cabinet from JTB Supply Company, Inc. in the amount of \$14,411.57. (Contract C07-03)
2. Approve a transfer of \$15,000 from Account 001-203-44900 (Council Contingency) to program Account 001-611-42590 (Other Maintenance Supplies).

6. PUBLIC HEARINGS**A. Amendment to Site Plan Permit 97-16, Marblehead Coastal Residential Custom Lots**

Continued Public Hearing to consider a request to amend a previously approved residential site plan permit to allow custom architecture on 69 of 313 lots within the Marblehead Coastal property.

Contract Planner Nagel narrated a PowerPoint presentation entitled "Marblehead Coastal Residential Custom Lots". A hard copy of Mr. Nagel's presentation, dated February 6, 2007, is on file with the City Clerk. During the course of Staff's presentation, Mr. Nagel responded to Council inquiries relative to the following: 1) Proposed maximum square footages of the custom homes as compared to the previous approval; 2) Coastal Commission's authority to review all components of the custom lot program as it deems necessary; 3) Proposed allowable heights of the main home structures and tower elements; 4) Lot sizes as they relate to developable coverage, structure square footages and setbacks; 5) Possibility of adding the high-pressure gas line along El Camino Real to buyer notification disclosure forms; 6) Topography of various lots adjacent to Colony Cove; 7)

Development standards of the Marblehead Coastal Specific Plan as well as the Colony Cove development; and 8) The limitation of lot mergers to adjoining side-by-side lots (back-to-back lot mergers would be prohibited).

Mr. Nagel requested that Condition No. 58-A be expanded to specifically indicate that individual mergers shall be limited to a maximum of three adjoining lots and to prohibit the repetitive merging of lots (for example, merging of three lots to create one lot would be acceptable, however, the newly created lot cannot be merged with additional lot(s) to create a larger lot in the future). Additionally, Mr. Nagel requested that a Condition No. 60-F be added to require that the Marblehead Coastal commercial development be included on buyer notification disclosure forms.

Adrian Peters, Sun Cal Companies (Applicant), reviewed the history of the Marblehead Coastal project while emphasizing the uniqueness of the proposal; stated that the design guideline book that was provided to Council represents a very comprehensive program that incorporates the contents of approximately fifteen policy documents and establishes strong parameters for development; narrated a PowerPoint presentation entitled “Marblehead Coastal Custom Lot Home Presentation - Sun Cal” which is on file with the City Clerk. Mr. Peters’ PowerPoint presentation covered the following: 1) identified project benefits to Colony Cove; 2) simulated possible home development on various lots; 3) depicted maximum building heights via usage of story poles; and 4) explained the process for reviewing custom home proposals; responded to Council inquiries relative to maximum home sizes for the lots immediately adjacent to Colony Cove (i.e., Lots 140, 145 and 146), Coastal Commission review authority, existing Colony Cove triplex sizes and footprints of the Colony Cove development, proposed structure heights, pad elevations of Marblehead Coastal lots in comparison to Colony Cove lots, and possibility of removing Lots 133-146 from the custom lot program.

Brion Jeannette, Architect on behalf of the Applicant, reviewed the proposed design program for Marblehead Coastal; advised that he will review plans proposed by architects and homeowners for conformity with established standards; reviewed various genres of architecture for the custom homes, noting that the square footage allowed on the various lots would be limited, even though many other areas in the city do not have limitations.

MEETING RECESSED

Council recessed at 9:00 p.m. and reconvened at 9:10 p.m., with all members present.

The Continued Public Hearing resumed as follows:

Michael Fluchere, Colony Cove, reported that Colony Cove consists of 1,200 square foot homes; indicated that Colony Cove supported the original Marblehead Coastal development plan which provided for 313 homes that would be a maximum of 4,058 square feet in size; stated that the original home sizes are consistent with the community's character and Ole Hanson's vision for the City; opined that Sun Cal is attempting a "bait and switch"; urged Council to maintain the original plan.

Nancy Larsen, Colony Cove, stated that she resides next door to the Marblehead project; voiced concern that the proposed home sizes for Marblehead Coastal will dwarf the Colony Cove residences and block sunlight from entering her back yard; requested that Council deny changes to the development standards for Lots 121 through 182 (which are adjacent to Colony Cove).

Miriam Allen, Colony Cove, spoke in opposition to Sun Cal's proposal to develop huge homes because of her belief that the development will spoil views and negatively affect the environment; referenced John Milton's poem entitled "Paradise Lost" and urged that Council not allow Colony Cove to become "Paradise Lost".

Helen Thole, Colony Cove, voiced concern that the Applicant is attempting to change the previously-approved project; stated that 22 homes in San Clemente are over 6,000 square feet and 9 homes are 7,000 square feet or larger with a median lot square footage of 15,000 square feet; stated that the largest lot in Marblehead Coastal is 10,315 square feet and voiced concern that the Applicant proposes to construct homes up to 9,600 square feet and to allow lot mergers; opined that a 6,000 square foot home should be developed on a lot of at least 20,000 square feet.

Robert McMillan, owner of a home in Colony Cove, urged Council to maintain San Clemente's village character as indicated in the City's mission statement; suggested that Council limit height along the lots contiguous to Colony Cove; questioned the propriety of building an 18,000 square foot house along Coast Highway.

Gloria Glanville, Colony Cove, urged that Council help to blend an older development that is simple and charming with a new development that is large and sophisticated; recommended that Council preserve the originally approved development plan.

Geri Templeton, Colony Cove, recommended that the mega homes be relocated to an interior location within Marblehead Coastal.

Patty Rosales, Colony Cove, stated that she purchased her home because of its charm; opined that the changes proposed by Sun Cal will change San Clemente's "Spanish Village by the Sea" character.

Maggie Howell, Colony Cove, objected to the proposed revised plan due to her belief that it would negatively affect quality of life; requested that the EIR be revisited to allow the issues that have been raised to be addressed.

Jennifer Collins, Colony Cove, spoke in opposition to the proposed changes due to her position that large homes will overwhelm Colony Cove.

Addie Brown, Colony Cove, urged that Council not allow lot mergers; questioned how Council would justify allowing a 19,000 square foot house in Marblehead Coastal when it rejects mansionization elsewhere.

Dan Millington, Colony Cove, suggested that the proposed homes in Marblehead Coastal will dwarf the Colony Cove homes; suggested that Lots 121 through 182 (which abut Colony Cove) be limited to a maximum of 4,058 square feet; suggested that larger custom homes should be confined to other areas within Marblehead Coastal.

Michelle Lincoln, Colony Cove, stated that the grading that has taken place on Marblehead Coastal is not consistent with what they were originally told; voiced concern that the elevated building pads, when coupled with a two-story home, will result in a mass equivalent to a three-story building; asserted that mansionization is inconsistent with San Clemente's character.

Karen Ellstrom, Colony Cove, stated that she purchased her home (that borders the Marblehead development) last year; explained that before purchasing her home, she determined that homes in the 4,000 square foot range would be compatible with Colony Cove; voiced concern that a proposal is now being discussed that will double the square footage of the homes and, in the case of lot mergers, result in homes that are the size of hotels; requested that Lots 121 to 182 be limited to development that does not exceed 4,058 square feet and that lot mergers be prohibited on those lots; suggested that larger homes, as well as lot mergers, would be more appropriate on Lots 78 through 120.

Merv Ellstrom, Colony Cove, stressed the importance of a blend and flow between the Colony Cove and Marblehead Coastal developments; urged that Council uphold the original plan for Lots 121 through 182 and prohibit lot mergers on those lots; recommended that larger homes be confined to Marblehead Coastal's central and southerly locations.

Marie Toland, Colony Cove, stated that she does not have a problem with the deal she bought, but does have a problem with changing the deal in the middle of the game.

Bob Thole, Colony Cove, stated that pad levels on the Marblehead Coastal property are higher than his roofline; requested that homes adjacent to Colony Cove be limited to 4,058 square feet and that larger homes be relocated to other areas within Marblehead Coastal.

Pam Jackson, Colony Cove, stated that she supports custom homes adjacent to Colony Cove provided they are limited to a maximum height of 27' and a maximum size of 4,058 square feet; asserted that a 14' tower on the top of a huge house would be intrusive; requested that Council defer action for 90 days to allow Colony Cove to review matters and hire representation.

David Jackson, Colony Cove, urged that homes adjacent to Colony Cove be limited to previously approved sizes with a maximum height of 27' with no towers.

Susannah Josephson, Colony Cove, opined that the lots adjacent to Colony Cove should be more compatible with the Colony Cove community; suggested that larger homes would be better suited for the middle section of Marblehead Coastal.

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

During the ensuing discussion, Council identified potential ways to improve the transition and compatibility of the Marblehead Coastal custom home project with Colony Cove. Suggestions raised included the following:

- Possibility of eliminating the tower elements on Lots 140, 145 and 146 and reducing the height of the tower elements within the remainder of the development pod closest to Colony Cove to a maximum of 31'.
- Possibility of restricting the front yard setback requirement for Lot 140 to the level commensurate with the visual model that was presented by Sun Cal. (Mr. Peters concurred with the subject restriction and agreed to provide a graphic for the record that depicts the front yard setback utilized in the visual simulation. The setback as depicted was estimated to be approximately 40' from the street).
- Possibility of prohibiting lot mergers involving Lots 133 to 146. (Mr. Peters agreed to prohibit the merger of Lots 140, 145 and 146 with any adjacent lots.) Mr. Nagel pointed out that Condition 58-E already specifies that Lots 140, 145 and 146 are not eligible to be merged with any other lots. As a compromise, Mr. Peters suggested the possibility of prohibiting three lots within Lots 133 to 146 from merging into one, but allowing two lots to merge into one.
- Possibility of emphasizing single-story elements on Lots 140, 145 and 146. Mr. Jeannette suggested that this design requirement could be quantified by requiring that no more than 25% of the lot width be devoted to two-story elements with the remainder to consist of one-story elements.

- Possibility of modifying the development standards for Lots 133 through 146 to limit the square footages of the homes, establish a maximum structure height of 27', and increase setbacks.
- Possibility of allowing lot mergers within the 5000 series homes (Lots 41-47 of Planning Area 2 which are located adjacent to Avenida Pico) in lieu of allowing lot mergers adjacent to Colony Cove.
- Possibility of stepping back and tiering the Marblehead Coastal homes that most impact Colony Cove.
- Possibility of relocating the custom home lots from the area adjacent to Colony Cove to Planning Area 2.
- Possibility of denying the proposed changes for Lots 133 to 146.

In response to Council inquiry, Mr. Peters concurred with the continuation of this item to the Council meeting of March 20, 2007.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to re-open and continue the Public Hearing to the Council meeting of March 20, 2007 to allow Staff to work with Sun Cal on possible alternatives, particularly with regard to Lots 133 through 146.

7. **UNFINISHED BUSINESS**

None.

8. **NEW BUSINESS**

None.

9. **ORAL COMMUNICATIONS (PART TWO)**

None.

10. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

City Attorney Oderman advised that no reportable action was taken by Council during this evening's Closed Session.

D. **Council Members**

(1) **Council Position on Orange County Division, California League of Cities Issues.**

None.

(2) **Council Position on Legislative Issues.**

None.

(3) **Orange County Fire Authority Status Update.**

None.

(4) **San Clemente-Dana Point Animal Services Authority.**

Mayor Dahl reported on animals available for adoption at the San Clemente-Dana Point Animal Shelter and expressed gratitude to the shelter's veterinarians, staff and volunteers; advised that this year's Wag-a-Thon will be held on April 28, 2007 at the Dana Point Harbor.

(5) **Transportation Corridor Agencies Status Report.**

None.

(6) **Appointment of Representative to OCTA's South Orange County Major Investment Study Group.**

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to appoint Joe Anderson as the City's representative to OCTA's South Orange County Major Investment Study Group.

(7) **Councilmember Items.**

Preserve America Grant - Staff Commendation

Councilmember Donchak stated that she was impressed that Associate Planner Ah Sing and Planning staff took the initiative to apply for a Preserve America grant for a unified way-finding signage program.

Monitoring Results for Well #6

Councilmember Knoblock noted that the City received a letter from the State Department of Health Services regarding Well #6 and the tritium impact from SONGS; commented that the letter discussed the need to monitor the well for four consecutive quarters; requested a report on the results of the first quarter monitoring effort, which is to include the actual tritium level as determined by lab results.

Crafts Fair and Farmers Market

Mayor Dahl complimented last Sunday's Crafts Fair and Farmers Market, noting that the number of vendors and visitors has increased.

11. **RESOLUTIONS/ORDINANCES**

None.

MEETING RECESSED

MOTION BY MAYOR DAHL, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to recess to a meeting of the Redevelopment Agency at 10:50 p.m.

MEETING RECONVENED

Council reconvened at 10:50 p.m., with all members present.

12. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adjourn at 10:51 p.m. in memory of Marilyn Maddox. The next Regular Meeting will be held on February 20, 2007 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 6:00 p.m. The General Session will begin at 7:00 p.m.

CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California