

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular Meeting – November 11, 2009

An Adjourned Regular Meeting of the San Clemente City Council was called to order on November 11, 2009 at 4:08 p.m. in the Community Development Department 2nd Floor Conference Room, located at 910 Calle Negocio, San Clemente, California.

PRESENT: ANDERSON, BAKER, DAHL, EGGLESTON*, MAYOR DONCHAK

**Left Meeting at 5:15 p.m.*

ABSENT: NONE

STAFF PRESENT: George Scarborough, City Manager; Jim Holloway, Community Development Director; Tom Rendina, Finance Manager; Joanne Baade, City Clerk.

ALSO PRESENT: State Senator Mark Wyland, 38th District
Heather Baez, District Representative (Senator Wyland's Office)

Joint Meeting with State Senator Mark Wyland

Senator Wyland spoke on the State's fiscal crisis and the factors that led to the current situation; stated that he voted against borrowing from cities, but pointed out that the funds will be repaid with interest; explained that he is interested in growing the economy since California is not a business-friendly state due to regulatory burdens; suggested that California is capable of reversing the trend toward losing jobs to other states, but opined that jobs lost to other countries are permanently lost; advised that the Governor of Texas personally visits California businesses and offers them incentives to entice them to relocate to Texas; opined that California is not managed in a fiscally prudent manner and reported that projections indicate that this situation is not likely to undergo a significant change in the near future; explained that a water bond will be submitted to the voters in November 2010 that would provide the framework for the construction of a peripheral canal; asserted that California's high power costs are due to environmental extremists that block projects that would generate additional power sources.

Safety/Quiet Zone

Council and Staff requested Senator Wyland's assistance in helping San Clemente establish a Safety/Quiet Zone via legislation, funding, and guidance.

Senator Wyland responded that he is willing and able to help; commented that a high-speed rail line that accommodates freight would be ideal since it could enable the existing line to be abandoned; stated that legislative options could be considered next year.

During the course of discussion, City representatives voiced concern that once a Safety/Quiet Zone is established, the City would incur liability for accidents that are determined to be due to the Safety/Quiet Zone. In response to the City's request, Senator Wyland expressed willingness to undertake this issue.

Heather Baez, District Representative with Senator Wyland's staff, suggested that Pam Loomis, Director of the California Public Utilities Commission's Office of Governmental Affairs, could be a beneficial contact for the City in connection with its Safety/Quiet Zone efforts.

Joint Powers Insurance Authority – Joint and Several Liability

Councilmember Anderson provided an overview of his memorandum, dated November 5, 2009, which addresses Joint and Several Liability Reform (a copy of the subject memorandum is on file with the City Clerk); voiced concern that California law currently allows a plaintiff to sue multiple defendants, obtain judgments against all, but recover 100% of the damages from any single defendant of their choosing, even if that defendant is only 1% responsible for the damages; explained the threat that the current law poses to public entities since most either self-insure individually or collectively through joint powers authorities; pointed out that public entities are funded by tax dollars and hence damages paid by public entities, or joint powers authorities, are in actuality being paid by taxpayers; provided examples that demonstrated the impact of joint and several liability on the membership of the California JPIA, of which the City of San Clemente is a member; noted that alternatives to joint and several liability include implementation of the following: 1) a proportionate liability system (whereby a co-defendant would be responsible for paying the percentage of a monetary judgment that equals their percentage share of responsibility for the plaintiff's damages), 2) establishment of thresholds such that joint and several liability would only apply if a defendant is found to be more responsible than the victim, and then only if the defendant is found to be more than 15% responsible for the accident.

Senator Wyland responded that California needs a governor that would be willing to undertake this issue. It was noted that a possible remedy may be to pursue changes in the law that are similar to what was done for medical malpractice.

Oral Communications

In response to a question posed by Mike Cotter, San Clemente, Senator Wyland expressed that important issues over the next 10-15 years include the need to make California more business friendly and to facilitate education of the younger immigrant population to help them obtain employment.

In response to an inquiry from Larry Culbertson, San Clemente, Senator Wyland indicated that a part-time legislature could work if the part-time portion was the time spent in Sacramento; stressed the need to allow time for legislators to speak with the people and analyze bills as opposed to spending more time in Sacramento; noted that 2,000 bills currently exist but the Governor has indicated that he will veto all but 100; suggested that methods to reduce the number of bills should be assessed.

John Tengdin, San Clemente, questioned Senator Wyland about his position about reducing costs in lieu of generating new revenue, as well as his thoughts about the impetus behind the passage of the high-speed rail bill. Senator Wyland responded that he agrees that cost reductions need to be explored, adding that he believes that all State programs should be subjected to an audit every two years to identify waste. With regard to the passage of the high-speed rail bill, Senator Wyland pointed out that he opposed the bill because he does not believe that people will use mass transit; pointed out, however, that differences of opinion exist with regard to the anticipated benefit of the bill in promoting mass transit.

Larry Culbertson, San Clemente, voiced concern with public employee pension costs and requested that Senator Wyland comment on PERS' financial situation. Senator Wyland pointed out that PERS is separate from the State of California, but opined that it made terrible investments and that its governance should change.

Adjournment

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to adjourn at 5:30 p.m. to an Adjourned Regular Council Meeting to be held on November 17, 2009 in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items will be considered at 4:00 p.m. The Business Meeting will commence at 6:00 p.m.

CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California