

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular Meeting - October 17, 2006

A Regular Meeting of the San Clemente City Council was called to order on October 17, 2006 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

**PRESENT**                      ANDERSON, DAHL, KNOBLOCK, RITSCHEL, MAYOR  
EGGLESTON

**ABSENT**                        NONE

**STAFF PRESENT**              George Scarborough, City Manager; Jeff Goldfarb, Assistant  
City Attorney; Myrna Erway, City Clerk; Joanne Baade,  
Deputy City Clerk

### **CLOSED SESSION**

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to recess to Closed Session to discuss the following:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, pursuant to Government Code Section 54956.8:

Property: City-owned property at North Beach. Area is bounded by N. El Camino Real, the OCTA railroad right-of-way, Boca de la Playa and Avenida Pico.

Negotiating Parties: Shaheen Sadeghi, Principal of Lab Holding, LLC and George Scarborough, City Manager.

Under Negotiation: Price and terms of payment.

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

Name of Case: Preserve Shorecliffs Homeowners v. City of San Clemente, et al., OCSC Case No. 06CCF09940.

City Manager Scarborough, City Attorney Oderman, Assistant City Manager Gudgeirsson and City Clerk Erway were in attendance during the entire Closed Session. Community Development Director Holloway and Senior Planner Pechous were present for Closed Session Item A only.

**REGULAR SESSION CONVENED**

The Regular Session convened at 7:12 p.m., with all Councilmembers present.

**INVOCATION**

Fr. Jay Cayangyang, Co-Pastor of St. Michael's Church, gave the invocation.

**PLEDGE OF ALLEGIANCE**

Councilmember Knoblock led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Proclamation Presentation - Character Counts Week Proclamation**

Mayor Eggleston presented a proclamation to Crime Prevention Officer Leslie Haight declaring the week of October 15-21, 2006 as Character Counts Week.

B. **Proclamation Presentation - Hunger Walk Sunday**

Mayor Eggleston presented a proclamation to Bob Harner, Hunger Walk Chair, declaring October 22, 2006 as Hunger Walk Sunday.

C. **Performance of “Sweet San Clemente” (Musical Composition by Kevin and Freda Danzig)**

Kevin Danzig performed “Sweet San Clemente” that he wrote with his wife, Freda Danzig.

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

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

None.

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

None.

5. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to approve the Consent Calendar with the removal of Items D, E and F.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to approve the City Council minutes of August 29, 2006, September 11, 2006 and September 19, 2006.

B. MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to receive and file:

- (1) Planning Commission minutes of October 4, 2006.
- (2) Zoning Administrator meeting minutes of October 4, 2006.

C. **Warrant Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to approve Wire Transfers Nos. 415 through 417 and Warrant Nos. 778980 through 779164 for the period 9-18-06 through 9-22-06 in the amount of \$1,351,432.27; approve Warrant Nos. 779165 through 779345 for the period 9-25-06 through 9-29-06 in the amount of \$463,346.90; for a total Warrant Register of \$1,814,779.17.

**Payroll Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to approve Warrant Nos. 318356 through 318413, Automatic Deposit Advises 142805 through 143027, for the period 9-11-06 through 9-24-06 in the amount of \$355,687.93; for a total Payroll Register of \$355,687.93.

**G. OCTA's Go Local Program - Cooperative Agreement**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, Cooperative Agreement No. C-6-0686 between the Orange County Transportation Authority and City of San Clemente for City-Initiated Transit Extensions to Metrolink.
2. Accept a grant in the amount of \$100,000 to Account 012-000-33757-000-37806.
3. Approve an appropriation in the amount of \$100,000 to Account 012-861-43690-000-37806.

**H. Change Order - Water Reclamation Plant (WRP) Land Outfall Cathodic Protection, Project No. 15202**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to:

1. Approve the plans and specifications for Water Reclamation Plant Cathodic Protection System (Phase II), Project No. 15202.
2. Approve, and authorize the Mayor to execute, Change Order No. 11 to Contract C05-23 with American Construction, Inc., relating to Water Reclamation Plant Cathodic Protection System (Phase II), Project No. 15202, for an additional cost of \$274,915.
3. Approve a supplemental appropriation of \$350,000 from the Sewer Depreciation Fund for Water Reclamation Plant Cathodic Protection System (Phase II), Project No. 15202.

I. **Third Amendment - Water Reclamation Plant Land Outfall Pipeline Review Contract, Project No. 15202**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C03-32 by and between the City of San Clemente and RBF Consulting, relating to the Wastewater Reclamation Plant Outfall Pipeline Review, Project No. 15202, in the amount of \$65,892.

J. **Request for Exception - Amplified Sound at Evening Movie Event at San Clemente Beach Club**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to approve an Exception to the Special Activity Permit regulations to allow the Beaches, Parks and Recreation Foundation and the San Clemente Historical Society to produce a movie night on the outdoor lawn area of the San Clemente Beach Club on October 18, 2006, with the understanding that future movie night requests will be subject to the Special Activity Permit regulations and process.

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

D. **Release of Improvement Performance Bonds - Tract 16216 in the Talega Development, Standard Pacific Corporation**

Following clarification, MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to adopt Resolution No. 06-69 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE RELEASE OF THE IMPROVEMENT PERFORMANCE BONDS, WITHOUT LIMITATION, FOR TRACT 16216 IN THE TALEGA DEVELOPMENT, STANDARD PACIFIC CORPORATION.

E. **Release of Improvement Performance Bonds - Tract 16365 in the Talega Development, Standard Pacific Corporation**

Following clarification, MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to adopt Resolution No. 06-70 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE RELEASE OF THE IMPROVEMENT PERFORMANCE BONDS, WITHOUT LIMITATION, FOR TRACT 16365 IN THE TALEGA DEVELOPMENT, STANDARD PACIFIC CORPORATION.

F. **Acceptance of the Calle Saluda, Avenida Talega and Vista Hermosa Bridges - Tract 16337, in the Talega Development**

In response to Council inquiry, Staff explained its rationale in recommending that Council authorize the release of bonds and approve an Indemnification Agreement in lieu of a Notice of Completion.

During the course of discussion, Council expressed a desire to defer action on the subject item to enable Staff to verify that a final inspection occurred on the three bridges and that the improvements have been completed for a minimum of six months.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to continue this item until Staff can confirm that the statutory timeframes for filing mechanics liens have been lapsed for a period of at least six months.

**6. PUBLIC HEARINGS****A. Ocean Pointe Resort and Spa (533 Avenida Victoria) - Conditional Use Permit 03-028/Site Plan Permit 03-029/Cultural Heritage Permit 03-030/Encroachment Permit 03-031/General Plan Amendment 03-032, Specific Plan Amendment 03-033**

Continued Public Hearing to consider a request to allow the demolition of the historic Beachcomber Motel and the construction of a new 46,000 square-foot Spanish resort hotel to include subterranean parking, 73 guest rooms, retail and restaurant uses all on a 1.07 acre bluff top site, located within the Pier Bowl Specific Plan, at 533 Avenida Victoria, the legal description being Lots 64-68, Block 1 of Tract 785. The request also includes General Plan and Specific Plan amendments to allow a building height of five stories where currently a maximum height of one story is permitted.

Based on the applicant's withdrawal of the project for consideration, MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to close the public hearing and take no further action on this project.

**B. Zoning Amendment 06-334, Text Amendments to Title 17 (Zoning Ordinance) - Consideration of Nonconforming Garages Associated with Single-Family Residences Built Prior to April 4, 1962**

Public Hearing to consider a request to consider amendments to Title 17, Zoning Ordinance of the Municipal Code for development standards regarding parking for single-family residences with single-car garages that were built prior to April 4, 1962. These items were previously considered in Zoning Amendment 06-047, Phase II amendment.

Associate Planner Ah Sing narrated a PowerPoint presentation entitled "Zoning Amendment 06-334 - Text Amendments to Title 17 of the Municipal Code (Non-Conforming Garages and SFRs Built Prior to 4/4/62)" and responded to Council inquiries. A hard copy of Mr. Ah Sing's presentation is on file with the City Clerk

Mayor Eggleston opened the Public Hearing.



Scott Bening, North Beach, opined that the ordinance under consideration is problematic and voiced concern that the Planning Commission has not reviewed the ordinance in its present form; stated that some homes do not have enough room on the sides of the structures to enable a vehicle to access a garage in the rear (for example, if the lot is 50' wide, the home is 40' wide, and there is only 5' of land on each side); voiced concern that property values will suffer if expansion is thwarted; explained that duplexes with 50' wide lots can develop two units totaling 5,400 square feet with one covered carport and one uncovered tandem space, but yet single-unit structures are limited to a maximum size of 2,500 sq. ft.; urged that Council consider alternative ways to alleviate parking problems (e.g., residential parking permits).

Charli McCord, North Beach, stated that she lives in a non-conforming home that does not have sufficient space for a sidewalk, garage and tandem parking; explained that she is presently in Plan Check and will need to amend her plans to accommodate the requirements in the ordinance under consideration; stated that she is planning to add storage, living space and a laundry room to her home as opposed to adding bedrooms, but yet she is being required to add tandem parking; urged that consideration be given to helping the parking situation via residential parking permits or limiting daytime parking; suggested the possibility of linking requirements to the number of bedrooms instead of square footage.

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

During the ensuing discussion, Council expressed a desire to refer the Ordinance back to the Planning Commission for further analysis. Specifically, Council expressed an interest for the Planning Commission to consider the North Beach area and other City segments with similar densities, lot sizes and widths, and setbacks. Council expressed hope that the Planning Commission will be able to devise development standards that will accommodate property renovations and expansions, while creatively addressing parking problems. Council indicated support for allowing tandem parking in the situations identified in the Administrative Report.

**MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to refer the issue back to the Planning Commission for further review and recommendation.**

7. **UNFINISHED BUSINESS**

None.

8. **NEW BUSINESS**

A. **Wall Surrounding the President Nixon/Cotton Estate - Code Amendments Re Homeowner Association Noticing for Building, Demolition and Grading Permits**

Report from the Community Development Director concerning demolition of the wall surrounding the President Nixon/Cotton estate and the possibility of directing Staff to initiate Code amendments relating to constructive notice of homeowner associations for all building permits, demolition permits and grading permits.

Community Development Director Holloway reviewed the contents of the Administrative Report and responded to Council inquiries.

During the ensuing discussion, Council expressed an interest in revisiting the subject of City interaction with homeowners associations. It was agreed that this topic will be further analyzed by Staff and reagendaized in one or two months. Council requested that the City's homeowners associations be notified of the meeting at which this topic will be considered and that the Sun Post News be requested to help publicize the meeting.

John MacDowell, lawyer representing the Cotton Point Homeowners Association, expressed concern with the direction proposed by Staff and requested to be involved in any process that may ensue; asserted that practicality issues exist with regard to the HOA notification process; disagreed that the Nixon wall is a part of the property owners' rear yard; urged that HOA approval be required for grading permits, etc.

Mike Cotter, President of the San Clemente Historical Society, requested that the City take steps to preserve the Nixon wall for posterity; stated the wall is not currently included on the City's designated historic structures list because it is not a minimum of 50 years old, but noted that it is one of the City's historic treasures; commented that the following criteria are considered in evaluating whether a site, building or object is eligible for the National Register of Historic Places: 1) Is it associated with events that have made a significant contribution to the broad patterns of history? and 2) Is it associated with the lives of persons of significance?

Lyn Harris Hicks, San Clemente, stated that she has resided in the subject neighborhood for 37 years; voiced concern with the aesthetics associated with the temporary fence that was installed in place of the segment of the Nixon wall that was removed; asserted that the situation negatively affects the open space that belongs to the community.

Mike Vogel, San Clemente, opined that the City should require homeowner association approval for grading and demolition as well as building permits; suggested that the problem with the removal of the Nixon wall would have been avoided if the City had required HOA approval.

During discussion relative to the possibility of adding the Nixon wall to the City's listing of historic structures, it was noted that the City's current Code requires that structures be at least 50 years of age to be included on the historic structures listing. Consequently, a Code amendment would be required to qualify the Nixon wall for inclusion.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to agendaize for the Council meeting of November 21, 2006 the possibility of retaining Christy McAvo of Historic Resources Group to evaluate the historic significance of the Nixon wall and its possible designation as an historic landmark and resource.

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

None.

10. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

- (1) **Consideration of Rescheduling the Regular Council Meetings for January 2007 to the 2<sup>nd</sup> and 4<sup>th</sup> Tuesdays (i.e., January 9, 2007 and January 23, 2007).**

Council rescheduled the Regular Council Meetings for January 2007 to January 9, 2007 and January 23, 2007.

C. **City Attorney**

None.

D. **Council Members**

- (1) **Orange County Division, California League of Cities Issues.**

None.

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

None.

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

Mayor Pro Tem Dahl reported on the success of the open house that was held on October 14, 2006 at Fire Station #59.

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

Mayor Pro Tem Dahl reported on animals available for adoption at the San Clemente-Dana Point Animal Shelter and expressed gratitude to the Shelter's volunteers, staff and veterinarians.

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

None.

(6) **Request from the San Clemente Historical Society to Designate Lois Divel as Matriarch of the City of San Clemente, Effective December 1, 2005**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER ANDERSON, to adopt Resolution No. 06-72 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DESIGNATING LOIS DIVEL AS MATRIARCH OF THE CITY OF SAN CLEMENTE.

Raad Ghantous, San Clemente Historical Society, reviewed Lois Divel's background, noting that she moved to San Clemente in 1938 at the age of nine; summarized her significant contributions to the community and pointed out that she was named San Clemente Citizen of the Year in 2004.

THE MOTION ON THE FLOOR CARRIED 5-0.

(7) **Extension of Avenida La Pata and Potential Routes**

Sandra Goldstone and Stefanie Torrence, on behalf of residents in Forster Valley, stated that a significant number of residents of Forster Ranch and Forster Highlands signed a petition opposing any western alignment of the La Pata extension; explained that 90% of the persons to whom they spoke were unaware of the alternate routes; stated that Forster Ranch residents purchased their homes with the understanding that the extension of La Pata would occur on the eastern slope.

Russ Tyler, Forster Highlands, stated that over 1,000 persons have signed a petition to preserve the ridgeline; stated that he purchased his home in reliance that La Pata would be extended as per the eastern alignment; urged that the La Pata extension not be allowed to extend to the Forster Ranch side of the hill, cross the ridgeline or impact the trail.

Frank Haroldson, Talega, stated that the alignment of La Pata is critical to the community as a whole and is not an issue between Talega and Forster Ranch; expressed appreciation to Council for raising awareness of this issue.

Karen Ruiz, Forster Ranch, stated that acoustics within Forster Ranch resemble that of an amphitheatre and, consequently, voiced concern with the noise that would be experienced if La Pata were extended over the ridge; voiced concern with the potential loss of the trail; stated that many Forster Ranch residents are just now learning of the possible alignments.

Tom Franco, Talega, stated that the eastern La Pata alignment is negatively impacting areas of Talega, noting that three homes on Aventuna have been on the market for nine months; explained that he also objects to extending La Pata through Forster Highlands.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to adopt Resolution No. 06-73 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REGARDING EXTENSION OF AVENIDA LA PATA AND POTENTIAL ROUTES THEREOF. (Revised version that was placed on the dais.)

(8) **Councilmember Items.**

**Hunger Walk Sunday**

Councilmember Anderson advised of his upcoming participation in the Hunger Walk on October 22, 2006.

**Parking of Vehicles Over Sidewalks**

Mayor Eggleston explained that the Policy and Procedure relating to Parking Enforcement specifies that Police Services will proactively enforce vehicles parked across improved and continuous sidewalks; voiced concern that a significant number of violations are occurring and requested that enforcement be increased.

**Police Services Chief Bill Hunt - Letter to Request Prompt Resolution of Administrative Leave Issue**

Mayor Eggleston conveyed his intent to send a letter to the Orange County Board of Supervisors urging that the administrative leave issue involving Chief Bill Hunt be resolved in an expeditious manner. Copies of the draft letter will be circulated to Council.

11. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1324 (Second Reading) - Conflict of Interest Code**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 4-1 (COUNCILMEMBER KNOBLOCK VOTING NOE), to adopt Ordinance No. 1324 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 2.24 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE CITY'S CONFLICT OF INTEREST CODE.

12. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER RITSCHHEL, CARRIED 5-0, to adjourn at 9:35 p.m. in memory of Sam Chemotti and Peggy Corlew, members of the Retired Senior Volunteer Patrol, to an Adjourned Regular Meeting to be held on **Monday, November 6, 2006.** This meeting will replace the Regular Meeting of November 7, 2006 to avoid a conflict with the General Municipal Election. The meeting will be held 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.

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CITY CLERK of the City of  
San Clemente, California

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MAYOR of the City of  
San Clemente, California