

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular Meeting - October 3, 2006

A Regular Meeting of the San Clemente City Council was called to order on October 3, 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

\*Arrived at 6:05 p.m.

**ABSENT**                      NONE

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

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### **CLOSED SESSION**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHEL, CARRIED 3-0, to recess to Closed Session to discuss the following:

A.      CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code Section 54956.9(c): Two Potential Cases

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.

*Closed Session items continued on next page*

- C. CONFERENCE WITH LABOR NEGOTIATOR, pursuant to Government Code Section 54957.6:

Agency Representative: Pall Gudgeirsson, Assistant City Manager

Employee Organizations: San Clemente City Employees Association, Management Employees, Mid-Management Employees and Confidential Employees.

City Manager Scarborough, City Attorney Oderman and City Clerk Erway were present during the entire Closed Session. Community Development Director Holloway was present during Closed Session item A (one potential case). Discussion of the second potential case identified under Closed Session item A was deferred to the end of the meeting. Closed Session Item C appeared on the agenda, but was not discussed.

### **REGULAR SESSION CONVENED**

The Regular Session convened at 7:00 p.m., with all Councilmembers present.

### **INVOCATION**

Bishop Roger Wells, Church of Jesus Christ of Latter Day Saints, gave the invocation.

### **PLEDGE OF ALLEGIANCE**

Councilmember Ritschel led the Pledge of Allegiance.

### **1. SPECIAL PRESENTATIONS**

#### **A. Fire Prevention Week Proclamation**

Mayor Eggleston presented a Proclamation to Battalion Chief Steve Whitaker declaring the week of October 8, 2006 through October 14, 2006 as Fire Prevention Week.

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)**

**Request for Certification of Results of the Shorecliffs Referendum**

Andy Price, resident of Shorecliffs and representative of San Clemente Residents for Responsible Government (SCRRG), related his understanding that the temporary restraining order in the matter of Preserve Shorecliffs v. City of San Clemente has not been extended by the courts; requested that the City move forward with the certification of the referendum.

Ryan Wilkinson, San Clemente, stated that he is a proponent of the referendum against Ordinance No. 1319; requested that the results of the referendum petition be certified in accordance with the California Elections Code; stated that the Elections Code requires that the referendum petition be certified by today; asserted that the temporary restraining order has expired and that there is no legitimate reason to delay certification.

Robert Strutt, Shorecliffs, stated that he is a referendum proponent and is named as a real party in interest in the lawsuit against the referendum; urged that the referendum be certified; stated that the temporary restraining order to prevent the certification of the referendum expired on September 29, 2006.

City Attorney Oderman stated that Council and the City Attorney support allowing the City Clerk to announce the final result of the referendum petition and have conveyed this position to the court; explained, however, that the temporary restraining order (TRO), which prohibits the City Clerk from taking any action to certify the petition or determine its legal sufficiency, remains in effect until the hearing on the preliminary injunction; noted that the preliminary injunction hearing was re-scheduled from September 29, 2006 to October 16, 2006.

**San Clemente Amphitheatre**

Richard Dickey, Site Selection Chairman for the Association for the Amphitheatre (AFTA), stated that the Association is developing a proposal for Council consideration that will address the need, location, timing, cost, funding source and environmental issues related to an amphitheatre; stated that the Association proposes to retain Hunsaker & Associates to determine the feasibility of utilizing a couple pieces of land for an amphitheatre and to particularly assess any problems that might be related to the initial grant of the Forster Ranch east ridge property to the City.

Pete Deiser, San Clemente, requested that AFTA involve adjacent communities as it pursues a site for an amphitheatre.

**Extension of Avenida La Pata**

Pete Deiser, on behalf of Talega Voice, Inc., stated he resides on Calle Aventura, which is below the ridgeline of the planned extension of La Pata; stated that over 1,000 signatures have been gathered in opposition to the eastern alignment of La Pata and stressed that Talega Voice has never advocated a western alignment of La Pata; opined that both alignments are problematic because of their proximity to adjacent communities; urged that Council agendaize the possibility of adopting a resolution that declares that neither the eastern nor western alignment of La Pata is acceptable.

Valentin Ignat, representing Talega Voice, Inc., stated that he supports an extension of La Pata, but not 110' from his home on Calle Canela or 400' from homes in Forster Ranch; noted that it is not necessary to construct the La Pata extension 110' from his home when 2,000 feet of open space is available.

5. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve the Consent Calendar with the removal of Items G and H.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve the City Council minutes of September 5, 2006.

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

- (1) Coastal Advisory Committee minutes of June 8, 2006.
- (2) Zoning Administrator meeting minutes of September 20, 2006.
- (3) Planning Commission minutes of September 20, 2006.
- (4) Human Affairs Committee minutes of August 9, 2006.

C. **Warrant Register**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve Wire Transfers Nos. 413 and 414 and Warrant Nos. 778671 through 778806 for the period 9-4-06 through 9-8-06 in the amount of \$984,304.19; approve Warrant Nos. 778807 through 778979 for the period 9-11-06 through 9-15-06 in the amount of \$2,223,207.27; for a total Warrant Register of \$3,207,511.46.

**Payroll Register**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve Warrant Nos. 318287 through 318355, Automatic Deposit Advises 142572 through 142804, for the period 8-28-06 through 9-10-06 in the amount of \$374,256.53; for a total Payroll Register of \$374,256.53.

D. **National Pollutant Discharge Elimination System (NPDES) Program Shared Costs Budget for FY 2006-07**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve the proposed NPDES Stormwater Program Shared Costs Budget for FY 2006-07.

E. **Parking Restrictions on Corte Cristianitos**

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

1. Adopt Resolution No. 06-67 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MASTER TRAFFIC RESOLUTION NO. 1846, ESTABLISHING "PARKING RESTRICTIONS" ON CORTE CRISTIANITOS.
2. Approve designating the cul-de-sac area of Corte Cristianitos as a loading zone.

**F. Text Amendment to the Master Landscape Plan for Scenic Corridors**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 06-68 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AN AMENDMENT TO THE MASTER LANDSCAPE PLAN FOR SCENIC CORRIDORS FOR THE MEDIANS WITHIN CAMINO DE LOS MARES.

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION****G. Contract Amendment - Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804**

Principal Civil Engineer Rebensdorf presented a revised Scope of Work for Amendment No. 3 to Contract C04-69, explaining that the City Attorney requested that Tasks 1 through 3 be described in greater detail.

Principal Civil Engineer Rebensdorf reviewed previous Change Orders to the subject contract, noting that the original contract cost was \$304,124; advised that Change Order No. 1 increased the contract cost by \$34,563, Change Order No. 2 increased the contract cost by \$15,000, and Change Order No. 3 is proposed to increase the contract cost by an additional \$130,336. In response to Councilmember concern, Principal Civil Engineer Rebensdorf explained that the Change Orders were due to a number of factors that were unknown at the time the project commenced.

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 4-0-1 (COUNCILMEMBER KNOBLOCK ABSTAINING), to approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C04-69, by and between the City of San Clemente and Tetra Tech, Inc., relating to the Segunda Deshecha Canada Urban Runoff Facility, Project No. 14804. Amendment No. 3 increases the contract cost from \$353,687 to \$484,023 (an increase of \$130,336).

H. **Reprogramming of Environmental Protection Agency Grant to Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804**

Following clarification, MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to:

1. Authorize the City Engineer to request that the Environmental Protection Agency (EPA) re-program the EPA grant for the Poche (MO1) Dry Weather Runoff (Project No. 13808) to the Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility (Project No. 14804).
2. Approve a transfer in the amount of \$300,000 from Account 057-000-33115-000-13808, Clean Ocean Improvement Fund, EPA Grant, Poche (MO1) Dry Weather Runoff Project to Account 057-000-33115-000-14804, Clean Ocean Improvement Fund, EPA Grant, Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility.

6. **PUBLIC HEARINGS**

None.

7. **UNFINISHED BUSINESS**

None.



8. **NEW BUSINESS**

A. **Conflict of Interest Code Biennial Review and Revised Ethics Policy**

Report from the City Clerk concerning possible revisions to the City's Conflict of Interest Code and Code of Ethics Policy for City Officials.

City Clerk Erway reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER KNOBLOCK to introduce 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, with modifications to Sections 2.24.080 and 2.24.100.a.5 to reduce the gift limitation to \$100 per year, with a maximum one-time gift of \$50. **The motion died for lack of a second.**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 4-1 (COUNCILMEMBER KNOBLOCK VOTING NOE), to:

1. Introduce 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.
2. Adopt revised Policy and Procedure No. 1202-1, the Code of Ethics Policy for City Officials (Elected and Appointed).

B. **Shorecliffs Referendum Petition Results**

*This item was agendaized contingent upon the results of a court hearing that was scheduled to be held on September 29, 2006. Because the hearing on the preliminary injunction was continued from September 29, 2006 to October 16, 2006, this item was not considered at this meeting. Please refer to Page 3 of these minutes for a summary of the discussion concerning the referendum petition that occurred during the Oral Communications portion of the meeting.*

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

None.

10. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

(1) **Report re Process for Authorizing the Filing of Criminal Prosecutions for Municipal Code Violations**

City Attorney Oderman reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, that the City Attorney modify the City procedures regarding criminal prosecutions to: 1) require that all prosecutions be specifically authorized by the City Manager; and 2) that Council be notified of all prosecutions at the next Council meeting.

D. **Council Members**

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

Mayor Eggleston reported that the next meeting of the Orange County Division of the California League of Cities will take place on October 12, 2006. Proposition 90 will be discussed at that meeting.

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

None.

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

Councilmember Ritschel stated that the OCFA Board took the following actions at its last meeting: 1) approved the proposed deployment policy and standards for all OCFA operations; and 2) approved a new labor agreement.

(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; expressed gratitude to the shelter volunteers, veterinarians and staff; reported that the semi-annual Open House and Animal Fair will be held on October 14, 2006.

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

None.

(6) **Councilmember Items.**

**Possibility of Establishing a Sister City Relationship with Tiberias, Israel**

Councilmember Knoblock advised that he is considering bringing to Council the concept of establishing a sister city relationship with Tiberias, Israel; stated that he will present a formal request in the next couple of weeks.

**Riviera Trail (Request for Tray Memo)**

Mayor Eggleston requested a tray memo concerning the difficulties being experienced with regard to the construction of the trail at Riviera and comments received from area residents.

### **Open Space**

Mayor Eggleston voiced concern that not much has been accomplished as a result of the May 23, 2006 Joint Council/Planning Commission meeting with regard to open space; noted that this issue has come to the forefront because of a newspaper article concerning the Pacific Golf Club's development proposal; referenced that the Council and Planning Commission, at the May 23, 2006 Joint Meeting, took action as follows:

- 1) Directed Staff to revise the map to classify existing Open Space areas by Zoning Ordinance categories, and consider the public benefit.
- 2) Directed that the Planning Commission and Staff conduct a study session on how to move forward, and report back to the City Council.
- 3) Identified the need for a process to assign values to existing Open Space.
- 4) Identified the need for a workshop to receive public testimony regarding the residents' preferences concerning the future of the City's Open Space.
- 5) Expressed a desire to prioritize the City's Open Space areas.
- 6) Requested that other communities be queried to determine their Open Space management practices.

Mayor Eggleston acknowledged that some of the tasks are time consuming, but opined that Tasks 2 and 4 should move forward before Council considers the elimination of any open space in the City.

It was agreed that this issue will be agendized for a future Council meeting (possibly for November 6, 2006) so that Council can provide direction relative to prioritization.

**Establishment of Future Meeting Dates**

Council established meeting dates as follows:

Long Term Financial Plan Workshop - February 27, 2007  
Vital Few Priority Workshop - Thursday, March 15, 2007.

Both workshops will begin at 6:00 p.m. in the Council Chambers and will be televised.

11. **RESOLUTIONS/ORDINANCES**

None.

**MEETING RECESSED**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to recess to the Redevelopment Agency at 8:20 p.m.

**MEETING RECONVENED**

Council reconvened at 8:21 p.m., with all members present.

**CLOSED SESSION**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to recess to Closed Session at 8:21 p.m. to discuss the following:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code Section 54956.9(c):  
Two Potential Cases

City Manager Scarborough, City Attorney Oderman, Beaches, Parks and Recreation Director King, Park Planner Shaw and City Clerk Erway were in attendance.

**MEETING RECONVENED**

Council reconvened at 8:40 p.m., with all members present except Councilmember Anderson and Mayor Eggleston.

12. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to adjourn at 8:40 p.m., in memory of Anita Hill.

The next Regular Meeting will be held on October 17, 2006 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