

# CITY OF SAN CLEMENTE

## City Council Minutes

### Special and Regular Meetings - September 19, 2006

A Special Meeting of the San Clemente City Council was called to order on September 19, 2006 at 5:30 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 RITSCHEL, CARRIED 5-0, to recess to Closed Session at 5:30 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

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, OCSC Case No. 06CC09940.

City Manager Scarborough, Assistant City Manager Gudgeirsson, Assistant City Attorney Goldfarb and City Clerk Erway were in attendance.

**REGULAR MEETING CONVENED**

The Regular Council Meeting convened at 7:00 p.m., with all members present.

**INVOCATION**

Valerie Jordan, Orange County Sheriff Chaplain, gave the invocation.

**PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Dahl led the Pledge of Allegiance.

**CLOSED SESSION REPORT**

Assistant City Attorney Goldfarb reported that Council authorized him, during this evening's Closed Session, to represent the City of San Clemente, City Council and City Clerk in the case entitled Preserve Shorecliffs Homeowners v. City of San Clemente, et al. OCSC Case No. 06CC09940.

1. **SPECIAL PRESENTATIONS**

**Constitution Week Proclamation**

Mayor Eggleston noted that September 17, 2006 marks the 219<sup>th</sup> anniversary of the drafting of the Constitution of the United States by the Constitutional Convention and urged citizens to reaffirm the ideals recognized by the Framers of the Constitution by vigilantly protecting freedom; stated that a proclamation declaring September 17 through 23, 2006 has been presented to the Daughters of the American Revolution.

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)**

**Damage to Wall Surrounding Estate of Former President Nixon**

John MacDowell, lawyer representing the Cotton Point Homeowners Association (HOA), voiced concern that the historic wall that surrounds the former Nixon/Cotton estate has been damaged; noted that the Association is committed to maintaining the historical significance of the area; stated that the owner of Lot 3 submitted a rear yard landscape plan to the Association that depicted the wall remaining intact and the Association subsequently approved the application; explained, however, that the homeowner then submitted to the City, and the City approved, a plan that reflected removal of the Nixon wall; asserted that the City's approval violated the City Code which requires that homeowners demonstrate to the City that the Association has approved any improvement; requested that Council 1) consider whether the City's approval represented a contravention of the City Code, and 2) designate the Nixon wall as an historic landmark.

MOTION BY MAYOR EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to agendize the issue of the President Nixon/Cotton Point wall for the Council meeting of October 17, 2006.

5. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve the Consent Calendar with the deletion of Item 5-P from the agenda.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve the City Council minutes of August 15, 2006.

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

- (1) Zoning Administrator meeting minutes of September 6, 2006.
- (2) Planning Commission minutes of September 6, 2006.
- (3) Parks and Recreation Commission minutes of August 8, 2006.

C. **Warrant Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve Wire Transfers Nos. 409 through 412 and Warrant Nos. 778387 through 778528 for the period 8-21-06 through 8-25-06 in the amount of \$4,137,107.31; approve Warrant Nos. 778529 through 778670 for the period 8-28-06 through 9-1-06 in the amount of \$786,047.91; for a total Warrant Register of \$4,923,155.22.

**Payroll Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve Warrant Nos. 318221 through 318286, Automatic Deposit Advises 142338 through 142571, for the period 8-14-06 through 8-27-06 in the amount of \$376,116.25; for a total Payroll Register of \$376,116.25.

D. **Final Parcel Map 2005-169 - Calle Del Comercio Condos, 2709 Calle Del Comercio**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, 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.

E. **Notice of Completion - Major Street Maintenance for Via Blanco and Del Gado Road**

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

1. Accept the Major Maintenance for Via Blanco and Del Gado Road from the contractor, All American Asphalt.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Major Maintenance for Via Blanco and Del Gado Road. (Contract C06-12)

F. **Amended Map for Tract 16614 - WL Talega Associates, LLC and Talega Associates, LLC in the Talega Valley Development**

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

1. Approve the amended map for Tract 16614.
2. Authorize the City Engineer to execute the amended map for Tract 16614.
3. Authorize the City Clerk to execute and submit for recordation the amended map for Tract 16614 with the Orange County Recorder's Office.

G. **Agreement Between City of San Clemente and Forster Ranch Master Association I (Water Billing Dispute and Installation of Weather-Based Irrigation System)**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve, and authorize the Mayor to execute, an Agreement (Contract C06-44) by and between the City of San Clemente and Forster Ranch Master Association I (FRMA), resolving a water billing dispute and providing for the purchase and installation of a weather-based irrigation system on all but two of the irrigation meters throughout the area served by FRMA.

H. **Contract Award - South Orange County Wastewater Agency (SOCWA) and Other Public Agencies, and Synagro Composting Company of California - Transportation and Beneficial Reuse of Wastewater Biosolids from Treatment Facilities**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C06-45, by and between South Orange County Wastewater Authority (SOCWA) and other public entities and Synagro Composting Company of California, LLC, for the transportation and beneficial reuse of wastewater biosolids from treatment facilities.

**I. Notice of Completion - Street Rehabilitation of Avenida Carlos, Calle Cortez, Calle Sonora, and Calle De Soto and Major Street Maintenance for Calle Balboa and Calle Mendoza**

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

1. Accept Street Improvement Projects Nos. 16339, 16340, 16341, 16342 and Major Street Maintenance for Calle Balboa and Calle Mendoza from the contractor, All American Asphalt.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notices of Completion for Avenida San Carlos from Avenida Presidio to El Levante, PN 16339; Calle Cortez from Avenida Presidio to Avenida San Carlos, PN 16340; Calle Sonora from Avenida Presidio to end of cul-de-sac, PN 16341; Calle De Soto, from Avenida Presidio to Avenida Salvador, PN 16342; and Major Street Maintenance for Calle Balboa from Calle Cortez to end of cul-de-sac and Calle Mendoza from Avenida Presidio to end of cul-de-sac. (Contract C05-66)

**J. Amendment No. 4 to Agreement for Acquisition of Capacity, Construction, Use, Operation, and Maintenance of Outfall Facilities for South East Regional Reclamation Authority for and on Behalf of Project Committee No. 5 (“PC 5 Agreement”) - Diversion of Treated Segunda Deshecha Urban Runoff to Ocean Outfall**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 4 to Contract C77-200, the Agreement for Acquisition of Capacity, Construction, Use, Operation, and Maintenance of Outfall Facilities for South East Regional Reclamation Authority for and on behalf of Project Committee No. 5 (“PC 5 Agreement”) between the City and South Orange County Wastewater Authority (SOCWA) on behalf of Project Committee 5.

**K. Notices of Completion - Street Rehabilitation of Avenida Hacienda, Avenida Pico, Boca De La Playa, Calle Las Bolas and Major Street Maintenance for Calle Sacramento, Avenida Florencia, Calle Colina, Calle Deshecha, Avenida Del Reposo, and Calle Mirador; and CDBG Sidewalk Improvements for Avenida Cabrillo and Avenida Pelayo**

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

1. Accept Street Improvement Project Nos. 14300, 14301, 14303, 14305, Major Street Maintenance, and CDBG Sidewalk Improvements from the contractor, All American Asphalt.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notices of Completion for Avenida Hacienda, PN 14300; Avenida Pico, PN 14301; Boca de la Playa from El Camino Real to end of cul-de-sac, PN 14303; Calle Las Bolas, PN 14305; Major Street Maintenance for Calle Sacramento, Avenida Florencia, Calle Colina, Calle Deshecha, Avenida Del Reposo, and Calle Mirador; and Community Development Block Grant Sidewalk Improvements for Avenida Cabrillo from alley to El Camino Real and Avenida Pelayo from Calle Puente to Avenida Florencia. (Contract C05-11)



L. **Notice of Completion - Sewer Line Rehabilitation (Project No. 24200), 403 W. Lobos Marinos Storm Drain Rehabilitation (Project No. 12805), and 246 Avenida Lobeiro to Calafia Park Storm Drain Rehabilitation (Project No. 15004)**

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

1. Accept the Sewer Line Rehabilitation (Project No. 24200), 403 W. Lobos Marinos Storm Drain Rehabilitation (Project No. 12805), and 246 Ave. Lobeiro to Calafia Park Storm Drain Rehabilitation (Project No. 15004).
2. Authorize the Mayor to execute and the City Clerk to record, the Notice of Completion for the Sewer Line Rehabilitation (Project No. 24200), 403 W. Lobos Marinos Storm Drain Rehabilitation (Project No. 12805), and 246 Ave. Lobeiro to Calafia Park Storm Drain Rehabilitation (Project No. 15004). (Contract C06-16)

M. **Contract Award - Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804**

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

1. Approve the plans and specifications for the Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804.
2. Approve, and authorize the Mayor to execute, Contract C06-46 by and between the City of San Clemente and Gantry Constructors, Inc., providing for the construction of the Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804, in the amount of \$2,457,000.
3. Approve a transfer in the amount of \$482,200 from the Clean Ocean Operating Fund to the Clean Ocean Improvement Fund.

*Action continued on next page*

4. Approve a transfer in the amount of \$114,800 from Account 057-543-45300-000-16617, Clean Ocean Improvement Fund, Golf Course Stream Restoration, Project No. 16617, to Account 057-543-45300-000-14804, Clean Ocean Improvement Fund, Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804.
5. Approve a supplemental appropriation of \$1,082,200 to Account 057-543-45300-000-14804, Clean Ocean Improvement Fund, Improvements Other Than Buildings, within the Clean Ocean Fund for the Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804.

N. **Reorganization Involving Certain Positions within the Beaches, Parks and Recreation Department**

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

1. Approve the creation of the Senior Beaches and Parks Inspector classification at Range 62 and the accompanying job description and authorize the City to fill one position; the elimination of one Maintenance Worker/Inspector position; the creation of the Recreation Specialist classification at Range 36 and the accompanying job description and authorize staff to fill one full-time position, one  $\frac{3}{4}$ -time benefited position, and one  $\frac{1}{2}$ -time benefited position; the creation of the Park Monitor classification at Range 31 and the accompanying job description; the creation of a Lead Park Monitor classification at Range 32 and the accompanying job description; the re-titling of the Senior Lifeguard Supervisor classification to Marine Safety Officer; the deletion of the Senior Park Planner position; the addition of one Management Analyst I position; and the re-grading of the Recreation Manager classification from Range 74 to Range 81.
2. Adopt Resolution No. 06-64 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING RESOLUTION NO. 97-09, ADOPTING REVISED SALARY SCHEDULES.

*Action continued on next page*

3. Approve a transfer of \$4,520 from Program 682 - Park Planning to Program 624 - Recreation for the balance needed to fund the Recreation Specialist positions; a transfer of \$87,390 from Program 682 - Park Planning to Program 681 - Beaches, Parks and Recreation Administration for the creation of one Management Analyst position; a transfer of \$16,340 from Program 682 - Park Planning to Program 624 - Recreation to re-class the Recreation Manager to Range 81; and a transfer of \$4,630 from Program 682 - Park Planning to Program 637 - Parks and Beaches Maintenance for the Senior Inspector position.

O. **Request for Waiver of Park Semper Fi Rental Fee (Memorial Service on September 17, 2006)**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to waive the \$50 park rental fee for the Yoder family to conduct a memorial service at Park Semper Fi on September 17, 2006.

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

P. **Contract Amendment - Segunda Deshecha Canada (MO2) Urban Runoff Treatment Facility, Project No. 14804**

This item was deleted from the agenda at the request of Staff to allow time for the City Attorney to review the proposed Contract Amendment.

6. **PUBLIC HEARINGS**

A. **Tentative Parcel Map 2006-130/Cultural Heritage Permit 05-319, El Oriente Cottages**

Public Hearing to consider a request to allow a new four-unit residential development, within 300 feet of a designated historic structure, located within the Residential Medium zone at 101 El Oriente, the legal description being Lot 59 of Tract 853.

Associate Planner Tai reviewed the contents of the Administrative Report.

Mayor Eggleston opened and closed the Public Hearing, there being no one desiring to speak to this issue.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adopt Resolution No. 06-65 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP (TTM) 2006-130/CULTURAL HERITAGE PERMIT (CHP) 05-319, EL ORIENTE COTTAGES, A REQUEST TO ALLOW A NEW FOUR-UNIT RESIDENTIAL DEVELOPMENT AT 101 EL ORIENTE, LOCATED IN THE RESIDENTIAL MEDIUM-DENSITY (RM) ZONE AND WITHIN 300 FEET OF A DESIGNATED HISTORIC STRUCTURE.

**B. Tentative Tract Map 17037, Talega Corporate Center - 1221-1235  
Puerta Del Sol**

Public Hearing to consider a request to allow a one-lot subdivision for condominium conversion purposes of four existing multi-unit commercial buildings located within the Talega Specific Plan-Business Park at 1221-1235 Puerta Del Sol, the legal description being Lot 10 of Tract 16124.

Assistant Planner Wright reviewed the contents of the Administrative Report.

Mayor Eggleston opened and closed the Public Hearing, there being no one desiring to speak to this issue.

**MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to adopt Resolution No. 06-66 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 17037, A REQUEST TO ALLOW A CONDOMINIUM CONVERSION OF FOUR EXISTING MULTI-UNIT INDUSTRIAL BUILDINGS LOCATED WITHIN THE TALEGA BUSINESS PARK AT 1221-1235 PUERTA DEL SOL.**

C. **Consideration of Extending Shorecliffs Interim Urgency Ordinances Nos. 1312 and 1313 - Moratorium on Construction of Second Stories or Structures Exceeding 17 Feet in Height within the Shorecliffs Residential Neighborhood**

Public Hearing to consider the possibility of extending Shorecliffs Interim Urgency Ordinances Nos. 1312 and 1313 relating to a moratorium on construction of second stories or structures exceeding 17 feet in height within the Shorecliffs residential neighborhood.

City Planner Buell reviewed the contents of the Administrative Report.

Mayor Eggleston opened the Public Hearing.

Paul Catsimanes, Shorecliffs, requested that Council not extend the moratorium; asserted that property values within the pink zone will be reduced; stated that referendum signers felt that the moratorium and height restriction ordinance were unfair and arbitrary; requested that Council restore property rights.

Dan Flynn, Shorecliffs, related his opposition to the view protection ordinance, explaining that it is neither just nor reasonable to redistribute property rights; stated that over a period of 60 days, nearly 6,000 persons signed a petition asking that Council either repeal the Ordinance or put it to a vote of the people; stated that the pro-Ordinance group embarked on a signature-gathering process but obtained only 160 signatures; asserted that the desires of one group should not supersede the rights of another; urged that Council discontinue the moratorium.

Brooke Tyson, Shorecliffs, expressed gratitude to the Council majority; urged Council to extend the moratorium as it will prevent irreparable harm in the event the referendum is rejected.

Carol Cogan, Shorecliffs, urged that Council extend the moratorium to maintain the status quo until a vote is taken.

Jim Cogan, Shorecliffs, recommended that Council keep protections in place until the issue is resolved.

Heather Sterner, Shorecliffs, noted that 5,987 persons signed the referendum petition and asserted that certification was deliberately stalled to allow the ordinance proponents time to file a lawsuit.

In response to Council inquiry, City Clerk Erway responded that she is not delaying the certification of the referendum petition; pointed out that the California Elections Code allows 30 days excluding holidays and weekends (i.e., until October 3, 2006) for the referendum petition to be certified.

Jed Stamon, Shorecliffs, stated that he checked with the City before closing escrow on his Shorecliffs property to be sure he could construct a second story; commented that he chose to purchase his property even though he knew that his view was not protected; explained that he has not yet been able to remodel his home; voiced concern with a moratorium extension and commented on the potential impact that a passage of Proposition 90 will have on the City.

Ryan Wilkinson, Shorecliffs, stated that the Shorecliffs CC&Rs do not impose restrictions on second stories or provide for view protection; stated that he gathered referendum petition signatures and that 90% of the persons he talked to felt that the Ordinance was unfair; urged that the City not extend the moratorium.

Miriam Wilkinson, Shorecliffs, stated that nearly 6,000 residents want the ordinance to be placed on the ballot; alleged that certification of the referendum results were stalled so that Preserve Shorecliffs Homeowners could file a lawsuit against the City; opined that it is unfair to treat homeowners within the same neighborhood differently; disagreed that the ordinance restores the original CC&Rs and urged that Council oppose the moratorium extension.

Michael Sterner, Shorecliffs, stated the subject issue exposes the City to risk and urged that Council not extend the moratorium.

Brian Opp stated that the Ordinance is founded upon the following untruths: 1) that people are building second stories for profit; 2) the referendum petition was funded by outsiders; 3) the ordinance protects view preservation as set forth in the CC&Rs; and 4) the art jury banned two-story construction until 1991; urged that Council not extend the moratorium.

Sally Jeisy, San Clemente, commented on the divisiveness that the issue has caused; requested that Council protect property rights and not extend the moratorium.

Robert Strutt, Shorecliffs, urged Council to discontinue the moratorium; opined that the referendum petition demonstrates that San Clemente citizens do not believe that the City Council should protect views.

Mike Harnett, Shorecliffs, stated that he has a view of the ocean from his home on Calle Tinaja, but noted that he also has a view of a large home; opined that negative results happen when there is a deviation from an original plan.

Dwight Hamro, Shorecliffs, stated he has lived in Shorecliffs since 1963; commented that the CC&Rs did not even allow a fence to be constructed without approval from the art jury; stated that due process has taken place over the last two years and Shorecliffs residents voted 76-24 in favor of the view preservation ordinance; urged Council to extend the moratorium.

Elaine Lister, Shorecliffs, voiced concern that neighborhood goodwill in Shorecliffs has deteriorated; stated that redistributing property values is not a function of Council and has far-reaching implications; stated that the referendum process has restored her faith in democracy; explained that her husband and she gathered approximately 250 signatures on the referendum and that 80% to 90% of persons felt that the Ordinance was unfair.

Mike Bannister, Shorecliffs, voiced concern that the addition of second stories will drastically impact values of properties located behind; urged that Council extend the moratorium.

Mike Smith, Shorecliffs, stated that he was a member of the Shorecliffs Residential Massing Study Task Force and conveyed that the Ordinance that was adopted represented a compromise; urged that Council extend the moratorium.

Jim Kempton, Shorecliffs, stated that his view will be blocked if the property owner in front of him expands horizontally; voiced concern that the views of some homeowners are being jeopardized to protect the views of others.



Bruce Hichman, Shorecliffs, described the importance of his view and advocated view protection.

Steve Elmer, Shorecliffs, requested that Council extend the moratorium; stated that the ordinance is the best way to enforce the CC&Rs as originally intended; commented that the CC&Rs required that neighbors approve any type of expansion.

Kevin Frazier, Shorecliffs, urged Council to continue the moratorium until the people of San Clemente have voted.

Natalie McGinley, Shorecliffs, urged Council to extend the moratorium until the issue is decided; opined that decisions should bring the greatest good to the greatest number of constituents; asserted that removing the moratorium before the issue is decided will create additional conflict.

Paige Foreman, Shorecliffs, urged Council to extend the moratorium because it is the right, logical and responsible course of action; opined that it is illogical to allow persons to build second stories before citizens have the opportunity to vote.

Christine Smith, Shorecliffs, recommended that the moratorium be extended and expressed confidence that citizens will vote to prohibit second stories in Shorecliffs; suggested that it would be unfair to allow persons to build second stories in the interim.

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

In response to Council inquiry, Assistant City Attorney Goldfarb advised that on September 12, 2006, Preserve Shorecliffs Homeowners filed an action against the City, Council, City Clerk and County Clerk that seeks a writ of mandate as well as a permanent injunction to enjoin the referendum from being placed on the ballot; stated that in the interim, Preserve Shorecliffs has sought a temporary restraining order; explained that a hearing occurred on September 15, 2006 and the court granted a temporary restraining order that 1) prevents the City Clerk from certifying the number of signatures that were submitted on the referendum; 2) prevents the City Clerk and County Clerk from placing the referendum on the ballot; and 3) prevents the City from issuing any building permits for buildings in excess of 17' in height in specific areas of the Shorecliffs neighborhood; stated that

the temporary restraining order remains in place until September 29, 2006, when the court will conduct another hearing to decide whether to issue a preliminary injunction; explained that Preserve Shorecliffs Homeowners' theory in the case is that the circulators of the petition were not registered voters or eligible to be registered to vote in the city as required by State law.

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, **FAILED 3-2 (Required a Four-Fifths Vote to Carry)** with COUNCILMEMBER KNOBLOCK AND MAYOR PRO TEM DAHL VOTING NOE, to adopt Urgency Ordinance No. 1313 entitled AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, EXTENDING THE RESTRICTIONS ON THE ISSUANCE OF ANY PERMITS FOR RESIDENTIAL SECOND STORIES OR RESIDENTIAL DEVELOPMENT IN EXCESS OF 17 FEET AS MEASURED FROM EXISTING OR FINISH GRADE IN A PORTION OF THE SHORECLIFFS NEIGHBORHOOD OF THE CITY PENDING A STUDY OF AMENDMENTS TO THE GENERAL PLAN OR ZONING ORDINANCE RELATED TO SECOND STORY DEVELOPMENT, with the addition of language to provide that the moratorium will end if there were to be a vote of the people of San Clemente to not uphold the ordinance.

7. **UNFINISHED BUSINESS**

None.

8. **NEW BUSINESS**

None.

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

**Massing of Development/View Preservation - T Street Area**

Bob Baker, San Clemente, urged Council to protect views in San Clemente; stated that Solana Beach recently enacted an ordinance limiting the size of homes; urged that Council reduce the size of development and provide more parking.

Anellina Murrelli, San Clemente, stated that she lives in the T Street neighborhood and questioned why the massing study for southwest San Clemente was discontinued; urged that the study proceed in light of development that is occurring at T Street.

It was agreed that City Manager Scarborough would contact Ms. Murrelli concerning this issue.

Pam Baker, San Clemente, questioned why the property rights of T Street residents are not being protected in the same manner as Shorecliffs residents; voiced concern that people can demolish all but one wall of a structure and then redevelop as a remodel.

Council requested that Community Development Director Holloway meet with Ms. Baker to discuss her concerns.

Council expressed an interest in reviewing the remodel ordinance to determine 1) the threshold level at which a remodel should be classified as a new structure; and 2) the extent at which non-conformities (e.g., setbacks and violations) should be required to be corrected. Council requested a written report that addresses Code ambiguities relative to remodels. The report is to address whether a different interpretation will subject a greater number of projects to Coastal Commission review.

10. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

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.**

Battalion Chief Concepcion reported on regional fires and the deployment of OCFA strike teams.

(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 staff, volunteers and veterinarians.

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

None.

(6) **Report from Council Members concerning their attendance at the League of California Cities Annual Conference on September 6-9, 2006.**

Councilmembers reported on their attendance at the League of California Cities Annual Conference and reviewed seminars attended.

Council noted that the City of Folsom enacted an ordinance to streamline its code enforcement program; requested that the City Manager and Code Enforcement staff review the ordinance to determine if the City could utilize any of the components to advance San Clemente's system.

(7) **Councilmember Items.**

**"Quiet Zone" Application Process**

Councilmember Ritschel reported on an informal meeting that Community Development Director Holloway and she attended with OCTA staff with regard to the "Quiet Zone" application process.

**Informational Community Meeting - La Pata Extension**

Mayor Eggleston requested that an informational community meeting be scheduled with regard to the extension of Avenida La Pata; commented on the importance of including County representatives at the meeting as well as the importance of conducting the meeting on neutral ground (i.e., neither in Forster Ranch or in Talega).

It was agreed that City Clerk Erway will email Councilmembers to determine their availability to participate in an informational meeting to be held in October 2006.

11. **RESOLUTIONS/ORDINANCES**

None.

12. **ADJOURNMENT**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 5-0, to adjourn at 9:20 p.m.

The next Regular Meeting will be held on October 3, 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.

---

CITY CLERK of the City of  
San Clemente, California

---

MAYOR of the City of  
San Clemente, California