

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting - November 16, 2004

A Regular Meeting of the San Clemente City Council was called to order on November 16, 2004 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

PRESENT

ANDERSON, DAHL, DOREY*, EGGLESTON, MAYOR
RITSCHER

*Arrived at 6:10 p.m.; left meeting at 9:50 p.m.

ABSENT

NONE

STAFF PRESENT

George Scarborough, City Manager; Jeff Oderman, City Attorney; Pall Gudgeirsson, Assistant City Manager; Myrna Erway, City Clerk; Joanne Baade, Deputy City Clerk.

* * *

CLOSED SESSION

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 4-0, to recess to Closed Session to discuss the following:

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

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

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

Name of Case: Shirley v. Coast Homeowners Association, et al., OCSC Case No. 01CC02497

Closed Sessions continued on next page

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation, pursuant to Government Code Section 54956.9(c): One Potential Case

City Manager Scarborough, City Attorney Oderman, Assistant City Manager Gudgeirsson, Community Development Director Holloway, Beaches, Parks and Recreation Director Wegner, Golf Course Manager Nelson and City Clerk Erway were in attendance.

MEETING RECONVENED

Council reconvened at 7:00 p.m., with all members present.

INVOCATION

Marie Toland, Family Assistance Ministries, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Eggleston led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Certificate of Recognition - DeNault's Hardware

Assemblywoman Pat Bates, together with Mayor Ritschel, presented Certificates of Recognition to Bob DeNault, on behalf of DeNault's Hardware, in recognition of its exceptional contributions toward historic preservation in San Clemente by relocating an historic building in conjunction with the construction of the new DeNault's Hardware building.

B. Commendation - Assemblywoman Pat Bates

Mayor Ritschel presented a Commendation to Assemblywoman Pat Bates in recognition of her years of service and accomplishments during her tenure as a member of the California State Assembly.

C. Commendation - Bruce Wegner, Director of Beaches, Parks and Recreation

Mayor Ritschel presented a Commendation to Bruce Wegner, Director of Beaches, Parks and Recreation, in appreciation for 17 years of dedicated service to the City of San Clemente.

Karen Vesely thanked Bruce Wegner for his accomplishments and achievements on behalf of the citizens of San Clemente; noted that Mr. Wegner is a man of integrity and honor.

D. Orange County Grand Jury Presentation

Lew Avera, Foreperson of the Orange County Grand Jury, advised that the Orange County Board of Supervisors has designated November as "Grand Jury Month"; explained that the County is seeking applicants to serve as jurors on the Orange County Grand Jury; reviewed the function of the Grand Jury and explained the selection process.

2. MOTION BY COUNCILMEMBER DAHL, 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

None.

4. **ORAL COMMUNICATIONS (PART ONE)****Runoff Abatement at Poche Beach**

Peter Cassimatis, Poche Beach resident, read an e-mail that he received from the County's project manager for the Poche Beach U.V. bacteria disinfection system, which indicated as follows: 1) a \$500,000 State grant was received for U.V. disinfection because it is a proven technology for water quality polishing; 2) \$325,000 of the \$500,000 grant was utilized for design and an agreement was reached with the City of San Clemente for the City to fund \$300,000 of the cost of the project's construction; and 3) because the budget remained several hundred thousand dollars short of the funding needed for construction, a decision was made to remove the filtration component of the project and move the U.V. device from the railroad right-of-way to inside the flood control box. Mr. Cassimatis opined that live bacterial samples have revealed unacceptable results, since the purpose of the project was to remove the beach postings; asserted that more effort and funding needs to be directed toward the project; suggested that diversion to the sewer system may have been more effective than the U.V. system.

City Manager Scarborough responded that the U.V. system is successful when it's operational, but the water flows into a scour pond and bacteria are reestablished; explained that the City is in the process of improving and enhancing the U.V. system; stated that there are two major problems associated with diversion to the sewer system, i.e., 1) insufficient capacity; and 2) the Regional Water Quality Control Board views diversion as an interim step, but not as a solution.

Council requested a report that identifies the status of the Poche Beach U.V. bacteria disinfection system as well as efforts to eliminate the scour pond.

San Clemente Aquatics Team (SCAT) - Swimming Pool Usage

Karla Jaramillo, San Clemente, stated that San Clemente Aquatics Team (SCAT) does not have sufficient access to the San Clemente High School swimming pool because of conflicting high school activities; stressed that SCAT needs a pool facility until the La Pata/Vista Hermosa park is developed; requested that the City designate SCAT as a City-sponsored program to raise its priority status in reserving the Ole Hanson Beach Club swimming pool.

Council requested that Staff meet with Ms. Jaramillo relative to the potential of designating SCAT as a City-sponsored program. Additionally, Council requested information concerning the situation with the San Clemente High School pool.

Citation for Sleeping in Vehicle

Thomas Armstrong, Escondido, explained that he was cited for a misdemeanor for sleeping in a vehicle in San Clemente in violation of City Code Chapter 9.04.010 (B)(13); challenged the legality of the Code section and advised that he will commence legal action against the City unless the charges are dismissed. A copy of Mr. Armstrong's letter, dated November 16, 2004, is on file with the City Clerk.

City Attorney Oderman responded that Mr. Armstrong was cited on September 13, 2004 for sleeping in a vehicle on Avenida San Pablo, which is located approximately $\frac{3}{4}$ mile from the freeway; advised that Mr. Armstrong denied sleeping in the vehicle, even though he was in the back seat and had to be awakened to receive his citation; disagreed with Mr. Armstrong's assertion that the City Code violates the cruel and unusual punishment provisions of the Constitution; explained that the California Supreme Court has consistently held that City ordinances prohibiting sleeping on City property are Constitutional; noted that the Eichorn case allows a person to raise a necessity defense and stated that Mr. Armstrong is free to claim to the court that he couldn't sleep elsewhere; related his opinion that the City Code provision is valid, the citation was valid, and there is no action that is appropriate for Council to take.

5. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the Consent Calendar.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the City Council minutes of October 19, 2004.

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

(1) Zoning Administrator meeting minutes of November 4, 2004.

(2) Planning Commission minutes of November 3, 2004.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Wire Transfers Nos. 288 through 289, and Warrant Nos. 761868 through 762115 for the period 10-18-04 through 10-22-04 in the amount of \$1,547,412.57; approve Handwrite Nos. 762116 through 762117, Handwrite Nos. 762235 through 762236, and Warrant Nos. 762118 through 762234 for the period 10-25-04 through 10-29-04 in the amount of \$460,870.94; for a total Warrant Register of \$2,008,283.51.

Payroll Register

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Warrant Nos. 314925 through 315006, Automatic Deposit Advises 132425 through 132610, for the period 10-11-04 through 10-24-04 in the amount of \$313,254.04; for a total Payroll Register of \$313,254.04.

D. Contract Award - Utility Billing Printing and Mailing Services

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C04-61 by and between the City of San Clemente and Infosend, Inc., providing for utility billing printing and mailing services for a three-year period, at a cost not to exceed \$42,000 per year.

E. Calle Las Bolas Storm Drain Improvements

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to authorize City Staff to add the replacement of the Calle Deshecha storm drain to the Calle Las Bolas Storm Drain Improvements (Project No. 13802).

F. Supplemental Appropriation for the Emergency Planning Program Budget

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve a supplemental appropriation in the amount of \$29,430 to Account 001-482-42490.

G. Reappropriation of Prior Year Encumbrances

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

1. Approve the reappropriation of the encumbrances outstanding at June 30, 2004 in the total amount of \$18,328,643.61, and the commitments not formally encumbered in the total amount of \$10,263,372.88, both as indicated in the Administrative Report.
2. Approve the reappropriation of grant revenues of \$1,706,682.21.
3. Approve the reappropriation of the transfers in/out between funds of \$1,716,870.26.

H. North Beach Sand Replenishment Pilot Project No. 35701

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

1. Reaffirm Council's action of October 19, 2004 authorizing the Mayor to execute the North Beach Sand Replenishment Pilot Project contract, and the City Manager to execute professional services contracts for required monitoring.
2. Authorize Staff to proceed with trucking and stockpiling of beach quality sand as discussed in the Administrative Report, dated November 16, 2004, that is on file with the City Clerk.

I. Final Parcel Map 2003-210 - Ocean Breeze Business Park

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

1. Approve Parcel Map 2003-210 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative 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.

6. PUBLIC HEARINGS

A. Amendment to Minor Cultural Heritage Permit 97-006(b), Selcer Building Mural

Public Hearing to consider an appeal of the Planning Commission's denial of a request to allow a mural painted on the wall of a parking lot trash enclosure of an existing commercial building located at 300 South El Camino Real, the legal description being Lots 1 through 8 and 22 through 24 of Tract 779.

Senior Planner Longenecker reviewed the contents of the Administrative Report and responded to Council inquiries.

Mayor Ritschel opened the Public Hearing.

Mary Campbell, San Clemente, stated the Selcer brothers purchased the subject property in good faith, with the intent to beautify and enhance the area; stated that she feels comfortable any time of the day or evening at the commercial building and urged that the Selcer brothers be allowed to continue their work.

Greg Dunn, San Clemente, noted the contributions that the Selcer brothers have made to the area and encouraged Council to approve the proposed mural.

Jack Selcer, Applicant, reviewed the proposed mural, explaining that it would be in keeping with the City's Spanish character and surf culture; stated that the artist created a miniature drawing of the mural and his brother colored the rendering to demonstrate the color palette.

Marvin Selcer, Applicant, presented photographs of other murals that were created by the artist. In response to Council inquiries, Mr. Selcer explained as follows: 1) the low wall on the perimeter of the parking lot has been deleted from the application; 2) the mural will be clear coated to protect it from deterioration and make it easier to remove graffiti; 3) a colored rendering was provided to the City, in lieu of a maquette, because it demonstrated the color palette and could be provided without burdening the artist; and 4) the mural is proposed to be painted on the trash enclosure only.

Raad Ghantous, San Clemente, explained that maquettes are miniature versions of artwork that demonstrate texture, composition and color palette; stated that artists are typically bound to create their art in conformance with the maquette.

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

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-2 (COUNCILMEMBERS DOREY AND EGGLESTON VOTING NOE), to adopt Resolution No. 04-106 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AN AMENDMENT TO MINOR CULTURAL HERITAGE PERMIT 97-006(b), SELCER BUILDING MURAL, TO ALLOW A MURAL PAINTED ON AN EXISTING TRASH ENCLOSURE WALL LOCATED TO THE REAR OF AN EXISTING COMMERCIAL BUILDING LOCATED AT 300 SOUTH EL CAMINO REAL.

B. Site Plan Permit 03-188/Cultural Heritage Permit 03-189/Conditional Use Permit 03-190, Gutierrez Building - 209 Avenida Del Mar

Continued Public Hearing to consider a request to allow a major remodel and a waiver of required parking spaces for an existing commercial building located within the Central Business/Architectural Overlay Districts at 209 Avenida Del Mar, the legal description being Lots 4, 5, 35 and 36 of Block 17 of Tract 779.

City Clerk Erway announced that a letter has been placed on the dais from David Gutierrez, Applicant, indicating that he is withdrawing the project. A copy of Mr. Gutierrez' letter, dated November 16, 2004, is on file with the City Clerk.

In response to Council inquiry, Associate Planner Orduna advised that fees paid by the Applicant will be retained by the City to compensate for staff time devoted to the project.

C. Abandonment 04-082, Vacation of a Portion of Calle Altea within Tracts 13683 and 13684

Public Hearing to consider a request by Talega Associates to vacate previously recorded street segments of Calle Altea, located between the Talega Golf Course and Camino La Pedriza within Tracts 13683 and 13684. The Talega Maintenance Corporation has agreed to take ownership and maintenance responsibilities of the street segments.

Planning Consultant Nagel reviewed the contents of the Administrative Report and responded to Council inquiries relative to the potential traffic calming devices, speed enforcement on private streets and Talega's request that the subject abandonment be done in exchange for the City assuming maintenance responsibility for two streets in Villages 4 and 5.

Mayor Ritschel opened the Public Hearing.

Joe Martinez, Executive Director of the Talega Maintenance Corporation, conveyed support for the abandonment and offered to respond to Council inquiries; stated that the entire community was invited to a town hall meeting and approximately 15 people attended from the Monterey and Pacifica subdivisions; stated that the consensus of the Board was that the abandonment of Calle Altea would provide more flexibility for the installation of traffic calming measures.

Rick Moen, San Clemente, presented a copy of the notice of the town hall meeting that was provided to Monterey and Pacifica homeowners (a copy of which is on file with the City Clerk); opined that the town hall meeting notices were inadequate because 1) they were mailed only 8 days prior to the meeting, 2) the meeting was scheduled for 6:00 p.m. when many people have dinner, and 3) the notice described the issue under consideration as a meeting to discuss traffic control measures on Calle Altea, as opposed to whether Calle Altea should be a private or public road; stated that the notice indicated that the City will take ownership of two other streets in exchange for the Talega Maintenance Association taking over Calle Altea; commented that an announcement was made at the town hall meeting that the City would bear a cost of \$30,000 to \$40,000 over a five-year period to maintain streets that are three times the length of Calle Altea; asserted that the abandonment of Calle Altea was initiated by a few homeowners who felt that traffic speeds on Calle Altea were excessive; stated that the City's traffic studies demonstrate that the street is safe at the current speed limit and urged Council to oppose the abandonment of Calle Altea.

Adrian Peters, Talega Associates, stated that it made sense for Calle Altea to be truncated since it did not, in fact, connect to Village 4; explained that the original Specific Plan envisioned that the loop streets in Planning Areas 4 and 5 would be public streets, however, the streets were made private to accommodate Talega's original proposal that the area be guard gated; stated that Calle Altea is proposed to become private to accommodate the installation of traffic calming devices; stated that Talega Associates felt that it would make sense to have a quid pro quo transaction whereby Altea would become a private street in exchange for the loop roads (that were originally envisioned to be public) becoming public.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER DOREY, CARRIED 5-0, to continue the Public Hearing concerning Abandonment 04-082 (Calle Altea) to the Council meeting of December 21, 2004. Staff is to prepare a more-detailed report that addresses the proposal and impact of the City assuming ownership of the two loop streets in Planning Areas 4 and 5 in exchange for the abandonment of Calle Altea.

D. Historic Property Preservation Agreement 04-136, Riley Residence - 154 Avenida Miramar

Public Hearing to consider a request by the owner of an historic property at 154 Avenida Miramar to enter into an HPPA with the City to preserve their historic residential building and potentially obtain property tax relief as a preservation incentive in accordance with applicable provisions of State law and City ordinances. The legal description of the property is Lot 35, Block 2 of Tract 779.

Assistant Planner Ah Sing narrated a powerpoint presentation entitled "Historic Property Preservation Agreement 04-136, Riley Residence" and responded to Council inquiries; advised that an Outlook-based tickler system will be used to track improvements until the permit software program is implemented in Spring 2005. A hard copy of Mr. Ah Sing's presentation, dated November 16, 2004, is on file with the City Clerk.

Mayor Ritschel opened the Public Hearing.

Van Riley, Applicant, concurred with the property improvements recommended by Staff; requested that Council remove the proposed condition that requires that all restorative conditions be completed upon sale of the property because the requirement is a new public policy and they were not advised of the condition until a few days ago; voiced concern that the "on-sale" condition could impose a financial hardship on a seller.

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

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER DOREY, CARRIED 5-0, to:

1. Adopt Resolution No. 04-108 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 04-136 FOR THE PROPERTY LOCATED AT 154 AVENIDA MIRAMAR (version included in the supplemental agenda packet that specifies that all restorative conditions shall be completed upon sale of the property).
2. Authorize the Mayor to execute, and the City Clerk to record, the Historic Property Preservation Agreement once the filing fee is paid to the City. (Contract C97-86)

Council requested that all future Historic Property Preservation Agreements include the requirement that all restorative conditions be completed upon sale of the property.

E. **California Vehicle Code Enforcement in Various Forster Highlands Community Tracts**

Public Hearing to consider a request by the Forster Highlands Community Homeowners Association for the enforcement of the California Vehicle Code (CVC) and the San Clemente Municipal Code (SMSC) on private streets within Tracts 15861, 15862, 15863, 15864, 15865, 15866 and 15562. This request, if approved by the City Council, would give the City's Police Department (the Orange County Sheriff Department) the right and power, but not the obligation, to enforce the CVC and SCMC on the following streets: Aire de la Sal; Aqua del Caballete; Calle del Cima; Calle Precipicio; Calle Vida; Camino Bosquecillo; Camino Costado; Camino Cresta; Camino del Vistazo; Camino Escollo; Camino Forestal; Camino Marinero; Camino Mojado; Camino Nubes; Camino Rocoso; Camino Tierra; Camino Ventosa; Colina Pacifica; Colina Puesta; Costa Escondiuda; Costa Espuma; Costa Maritima; Costa Rustico; Costa Salada; Costero Risco; Costero Vientos; Costero Vista; Cresta Babia; Ladera Brisa; Mar Escarpa; Calle Polvorosa; N. Calle Polvorosa; S. Calle Polvorosa; Terraza Escondida; Tierras Altas; and Vista de Olma.

Principal Civil Engineer Hindiyeh reviewed the contents of the Administrative Report.

Council referenced an e-mail received from Michael Hall which indicated that the Forster Highlands Community Homeowners Association established parking restrictions in the Highlands tract which prohibit public parking. Mr. Hall noted that signs are posted at the entrances to the tract that advise that public parking is prohibited and that vehicles of non-residents will be towed. Mr. Hall requested that Council adopt the resolution on the condition that the Forster Highlands Homeowners Association rescind any parking restrictions outside of public law and submit any future proposals for changes in traffic or parking regulations to Council for public input and approval.

Sgt. Osbourne noted that the application in question would give the Sheriff's Department the right to enforce, but not the obligation to enforce, the California Vehicle Code and City Code within various private streets; commented that enforcement will be on a complaint-generated basis and parking restrictions will only be enforced if signs are posted; stated that citations issued for violation of an arbitrarily placed stop sign could be challenged in the courts.

Mayor Ritschel opened the Public Hearing.

Shelie Xanthos, San Clemente, spoke in opposition to the Sheriff's Department enforcing the California Vehicle Code and Municipal Code within the subject tracts; conveyed her belief that it is not the Sheriff's Department's responsibility to patrol private streets; stated the homeowners association has arbitrarily installed stop signs and that a traffic survey determined that a speeding problem does not exist on Costero Risco.

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

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 04-109 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPLYING THE PROVISIONS OF THE CALIFORNIA VEHICLE CODE AND THE MUNICIPAL CODE OF THE CITY OF SAN CLEMENTE TO ALL PRIVATE STREETS AS DEFINED IN TRACTS 15861, 15862, 15863, 15864, 15865, 15866 AND 15562 IN THE FORSTER HIGHLANDS COMMUNITY.

7. **UNFINISHED BUSINESS**

A. **Downtown Noise "Twenty-Five Foot Rule" and Establishment of a Downtown Noise Task Force**

Report from the Community Development Director concerning City policy with respect to amplified sound.

Community Development Director Holloway reviewed the contents of the Administrative Report.

Ron Gossmer, Duke's Griddle & Grill, requested that a representative from the "quad" (which consists of Ole's Tavern, Goody's, Red Fox and Duke's) serve on the Downtown Noise Task Force.

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

1. Establish the Downtown Noise Task Force.
2. Select Councilmember Eggleston and Mayor Ritschel to serve on the task force.
3. Direct the Planning Commission to appoint two of its members to serve on the task force.
4. Determine that three restaurant/bar owners and two residents will be appointed to serve on the task force.
5. Request that the Downtown Business Association and Chamber of Commerce appoint one member each to serve on the task force.

It was agreed that Councilmember Eggleston and Mayor Ritschel will develop recommendations of restaurant/bar owners and residents to serve on the task force.

8. NEW BUSINESS

A. Property Owner Appeal of Staff Denial of a Sidewalk Waiver for 217 Avenida San Antonio

Report from the Public Works/Economic Development Director concerning an appeal of staff's decision to deny the request of the property owners of 217 Avenida San Antonio to waive the requirement for sidewalk construction along their property frontage.

City Clerk Erway announced that a letter has been placed on the dais from Robert and Nancy Schoner supporting the sidewalk waiver.

Public Works/Economic Development Director Lund reviewed the contents of the Administrative Report; reported that a low wall exists on the property that may have historical significance; pointed out that the subject wall will need to be removed if the sidewalk construction is required; noted that the City Code is silent with respect to special treatment for historical structures and recommended that Council refer the matter to the City's cultural heritage board (i.e., the Design Review Subcommittee).

Council requested that Staff determine whether the wall was constructed during the City's historic timeframe.

Shari Sinclair, San Clemente, stated that the subject property has been meticulously preserved and includes old gardens and walls; stated that removal of the wall will affect the overall appearance of the house; pointed out that 55% of the properties on San Antonio do not have sidewalks.

MOTION BY COUNCILMEMBER DOREY, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to refer this matter to the Design Review Subcommittee.

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

None.

10. **REPORTS**

A. **Commissions and Committees**

A. **Joint Meeting (Determination Whether to Schedule)**

Council determined to not conduct a Joint Meeting of the Council, Commissions and Committees on November 30, 2004.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

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

Mayor Ritschel reported that a meeting of the Orange County Division of the California League of Cities will be held on November 18, 2004.

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

None.

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

Councilmember Dahl reported that grading has commenced at the Fire Station 59 site on La Pata.

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

Councilmember Dahl reported on animals available for adoption at the San Clemente-Dana Point Animal Services Authority; expressed gratitude to the shelter staff, veterinarians and volunteers.

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

None.

(6) **Integrated Waste Management District Report.**

None.

(7) **Councilmember Items.**

Frank's Auto Body & Paint - SCAQMD Report

Councilmember Eggleston advised that a Minute Order from the SCAQMD has been placed on the dais with regard to Frank's Auto Body & Paint. A copy of the subject document is on file with the City Clerk.

11. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1296 (Second Reading) - Coastal Canyons and Bluffs**

City Clerk Erway announced that a modified version of Ordinance No. 1296 has been placed on the dais. The modified Ordinance contains the following verbiage under Section 4(c)3: *“Nominal trimming of native vegetation is allowed. In no case shall plants be trimmed down to the root stalk, unless in-concept approved by the City Planner and approved by the California Coastal Commission.”*

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Ordinance No. 1296 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING ZONING AMENDMENT 04-098 TO AMEND: 1) ZONING ORDINANCE SECTION 17.56.050(2), COASTAL ZONE OVERLAY DISTRICT - COASTAL CANYON SETBACK, TO CONDITIONALLY ALLOW DRAINPIPES LOCATED WITHIN COASTAL CANYONS AND 2) ZONING ORDINANCE SECTION 17.56.050(6), COASTAL ZONE OVERLAY DISTRICT - COASTAL BLUFF AND CANYON PRESERVATION, TO ALLOW LANDSCAPE THINNING AND CLEARING WITHIN COASTAL CANYONS AND BLUFFS (revised version as placed on the dais).

B. **Ordinance No. 1297 (Second Reading) - Purchasing**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Ordinance No. 1297 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 3.40.050 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO PURCHASING.

MEETING RECESSED

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to recess to Closed Session at 9:50 p.m. to discuss the following:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation, pursuant to Government Code Section 54956.9(c): One Potential Case

City Manager Scarborough, City Attorney Oderman and City Clerk Erway were in attendance.

Councilmember Dorey left the meeting at 9:50 p.m.

MEETING RECONVENED

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

12. **ADJOURNMENT**

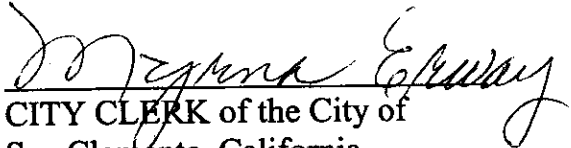
MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to adjourn at 10:20 p.m. to an Adjourned Regular Meeting to be held on November 30, 2004 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, for the purpose of conducting a Closed Session to discuss the following:

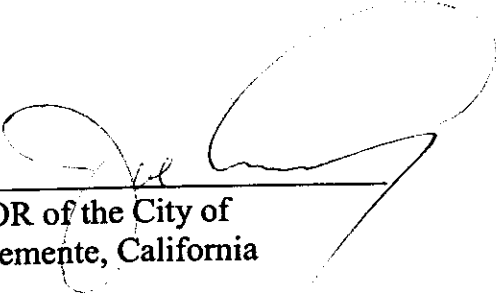
CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation, pursuant to Government Code Section 54956.9(c): One Potential Case

A subsequent Adjourned Regular Meeting will be held on December 6, 2004 at 6:00 p.m. at the Senior Center, located at 242 Avenida Del Mar, San Clemente, for the purpose of meeting in joint session with the Planning Commission relative to Downtown Visioning.

The next Regular Meeting will be held on December 7, 2004 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