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JUL 12 2007

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July 2, 2007

Orange County Grand Jury
Nancy Wieben Stock, Presiding Judge
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Responses to Grand Jury Report "Assembly Bill 939 Waste
Diversion: Are We Finally Making Progress".

The City of San Juan Capistrano has reviewed the Grand Jury report titled :
"Assembly Bill 939 Waste Diversion: Are We Finally Making Progress".

The City of San Juan Capistrano has made great strides to increase recycling in
the community to meet and exceed the 50% diversion goal required by AB 939.
Among the programs that the City of San Juan Capistrano has implemented in
the past 3 years are:

- Citywide manure composting program from all the commercial stables
- Citywide residential plastic bag recycling program
- Citywide horseshoe recycling program

The City has also had a very aggressive public outreach program stressing the
importance of recycling and environmental awareness. The City has developed
a listing of recycling and donation opportunities in the community in a document
titled: "Re-use San Juan Capistrano" to identify locations of facilities that would
take used material vs. disposing of them in the trash.

F-6: The presence of non-franchise haulers and so-called "Ghost Haulers" bins,
in cities which bypass the recycling system, needs to be corrected in order to
establish the waste haulers' confidence that their municipalities are looking out
for their best interests.

Response to Finding F-6:

The City of San Juan Capistrano agrees with the findings of the Grand Jury.
The City has implemented the recommendations described in Finding F-6.
The description below explains the City's
We have been working very closely with CR&R, the city's waste franchisee, to
deal with "Ghost Haulers". The City has mailed all Orange County haulers

San Juan Capistrano: Preserving the Past to Enhance the Future



informing them that the only hauler legally allowed to do work in San Juan Capistrano is CR&R. In order to provide CR&R with the full support, staff has been working very closely with the hauler and supporting their needs to deal with the illegal hauler problem. Any other hauler performing work in the City could face prosecution for violation of the city's exclusive franchise agreement and its municipal code. Any illegal dumpster found in the city will be impounded. In addition, as part of the city's permit system, all permittees are informed that CR&R is the only solid waste and recycling hauler allowed to perform services in San Juan Capistrano, and that if other haulers are used, this could lead to a stop to all inspections on the project and impounding of dumpsters. This has been an effective way of preventing "illegal haulers" from operating in the city.

R-6: Municipalities need to solve their unauthorized waste bin problems by enacting city ordinances forbidding these practices, imposing fines, including stepped-up fines for additional violations, and impounding unauthorized bins.

Response to R-6:

The Grand Jury recommendation has been implemented.

The City of San Juan Capistrano does not tolerate unauthorized waste bins in the community, and has worked very closely with CR&R staff to keep tight control over bins in the city. The City has adopted an ordinance forbidding these practices and provided staff with ways to deal with the problem. The City's ordinance has been a model for several neighboring cities dealing with the same problem.

San Juan Capistrano Municipal Code

Sec. 6-3.14. Enforcement--Authority.

(a) The City Manager and/or his or her designee shall have the authority to enforce the provisions of this chapter. This authority shall be in addition to the authority granted to police officers pursuant to the Code.

(b) Any dumpster, drop-off box, bin or other container, which is unlawfully deposited in the City by any person engaging in solid waste handling services in violation of this section, shall be subject to removal and impound by order of the City Manager or the City Manager's designee. The owner or lessor of any equipment removed and impounded pursuant to this section shall be liable to the City for payment of an impound fee, the amount of which shall be fixed by City Council Resolution, in addition to the payment of any other fees or expenses incurred for the storage of said equipment and/or the safe disposal of the contents thereof.

(c) Authority to remove trash bins or drop-off boxes. If there is no valid permit for a trash bin or drop-off box, or if the terms of the permit or of this chapter are not complied with, the City Manager, or the City Manager's designee, by notice may require the removal of any trash bin or drop-off box.

(d) Service of Notice. The notice referred to in Subsection (a) above shall be posted upon the trash bin or drop-off box. The notice shall specify the

violation and shall require the removal of such encroachment within twenty-four (24) hours. Such notice shall be required one (1) time only to any one owner of a trash bin or drop-off box. Following such posting, it shall be conclusively presumed thereafter that the owner of the trash bin or drop-off box has knowledge of the requirements of this chapter. Future placement of a trash bin or drop-off box within the City by a person or company that has been previously notified of such violation shall be deemed to be in violation of the provisions of this chapter and such notice shall not be required to be posted on said trash bin or drop-off box. (§ 1, Ord. 695; § 2, Ord. 837)

Sec. 6-3.15. Violations.

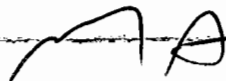
(a) Any and each violation of this chapter shall constitute a separate and distinct offense punishable in accordance with Chapter 2 of Title 1 of this Code

(b) In addition to the penalties herein, if violations of the provisions of this chapter exist as to a project, the Building Official may use various administrative measures to insure compliance. Measures available include but are not limited to:

- (1) Issuance of a building permit or a certificate of occupancy for that project may be withheld until all such violations have been corrected,
- (2) Issuance of a stop work notice, until all such violations have been corrected,
- (3) Stopping all inspections on subject project, until all such violations have been corrected,
- (4) Other measures recommended by the City Attorney. (§ 1, Ord. 695, as amended by § 4, Ord. 877)

For any questions or comments, please call Ziad Mazboudi, Senior Civil Engineer, at 949-234-4413.

Sincerely,



Nasser Abbaszadeh, PE
Building and Engineering Director

Cc: Mayor and City Council
City Manager
Dean Ruffridge, CR&R