



AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: March 19, 2013

Agenda Item 8-A
Approvals: [Signature]
Dept. Head [Signature]
Manager _____
Admin. Asst. _____

Department: Beaches, Parks and Recreation
Prepared By: Pamela Passow, Recreation Manager

Subject: *SAN CLEMENTE AQUATICS AGREEMENT (SUPPLEMENTAL)*

Summary: At the March 12, 2013 Beaches, Parks and Recreation Commission meeting, staff presented the San Clemente Aquatics Agreement for consideration. The draft minutes for that item are attached for review (ATTACHMENT A). In addition, the original proposal from San Clemente Aquatics that was received by staff after the October 9, 2012 Beaches, Parks and Recreation Commission meeting is also attached (ATTACHMENT B). The proposed San Clemente Aquatics agreement recommended by staff attempted to incorporate the items listed in the proposal from San Clemente Aquatics after several meetings between staff and San Clemente Aquatics between December and February. In San Clemente's October proposal, they have requested permanent office and storage space. Attached is a map of the proposed location by staff (ATTACHMENT C) and the space proposal for office and storage space from San Clemente Aquatics (ATTACHMENT D).

As stated in the draft minutes of the Beaches, Parks and Recreation Commission, the Commissioners voted to reaffirm their original recommendation of Junior Partnership for San Clemente Aquatics. The reasons Commissioners stated for not approving staff's recommendation of a new agreement and reaffirming their original recommendation included the following: not receiving an updated budget (which could have shown how not receiving a discount would be a financial hardship); high administrative costs (almost 50% according to the previous budget received, when 20% would be preferable); the Recreational Sports Partnership Policy does apply to sports groups in the water and is not limited to fields; fear of other sports groups demanding special agreements outside of the Recreational Sports Partnership Policy; and not wanting to subsidize Olympic coaching.

To date, staff has not received an updated budget or official response to the proposed agreement drafted by staff.

Recommended

Action: Staff recommends that the City Council approve the agreement between the City of San Clemente and San Clemente Aquatics. The Beaches, Parks and Recreation Commission recommend that the City Council grant San Clemente Aquatics Junior Partnership status.

Attachments:

- A. Draft minutes of item 6a from the March 12, 2013 Beaches, Parks and Recreation Commission meeting.
- B. San Clemente Aquatics proposal dated October 9, 2012.
- C. Map of proposed location for San Clemente Aquatics' office and storage space.

D. Space proposal of office and storage space from San Clemente Aquatics.

Notification: San Clemente Aquatics

ATTACHMENT A

Draft Minutes of 3-12-13 Beaches, Parks, and Recreation Commission Meeting Minutes, item 6a

6. NEW BUSINESS

A. Aquatic Use Agreement with San Clemente Aquatics Swim Team

Pam Passow, Recreation Manager, summarized the staff report. During development of the new aquatics center, staff worked closely with San Clemente Aquatics Swim Team (SCAT) representatives to develop an operation agreement. At their meeting in October 2012, the Beaches, Parks and Recreation Commission recommended SCAT (recently renamed SCA) receive Junior Partnership status. Representatives from SCA suggested a new partnership status at the December 18, 2012, City Council meeting, and Council directed staff to negotiate a new agreement with San Clemente Aquatics based on this proposed status. Staff has met with representatives from SCA several times and has attempted to balance the needs and wants of the swim team with the public demand for the aquatics center. She noted the new agreement represents a loss of facility revenue of \$24,780, which will be offset by new fees paid by other youth sports. She provided details of the agreement proposed by staff, and reviewed requests put forth by SCA. She advised SCA has not yet responded to the proposed agreement, nor provided financial records as requested. Staff recommended the Commission recommend that the City Council approve the agreement as proposed by staff.

Commissioner Foy disclosed for the record that she has a relationship with this group as a vendor. Because she believes the outcome of the subject agreement does not represent any personal financial gain for her, and has been assured by Chair Streger that there is no conflict, she has elected to participate in the discussion and action regarding this agenda item.

Keith Kennedy, representing SCA, explained that SCA envisions a partnership with the City that is somewhere between a Junior and Senior Partnership, because renting parts of the pool while other activities occur at the pool is inherently different from the partnerships between other youth sports groups and the City. He pointed out that SCA has increased its membership significantly over the past year, and 6 SCA members applied to be lifeguards during the recent tryouts.

Todd Rowe, representing SCA, acknowledged meeting with staff many times in attempts to develop an agreement acceptable to all. His group has provided staff with a sample agreement, but he neglected to bring it

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Draft Minutes of 3-12-13 Beaches, Parks, and Recreation Commission Meeting Minutes, item 6a

this evening for their consideration. He anticipates Council considering both proposed agreements at the upcoming meeting where this issue will be heard. They anticipate either having to raise fees or leave the facility if a favorable agreement cannot be reached.

Chair Streger suggested SCA may want to consider tabling this proposal both off the Commission's agenda and the City Council's agenda in order to allow the Commission the ability to review their proposal and provide input. SCA representatives indicated a preference to hear the Commission's input this evening and present their agreement for City Council consideration.

Commissioners established the following information from staff:

- By not providing the Beaches, Parks, and Recreation Commission with a copy of their proposed agreement, SCA is electing not to utilize the Commission as a sounding board or advocacy group for their version of the agreement.
- The "temporary storage" proposed will not be a built-in facility, and require staff's approval as to design, location, materials, etc.
- SCA did not provide copies of its 2012 financial records as required to prove "financial hardship" in order to qualify for partnerships with the City.
- Coordination of storage/office facilities with Surf and Turf, Wave Pool, or other groups at the pool may be difficult due to proximity and/or image coordination issues.
- At the Commission's meeting in October 2012, the Commission recommended SCA receive Junior Partnership status.
- Other groups, including the high school, have agreements to use the aquatic center; staff has had to turn away other groups and organizations due to lack of space.
- The agreement proposed by staff will have no impacts on the existing recreational swim program.
- The Commission is unable to review the proposal put forth by SCA because SCA did not provide a copy for their consideration, and therefore unable to determine if any negative impacts, including reduced public access to the pool, decreased revenue for the City,

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potential impacts from SCA proposed storage and office spaces, etc., would ensue.

- At the Ole Hanson pool, the organization paid \$9.00 per hour per lane; staff is proposing in its agreement \$7.50 per hour per lane; SCA is proposing an average of \$5.00 per hour per lane.
- Increased fees for 3500 youth participating in other youth sports organizations will substantially offset the decreased revenue anticipated in the agreement proposed by staff.
- AYSO donates \$40,000 to the City each year to support field maintenance, community benefit, etc.; the one-time donation of \$40,000 received from SCA is in exchange for naming rights at the pool facility.
- The aquatic facility as currently configured has no excess office or storage space that can be used by SCA.
- Having a written and signed agreement protects all parties and sets forth conditions to be followed despite changes in staff and/or SCA representatives.
- Under the agreement proposed by staff, SCA can provide its own lifeguards under certain circumstances, but City lifeguards and staff will still be utilized for crowd control, public swim, customer service, etc.
- Information from the budget/financial records requested from SCA but not yet received would be necessary to confirm the need for discounts based on financial hardship.
- Staff does not have a mechanism to ensure that discounted rates directly subsidize the youth, rather than go to increasing administrative payout.
- Partnerships and agreements are designed to be renegotiated every year.
- The City's intent is to provide service to the community, not operate at the highest amount of revenue. If SCA elects to remove themselves from the facility, there are many other groups, schools, club teams, etc., that have expressed interest in using the pool, but have been rebuffed due to its heavy use. There would be no need to close the pool if SCA goes elsewhere.

In response to comments/questions from the Commissioners, Keith Kennedy/Todd Rowe, representing SCA, responded as follows:

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- Advised SCA practice sessions are on weekdays; meets occur mostly on Fridays and Saturdays; SCA rarely uses the entire pool; there is usually some public use of the pool during meets.
- Noted SCA provides financial security for the City because they pay to use the pool during the winter, when the public is less likely to use it for recreational swim; also SCA has offered to change its operating hours in the summer such as decreasing use during peak hours.
- Acknowledged they do not qualify for Senior Partnership status, but would like to create a status between Junior and Senior to reflect their level of commitment to the City.
- Advised there are three elements to the proposed agreement, 1) fee structure, 2) pool schedule consistency for swimmers, and 3) storage and space on deck.
- Stated preference that their agreement go directly to City Council for consideration without review by the Beaches, Parks and Recreation Commission; declined offer to table and reschedule for another meeting to allow review.
- Stated the Partnership agreement for aquatic facility use is different from the youth sports organization agreements because SCA only uses a portion of the pool, whereas youth sports organizations have the use of the entire field.
- Advised SCA has disabled kids preparing for the Para-Olympics; it is important that their coaches are not volunteers, but properly trained coaches that focus on safety and teach needed skills. Administrative costs of 50% are in line with a team their size and level of competition.
- Noted that one of their concerns is that the facility remain open year-round, instead of becoming a seasonal facility which would be open only from Labor to Memorial Day. Because SCA supports the facility during the winter, the public benefits by having the facility open year round. The majority of the kids in the program live in the City, and the total number can be capped if necessary. The current contract requires the facility to remain available for public use at all times.
- Noted that SCA is the most expensive athletic program in the City and its participants pay the highest fees. They would like to stay in

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San Clemente, and commented that Orange County Water Polo, a club team, moved elsewhere due to high fees at the aquatic center. Meets held at the aquatic center benefit others, such as hotels, restaurants, and Ms. Foy's sports supply center.

- Commented that if the fees are not reduced, SCA will be forced to shrink the team rather than keep increasing membership fees.
- Commented that the level of expertise at SCA has prompted several members from area clubs to join. A local team with high caliber talent benefits all children involved in the sport.

Commission Comment:

Commissioner Wicks supported the need for a revised or special agreement unique to water sports. He recognized the need for paid coaches to provide adequate safety and increase knowledge and skills levels, and sees the value of crafting a special agreement unique to this sport.

Commissioner Thomas was disappointed that there is no agreement between SCA and staff for the Commission to review, which makes their job more difficult. He is concerned that the relationship between SCA and staff has become adversarial as evidenced by lack of a signed agreement.

Commissioner Smith feels there is no choice other than reiterating this Commission's original action, which was to approve SCA for a Junior Partnership. The agreement proposed by staff has not been endorsed by SCA, so it cannot be approved by this Commission.

Commissioner Swartz commented the new award-winning facility has facilitated growth of SCA, and it's being offered to SCA at the same hourly rate the group paid when they practiced at the Ole Hanson Beach Club. He does not believe it is fair that fees paid by 3500 kids playing youth sports, which have much lower administration costs, should be used to subsidize SCA, which has paid coaches and high administration costs. It is not necessary for them to train Olympic or Para-Olympic athletes. He does not find that SCA has proven financial hardship and for that reason he does not support a special agreement. He felt that SCA should continue with a Junior Partnership agreement.

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Commissioner Foy supported the training of Olympic and Para-Olympic athletes at the aquatic center; expressed concern that the facility would have to operate on a seasonal basis if SCA did not provide support during inclement weather months. SCA has grown fast because they are a good organization that has enticed swimmers from other organizations to join, and helped train local high school athletes. She would like to see the City and SCA come together with an equitable agreement. She questioned whether the Mission Viejo Nadadores had to pay any fees to the City for its pool usage, and was informed by staff that the team pays costly pool maintenance and utility costs to the City in lieu of pool fees.

Commissioner McCormack thanked staff for their time-consuming attempt to develop an agreement which would be agreeable to both sides. He does not believe financial hardship has been proven and cannot support crafting an agreement different from a Junior Partnership.

Chair Streger recollected that Council directed SCA to cap its administrative costs at 20% in order to qualify for an alternative to Junior Partnership agreement, which to his knowledge has not been addressed. He noted much time and attention had been spent crafting the Junior and Senior Partnerships and he fails to see why they cannot be applied to pool use. In addition, he questioned whether all other groups would request special status if it was awarded to SCA. Philosophically, he does not support giving special deals to special groups. He lived adjacent to the Mission Viejo pool growing up, and as a non competitive swimmer, he found it difficult to find recreation swim time due to the pool being dominated by the Nadadore swim team. He felt that SCA should comply with the terms in the Junior Partnership Agreement.

The majority of the Commission agreed that approving the staff recommended agreement, which has not be signed or approved by SCA representatives, was not a viable option.

IT WAS MOVED BY COMMISSIONER SMITH, SECONDED BY COMMISSIONER MCCORMACK, AND CARRIED 5-2 TO REAFFIRM THE COMMISSION'S OCTOBER 2012 RECOMMENDATION THAT SCA RECEIVE JUNIOR PARTNERSHIP STATUS.

ATTACHMENT B



Proposal for Partnership and Response to
Beaches, Parks and Recreation Department's
October 9, 2012 Agenda

Mark Dressel

San Clemente Aquatics – President of the Board

Keith Kennedy

San Clemente Aquatics – Head Coach

8-A9

Per the November 16, 2012 meeting between representatives of San Clemente Aquatics ("SCA"), George Scarborough, City Manager, and Sharon Heider, Head of the Beaches, Parks and Recreation Department, SCA is providing the following proposal for a new Sports Partnership Agreement between SCA and the City of San Clemente ("City") as well as a response to the Beaches, Parks and Recreation Department's October 9, 2012 Agenda.

I. SCA Proposal for New Partnership

In order to continue to serve the community of San Clemente with water safety, recreational and competitive swim programming, SCA is proposing a partnership with the City based on % discount on all City aquatic and facility fees that is offset with annual charitable donations (per athlete, meet and fundraising) and economic impact/return in revenue from SCA hosted meets. SCA is requesting the City approve:

1. City Sponsorship of SCA program

SCA is requesting that the City both recognize and sponsor SCA as the Official swim team of San Clemente. This sponsorship would be recognized with signage at the Vista Hermosa Aquatic Center, permanent team record boards located both outside and inside facility lobby, team trophy and display case and advertising in the facility lobby, shared use of multi-media displays in the facility lobby and programming all parks and recreation publications.

-Staff has asked us to speak with the Cousino Family regarding advertising case in the lobby. Staff has also showed us areas for team record boards.

2. 80% discount for all City aquatic and facility fees

Current lane published fees are \$25/hour for 25 yard configuration (no published rates for 50 meter lane configuration). SCA is also proposing using the following formula for costing the fees per lane for partnership discount as follows:

Total costs to maintain and operate the aquatic portion of the Vista Hermosa Aquatic Center ÷ Number of hours the facility is in operation ÷ Number of lanes available for use

*\$928,955 ÷ 4,781 ÷ 26 = **\$7.47** hourly lane fee*

San Clemente Aquatics is also using the following method for Number of hours facility is in operation:

*(Number of hour's facility is open per week¹ X Number of weeks per year) –
(Number of closed hours of operation + non-operating holiday hours)*

¹Hours of operation M-F @ 15.5 hours/daily, Sa-Su 8 hours/daily with 4 hours of operation during holidays

Lanes available for use is calculated as 26, with 20 lanes from the 50 meter pool and 6 lanes from the 25 yard pool.

3. SCA to host and run a minimum of 3 championship regional swim meets per year

SCA will provide the City with an annual meet schedule for City planning purposes.

-Staff has approved of such a plan.

4. Signage space for SCA sponsor advertising

SCA is requesting that the City allow for year round team sponsor banners to be located on the pool deck and that additional sponsor banners/signage be allowed during regional championship meets.

-Staff has approved of such a plan only for meet days.

5. Pool deck storage

SCA is requesting Storage space on deck behind bleacher stands for team equipment. SCA will fund the purchase of the storage containers and provide maintenance

-Staff needs dimensions for a storage unit to approve.

6. Head Coach/Staff Office space

SCA is requesting working space with access to facility internet connection for Head Coach and coaching staff to conduct business with the general public, city and team members.

-Staff has put together two different plans to see how this might work in the future. Plan A- conform current storage into an office space. Plan B- build an office near the 25 yard pool.

7. Identify and operate 50 meter pool as Competition pool

SCA is requesting the 50 meter pool be functional as an USA Swimming certified competition pool and meet all regulation requirements including pool temperature.

-Staff has requested details for the 50 meter pool.

8. Certification of all SCA coaching staff with City Lifeguard status

SCA is requesting that all SCA coaching staff be recognized under the City Lifeguard program as to offset City staff during team practice/meet hours.

-Waiting to see if possible for liability reasons.

9. Use of Timing equipment and scoreboard

SCA is requesting that city Certify SCA coaching staff on pool timing and scoreboard equipment and allow for SCA coaching staff to certify its members for equipment use. SCA is willing to start a fund for upkeep in the future.

-Staff will have us sign out the equipment for usage.

10. Coordination with City on aquatic schedule for optimum programming

SCA requests first right of refusal on open lane space as well as input on schedule programming to ensure optimal capacity for aquatic programming.

SCA will offset the % discount in City aquatic and facility fees by providing revenue sources back to the City in the form of:

1. Lane and facility rental fees

As per the formulae provided in item 2 above

2. Annual Charitable Donations to the City

Annual charitable donations to include:

- a. Athlete donation of \$25
- b. Annual gift back to the City

3. Economic Revenue return to City ~\$1,080,600

Economic revenue return calculation based on government impact study, Omaha Olympic Trial event study, and Palm Springs Piranha swim meet analysis for 3 annual regional championship meets. Calculation method used:

*(Number of non-resident athletes + Number of non-resident attendees) X
Number of Competition Days X \$180.10² per athlete/attendee per day.*

(400+400) X 7.5 X 180.10 = \$1,080,600

²Per athlete/attendee per day estimate includes transportation (gas), food, lodging, shopping, entertainment, and miscellaneous expenses.

II. SCA RESPONSE TO BEACHES, PARKS AND RECREATION OCTOBER 9, 2012 AGENDA REPORT:

In response to the October 9, 2012 Agenda Report regarding the Recreation Sports Partnership Applications with the City, SCA contends it was not provided proper evaluation for Senior Partnership status despite the fact that SCA meets all criteria set forth under Sections 3.1 (a)-(i) and 3.2 (a) of the Sports Partnership Policy adopted by the City. As set forth in the Agenda Report, the Commission recommends that SCA be awarded Junior Partnership status. SCA meets all criteria set forth for Senior Partnership under Section 3.2(a), including the requirements of providing a sports program in the City for over five years, a program with over 300 participants, 90% of whom reside in the City, and program games and practices conducted within San Clemente boundaries.

SCA will further show that the numerous factual inaccuracies reflected by the Commission in Attachment "A" to the Agenda Report detrimentally impacted the Commission's evaluation of

SCA for a Senior Partnership. Additionally, the inaccurate data contained within Attachment "A" is repeated and incorporated into Attachment "B", providing misleading financial projections as to the subsidies provided by the City to participants of the sports programs. Accordingly, SCA will challenge the validity and bias of the Commission's review and evaluation of the proposed partnership applications. For the reasons set forth below, SCA will demonstrate why it qualifies for Senior Partnership status:

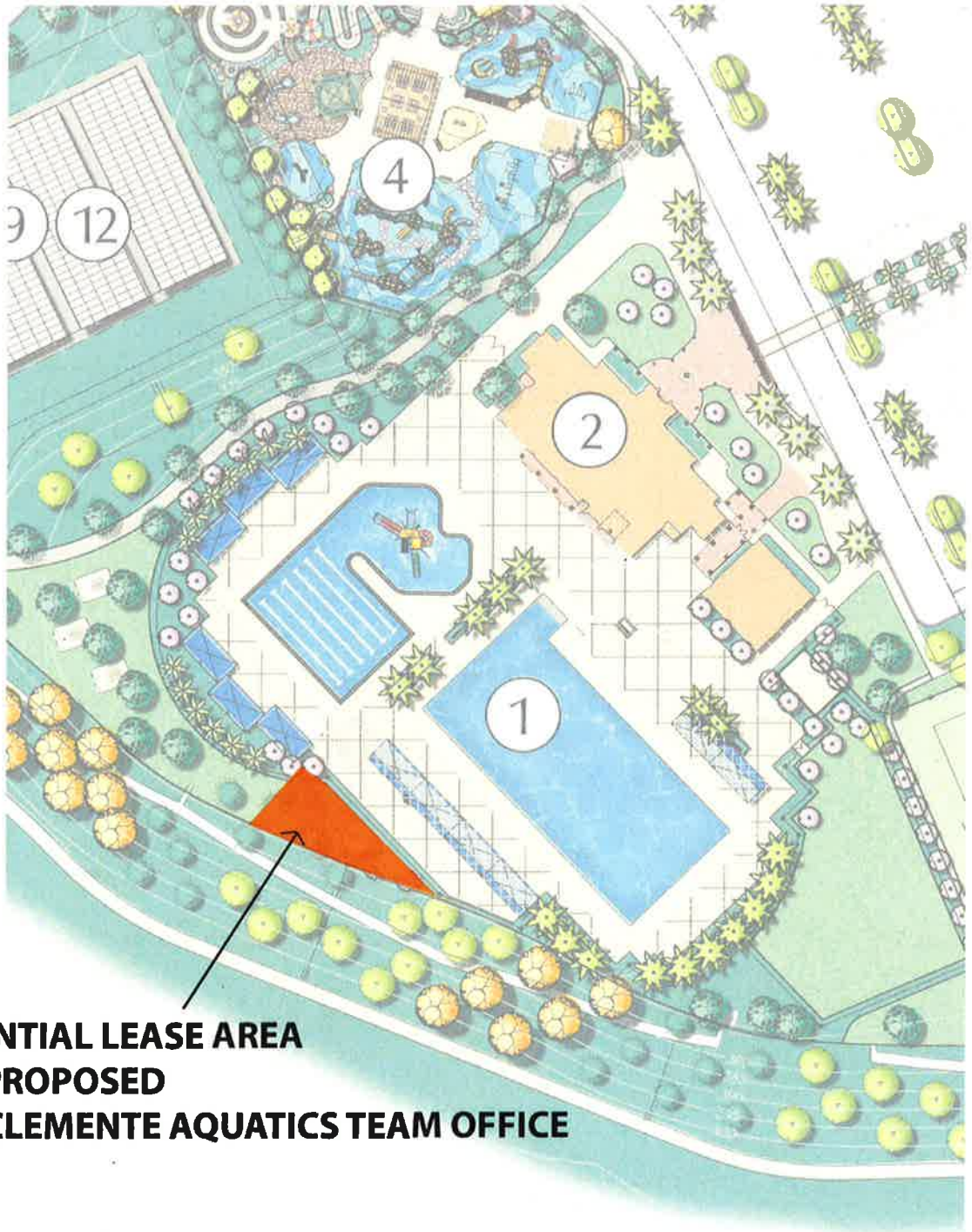
1. SCA is in compliance with each of the minimum criteria set forth under Section 3.1(a)-(i) of the Sports Partnership Policy;
2. SCA qualifies for a Senior RS Partnership under the criteria set forth in Section 3.2(a) of the Sports Partnership Policy. The October 9, 2012 Agenda Report prepared by the Commission recommends the City award SCA a Junior RS Partnership, despite the fact that SCA meets all policy criteria for the Senior RS Partnership. Specifically, Section 3.2 of the Sports Partnership Policy provides that a successful applicant for the Senior RS Partnership will be able to demonstrate 1) it has provided the sports program to the City for at least five years, 2) it currently has at least 300 participants, 90% of whom are City residents, and 3) program games and practices must be conducted within San Clemente boundaries. SCA has provided a swim program to the residents of San Clemente for over 30 years. SCA currently has over 400 registered participants, 94% of whom are San Clemente residents. All SCA practices are conducted within the City and 20% of the meets will be held within City limits.
3. As a basis for denying SCA Senior Partnership status, the Commission's Agenda Report relies on certain factors not specifically set forth in the Sports Partnership Policy as criteria. Attachment "A" to the Commission's Agenda Report is factually inaccurate on several counts. Each team is rated on whether or not it operates with paid versus volunteer coaches, officials, and coordinators – a factor that has not been included within the City criteria under either Sections 1.1, 1.2, 3.1 or 3.2 of the Sports Partnership Policy. The addition of the unspecified criteria creates an appearance of bias in favor of teams known to have all-volunteer coaches.
4. Attachment "A" to the Agenda Report sets forth additional factual inaccuracies regarding SCA. As such, those inaccuracies are used as a basis for denying Senior Partnership status. Specifically, Attachment "A" represents that SCA has not demonstrated financial hardship. SCA's Senior Partnership Application clearly states that "[w]e are currently running at 37% of dues budget to pay for facility use, with a projected loss of \$16,000.00". SCA has provided the City with data to

support a finding of financial hardship, yet the Commission recommends Senior Partnership to other teams that merely indicate they would need to curtail practices and/or games, or simply not play in San Clemente, should they be denied partnership. The Commission has failed to provide facts supporting its conclusion that teams proposed for Senior Partnership successfully demonstrated financial hardship as opposed to SCA.

5. Section 3.2(a) of the Sports Partnership Policy does not specify a requirement that "all" games and practices be held exclusively in San Clemente, but rather, "[p]rogram games and practices must be conducted in San Clemente." SCA conducts 100% of its practices in San Clemente with 20% of the meets to be held in San Clemente. To the extent that this factor is a consideration for Senior Partnership versus Junior Partnership, it should be noted that Attachment "A" recommends Senior Partnership for other teams that admit within their partnership application that some of their games are conducted outside of San Clemente. The Commission's representation that all teams nominated for Senior Partnership compete "only in San Clemente" is a factual inaccuracy. As such, SCA meets the same criteria as those teams granted Senior Partnership.

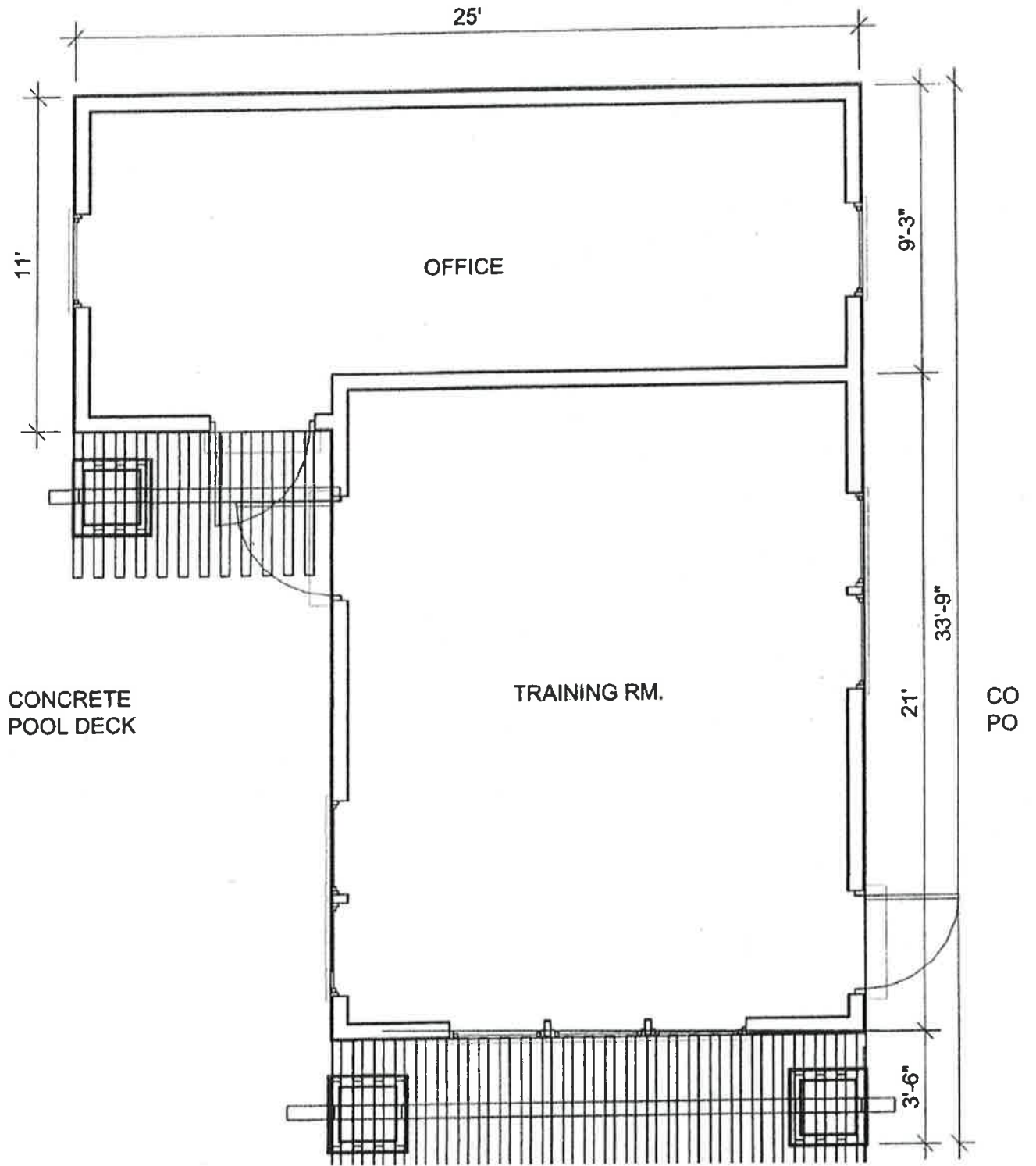
SCA can effectively prove that it is entitled to Senior Partnership status under the Sports Partnership Agreement as currently drafted. As demonstrated by SCA's Senior Partnership Application, it is financially unable to continue paying the current rental fees charged by the City. Even under the proposed Junior Partnership fee structure, SCA will soon be forced to find alternative pool facilities outside the City of San Clemente. If we cannot reach a mutually-agreeable resolution with regard to partnership, SCA will bring the discrepancies of the Commission's review to a public and/or legal forum, where SCA is confident that it can prevail. In an effort to reach an amicable resolution, SCA proposes an alternative sports partnership program that is both economically sustainable and meets the community's growing demand for aquatic recreational and competition programs.

ATTACHMENT C

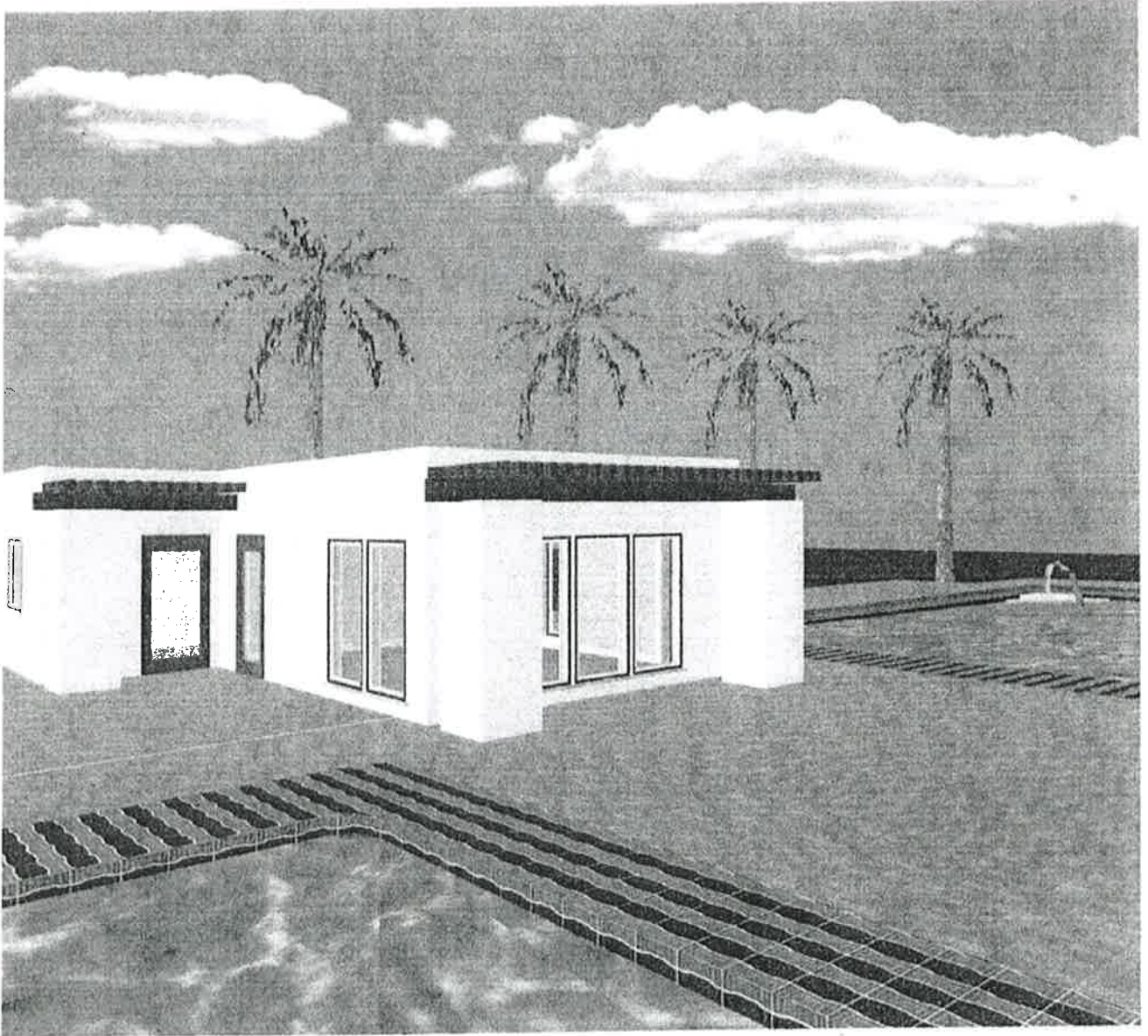


**POTENTIAL LEASE AREA
FOR PROPOSED
SAN CLEMENTE AQUATICS TEAM OFFICE**

ATTACHMENT D



ATTACHMENT D



8A-17