



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

Name of Case: Callan v. City of San Clemente, et al., OCSC Case No. 01CC07556.

- C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation, pursuant to Government Code Section 54956.9(c).

City Manager Scarborough, City Attorney Oderman and City Clerk Erway were in attendance during the entire Closed Session. Assistant City Manager Gudgeirsson and Human Resources Manager Penrod were in attendance for Closed Session Item A. Public Works/Economic Development Director Lund, City Engineer Cameron, and Tim Lawson of Geotechnical Consulting, Inc., were in attendance for Closed Session Item B.

*Because of the length of time involved in discussing Closed Session Items A and B, Council was unable to discuss Item C at this point in the meeting. The matter was, however, discussed in a Closed Session that was held later in the meeting. Please refer to Page 15 of these minutes for a continuation of this item.*

### **CALL TO ORDER - REGULAR MEETING**

Mayor Dahl called the Regular Meeting of March 20, 2007 to order at 7:03 p.m.

### **INVOCATION**

Don Kappauf, Orange County Sheriffs Department, gave the invocation.

### **PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Anderson led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Presentation of City Resolution to Bill Ayer, City Patriarch**

Mayor Dahl presented a City Resolution to Bill Ayer declaring him to be the Patriarch of the City of San Clemente.

B. **Presentation of Honoraria to Sheriff's Deputies for Exceeding 25 DUI Arrests in 2006**

Mary Ann Griffin, on behalf of the Orange County Chapter of MADD, presented honoraria to the following Sheriff's Deputies for exceeding 25 annual DUI arrests in 2006:

Sherri Gilman - 40 Arrests in 2006

Timm Pusztai - 35 Arrests in 2006

Ed Manhart - 31 Arrests in 2006

C. **Eagle Scout Commendation - Tyler Patrick Hamil**

Mayor Dahl presented a Commendation to Tyler Patrick Hamil in recognition of achieving the prestigious rank of Eagle Scout.

D. **San Clemente Water Conservation Program**

Nathan Adams, Management Analyst II, narrated a PowerPoint presentation entitled "Water Conservation Program Update" and responded to Council inquiries. Mr. Adams' presentation described the City's water conservation efforts and the benefits of SmarTimer irrigation systems. A hard copy of Mr. Adams' presentation, dated March 20, 2007, is on file with the City Clerk.

Guy Varriano, Board Member of the Casa Romantica Cultural Center, stated that 32 stations of the Casa's new irrigation system are not yet on a SmarTimer; requested assistance from Water Division staff in installing a SmarTimer system.

**CLOSED SESSION REPORT**

City Attorney Oderman noted that Council did not take any actions during this evening's Closed Session that need to be reported.

2. MOTION BY COUNCILMEMBER KNOBLOCK, 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)**

**Free Metrolink Rides on March 25, 2007**

Marcelo Sandoval, on behalf of the OCTA, advised that free rides on the Metrolink will be available on March 25, 2007 from the San Clemente North Beach station to Oceanside, Los Angeles or San Bernardino.

**Marblehead Coastal Plaza San Clemente Sign Program - Request for Reconsideration of Council Decision**

Richard Boyer, San Clemente, requested that Council reconsider its action on the Marblehead Coastal signage exception; suggested that a Brown Act violation occurred with regard to Council's consideration of the Marblehead Coastal signage issue because a modified Staff recommendation was presented at the meeting; stated that Council's action fails to adequately regulate sign colors and sizes, since the final decision is left to the discretion of Planning staff and the developer.

Karen Ahola, San Clemente, requested that Council re-evaluate its vote on the Marblehead Coastal signage exception due to her concerns that 32 freeway-visible signs are excessive, a maximum sign height was not imposed, and the color palette of the signs was left to the discretion of Staff and the developer; suggested that due process may have been compromised as a result of Staff changing its position on the project from opposition to support.

Mimi Griffin, San Clemente, noted that Council voted 3 to 2 on February 20, 2007 to approve the Marblehead Coastal signage exception; expressed gratitude that two Councilmembers heard the concerns of citizens; opined that due process was not followed in making the decision and urged that Council re-evaluate its decision and consider Alternative 3.

In response to Council inquiry, City Attorney Oderman stated that Council's decision on the Marblehead Coastal signage exception cannot be re-evaluated; explained that the Municipal Code provides that a decision becomes final at the end of the City Council meeting at which a decision is made and the resolution is adopted; explained further that State Law provides that, in the absence of a procedure for later reconsideration, the process is final and closed; reviewed procedures set forth in the City's Municipal Code for revocation of permits, noting that certain findings must be made and that grounds for revocation must exist; opined that the Council complied with the Brown Act and that no due process violation occurred.

5. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the Consent Calendar with the removal of Items A and D.

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

- (1) Zoning Administrator meeting minutes of March 7, 2007.
- (2) Planning Commission minutes of March 7, 2007.
- (3) Coastal Advisory Committee minutes of February 8, 2007.

C. **Warrant Register**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Wire Transfers Nos. 444 through 447 and Warrant Nos. 782549 through 782668 for the period 2-19-07 through 2-23-07 in the amount of \$3,663,591.36; approve Warrant Nos. 782669 through 782835 for the period 2-26-07 through 3-2-07 in the amount of \$1,407,317.91; for a total Warrant Register of \$5,070,909.27.

**Payroll Register**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Warrant Nos. 318847 through 318893 and Automatic Deposit Advises 145245 through 145467 for the period 2-12-07 through 2-25-07 in the amount of \$358,220.17; for a total Payroll Register of \$358,220.17.

E. **Partnership Proposal for Youth Sports Organizations**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to authorize Staff to pursue City partnership status with the primary youth sports organizations with the understanding that partnership agreements with specific requirements for each group will be provided to the Parks and Recreation Commission and Council for review and approval.

F. **Establishment of Weed Abatement Program for 2007**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 07-16 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, PURSUANT TO SECTIONS 39561 AND 39562 OF THE CALIFORNIA GOVERNMENT CODE DECLARING WEEDS, RUBBISH, REFUSE, AND DIRT UPON STREETS, SIDEWALKS, PARKWAYS, AND PRIVATE PROPERTY TO BE PUBLIC NUISANCES AND PROVIDING FOR THE ABATEMENT THEREOF.

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

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve the Council minutes of February 21, 2007 and February 27, 2007 as written and to approve the Council minutes of February 20, 2007 with the incorporation of the following verbiage at the beginning of Item 6-A (Marblehead Coastal Plaza San Clemente Signage Exception):

*“While Councilmember Donchak was not on the City Council on November 6, 2006 (the date of the original Public Hearing on this item), she reviewed the DVD and minutes of that meeting.”*

D. **Contract Award - U. S. Army Corps of Engineers Feasibility Study Lobbyist**

Council discussed whether it would be more cost-effective to utilize Staff services to lobby for Congressional funding of the subject Army Corps of Engineers Feasibility Study, or whether the services of a professional lobbyist are justified.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 3-1-1 (COUNCILMEMBER KNOBLOCK VOTED NOE AND COUNCILMEMBER DONCHAK ABSTAINING), to:

1. Approve, and authorize the Mayor to execute, Contract C07-07 by and between the City of San Clemente and Howard Marlowe & Company, to assist the City in pursuing its request for Congressional funding of a U. S. Army Corps of Engineers Feasibility Study of its shoreline, for an amount not to exceed \$31,500.
2. Authorize expenditures in the amount of \$31,500 from Account 001-641-43690.

6. **PUBLIC HEARINGS**

A. **Amendment to Site Plan Permit 97-16, Marblehead Coastal Residential Custom Lots**

Continued Public Hearing to consider a request to amend a previously approved residential site plan permit to allow custom architecture on 69 of 313 lots within the Marblehead Coastal property.

Mayor Dahl invited persons that cannot attend the Council Meeting on April 3, 2007 to address Council at this point in time, but no one desired to speak.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to continue the Public Hearing for Amendment to Site Plan Permit 97-16 (Marblehead Coastal Residential Custom Lots) to the Council meeting of April 3, 2007.



B. **General Plan Amendment 06-533/Specific Plan Amendment 06-534, La Pata/Vista Hermosa Development**

Public Hearing to consider a request by the City of San Clemente to amend the land use designations within the General Plan Land Use Map and the Forster Ranch Specific Plan for Sector P within the Specific Plan. The land use designation for Planning Area C is proposed to change from “Public” to “Neighborhood Commercial,” while the land use designation for Planning Area D is proposed to change from “Neighborhood Commercial” to “Residential Medium” density. All subject properties are owned by the City.

Associate Planner Ah Sing narrated a PowerPoint presentation entitled “General Plan Amendment 06-533/Specific Plan Amendment 06-534, La Pata/Vista Hermosa”. A hard copy of Mr. Ah Sing’s presentation is on file with the City Clerk.

Council discussion followed relative to the following: 1) Propriety of amending the General Plan without an accompanying development proposal; 2) Fact that a Mitigated Negative Declaration was prepared instead of an Environmental Impact Report; 3) Inconsistency between resident perception of traffic on Avenida Vista Hermosa and Avenida Pico and the statistical analysis; and 4) Fact that an Environmental Impact Report would need to be prepared before the commercial or residential projects can go forward.

In response to Council inquiry, Staff reviewed the findings of the Traffic Study that was completed for the La Pata/Vista Hermosa Community Park, noting that the analysis concludes that intersection service levels would not be exceeded if a project is developed according to the proposed master plan; explained that a typographic error in the Traffic Study erroneously indicates that 648 average daily trips would be generated from 135 DUs, advising that the correct figure is that 1,648 average trips would be generated; pointed out that the City assumed and constructed its street network to accommodate the full build-out of the General Plan, but actual development has not occurred at the full allowable density; explained that it was originally anticipated that a junior college would be developed on the subject site and the widths of Avenida Vista Hermosa and Avenida La Pata were determined and constructed accordingly; explained that actual traffic counts have revealed that residential homes generate an average of eight to nine trips per day, but to be conservative, the City’s traffic model still assumes that residential homes will generate 12 trips per day.

Mayor Dahl opened the Public Hearing.

Kurt Conone, San Clemente, suggested that counters be placed across roads to determine the actual number of cars that travel on the City's roadways.

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

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-1 (COUNCILMEMBER EGGLESTON VOTING NOE) to adopt Resolution No. 07-17 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING GPA 06-533/SPA 06-534, AMENDING THE CITY'S GENERAL PLAN LAND USE MAP AND THE FORSTER RANCH SPECIFIC PLAN FOR SECTOR P WITHIN THE SPECIFIC PLAN, CHANGING THE LAND USE DESIGNATION FOR PLANNING AREA C FROM "PUBLIC" TO "NEIGHBORHOOD COMMERCIAL" AND CHANGING THE LAND USE DESIGNATION FOR PLANNING AREA D FROM "NEIGHBORHOOD COMMERCIAL" TO "RESIDENTIAL MEDIUM" DENSITY.

7. **UNFINISHED BUSINESS**

A. **Miniature Golf Proposal for the La Pata/Vista Hermosa Park Site**

Report from the Director of Beaches, Parks and Recreation concerning a proposal for a miniature golf facility within the La Pata/Vista Hermosa Park.

Management Analyst Blackwood reviewed the contents of the Administrative Report and responded to Council inquiries.

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

1. Approve the concept of amending the approved La Pata/Vista Hermosa Park Master Plan to accommodate an alternative recreational use designation.
2. Make a final determination to grant exclusive negotiating rights to Mr. Melcher.
3. Direct Staff to proceed with specific tasks related to implementation of the decisions outlined in Items 1 and 2 above.

8. **NEW BUSINESS**

A. **Code Amendment - Hours of Operation for the Coastal Trail**

Report from the Beaches, Parks and Recreation Director concerning the possibility of amending the City Code relating to hours of operation for the coastal trail.

Beaches, Parks and Recreation Director King reviewed the contents of the Administrative Report and responded to Council inquiries.

Council noted that the hours of operation for Parque Semper Fi are not covered within the proposed Ordinance and voiced concern that people have been observed sleeping in the park. City Attorney Oderman responded that the existing Code prohibits persons from being in a municipal park between 10:00 p.m. and 6:00 a.m., therefore, the City already has the tools available to address persons who sleep in the park during those hours.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to introduce Ordinance No. 1329 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 9.12 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE USE OF MUNICIPAL PARKS AND TRAILS.

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

**Miniature Golf Facility at La Pata/Vista Hermosa Community Park**

Ryan Keenan, San Clemente, stated that he lives below the proposed miniature golf course site; urged that noise levels, light intensity and visual clutter be considered in analyzing the impacts of proposed Site B; suggested that a 6' to 8' berm is insufficient.

10. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

**Process Utilized for Rezoning of City-Owned Property at La Pata/Vista Hermosa**

City Manager Scarborough referenced the La Pata/Vista Hermosa General Plan Amendment that was considered earlier in this meeting (Item 6-B); stated that Staff did not fully explain that the process that will be used in considering a possible rezone for the property would be identical to the process that would be used for private property; stated that CEQA would be followed and if the initial study reveals that no significant environmental impact would result from a rezone, then a negative declaration would be issued.

C. **City Attorney**

City Attorney Oderman noted that Council did not have time during the 5:30 p.m. Closed Session to consider Item C (the Capistrano Shores potential litigation matter) and suggested that Council may wish to conduct another Closed Session at the end of the meeting to consider this item.

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.**

Councilmember Knoblock commended OCFA firefighters for their efficient response to the 2,000+ acre Windy Ridge/Anaheim Hills fire; reminded Councilmembers that San Clemente's alternate position on the OCFA Board of Directors is still vacant.

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

Mayor Dahl reported on animals available for adoption at the San Clemente-Dana Point Animal Shelter; expressed gratitude to the Shelter's volunteers, veterinarians and staff; noted that this year's Wag-a-Thon will take place on April 28, 2007 at the Dana Point Harbor.

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

Mayor Dahl reported that the chairs of the San Joaquin and Foothill Transportation Corridor Boards will travel to Washington, D.C. to meet with representatives from the Federal Highways Administration, EPA, Fish and Wildlife, etc.

(6) **Councilmember Items.**

**Possibility of Establishing a San Clemente Traffic Commission**

Councilmember Donchak distributed a paper entitled "Traffic and San Clemente", which is on file with the City Clerk; spoke in support of the City establishing a Traffic Commission, noting that a number of adjacent cities have Traffic Commissions; expressed willingness to lead a discovery project and offered to make a presentation to Council in July/August concerning best practices, roles and effectiveness of Traffic Commissions; urged Council to make traffic planning for Plaza San Clemente a priority.

Council requested that this issue be agendaized for a future meeting.

**Graffiti**

Councilmember Knoblock noted that he has received a number of emails this week concerning graffiti in the City; stressed the importance of expeditious graffiti removal.

It was agreed that Staff will agendize this matter for a future meeting and prepare a report that addresses more-aggressive approaches to removing graffiti from public as well as private property. City Attorney Oderman agreed to investigate whether State Law will allow the seven-day removal provision within the City's existing graffiti abatement Ordinance to be shortened.

**National League of Cities Conference Report**

Councilmember Eggleston reported on his recent attendance at the National League of Cities Conference in Washington, D.C.

11. **RESOLUTIONS/ORDINANCES**

None.

**CLOSED SESSION**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to recess to Closed Session at 9:35 p.m. to discuss the following:

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Initiation of litigation, pursuant to Government Code Section 54956.9(c).

City Manager Scarborough, City Attorney Oderman, Community Development Director Holloway and City Clerk Erway were in attendance.

**MEETING RECONVENED**

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

12.    **ADJOURNMENT**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adjourn at 10:10 p.m. The next Regular Meeting will be held on April 3, 2007 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 6:00 p.m. The General Session will begin at 7:00 p.m.

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CITY CLERK of the City of  
San Clemente, California

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MAYOR of the City of  
San Clemente, California