

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting - October 16, 2007

A Regular Meeting of the San Clemente City Council was called to order on October 16, 2007 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

MEETING RECESSED – LACK OF CLOSED SESSION

There being no Closed Sessions to be conducted, City Clerk Baade recessed the meeting to 7:00 p.m.

MEETING CONVENED

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

PRESENT ANDERSON, DONCHAK, EGGLESTON, KNOBLOCK,
MAYOR DAHL

ABSENT NONE

STAFF PRESENT George Scarborough, City Manager; Joanne Baade, City
Clerk.

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INVOCATION

Fr. Jay Cayangyang, St. Michael's Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Knoblock led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Hunger Walk Proclamation**

Mayor Dahl presented a proclamation to Pam Leaning, Executive Director of Family Assistance Ministries, declaring October 21, 2007 as Hunger Walk Sunday.

B. **Design Review Sub-Committee Process**

Michael Kaupp, Chair of the Planning Commission, narrated a PowerPoint presentation entitled "The Design Review Process" and responded to Council inquiries. A hard copy of Mr. Kaupp's presentation, dated October 16, 2007, is on file with the City Clerk.

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)**

Orange County Sheriff's Department - Law Enforcement Practices

Patrick Crosby asserted that the Orange County Sheriff's Department utilizes overzealous law enforcement practices; voiced concern that the OCSD does not allow him to play his clarinet as a street musician; disagreed with the City's decision to disband its local Police Department.

Tail of Two Cities - Fundraiser for San Clemente-Dana Point Animal Shelter

Gregg Lipanovich, Pet Project Foundation, invited citizens to attend the Tail of Two Cities on November 16, 2007 at the Laguna Cliffs Marriott Resort; noted that the fundraiser will benefit the San Clemente-Dana Point Animal Shelter.

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 D, H and I.

A. **City Council Minutes**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the City Council minutes of September 4, 2007, September 18, 2007 and October 2, 2007.

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

- (1) Planning Commission minutes of October 3, 2007 Regular Meeting and October 3, 2007 Study Session.
- (2) Zoning Administrator meeting minutes of October 3, 2007.

C. **Warrant Register**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Wire Transfers Nos. 483 through 485 and Warrant Nos. 787951 through 788105 for the period 9-17-07 through 9-21-07 in the amount of \$2,764,105.90; approve Handwrite No. 788106 and Warrant Nos. 788107 through 788287 for the period 9-24-07 through 9-28-07 in the amount of \$1,147,022.43; for a total Warrant Register of \$3,911,128.33.

Payroll Register

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Warrant Nos. 319740 through 319800, Automatic Deposit Advises 148859 through 149094, for the period 9-10-07 through 9-23-07 in the amount of \$400,411.72; for a total Payroll Register of \$400,411.72.

E. **Final Map 16984 - Hedley Industrial Condominium Conversion at 216 Avenida Fabricante**

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

1. Authorize the City Engineer to execute the Final Map.
2. Authorize the City Clerk to execute and submit for recordation the Final Map with the Orange County Recorder's office.

F. **Final Parcel Map 2005-213 - Spray Condos at 156 Avenida Victoria**

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

G. **Sanitary Sewer Management Plan**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the Sanitary Sewer Management Plan (SSMP) Schedule, Organization, and Goals and direct Staff to certify and continue work on the SSMP.

J. **Steed Park Food and Beverage Concession Agreement**

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

1. Approve Meg and Gary Greenberg of L.M. Catering as the new food and beverage concessionaire for Steed Park.
2. Approve, and authorize the Mayor to execute, a Lease Agreement by and between the City of San Clemente and Meg and Gary Greenberg for the operation of the Steed Park Food and Beverage Concession for a three-year period. (Contract C07-47)

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

D. **Freeway Signs - "Downtown"**

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 4-1 (COUNCILMEMBER DONCHAK VOTING NOE), to ask CalTrans if the freeway signage can reference "Downtown Village San Clemente" instead of "Downtown San Clemente".

H. **Second Amendment - Interim Coastal Trail Contract**

AND

I. **First Amendment - Trail Maintenance Contract**

In response to Council inquiries, Beaches and Parks Manager Reed explained that the increased funding is needed to fund supplemental work to address the level of usage and vandalism experienced at the coastal trail.

It was agreed that Staff will provide Council with itemized bills from Stewart & Associates.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 4-1 (COUNCILMEMBER EGGLESTON VOTING NOE), to approve, and authorize the Mayor to execute, the Second Amendment to the Interim Coastal Trail Maintenance contract (Contract No. AC-317), by and between the City of San Clemente and Stewart & Associates. This Second Amendment will increase the maximum annual additional service cost from \$780 per month to \$4,000 per month for the duration of the contract which will end on January 31, 2008.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 4-1 (COUNCILMEMBER EGGLESTON VOTING NOE), to approve, and authorize the Mayor to execute, the First Amendment to the Trail Maintenance contract (Contract No. 05-32), by and between the City of San Clemente and Stewart & Associates. This First Amendment will increase the maximum annual additional service cost from \$4,384 to \$15,000 annually for the duration of the contract which will end on June 30, 2010.

6. **PUBLIC HEARINGS**

A. **Beach House Condominiums - 245 West Marquita (Tentative Tract Map 06-436/Conditional Use Permit 06-454/Cultural Heritage Permit 06-435)**

Public Hearing to consider a request to allow a nine-unit residential development within the Residential Medium and Coastal Zone at 245 West Avenida Marquita.

Principal Planner Wisneski narrated a PowerPoint presentation entitled "Beach House Condominiums - Eight Residential Units at 245 West Avenida Marquita" and responded to Council inquiries. A hard copy of Ms. Wisneski's presentation is on file with the City Clerk.

In response to Council inquiry, Principal Planner Wisneski explained that Assistant City Attorney Goldfarb has indicated that it is not necessary for the City to do a surplus land inventory in this case because the two properties that are proposed to be traded are nearly equal in value. (Specifically, the land that the City would receive is valued at \$10,000 more than the property that the City would trade).

Mayor Dahl opened the Public Hearing.

Michael Luna, on behalf of the Applicant, stated that the Parks and Recreation Commission indicated that the proposal represents a win-win situation; noted that the park will benefit from the land exchange and that the Planning Commission unanimously approved the project; stated that Bill Simcock, the property owner, will own one of the units.

In response to Council inquiry, Bill Simcock, Applicant, explained that the tenants have been kept apprised of the project's progress; stated that most of the tenants have significant incomes and are planning to relocate; stated that tenants will receive the following: 1) 60 days' notice before the building is destroyed, 2) free rent for the last month of occupancy, and 3) full return of their deposits.

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

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 07-75 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 06-436, CONDITIONAL USE PERMIT 06-454, CULTURAL HERITAGE PERMIT 06-435, BEACH HOUSE CONDOMINIUMS, A REQUEST TO ALLOW A NINE-UNIT RESIDENTIAL DEVELOPMENT WITHIN THE RESIDENTIAL MEDIUM AND COASTAL ZONE (RM - CZ) AT 245 WEST AVENIDA MARQUITA.

B. **Grewe Subdivision - 4208 Via Socorro (Zoning Amendment 07-361/Tentative Tract Map 16480)**

Public Hearing to consider a request to subdivide an existing 2.87 acre site at 4208 Via Socorro into nine (9) individual lots for nine (9) single-family residential units, and change the zoning designation from Residential Medium Low density (RML)/Planned Residential Development (PRD)/Coastal Zone (CZ) Overlay to Residential Medium Low (RML) with a Coastal Zone (CZ) Overlay, the legal description being Parcel 1, of Page 11, of Book 43, APN 691-011-17.

Associate Planner Nicholas reviewed the contents of the Administrative Report and responded to Council inquiries.

Mayor Dahl opened the Public Hearing.

Paul Douglas, on behalf of the Applicant, concurred with the proposed Conditions of Approval and asserted that the project will be a quality development. In response to Council inquiry, Mr. Douglas explained that each owner will maintain his/her own portion of the easement in perpetuity.

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

Council commented on the possibility of encouraging “green” development components on large projects.

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

1. Adopt Resolution No. 07-76 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING TENTATIVE TRACT MAP 16480, GREWE SUBDIVISION, A REQUEST FOR A NINE LOT SUBDIVISION FOR NINE SINGLE FAMILY RESIDENCES LOCATED AT 4208 VIA SOCORRO.
2. Introduce Ordinance No. 1449 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CHANGING THE ZONING DESIGNATION TO REMOVE THE PLANNED RESIDENTIAL DEVELOPMENT OVERLAY (-PRD) FROM A PARCEL LEGAL DESCRIPTION BEING PARCEL 1, OF BOOK 43, OF PAGE 11 APN 691-011-17.

C. **Noise Control Ordinance Update**

Public Hearing to consider updating the current Noise Ordinance through the incorporation of objective standards by creating a tiered noise measuring system to better analyze variations in types and duration of noise patterns.

City Clerk Baade announced that the City received a letter this afternoon from Lowes' legal counsel (Akin Gump Strauss Hauser & Feld) and that copies have been placed on the dais.

Senior Code Compliance Officer Smith reviewed the contents of the Administrative Report.

Jonathan Higginson, Senior Consultant with Weiland Associates, Inc. (the City's consultant), explained the various noise tier concepts by citing examples of sounds typical for various decibel levels; pointed out that the proposed Ordinance is very similar in content to Ordinances in effect in the County of Orange and many cities within California.

During the ensuing discussion, Mr. Higginson and City Attorney Oderman responded to points raised in the letter from Lowes' legal counsel as follows:

1. With regard to Point "A": It is not possible to cover every conceivable noise-making factor in the Ordinance. The Ordinance as written provides a balance between quantifiable standards and judgment of the enforcing official. The Ordinance also includes certain exemptions.
2. With regard to Point "B": The Ordinance is intended to address noise attributable to regular activities, as opposed to noise associated with an accident or other one-time occurrence. The Ordinance allows for judgment and provides a means to enforce the Noise Ordinance as appropriate (for example, to address daily riveting occurring at a business).
3. With regard to Points "C" and "D": The Ordinance as written prohibits the "creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers between the hours of 10:00 p.m. and 7:00 a.m." If no one is in the vicinity during the time that the subject night-time activities are occurring, this prohibition will not be an issue. Listing specific activities that are prohibited helps to provide notice to potential violators. Staff strongly disagreed with Lowes' attorneys in their assertion that noise activities would be better addressed through specific conditions of approval for businesses since 1) it would be difficult to retrofit conditions on specific businesses, 2) it is easier to enforce general standards, and 3) the only remedy to a violation of conditions of approval is the termination of use.
4. With regard to Point "E". The proposed Ordinance requires a conditional use permit (CUP) for the use of amplified sound within a business, restaurant, bar or other commercial establishment. City Attorney Oderman stated that the Ordinance as written does not provide exemptions for any business with a pager system or music and voiced concern that the Ordinance will require such businesses to obtain a CUP within six months from the date the ordinance is adopted, irrespective of whether the business is creating a noise problem.

Mayor Dahl opened the Public Hearing.

Bill Kurnik, San Clemente, stated that he lives above the Los Molinos heavy industrial area; voiced concern that noise in excess of 70 decibels occurs from 6:00 a.m. to 6:00 p.m. Monday through Saturday; stated that residential property owners have installed dual and triple-pane windows to help prevent noise from being heard within their homes; explained that his home is also impacted by dust as well as odors from the sewer plant; urged Council to establish a task force to consider ways to improve the situation.

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

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to introduce Ordinance No. 1450 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 8.48 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE REGULATION OF NOISE, with the understanding that Staff will develop a process or mechanism to waive or exempt pager systems, and other sound generators that are not intended to be covered by the Ordinance, and return to Council with a proposed amendment for consideration.

D. **CEQA Documentation - City of San Clemente Recycled Water Treatment and Distribution Expansion**

Continued Public Hearing to consider CEQA documentation for the City of San Clemente Recycled Water Treatment and Distribution Expansion (Project No. 36405).

Principal Civil Engineer Rebensdorf narrated a PowerPoint presentation entitled "City of San Clemente Recycled Water Master Plan" and responded to Council inquiries. A hard copy of Mr. Rebensdorf's presentation, dated October 16, 2007, is on file with the City Clerk.

In response to Council inquiry, Zeki Kayiran, of AKM Consulting Engineers, stated that the City's recycled water is not close to drinking water quality; stated that the water is treated to Title 22 standards, which is the proper quality for specific uses, such as landscape irrigation.

Council discussed desalination as a means to provide a source of additional water and expressed an interest in monitoring desalination projects and possibly providing support where appropriate.

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

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to:

1. Adopt Resolution No. 07-77 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING NEGATIVE DECLARATION FOR RECYCLED WATER TREATMENT AND DISTRIBUTION EXPANSION PROJECT NO. 36405.
2. Approve the Recycled Water Master Plan, dated September 2007.
3. Direct Staff to pursue funding opportunities from Proposition 50, Metropolitan Water District rebates, and a State Revolving Fund Loan.

7. **UNFINISHED BUSINESS**

None.

8. **NEW BUSINESS**

None.

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

None.

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.**

The next meeting of the Orange County Division, California League of Cities will take place on November 8, 2007.

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

Mayor Pro Tem Anderson requested that Staff agendize for a future Council meeting, the possibility of the City supporting the initiative by the City of Austin, Texas to encourage automobile manufacturers to develop plug-in hybrid vehicles.

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

Mayor Dahl reported on the success of the Station 59 open house that was held on October 13, 2007. Councilmember Knoblock added that the October 13, 2007 dedication of the OCFA Headquarters facility in Irvine was also well attended.

Councilmember Knoblock stated that he attended a function with San Clemente's Fire Chief and Police Chief to encourage that the Safe Haven Law be modified to extend the period of time following a baby's birth that distressed mothers can surrender their babies at designated surrender sites, such as fire stations. Currently, mothers are allowed to surrender their babies without criminal sanctions for up to three days following a baby's birth. AB 81, unless vetoed by the governor, will extend that window of time to seven days following a baby's birth.

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

Mayor Dahl reported on animals available for adoption at the San Clemente-Dana Point Animal Shelter and expressed gratitude to the Shelter's veterinarians, staff and volunteers; noted that the Tail of Two Cities will take place on November 16, 2007 at the Laguna Cliffs Marriott Resort.

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

Mayor Dahl advised that the Coastal Commission hearing on the extension of the Foothill-South Transportation Corridor has been delayed until February 2008.

- (6) **Possibility of Rescheduling One or Both of the Regular Council Meetings in January 2008 (the first Tuesday in January 2008 falls on New Year's Day).**

Council rescheduled its Regular Meeting Dates in January 2008 to January 8, 2008 and January 22, 2008.

Additionally, Council modified its Regular Meeting Date schedule for the month of February 2008 to February 7, 2008 and February 19, 2008.

- (7) **Hunger Walk**

Councilmember Donchak reported that the Hunger Walk will take place on October 21, 2007.

- (8) **Farmers' Market Permit (Possible Term Extension)**

Council noted that the Farmers' Market permit will soon come up for renewal. Council requested that Staff agendaize the matter for a meeting in November to enable Council to determine if the City should issue two or three-year permits instead of the current practice of issuing annual permits.

- (9) **Request from Ross Velderrain for Council to Agendaize Conflict of Interest Allegations**

Council noted that a letter has been received from Ross Velderrain requesting that Council agendaize consideration of his conflict of interest allegations. It was noted that Assistant City Attorney Goldfarb has responded to Mr. Velderrain's assertions and has informed him that conflict of interest sanctions are under the purview of the Fair Political Practices Commission (FPPC), as opposed to the City. Consequently, Council determined not to agendaize the matter.

11. RESOLUTIONS/ORDINANCES**A. Ordinance No. 1446 (Second Reading) - Demolition of Historic Resources and Maintenance of Property**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0-1 (COUNCILMEMBER DONCHAK ABSTAINING), to adopt Ordinance No. 1446 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 17.16.170 OF THE MUNICIPAL CODE REGARDING THE DEMOLITION OF HISTORIC RESOURCES AND AMENDING SECTION 17.24.020 OF THE MUNICIPAL CODE RELATING TO THE MAINTENANCE OF PROPERTY.

B. Ordinance No. 1443 (Second Reading) - Lot Mergers

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Ordinance No. 1443 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING CHAPTER 16.44 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO LOT MERGERS.

12. ADJOURNMENT

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adjourn at 9:45 p.m., in memory of Lois Berg, to an Adjourned Regular Meeting to be held on October 30, 2007 at 2:30 p.m. in the Ole Hanson Room of the Community Center, located at 100 N. Seville, San Clemente, for the purpose of conducting a Financial and Organizational Planning Workshop.

The next Regular Meeting will be held on November 6, 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.

CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California