

CITY OF SAN CLEMENTE

City Council Minutes

Special and Regular Meeting - August 21, 2007

A Special and Regular Meeting of the San Clemente City Council was called to order on August 21, 2007 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

PRESENT ANDERSON, DONCHAK, EGGLESTON, KNOBLOCK,
MAYOR DAHL

ABSENT NONE

STAFF PRESENT George Scarborough, City Manager; Jeff Oderman, City
Attorney; Myrna Erway, City Clerk; Joanne Baade, Deputy
City Clerk

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CLOSED SESSION

City Attorney Oderman reported that a Special Meeting was called for August 21, 2007 at 6:00 p.m. for the purpose of discussing correspondence from Lowe's attorney concerning Council's action of July 24, 2007 (relating to Amendment to Site Plan Permit 94-23, Plaza Pacifica Shopping Center); opined that a substantial potential exists that litigation will be filed against the City; advised that a Closed Session is needed prior to considering approval of the July 24, 2007 Council meeting minutes, which appear on this evening's agenda as Item 5-A. (*Point of clarification: While Closed Sessions are regularly held at 6:00 p.m. on Regular Council Meeting dates, a Special Meeting was called and noticed to discuss this item because the original agenda for August 21, 2007 indicated that no Closed Sessions would be held.*)

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to recess to Closed Session at 6:00 p.m. to discuss the following:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

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

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

MEETING RECONVENED

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

INVOCATION

David Keehn, OCFA Chaplain, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Knoblock led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Wall of Recognition Recipients (Jim Holbert and Pete McKenzie)**

Mayor Dahl presented Certificates of Recognition to Jim Holbert and Scott McKenzie (on behalf of his late father Pete McKenzie) in acknowledgement of being named the Year 2007 recipients to the Wall of Recognition.

B. **Presentation of OCFA (Orange County Fire Authority) Badge to Mayor Dahl**

Fire Chief Prather presented an OCFA Badge to Mayor Dahl in recognition of 35 years of outstanding service to the City of San Clemente and Orange County Fire Authority.

C. **Recognition of Out-Going Commission/Committee Members**

Mayor Dahl recognized the following out-going members of City Commissions and Committees and presented honoraria to those members present:

Planning Commission

Kelene Johnson
Donald Prime

Parks and Recreation Commission

Kathy Van Auken
Garrett Waters

Human Affairs Committee

David Brant
Judy Ferguson
Clarice Ventura

Coastal Advisory Committee

James Burror
Marc Carpenter

2. MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to waive reading in full of all Resolutions and Ordinances.

DEFERRAL OF AGENDA ITEMS 6-D, 8-C, 8-D and 8-E

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to defer consideration of Agenda Items 6-D (Lot Merger Ordinance) and 8-D (Development Intensity in the Downtown Architectural Overlay District, MU3-A) to enable these issues to be considered together at a Joint Council/Planning Commission meeting.

At the suggestion of the City Manager, MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to defer the following agenda items to a future Council meeting: Agenda Item 8-C (Historic Tile Sidewalks) and 8-E (Around Town Policy).

3. **CONSIDERATION OF AGENDIZING ITEMS REQUIRING IMMEDIATE ACTION**

None.

4. **ORAL COMMUNICATIONS (PART ONE)**

Development Intensity (516 Avenida Victoria)

Judy Anderson, San Clemente, requested that Council reduce the allowable building height within the City and Pier Bowl area in particular; voiced concern that development is underway at 516 Avenida Victoria for a four-story structure and 5th story rooftop deck, adding that the permit was issued four years ago; voiced concern with the mass, bulk and minimal setback aspects of the structure; asserted that the language of public hearing notices is difficult to understand and opined that story poles should be erected for all proposed projects; suggested that the City institute a policy whereby height limits cannot be extended beyond that which existed when the property was purchased.

Peggy Goodwin, San Clemente, requested that Council cease the development of massive, bulky and out-of-place structures in the Pier Bowl; voiced particular concern with the lack of adequate setbacks.

Vincent Albregts, San Clemente, commented that San Clemente's environment is precious.

Bluey Miller, San Clemente, concurred with the previous speakers and voiced concern that the City is turning into New York.

Council noted that the topic of development intensity in the Downtown Architectural Overlay District (MU3-A) will be considered at a future joint meeting of the Council and Planning Commission.

Limitation of Public Speakers to Three Minutes at Governmental Meetings

Tom Barnes, San Clemente, opined that limiting public comments at governmental meetings to three minutes hinders the democratic process and can lead to less-desirable decisions.

Concrete Restoration

Mike Gaebel, San Clemente resident and representative of Like-Nu Concrete Restoration, stated that his company can benefit the City by restoring its concrete to a condition comparable to new concrete.

San Clemente Coffee Table Book

Wayne Eggleston, San Clemente, stated that the Chamber of Commerce, Heritage of San Clemente and Casa Romantica published a coffee table book, entitled "Spanish Village by the Sea"; presented a copy of the book to the City and explained that it contains historical as well as current photographs of San Clemente; noted that net proceeds from book sales will benefit the Casa Romantica.

Chuck Narey, San Clemente, noted that Wayne Eggleston developed the idea for the coffee table book; recognized Don Kindred, Linda Narey and the Chamber of Commerce for the valuable contributions to the book's development.

Guy Varriano, on behalf of the Casa Romantica Board of Trustees, reviewed the development of San Clemente's pictorial book; noted that net proceeds from book sales will benefit the Casa Romantica's cultural events, exhibits and activities; expressed gratitude to Lynn Wood, Don Kindred, Wayne Eggleston, the San Clemente Historical Society and the contributing photographers and artists.

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 B(2), B(4), G, L and M.

A. **City Council Minutes**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the City Council minutes of July 10, 2007 and July 24, 2007.

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

- (1) Planning Commission minutes of July 25, 2007.
- (3) Planning Commission minutes of August 8, 2007.
- (5) Coastal Advisory Committee minutes of July 12, 2007.

C. **Warrant Register**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Wire Transfers Nos. 470 and 471 and Warrant Nos. 786064 through 786361 for the period 7-9-07 through 7-13-07 in the amount of \$3,786,518.13; approve Warrant Nos. 786362 through 786489 for the period 7-16-07 through 7-20-07 in the amount of \$442,567.83; approve Wire Transfers Nos. 472 through 474, Warrant Nos. 786490 through 786690 for the period 7-23-07 through 7-27-07 in the amount of \$1,538,567.29; approve Warrant Nos. 786691 through 786875 for the period 7-30-07 through 8-3-07 in the amount of \$887,716.64; for a total Warrant Register of \$6,655,369.89.

Payroll Register

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Warrant Nos. 319415 through 319483, Automatic Deposit Advises 147615 through 147866, for the period 7-2-07 through 7-15-07 in the amount of \$422,264.18; approve Warrant Nos. 319484 through 319546, Automatic Deposit Advises 147867 through 148117, for the period 7-16-07 through 7-29-07 in the amount of \$422,893.42; for a total Payroll Register of \$845,157.60.

D. **Notice of Completion - Senior Center/Library Exterior Painting**

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

1. Accept the Exterior Painting of the Senior Center/Library, Project #16517(b) from the contractor, Custom Coatings & Finishes. (Contract C07-24)
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Senior Center/Library exterior painting project.

E. **Release of Improvement Performance Bonds - Tract 16368 in the Talega Development, Standard Pacific Corporation**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 07-54 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE RELEASE OF THE IMPROVEMENT PERFORMANCE BONDS, WITHOUT LIMITATION, FOR TRACT 16368 IN THE TALEGA DEVELOPMENT, STANDARD PACIFIC CORPORATION.

F. **National Pollutant Discharge Elimination System (NPDES) Program Shared Costs Budget for FY 2007-08**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the proposed NPDES Stormwater Program Shared Costs Budget for FY 2007-08.

H. **Contract Award - Municipal Golf Course Clubhouse Tiling Project**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C07-39 by and between the City of San Clemente and Charles McCandless Tile Contractor, Inc., providing for tiling of the new Municipal Golf Course Clubhouse, in the amount of \$100,247.49.

I. **Easement Deed - Traffic Signal Improvements from Talega Associates, LLC (Traffic Signal Improvements at the Intersection of Via Catarina and Calle Saluda within Tract 16216)**

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

1. Accept the Easement Deed. (Deed #429)
2. Authorize the City Clerk to record the Easement Deed in the official records of the Orange County Recorder's Office.

J. **Notice of Completion - Avenida Vista Hermosa Rehabilitation, Project No. 16330, Federal Project No. STPL-5274(021)**

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

1. Accept the Avenida Vista Hermosa Rehabilitation, Project No. 16330, Federal Project No. STPL-5274 (021) from the contractor, All American Asphalt. (Contract C06-49)
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Avenida Vista Hermosa Rehabilitation, Project No. 16330, Federal Project No. STPL-5274(021).

K. Contract Award - Water Reclamation Plant Emergency Generator Modifications, Project No. 16201

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

1. Relieve Saturn Electric, Inc. of its bid in the amount of \$356,330 and release its bid bond due to a mistake in filling out the bid form.
2. Approve the plans and specifications for the WRP Emergency Generator Modifications, Project No. 16201.
3. Approve, and authorize the Mayor to execute, Contract C07-40 by and between the City of San Clemente and NCC NEWest Construction Company, Inc., providing for the WRP Emergency Generator Modifications, Project No. 16201, in the amount of \$502,120.
4. Approve a supplemental appropriation of \$78,610 from the Sewer Connection Fee Reserve to Account 054-477-45300-000-16201.

N. Exclusive Negotiating Agreement (ENA) - Paradise Miniature Golf, LLC

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve, and authorize the Mayor to execute, an Exclusive Negotiating Agreement by and between the City of San Clemente and Paradise Miniature Golf LLC, for the purpose of negotiating a lease agreement to develop and operate a miniature golf facility at the La Pata/Vista Hermosa Park. (Contract C07-41)

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

B(2). **Zoning Administrator Meeting Minutes of July 23, 2007.**

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to continue the portion of the July 23, 2007 Zoning Administrator minutes that relates to the Molly Bloom project (Item 4-C) to the next Council meeting to enable Staff to provide Council with a site plan that demonstrates where the music will be located.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to receive and file the balance of the Zoning Administrator meeting minutes of July 23, 2007.

B(4). **Zoning Administrator Meeting Minutes of August 8, 2007.**

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to call up for review the Marblehead Coastal Temporary Sign project (Item 4-B).

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to receive and file the balance of the Zoning Administrator meeting minutes of August 8, 2007.

G. **Contract Amendment - Ambulance Billing and Collection Services**

Finance Manager Rendina responded to Council inquiries relative to the City's past experience with Wittman Enterprises for ambulance billing and collection services, focusing on the rate of collection and revenue derived; explained that Wittman Enterprises has reduced its collection percentage charge from the prior contract rate of 7% to 6.5%.

MOTION BY MAYOR DAHL, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C96-75 by and between the City of San Clemente and Wittman Enterprises, providing for ambulance billing and collection services for the City for fiscal years 2007-08 through 2009-10.

L. **Communications Site Lease Agreement (Royal Street Communications)
- Installation of Communications Site at San Gorgonio Park**

City Clerk Erway announced that the applicant has requested that this item be removed from the agenda.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY MAYOR DAHL, CARRIED 5-0, to remove this item from the agenda.

M. **Lease Agreement to Provide for Conversion of Private Parking Resources to Public Parking Resources in the Downtown Area**

Council recognized Staff for its diligence in pursuing additional parking in the downtown area and commended Damon Kuntz, and other property owners, who have agreed to partner with the City to increase the availability of public parking.

Staff explained that the brochure that identifies the location of downtown parking resources and lists fall and winter community events will be updated; reviewed the distribution plan for the brochure.

MOTION BY MAYOR PRO TEM EGGLESTON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve, and authorize the Mayor to execute, a Parking Lot Lease Agreement by and between the City of San Clemente and Damon Kuntz, to provide for the conversion of private parking resources at 115 S. El Camino Real to public parking resources. (Contract C07-22)

6. **PUBLIC HEARINGS**

A. **Election for Continuation of the Existing Clean Ocean Fee**

Public Hearing to consider a proposal to continue the existing Clean Ocean Fee for properties within the City of San Clemente.

Principal Civil Engineer Bonigut narrated a PowerPoint presentation entitled “Proposed Continuation of the Existing Clean Ocean Fee” and responded to Council inquiries; distributed and explained a modification to the “Summary of Property Owner Ballot Procedures”, Item #7, relating to proof of property ownership.

Mayor Dahl opened the Public Hearing.

Reuben Casey voiced concern that the fees assessed to his buildings in the Rancho San Clemente Business Park are unfair since runoff from his buildings is comparable to runoff from an average home; urged that Council reconsider the rate structure for commercial buildings.

Ken Nielsen, San Clemente, stated that he has witnessed the impact that runoff has had on ocean quality; noted that the beach is the City’s most important asset and urged support for the continued clean ocean fee.

Bill Hart, President of the San Clemente Clean Ocean Coalition, pointed out that the clean ocean program is mandated and, as such, \$2 million will need to be diverted from essential services if the fee is not continued; advised that the Clean Ocean Coalition will advocate for the program.

Raymond G. Sellan, San Clemente, stated that he supports the clean ocean effort, but would like to receive an accounting of funds raised and expended.

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

City Clerk Erway announced that 22 written protests have been received.

Council requested that Staff provide information relating to the number of storm drains and filters that exist in the City as well as the projected date for all storm drains to be equipped with filters.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR DAHL, CARRIED 5-0, to adopt Resolution No. 07-55 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CALLING A SPECIAL MAIL BALLOT ELECTION FOR SUBMITTAL OF A CONTINUATION OF THE EXISTING CLEAN OCEAN FEE TO THE OWNERS OF REAL PROPERTY SUBJECT TO THE FEE.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 4-0-1 (COUNCILMEMBER KNOBLOCK ABSTAINING), to authorize the Mayor to cast “Yes” votes on the 25 ballots allocated to those properties on which the City currently pays a Clean Ocean Fee.

B. Marblehead Coastal Specific Plan Amendment (Specific Plan Amendment 95-02)

Public Hearing to consider a request by SunCal Marblehead, LLC to revise the previously approved 1998 Marblehead Coastal Specific Plan to comprehensively reflect additional limitations and conditions of approval imposed by the City of San Clemente, California Coastal Commission and other agencies.

Contract Planner Nagel narrated a PowerPoint presentation entitled “Marblehead Coastal Specific Plan Amendment” and responded to Council inquiries. A hard copy of Mr. Nagel’s presentation, dated August 21, 2007, is on file with the City Clerk.

During the course of discussion, Council expressed an interest in considering establishing a task force to address circulation around the project. It was agreed that Councilmember Donchak will work with the City Manager concerning this matter and that the issue will be agendized for a future meeting.

Mayor Dahl opened the Public Hearing.

Lisa Gordon, SunCal, concurred with the Administrative Report as well as the creation of a circulation task force; stated that Sun Cal would be willing to participate on the task force.

Michael Fluchere, Colony Cove resident, conveyed support for Staff's recommendations on Agenda Items 6-B and 6-C.

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

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adopt Resolution No. 07-56 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AN AMENDMENT TO MARBLEHEAD COASTAL SPECIFIC PLAN 95-02.

C. **Marblehead Coastal Recreation Center - Amendment to Site Plan Permit 97-16/Conditional Use Permit 07-245/Minor Exception Permit 07-288**

Public Hearing to consider a request by SunCal Marblehead, LLC to allow the development of an approximately 6,500 square-foot private recreation facility within a portion of the previously approved Marblehead Coastal residential development, the legal description being Lots 207 to 211, Lot GG and a portion of Lot AA of Tract 8817. Marblehead Coastal is generally located west of the San Diego Freeway (Interstate 5) and northeast of the intersection of Avenida Pico and El Camino Real. The communities of Colony Cove and Shorecliffs are located adjacent to the site on the northwest.

Contract Planner Nagel narrated a PowerPoint presentation entitled "Marblehead Coastal Recreation Center" and responded to Council inquiries. A hard copy of Mr. Nagel's presentation, dated August 21, 2007, is on file with the City Clerk.

Mayor Dahl opened the Public Hearing.

Lisa Gordon, on behalf of SunCal Companies, explained that a catering kitchen was designed for the recreation center because SunCal did not want to encourage food service in the facility; noted that the small kitchen will accommodate small parties; explained that the recreation center is intended for use by residents, but pointed out that the homeowners association could decide to rent out the center.

In response to Council inquiry, Brion Jeannette, project architect, stated that he designed the building with Craftsman-style architecture, instead of Spanish architecture, because he believes it provides an appropriate connection to the land conservancy; noted that the structure is a “green” building and explained that it is hard to apply energy-conservation strategies to red tile roofs.

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

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 4-1 (COUNCILMEMBER EGGLESTON VOTING NOE), to adopt Resolution No. 07-57 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AMENDMENT TO SITE PLAN PERMIT (AM SPP) 97-16, CONDITIONAL USE PERMIT 07-245, MINOR EXCEPTION PERMIT 07-288, MARBLEHEAD COASTAL OCEAN CLUB PRIVATE RECREATION CENTER.

D. **Lot Merger Ordinance**

Continued Public Hearing to consider enacting an ordinance relating to the merger of existing lots of record.

Earlier in this meeting, Council determined to defer consideration of this item (as well as Item 8-D, relating to Development Intensity in the Downtown Architectural Overlay District, MU3-A) to enable these two items to be considered together at a Joint Council/Planning Commission meeting. Please refer to Page 4 of these minutes for a summary of Council’s prior action.

7. **UNFINISHED BUSINESS**

A. **Contract Amendment - Civic Center Feasibility Study (Preparation of Final Schematic Design and Construction Documentation for Adaptive Reuse of 910 and 1030 Calle Negocio)**

Report from the Public Works/Economic Development Director concerning the possibility of amending the contract with Gensler, to provide for the preparation of final schematic design and construction documentation for adaptive reuse of 910 and 1030 Calle Negocio.

Public Works/Economic Development Director Lund reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 4-1 (COUNCILMEMBER KNOBLOCK VOTING NOE), to approve, and authorize the Mayor to execute, the Second Amendment to Contract C05-52 by and between the City of San Clemente and Gensler, relating to the Civic Center space needs and cost analysis. This Second Amendment will increase the contract cost from \$108,700 to \$519,419 (an increase of \$410,719).

MEETING RECESSED

Council recessed at 9:20 p.m. and reconvened at 9:30 p.m., with all members present.

8. **NEW BUSINESS**

A. **Referendum - Pacific Golf Club Residential Development Project**

Report from the City Clerk concerning the Pacific Golf Club Residential Development referendum petition and options available to Council.

City Clerk Erway reviewed the contents of the Administrative Report and responded to Council inquiries; explained that the City has received six letters supporting the placement of this issue on the ballot, 44 letters urging that Council rescind approval of the Pacific Golf Club property, and 10 letters expressing support for the project.

Mark McGuire, San Clemente, on behalf of the Pacific Golf Club, stated that he submitted a letter to Council requesting that the issue be submitted to a City-wide vote on February 5, 2008; stated that the project received significant community support at the Planning Commission and City Council hearings and requested that this support be validated through the election process; asserted that the signature-gathering campaign and primary flyer that was distributed by the referendum proponents emphasized putting the issue to a vote; offered a cashier's check, in the amount of \$69,000, to the City to pay the difference between a February 5, 2008 Special Municipal Election and a General Municipal Election.

Michael Fluchere, San Clemente, stated that the City is not in the business of saving failed businesses and urged that Council repeal its approval of the Pacific Golf Club project.

Jerry Collamer, San Clemente, urged that Council rescind approval of the Pacific Golf Club project, or as an alternative, place the issue on the November 2008 ballot since that election would involve the lowest cost; cited traffic concerns and urged that San Clemente's open space be preserved.

Pete Van Nuys, San Clemente, suggested that 8,000+ signatures represents a barometer of community sentiment; urged that Council rescind approval of the Pacific Golf Club project.

Tom Barnes, San Clemente, opined that the proposed ballot wording is confusing; suggested that the ballot wording should be written in plain language and that it should specifically reference changing open space to residential housing.

City Attorney Oderman responded that the wording of a referendum measure is prescribed by the California Elections Code, and the proposed wording is consistent with the law; noted that if the issue is placed on the ballot, there will be arguments pro and con as well as an impartial analysis; stressed that the measure must be presented in a manner that is neutral; stressed that the City has a mandatory duty to word the measure in the manner prescribed in the Elections Code.

Vonne Barnes, San Clemente, opined that the proposed ballot verbiage is confusing and suggested that all parties should have input into the wording of the ballot question; stated that the preponderance of public opinion opposes rezoning of the Pacific Golf Club property; urged that Council rescind its decision and save San Clemente's open space.

Sam LaSala, San Clemente, recommended that Council rescind its approval of the Pacific Golf Club project; urged that Council comply with the people's mandate and help the community heal.

Mike Cotter, San Clemente, asserted that the proposed ballot wording is confusing; stated that the legacy of San Clemente's future is in Council's hands.

Jim Miranda, San Clemente, urged that Council place the issue on the February 2008 ballot to enable the entire community to decide the issue; opined that the project is high quality and provides community benefits; suggested that the ballot language is appropriate.

Cathy Lee, South County Senior Services, recommended that Council place the issue on the ballot to let the people decide.

Anna Noble, San Clemente, urged that Council preserve the Pacific Golf Club open space; questioned whether San Clemente is prepared to bail out all businesses that go bankrupt and be amenable to changing rules in exchange for donations to community projects; urged that Council not set a dangerous precedent.

Jim Smith, San Clemente, stated that he was a signature gatherer and was impressed with the 8,400+ people who signed the referendum.

Pam Baker, San Clemente, urged that Council rescind its approval of the Pacific Golf Club project; objected to the proposed ballot language.

Brenda Miller, San Clemente, stated that citizens do not want the Pacific Golf Club project to go forward and suggested that the best course of action would be for Council to repeal project approval.

Alan Korsen, San Clemente, stated that the petition signers want open space preserved and Council's decision rescinded; stated that more citizens will vote at an election in November 2008; urged that the ballot language be changed.

David Kelsen, San Clemente resident and employee of the Pacific Golf Club, read an excerpt from a flyer that requested signatures in the referendum petition in order to place the issue on the ballot.

Cindy Holmes, San Clemente, noted that San Clemente has more than 8,400 voters and urged that the issue be placed on the ballot.

Charles Mann, San Clemente, urged that Council's vote be rescinded; asserted that 8,423 signatures demonstrate that an overwhelming majority of residents do not want homes developed on open space; noted that 8,423 signatures were gathered in 19 days in spite of the signature blockers that were paid by the developer; suggested that 14,000 signatures could have been gathered if the signature blockers had not been present; suggested that if Council desires to place the issue on the ballot, that it be placed on the November 2008 ballot when a greater voter turnout is expected.

Michael Rosenfeld, Pacific Golf Club Project Applicant, pointed out that the open space in question is privately owned as opposed to publicly owned; stated that voters deserve to understand the full scope of the project and the benefits it offers; requested that Council support the basis of the referendum campaign and place the issue on the ballot.

In response to Council inquiry, City Attorney Oderman confirmed that it is legal for a developer to pay the cost of an election.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY MAYOR DAHL, CARRIED 5-0, to approve a transfer of \$17,810 from Account No. 001-203-44900 (Council Contingency) to Account No. 001-133-43890 (Other Contractual Services) to pay the Orange County Registrar of Voters for signature verification services on the Referendum petition for the Pacific Golf Club Residential Development Project.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY MAYOR DAHL, CARRIED 3-2 (COUNCILMEMBERS DONCHAK AND EGGLESTON VOTING NOE), to:

1. Adopt Resolution No. 07-58 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, FEBRUARY 5, 2008 FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO ADOPTION OF RESOLUTION NO. 07-32, APPROVING GENERAL PLAN AMENDMENT (GPA) 05-018 AND SPECIFIC PLAN AMENDMENT (SPA) 05-126, PACIFIC GOLF CLUB RESIDENTIAL DEVELOPMENT.
2. Adopt Resolution No. 07-59 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON FEBRUARY 5, 2008 WITH THE STATEWIDE PRESIDENTIAL PRIMARY ELECTION TO BE HELD ON THE DATE PURSUANT TO §10403 OF THE ELECTIONS CODE.
3. Adopt Resolution No. 07-60 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.
4. Adopt Resolution No. 07-61 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY MAYOR DAHL, CARRIED 3-2 (COUNCILMEMBERS DONCHAK AND EGGLESTON VOTING NOE), to accept the check from the owner of the Pacific Golf Club in the amount of \$69,000 to cover the incremental cost of the Special Election.

CONTINUATION OF MEETING PAST 11:00 P.M.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 3-2 (COUNCILMEMBERS DONCHAK AND EGGLESTON VOTING NOE), to continue the meeting past 11:00 p.m.

MEETING RECESSED

Council recessed at 11:00 p.m. and reconvened at 11:10 p.m., with all members present.

B. Amphitheater Lease

Report from the City Manager concerning a request by the Association for the Amphitheatre (AFTA) for the City to lease a portion of the City-owned open space in the vicinity of La Pata and Calle Saluda to AFTA for the purpose of developing an amphitheater on the property.

City Manager Scarborough reviewed the contents of the Administrative Report and responded to Council inquiries.

Jerry Velasco, San Clemente, explained that he has been working on the amphitheatre for over five years; stated that AFTA needs a commitment from the City for the lease of the land before fundraising can commence; asserted that an amphitheatre is an appropriate use for the subject property.

Richard Dickey, San Clemente, stated that the Directors of AFTA have been communicating, and offering to work with, the homeowners associations of the closest neighboring communities in Forster Ranch and Talega; reviewed a rough visual concept of the proposed amphitheatre, focusing on the distance and topography of the amphitheatre as it relates to neighboring residences; explained that a great majority of the amphitheatre's planning has been based on the Moonlight Amphitheatre in Vista; stated that the amphitheatre proper would occupy approximately 1.5 acres in a natural bowl area, another 1.5 acres would be utilized for an administrative building and, hopefully, a world class restaurant, and the remaining 12 acres would accommodate parking on terraced levels (e.g., persons with tickets for upper level seating would be able to park on an upper level); stated the amphitheatre would have approximately 2,000 seats and be able to

accommodate an additional 1,000 persons in lawn seating; stated that the nearest neighbor is 1,400' away from the amphitheatre and explained that the berm would provide additional sound protection; assured Council that the amphitheatre will be a welcome neighbor.

Warren Willard, member of the Board of Directors of AFTA, stated that the amphitheatre will provide a venue for high school productions, performing art groups, high-caliber theatrical, concert and dance performances, and possibly, the Cristianitos pageant; stressed that rock band performances will not take place at the amphitheatre.

Ann Dickson, San Clemente, explained that AFTA needs a commitment from the City that the land will be available in order to raise funds and proceed with the study process.

Carla Lane, President of the San Clemente Chorale Society, commented on the shortage of venues for rehearsals and performances and opined that the amphitheatre is needed.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to direct the City Manager to negotiate a lease with AFTA for the City-owned open space in the vicinity of La Pata and Calle Saluda. Among other appropriate lease terms and conditions, the lease should contain conditions that provide that the commencement date of the lease is dependent upon the lessee's obtaining City entitlements, State and Federal resource agency permits, and satisfactory evidence of financing for construction and operations. The lease would provide a binding commitment to deliver the property to AFTA upon completion of the conditions. Upon the conclusion of negotiations, the lease will be returned to Council for approval.

C. **Ordinance for Construction of Historic Tile Sidewalks**

Report from the Public Works/Economic Development Director concerning the possibility of enacting an ordinance to define allowable areas for construction of historic tile sidewalks.

Earlier in the meeting, Council determined to defer this item to a future Council meeting. Please refer to Page 4 of these minutes for a summary of that action.

D. **Development Intensity in the Downtown Architectural Overlay District (MU3-A)**

Report from the Community Development Director concerning development intensity in the downtown Architectural Overlay District.

Earlier in this meeting, Council determined to defer consideration of this item (as well as the Lot Merger Ordinance item that appears on this agenda as Item 6-D) to enable these two items to be considered together at a Joint Council/Planning Commission meeting. Please refer to Page 4 of these minutes for a summary of Council's prior action.

E. **Policy and Procedure for "Around Town" Program**

Report from the Assistant City Manager concerning creation of a Policy and Procedure to address "Around Town" programming.

Earlier in the meeting, Council determined to defer this item to a future Council meeting. Please refer to Page 4 of these minutes for a summary of that action.

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.**

None.

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

None.

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

Councilmember Knoblock reported that the OCFA has been pursuing the concept of regionalization for ambulance services; explained that at the last OCFA Board meeting, Chief Prather recommended, and the Board consented, to place the concept on hold; noted that San Clemente contracts for its own ambulance services and hence is not impacted by this issue.

Council requested that Staff agendaize appointment of an alternate representative to the Orange County Fire Authority Board of Directors for the Council meeting of September 4, 2007.

(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.

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

Mayor Dahl agreed to obtain additional information about the right-of-way that would be taken through the Donna O'Neill Land Conservancy via eminent domain for the green alignment.

(6) **Councilmember Items.**

Councilmember Donchak reported that she has concluded her analysis of traffic practices in other communities. It was agreed that this item will be agendized for the Council meeting of September 18, 2007 at 5:00 p.m. or, as an alternative, at the Joint Council/Planning Commission meeting on September 11, 2007.

(7) **Consideration of Suggestions to Streamline the Length of Council Meetings.**

Council deferred this issue to the Council meeting of September 4, 2007.

(8) **Possible Traffic Light Installation at Mendocino and South El Camino Real**

Council requested a tray memo on the possibility of installing a traffic light at the intersection of Mendocino and South El Camino Real.

11. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1442 (Second Reading) - Adding Urban Private Storage as a Conditionally Permitted Commercial Use Within the Downtown Mixed Use (MU3) Zone**

MOTION BY MAYOR PRO TEM ANDERSON, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 4-1 (COUNCILMEMBER EGGLESTON VOTING NOE), to adopt Ordinance No. 1442 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AMENDMENTS TO SECTIONS 17.16.060(c), 17.28, 17.40.030 AND 17.88.030 OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE, RELATING TO ZONING, FOR THE PURPOSES OF ADDING URBAN PRIVATE STORAGE AS A CONDITIONALLY PERMITTED COMMERCIAL USE WITHIN THE DOWNTOWN MIXED USE (MU3) ZONE.

MEETING RECESSED

MOTION BY MAYOR DAHL, SECOND BY MAYOR PRO TEM ANDERSON, CARRIED 5-0, to recess to a meeting of the Redevelopment Agency at 11:58 p.m.

MEETING RECONVENED

Council reconvened at 11:59 p.m., with all members present.

12. **ADJOURNMENT**

MOTION BY MAYOR DAHL, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adjourn at 12:00 a.m., in memory of Bill Trudeau, to an Adjourned Regular Meeting to be held on September 4, 2007 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 5:00 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