

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular Meeting – June 17, 2008

A Regular Meeting of the San Clemente City Council was called to order on June 17, 2008 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

PRESENT: DAHL, DONCHAK, EGGLESTON, KNOBLOCK, MAYOR ANDERSON

ABSENT: NONE

STAFF PRESENT: George Scarborough, City Manager; Jeff Oderman, City Attorney; Joanne Baade, City Clerk; Kristi Russell, Deputy City Clerk

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#### **CLOSED SESSION**

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER DAHL, CARRIED 5-0, to recess to Closed Session at 6:01 p.m. to discuss the following:

- A. CONFERENCE WITH LABOR NEGOTIATOR, pursuant to Government Code Section 54957.6:

Agency Representative: Pall Gudgeirsson, Assistant City Manager

Employee Organizations: San Clemente City Employees Association, Management Employees, Mid-Management Employees and Confidential Employees.

- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, pursuant to Government Code Section 54956.9(b):

Significant exposure to litigation: One Potential Case.

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

Name of Case: San Clemente Citizens for Integrity in Development v. City of San Clemente, OC Case No. 07CC01287

All Councilmembers, City Manager Scarborough, Assistant City Manager/Treasurer Gudgeirsson, City Attorney Oderman, and City Clerk Baade were in attendance for the entire Closed Session. Community Development Director Holloway and Building Official Jorgensen were present for Item B only.

### **MEETING RECONVENED**

Council reconvened at 7:02 p.m., with all members present.

### **INVOCATION**

Dave Keehn, OCFA Fire Chaplain, gave the invocation.

### **PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Donchak led the Pledge of Allegiance.

### **1. SPECIAL PRESENTATIONS**

#### **“Be A Hero” Bone Marrow and Blood Drive (In Memory of Evan Cousineau)**

Gina Cousineau, San Clemente, stated that her 9 year old son, Evan Cousineau, passed away from Adrenoleukodystrophy (ALD); provided a video presentation entitled “Be A Hero;” encouraged everyone to register with the Bone Marrow Registry and participate in the blood drive scheduled for June 24, 2008 at the Community Development Department; spoke of the impact that organ, blood and bone marrow donors have on saving lives; noted that the Red Cross is at the San Clemente Community Center twice per month for those interested in donating blood.

**Tsunami Readiness Proclamation**

Councilmember Knoblock announced that the City of San Clemente was recognized by the Orange County Board of Supervisors and presented with a Proclamation in recognition of achieving TsunamiReady® Certification status.

**A. Certificate of Recognition – Human Relations Leadership Award**

Mayor Anderson presented a Certificate of Recognition to Hortencia Esquivel honoring her as the recipient of the 2008 Human Relations Leadership Award.

**B. 2008 Wall of Recognition Recipient – Rex Tyner**

Mayor Anderson presented a Certificate of Recognition to Rex Tyner in acknowledgement of being named the 2008 recipient to be honored on the Wall of Recognition.

2. MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY COUNCILMEMBER DAHL, 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)****Residential Parking on Avenida Santa Barbara**

John Clifton, 4-unit building owner on Avenida Santa Barbara, voiced concern that citations are being issued for parking across sidewalks to tenants parked on garage approaches; noted that a continuous sidewalk does not exist in the subject area and he has applied for reconsideration of the action; suggested that Council modify the enforcement criteria to exempt garage approaches.

**Plaza San Clemente Signage (Marblehead Commercial Center)**

Lynn Sobel, San Clemente, requested that Council not appeal Judge Bauer's decision and asked that Mr. Craig be persuaded to not appeal; urged that a Supplemental Environmental Impact Report be prepared for the project.

Karen Ahola, San Clemente, urged that Council respect Judge Bauer's ruling on the Marblehead signage case; suggested that a signage plan that is equitable to both the developer and citizens be developed; spoke in support of minimal signage; requested that any future decisions on the project be made in accordance with existing laws and standards.

Richard Boyer, President of San Clemente Citizens for Integrity in Development, questioned whether a decision had been made as to whether the City would appeal the court's decision; opined that citizens want the Council to work with the developer and not work as an adversary of the community.

City Attorney Oderman stated that Council discussed the litigation in Closed Session but no action was taken; noted that the item will be discussed at the meeting of July 1, 2008.

Tom Barnes, San Clemente, apologized to Mayor Anderson because his recent Letter to the Editor incorrectly indicated that the Mayor opposed Measure I; requested that Council not appeal the court's decision on the Marblehead signage.

Jancee Aellig, General Manager of Plaza San Clemente, noted that the Plaza San Clemente signs will not be leased and that the number and orientation of the signs have been misconstrued; stated that she has spoken with citizens in the community and has received positive feedback on the proposed center.

Karine Foreman, San Clemente, urged Council to be guided by the City's Mission Statement and the voice of the citizens and not appeal the court's decision; stated that she does not object to the project itself but feels the requested signage is excessive.

**North Beach Development and Plaza San Clemente Signage**

Pam Baker, San Clemente, urged Council to not appeal the court's decision; opined that, given the traffic challenges that already exist, consideration should be given to improving the existing conditions of the North Beach area rather than building new developments.

**Capistrano Unified School District Special Recall Election**

Kathy Van Auken, San Clemente, expressed concern regarding Councilmember involvement in pro-CUSD recall efforts; opined that efforts of the Educational Alliance and CUSD Recall group could prove to be detrimental to the school system; asserted that elected officials should remain non-partisan and that politics should be kept out of the school district.

Trudy Podobas, San Clemente, expressed concern regarding the partisan politics of the CUSD Recall group; read excerpts from a letter written by a school teacher, Chris Evans, that was presented to the School Board on June 16, 2008; asserted that the CUSD Recall Committee and Education Alliance are attempting to take over the Capistrano Unified School District; opined that the recall election is a waste of resources and urged voters to oppose the recall.

**Landmark Ordinance**

Raad Ghantous, San Clemente, stated that he witnessed a person removing pavers and preparing to replace a portion of an historic sidewalk on Valencia, which he thought might be a violation of the Landmark Ordinance; conveyed that the person performing the work indicated that it was to correct a sidewalk safety hazard; opined that citizens are unaware of the City's historical assets and the meaning of the Landmark Ordinance; urged Council to look into the matter.

In response to concerns expressed by Mr. Ghantous, it was agreed that the City Engineer will determine the circumstances relating to the removal of historic pavers on Valencia, and will ascertain whether a City permit was obtained.

**5. CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DAHL, SECONDED BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items E and K.

**A. City Council Minutes**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to approve the City Council minutes of May 20, 2008.

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

- (1) Planning Commission meeting minutes of May 21, 2008.
- (2) Planning Commission Study Session minutes of May 21, 2008.
- (3) Zoning Administrator meeting minutes of June 4, 2008.
- (4) Planning Commission Study Session minutes of June 4, 2008.
- (5) Golf Course Committee meeting minutes of May 1, 2008.
- (6) Planning Commission meeting minutes of June 4, 2008.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to approve Wire Transfer Nos. 529 and 530, and Warrant Nos. 793713 through 793913, for the period 5-19-08 through 5-23-08 in the amount of \$1,160,712.00; and approve Wire Transfer No. 531, and Warrant Nos. 793914 through 794075, for the period 5-26-08 through 5-30-08 in the amount of \$4,461,908.28; for a total Warrant Register of \$5,622,620.28.

**Payroll Register**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to approve Warrant Nos. 320592 through 320645, and Automatic Deposit Advises 152839 through 153104, for the period 5-5-08 through 5-18-08 in the amount of \$384,407.11; for a total Payroll Register of \$384,407.11.

D. **Bond Release – Traffic Signal Improvements at 160 Avenida La Pata**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to adopt Resolution No. 08-49 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ACCEPTING THE TRAFFIC SIGNAL IMPROVEMENTS AND AUTHORIZING THE RELEASE OF THE IMPROVEMENT PERFORMANCE BOND FOR 160 AVENIDA LA PATA, TRAFFIX SAN CLEMENTE PARTNERS, LLC.

F. **Notice of Completion – Upgrading of Two Traffic Signal Cabinets and Type III Electrical Pedestals at Camino De Los Mares**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to:

1. Accept the Upgrade of Two Traffic Signal Cabinets and Type III Electrical Pedestals at Camino De Los Mares, Project No. 16806, from the contractor, Republic ITS, Inc. (Contract No. C06-32).
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Upgrade of Two Traffic Signal Cabinets and Type III Electrical Pedestals at Camino De Los Mares, Project No. 16806.

G. **256 Avenida Granada (Lucy Condominiums) – Final Parcel Map 2002-188**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to:

1. Approve Parcel Map 2002-188 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 Recorder's Office.

H. **Measure M Annual Funding Eligibility for Fiscal Year 2008/09**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to:

1. Approve the Seven-Year Capital Improvement Program.
2. Adopt Resolution No. 08-50 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DECLARING THE CITY'S CIRCULATION ELEMENT IN CONFORMANCE WITH THE MASTER PLAN OF ARTERIAL HIGHWAYS.
3. Authorize Staff to submit Measure M funding eligibility requirements on behalf of the City of San Clemente in order to continue receiving Measure M funds.

I. **Contract Award – On-Call Building Plan Review Services**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, Contract No. C08-31, by and between the City of San Clemente and Bureau Veritas North America, for the provision of on-call building plan check services.
2. Approve, and authorize the Mayor to execute, Contract No. C08-32, by and between the City of San Clemente and EsGil Corporation, for the provision of on-call building plan check services.
3. Approve, and authorize the Mayor to execute, Contract No. C08-33, by and between the City of San Clemente and Harris & Associates, for the provision of on-call building plan check services.
4. Approve, and authorize the Mayor to execute, Contract No. C08-34, by and between the City of San Clemente and Scott Fazekas & Associates, for the provision of on-call building plan check services.

J. **Contract Award – Camino Capistrano Street Rehabilitation, Project No. 17303, Federal Project No. STPL-5274(027)**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM DONCHAK, CARRIED 5-0, to:

1. Approve the plans and specifications for contract award for Camino Capistrano Street Rehabilitation, Project No. 17303, Federal Project No. STPL-5274-(027).
2. Approve, and authorize the Mayor to execute, Contract No. C08-35 by and between the City of San Clemente and All American Asphalt, providing for Camino Capistrano Street Rehabilitation Project No. 17303, Federal Project No. STPL-5274-(027), in the amount of \$860,244.
3. Approve a supplemental appropriation of \$275,500 to Account 012-861-45300-17303, Improvements Other Than Buildings, in the Gas Tax Fund, for Camino Capistrano Street Rehabilitation, Project No. 17303, Federal Project No. STPL-5274-(027).



**ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION**

E. **Contract Award – Update of Parking Counts for Downtown T-Zone**

Following discussion, MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER DAHL, CARRIED 4-1 (MAYOR PRO TEM DONCHAK VOTING NOE), to approve, and authorize the Mayor to execute, Contract No. AC-267, by and between the City of San Clemente and Walker Parking Consultants, providing for Updated Parking Occupancy Counts for the Downtown T-Zone, in an amount not to exceed \$16,000.

K. **Contract Award – Interim Parks Maintenance Contract**

Council voiced concern with the contractor’s premature termination of the contract and the significant increase in the cost of the interim contract; expressed a desire to discuss the issue in Closed Session to enable legal options to be considered.

MOTION BY MAYOR PRO TEM DONCHAK, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to discuss this matter in Closed Session later in this meeting.

City Attorney Oderman opined that the Closed Session would fall under the realm of Anticipated Litigation.

Please refer to Page 15 of these minutes for a continuation of this item.

6. **PUBLIC HEARINGS**

A. **Establishment of a New Subcategory of Grading Plan Check**

Continued Public Hearing to consider establishing a new subcategory of Grading Plan Check, under the Single-Family Grading Plan Check category, to be entitled “Complex Project Review” and adopting a corresponding fee.

MOTION BY MAYOR PRO TEM DONCHAK, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to continue the Public Hearing to the Council Meeting of July 1, 2008.

B. **Dwinnell's Landscape Materials (1523 Avenida De La Estrella) – Amendment to Site Plan Permit 97-085**

Public Hearing to consider a City initiated amendment to the Site Plan Permit associated with Dwinnell's Landscape Materials, an existing landscaping and materials business located in the West Pico Corridor Specific Plan at 1523 Avenida De La Estrella.

MOTION BY MAYOR PRO TEM DONCHAK, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to continue the Public Hearing to the Council Meeting of July 1, 2008.

7. **UNFINISHED BUSINESS**

A. **Establishment of San Clemente Quiet Zone**

Report from the Community Development Director regarding establishment of a San Clemente Quiet Zone.

Councilmember Dahl advised that he would recuse himself from deliberations on this item because he resides within 500' of the railroad tracks. Councilmember Dahl then left the Chambers at 8:03 p.m.

Community Development Director Holloway narrated a PowerPoint presentation entitled "Beach Trail Progress" and responded to Council inquiries. A hard copy of Mr. Holloway's presentation, dated June 17, 2008, is on file with the City Clerk.

MOTION BY COUNCILMEMBER KNOBLOCK, SECOND BY MAYOR ANDERSON, CARRIED 4-0-1 (COUNCILMEMBER DAHL ABSTAINING), to:

1. Concur with the recommended approach to proceed concurrently with the three options discussed in the Administrative Report, dated June 17, 2008, that is on file with the City Clerk.
2. Appoint Mayor Pro Tem Donchak and Councilmember Eggleston to the Quiet Zone Permitting Task Force.
3. Direct Staff to postpone retaining consultants until the Council representatives to the Task Force determine that they are needed and report back to Council.

Councilmember Dahl returned to the dais at 8:30 p.m.

B. **Dana Point Ocean Water Desalination Plant Project – Agency Participation Agreement for Phase 3 (Extended Pumping and Pilot Plant Testing) and Appointment of City Representative(s) to Project Participation Committee**

Report from the Public Works/Economic Development Director concerning the Agency Participation Agreement for Phase 3 (Extended Pumping and Pilot Plant Testing) of the Dana Point Ocean Water Desalination Plant Project and the appointment of City representative(s) to the Project Participation Committee.

City Engineer Cameron reviewed the contents of the Administrative Report and responded to Council inquiries; noted that the next meeting of the Project Participation Committee will be held on June 27, 2008.

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

1. Approve, and authorize the Mayor to execute, the Agency Participation Agreement for Phase 3 – Extended Pumping and Pilot Plant Testing - Dana Point Ocean Water Desalination Project (Contract No. C08-37).
2. Appoint Mayor Anderson as the City's representative, and Councilmember Knoblock as alternate, to the Project Participation Committee.
3. Appoint William Cameron, City Engineer, as primary Staff member and Andrew Howard, Utilities Manager, as alternate Staff member to the Project Participation Committee.

**8. NEW BUSINESS****A. City General Plan Update – Tentative Schedule and Process**

Report from the Community Development Director concerning the tentative schedule and process for updating the City's General Plan.

Community Development Director Holloway reviewed the contents of the Administrative Report and responded to Council inquiries.

Council requested that the General Plan Update Tentative Schedule and Process be distributed to all Commissions and Committees, posted to the City's website, and possibly be published in the newspaper. Council directed that a notation be made next to the elements that are statutorily required. Council directed that a goal date of Fall 2010 be established for completion of the General Plan Update and Final EIR.

**9. ORAL COMMUNICATIONS (PART TWO)****Recall Efforts Concerning Two CUSD Board Members**

Steve Knoblock, speaking as a member of the public, remarked on comments made earlier in this meeting during Oral Communications; opined that the comments made about parents who have been involved with the CUSD Recall efforts were unfair and asserted that the efforts of parents were instrumental in prompting an investigation into wrongdoings by former Superintendent Fleming.

**10. REPORTS****A. Commissions and Committees**

None.

**B. City Manager**

None.

C. **City Attorney**

City Attorney Oderman announced that no reportable actions were taken during the 6:00 p.m. Closed Session.

D. **Council Members**

(1) **Consideration of Council Position on Orange County Division, California League of Cities Issues**

None.

(2) **Consideration of Council Position on Legislative Issues**

None.

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

Councilmember Dahl introduced Battalion Chief Dan Runnestrand, who recently returned to Battalion 6.

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

Councilmember Dahl thanked the veterinarians, staff and volunteers at the San Clemente-Dana Point Animal Shelter for their dedicated work; encouraged those interested in adopting a pet to visit the Animal Shelter.

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

Councilmember Dahl announced that Joel Lautenschleger will succeed him as Chair of the San Joaquin Hills Transportation Corridor Agency; related that Jerry Amante will be the new Chair, and Peter Herzog the new Vice Chair, of the Foothill/Eastern Transportation Corridor.

(6) **Councilmember Items**

**“Around Town” Episode – Recipient of the STAR Award**

Councilmember Dahl announced that the City received a STAR Award from the National Association of Telecommunications Officers and Advisors for the Surfing Heritage Museum episode of “Around Town.”

**Housing Element In-Lieu Fee**

Councilmember Eggleston, requested that the City Manager investigate and inform Council as to whether the Planning Commission, or Staff, provided the recommendation that Council approve a \$35,000 affordable housing in-lieu fee.

**11. RESOLUTIONS/ORDINANCES**

**A. Ordinance No. 1462 (Second Reading) – Variance from Requirements for Curb, Gutter and Sidewalk Construction in Conjunction with Building Construction**

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER DAHL, CARRIED 5-0, to adopt Ordinance No. 1462 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 12.08.020 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO CURBS, GUTTER AND SIDEWALK WAIVERS IN CONJUNCTION WITH BUILDING CONSTRUCTION – VARIANCE FROM REQUIREMENTS.

**CLOSED SESSION**

MOTION BY MAYOR ANDERSON, SECOND BY COUNCILMEMBER DAHL, CARRIED 5-0, to recess to Closed Session at 8:52 p.m. to discuss the following:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, pursuant to Government Code Section 54956.9(b):

Significant exposure to litigation: One Potential Case.

**MEETING RECONVENED**

Council reconvened at 9:02 p.m., with all members present.

**CONSENT CALENDAR ITEM 5-K (Continued from Page 9)****Contract Award – Interim Parks Maintenance Contract**

MOTION BY MAYOR PRO TEM DONCHAK, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract No. C08-36, by and between the City of San Clemente and TruGreen LandCare, for the provision of interim landscape maintenance services in City parks, for a period not to exceed six months, beginning on July 1, 2008, for a monthly amount not to exceed \$59,950 for basic services, and designating a monthly amount not-to-exceed 25% of the basic contract amount or \$14,987.50 for supplemental work as needed, with all supplemental work done by proposal and based on the unit service costs included in Attachment F of the Contract Proposal.

**12. ADJOURNMENT**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER KNOBLOCK, CARRIED 5-0, to adjourn at 9:26 p.m. to an Adjourned Regular Meeting to be held on **June 24, 2008 at 6:00 p.m.** in Conference Room A of the Community Development Department, located at 910 Calle Negocio, San Clemente, California, for the purpose of conducting interviews and selecting individuals to fill vacancies on various Commissions and Committees.

A subsequent Adjourned Regular Meeting will be held on **June 26, 2008 at 6:00 p.m.** in the City Council Chambers, located at 100 Avenida Presidio, San Clemente, California, for the purpose of conducting a Public Hearing and considering adoption of the FY 2008/09 City Budget.

The next Regular Council Meeting will be held on **July 1, 2008** 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