

CITY OF SAN CLEMENTE

City Council Minutes

Regular Meeting – March 17, 2009

A Regular Meeting of the San Clemente City Council was called to order on March 17, 2009 at 5:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by City Clerk Baade. City Clerk Baade recessed the meeting until 6:00 p.m.

The meeting was reconvened at 6:00 p.m. with Mayor Donchak presiding.

PRESENT: ANDERSON, BAKER, DAHL*, EGGLESTON, MAYOR DONCHAK

*Arrived at 6:05 p.m.

ABSENT: NONE

STAFF PRESENT: George Scarborough, City Manager; Jeff Oderman, City Attorney; Joanne Baade, City Clerk; Eileen White, Recording Secretary

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CLOSED SESSION

A. **OPEN SESSION ITEM – Potential Waiver of Conflict of Interest – Rutan & Tucker, LLP**

Consideration of whether to waive Rutan & Tucker’s conflict of interest with respect to the Miramar Theater property.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 3-1 (MAYOR DONCHAK VOTING NOE AND MAYOR PRO TEM DAHL ABSENT), to waive Rutan and Tucker’s conflict of interest with regard to the Miramar Theatre project.

City Attorney Oderman requested a Closed Session to discuss the following agenda items:

Conference with Legal Counsel – Anticipated Litigation

Consideration of whether to initiate litigation, pursuant to Government Code Section 54956.9(c): Two Potential Cases

The full Council, City Manager Scarborough, City Attorney Oderman, Assistant City Manager Gudgeirsson, Community Development Director Holloway and Code Compliance Manager Montoya were present during the entire Closed Session. Code Compliance Officer Atkinson was present solely for the Shirley Patrick nuisance abatement item (303/305 W. Avenida de los Lobos Marinos).

MEETING RECONVENED

Council reconvened at 7:04 p.m., with all members present.

INVOCATION

Eric Peterson, Living Water Fellowship, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Eggleston led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Presentation of Award of Appreciation – Saddleback College Veterans Memorial**

Nancy Padberg, Vice President, Board of Trustees of Saddleback College, presented an Award of Appreciation to the City of San Clemente for its financial contribution to the Saddleback College Veterans Memorial.

Presentation of Proclamation - Earth Hour 2009

Mayor Donchak presented a proclamation to Gary Headrick, of San Clemente Green, declaring March 28, 2009, from 8:30 p.m. to 9:30 p.m., as Earth Hour 2009.

B. **LAB Playa Del Norte Project at North Beach – Status Report**

Report from the Community Development Director concerning the status of the LAB Playa Del Norte project at North Beach.

Community Development Director Holloway reviewed the Administrative Report and responded to questions from Councilmembers.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER BAKER, CARRIED 5-0, to receive and file the Administrative Report, dated March 17, 2009, that is on file with the City Clerk.

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

Spanish Village Foundation – Announcement of New Member Candy Haggard and Presentation of Proclamation of Distinction to John Tengdin

John Alpay, representing the Spanish Village Foundation, announced that former Mayor Candy Haggard has joined their organization as a member of the Board of Directors; presented a Proclamation of Distinction to John Tengdin for his contributions in the Business and Commerce category.

10th Annual Car Show

Dave Anderson, San Clemente, invited all to attend the 10th Annual Car Show to be held on Sunday, June 14, 2009. Mayor Donchak agreed to appoint someone in her stead if she is not able to attend and present the Mayor's Trophy.

World Wide Peace March

Nancy Nolan, San Clemente, announced that a world-wide peace and end-of-violence march, coordinated by World Without Wars, will take place between October 2009 and January 2010; requested assistance from Council in seeking involvement from San Clemente's sister cities, and in assembling a group to welcome the marchers when they come to San Clemente in December.

Mayor Donchak and Mayor Pro Tem Dahl agreed to contact Ms. Nolan for further details.

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

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

None.

5. **CLOSED SESSION REPORT – CITY ATTORNEY**

City Attorney Oderman reported that during this evening's Closed Session, Council took the following reportable actions: 1) Authorized City staff to initiate an administrative nuisance abatement action against the Miramar Theatre property because of certain maintenance deficiencies; and 2) Authorized City staff to complete the nuisance abatement at 303 and 305 Avenida de los Lobos Marinos, since the property owner has failed to abate the nuisance as previously ordered.

6. **PUBLIC HEARINGS**

A. **San Clemente Senior Apartments (2350 South El Camino Real) - Conditional Use Permit 06-065/Architectural Permit 06-066/Site Plan Permit 08-421**

Public Hearing to consider the Planning Commission's approval of a request to construct a three-story, 76-unit, senior housing apartment complex. The project is located within the Neighborhood Commercial (NC3) zoning district at 2350 South El Camino Real, Assessors Parcel Number 060-032-04.

Associate Planner Gregg narrated a PowerPoint presentation entitled "San Clemente Senior Apartments Project" and responded to questions from Council. A hard copy of Ms. Gregg's presentation, dated March 17, 2009, is on file with the City Clerk.

Mayor Donchak opened the Public Hearing.

Tim Soule, representing Meta Housing, thanked staff for its help with the project and noted the project is improved as a result of the City's extensive review process.

Dennis Perkins, San Clemente, opposed the project due to noise, traffic, and safety impacts.

Cindy Perkins, San Clemente, opposed the project due to her belief that it will hinder the ability for her and other disabled persons to cross the street; suggested the project be relocated to another area of town.

Scott Kelly, San Clemente, opposed the project because of his opinion that it is too massive and tall for the site, and will generate traffic and congestion; opined that the project proposes too few amenities on site for its residents and will contribute to the ongoing shortage of parking in the area.

John Pito, San Clemente, recounted several recent accidents in the vicinity of the project; questioned the accuracy of the traffic study; opposed the project due to increased traffic, inaccessibility for emergency vehicles, and incompatibility with the location.

Penelope Pita, San Clemente, opposed the project due to its mass, intrusion on adjacent residences, and traffic generation; suggested that the project is motivated by developer greed and that it is incompatible with the City's village character; expressed concern for seniors due to dangerous traffic conditions, impeded emergency response access, and crowded environment.

Roger Blickhan, 76 Gas Station owner (property lessee), opposed the project due to its massiveness and incompatibility with the neighborhood; suggested that the property should be developed with commercial uses to increase the City's sales tax revenues; expressed assurance that the property would be purchased so that the developer can construct the project at another site.

Chuck Narey, San Clemente, principal in the adjacent Spanish Village project, opposed the project because it is too big for the site and the location is not suitable for seniors.

Susan Ritschel, San Clemente, supported the project; commended the developer's experience and expertise; commented on the financial complexities involved in developing a low-income product; referred to the high number of seniors currently on waiting lists for housing; related that the revisions made to the project make it more compatible with the adjacent community.

Judy Ferguson, San Clemente resident and member of the County's Senior Committee for Transportation and Housing, supported the project to address the great need for affordable senior housing; recounted the benefits of having senior housing on the site as opposed to busier and/or noisier uses.

Raymonde Meyer, San Clemente, opposed the project due to the potential for a fire or explosion from the adjacent gas station; cited concern with the project's impact on air quality, traffic, and parking; opined that the project will result in decreased privacy for adjacent residents and will devalue surrounding properties.

Jan Kempton, San Clemente, supported the project to provide housing for seniors.

Jim Kempton, San Clemente, supported the project as an improvement over the current condition of the site; noted that the project will benefit seniors in the community.

Alex Alexander II, San Clemente, opposed the project due to health and safety concerns for seniors; suggested that the proposed location is ill suited for senior housing because of loud noises, freeway dust, traffic, and lack of recreational opportunities; asserted that the project will devalue adjacent homes and decrease traffic safety for pedestrians and bicyclists.

Danny Craig, San Clemente, opposed the project because of his belief that it is not compatible with the City's character, is too dense for the site, and will not generate sales tax revenues.

Jill Hawkins, San Clemente, 1) read a letter from Denise Tkach, San Clemente, which expressed opposition to the project due to negative traffic safety impacts; 2) read a letter from Tara Fuentes, San Clemente, which expressed opposition to the project due to the number of accidents in the area and potential for more as traffic increases; 3) speaking on behalf of her husband, Jim Hawkins, conveyed opposition to the project due to incompatibility with the neighborhood as to scale, massing, balance, and traffic safety; suggested that the refurbished canyon may increase the number of homeless inhabitants and increase the fire potential.

John Tengdin, San Clemente, supported the project and noted improvements made since the last review.

Doug Bystry, San Clemente, supported the project to benefit the senior community, which is projected to increase as the baby boomers age; opined that the site is appropriate for the proposed use.

Ed Kweskin, San Clemente, opined that the subject site is better suited for commercial uses; encouraged the City to ensure all new development is sustainable and LEED certified in regard to water, irrigation and use of drought-resistant plantings.

John Persich, San Clemente resident and adjacent property co-owner, opposed the project because of his position that it is not compatible with the adjacent neighborhood, is too large for the site, and is not an attractive living option for seniors.

Randy Dietz, San Clemente, opposed the project due to its incompatibility with the adjacent neighborhood; encouraged Council to deny the project to protect surrounding property values.

Diana DePaul, San Clemente, supported the project to supply needy seniors with affordable housing.

John Koch, San Clemente, supported the project and referred to similar projects that initially faced opposition but were later accepted by the public.

James Michael Miranda, San Clemente, supported the project due to its compliance with applicable guidelines, revisions in response to public comment, and need for affordable senior housing.

Cathy Lee, San Clemente resident and South County Senior Center employee, supported the project to provide much-needed housing for seniors; related that the location is amenable to seniors' lifestyles.

Michael Chambers, San Clemente, opposed the project due to its massing and loss of privacy for adjacent residents.

Jack Bellis, San Clemente, supported the project due to its suitability to the location, need for affordable senior housing, and likelihood that it will have fewer negative impacts than alternative uses.

Rani Craig, San Clemente, opposed the project because she believes it is unsuitable for seniors due to unsafe vehicular traffic and loud music from area bars.

Wayne Dietz, San Clemente, supported the project to provide quality housing for seniors, and to assist the City in meeting its affordable housing goals.

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

Discussion ensued relative to traffic generation, the accident history at the intersection of Mendocino and El Camino Real, results of traffic line-of-sight analyses, emergency vehicle access to the site, and the infrequency of gas station spills or fires.

City Manager Scarborough noted that the City property at La Pata/Vista Hermosa was previously suggested by Council as a possible site for affordable housing; noted that the site has been designated as revenue-producing to support long-term operations and maintenance of the La Pata/Vista Hermosa Community Park; opined that the site warrants further analysis as a possible family affordable housing site.

During the course of deliberations, individual Councilmember(s) offered commentary as follows. The below points do not necessarily reflect Council consensus.

- The proposed location is unsuitable for seniors due to a lack of services within walking distance and potential unsafe pedestrian safety.
- The project does not follow Mission Statement guidelines with regard to preserving the City's village character or ensuring responsible growth.
- In the event an accident occurs due to the project's close proximity to the gas station, the site's topography may make containment difficult.
- Traffic studies indicate the development will not negatively impact traffic levels of service on El Camino Real.
- The project merits approval to fulfill the City's moral and legal responsibility to provide housing for seniors.
- Residential placement next to a freeway is not unsuitable as evidenced by the large amount of housing currently adjacent to the freeway throughout the City.
- The proposed use will have fewer impacts to adjacent residents than alternative uses.
- The project provides a community benefit, encourages revitalization of the area, and provides for mitigation of its shortfalls.
- There is a huge need for senior affordable housing and Meta Housing is an excellent affordable housing developer.
- The architecture is high quality.
- The use of an \$1.8 million City subsidy is inappropriate given the lack of community support.
- Traffic concerns include the line-of-sight distance, number of accidents at the Mendocino/El Camino Real intersection, and unprotected left-hand turns in and out.
- The back of the structure is located too close to the canyon and a highly-flammable plant palette is proposed.
- The developer has reduced the project by six units.
- The property is currently in a state of disrepair.
- The Zoning Code allows a three-story building that is 45' high to be constructed on the property.
- State Law provides that a density bonus is mandatory if the project is entitled to the bonus.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER BAKER, CARRIED 3-2 (MAYOR PRO TEM DAHL AND COUNCILMEMBER EGGLESTON VOTING NOE), to adopt Resolution No. 09-10 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CERTIFYING THE ENVIRONMENTAL IMPACT REPORT AND ADOPTING THE MITIGATION MEASURES AND THE STATEMENT OF FACTS AND FINDINGS AND APPROVING CONDITIONAL USE PERMIT 06-065, ARCHITECTURAL PERMIT 06-066, AND SITE PLAN PERMIT 08-421, SAN CLEMENTE SENIOR HOUSING, A REQUEST TO DEMOLISH AN EXISTING RESTAURANT AND CONSTRUCT A THREE-STORY, 76-UNIT, SENIOR HOUSING APARTMENT COMPLEX WITHIN THE NEIGHBORHOOD COMMERCIAL (NC3) ZONING DISTRICT AT 2350 SOUTH EL CAMINO REAL, with the following revisions:

1. A 79th Condition of Approval shall be added to read as follows: “Approvals are subject to the applicants providing a 100% affordable project, at the 60% of median Orange County income level or better.”
2. An 80th Condition of Approval shall be added to read as follows: “The ten-foot easement providing access to the existing pole sign shall be kept clear of trees and shrubs, and turf block pavers shall be installed to provide adequate support for required equipment.”
3. Condition of Approval 20.c shall be deleted inasmuch as it is redundant with Condition of Approval 76.

MEETING RECESSED

Council recessed at 9:35 p.m. and reconvened at 9:45 p.m. with all members present.

B. **Sidewalk Repair Program – Assessment of Costs to Property Owners for Defective Sidewalk Repairs**

Public Hearing to consider the assessment of charges to applicable properties in the Sidewalk Repair Program for an amount equal to 50% of the City costs to repair defective sidewalks adjacent to identified properties.

Public Works Director Cameron reviewed the Administrative Report, noting that the assessment for Property 81 on Vista Torito should reflect \$198.00 instead of \$287.60.

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

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 09-19 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE CITY'S COST OF SIDEWALK REPAIRS AND AUTHORIZING THE FINANCE DIVISION TO INVOICE THE 50% SHARE OF DEFECTIVE SIDEWALK REPAIRS TO PROPERTY OWNERS IN THE SIDEWALK REPAIR PROGRAM.

B. **Code Amendment – Public Sewer Lines**

Public Hearing to consider amending Section 13.24.190 of the San Clemente Municipal Code to impose a public sewer line cleaning surcharge for certain food service establishments and adding a new Chapter 13.30, which is mandated by the California Regional Water Quality Control Board, to the Municipal Code entitled "Use Of Sanitary Sewer Facilities By Food Service Establishments And Other Private Systems Discharging To The Public Sewer."

City Clerk Baade recommended that Council table this item; explained that Staff anticipates that this item will be agendized for Council consideration in June 2009; stated that Staff will re-advertise the Public Hearing at that time.

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to table the issue of Code Amendments relating to Public Sewer Lines.

7. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items L and M.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the City Council minutes of February 3, 2009, February 24, 2009 and February 28, 2009.

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

- (1) Coastal Advisory Committee meeting minutes of February 12, 2009.
- (2) Zoning Administrator meeting minutes of March 4, 2009.
- (3) Joint City Council/Traffic Task Force meeting minutes of February 10, 2009.
- (4) Planning Commission Study Session minutes of February 10, 2009 and March 4, 2009.
- (5) Planning Commission Regular Meeting minutes of March 4, 2009.

C. **Warrant Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Wire Transfer Nos. 580 through 583, and Warrant Nos. 800599 through 800778, for the period 2-16-09 through 2-20-09 in the amount of \$1,843,269.88; and Warrant Nos. 800779 through 800917, for the period 2-23-09 through 2-27-09 in the amount of \$1,460,739.60; for a total Warrant Register of \$3,304,009.48.

Payroll Register

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Warrant Nos. 321298 through 321316, and Automatic Deposit Advises 158137 through 158397, for the period 2-9-09 through 2-22-09 in the amount of \$387,464.54; for a total Payroll Register of \$387,464.54.

D. **Reorganization of the Engineering Division of the Public Works Department**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the elimination of one (1) Engineering Technician position in the Development Engineering Section and creation of one (1) Senior Engineering Technician position.

E. **South Orange County Wastewater Authority (SOCWA) – Appointment of City Director and Alternate Directors to the Joint Powers Agency Board of Directors**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 09-20 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPOINTING A DIRECTOR AND ALTERNATE DIRECTORS TO THE SOUTH ORANGE COUNTY WASTEWATER AUTHORITY (SOCWA) JOINT POWERS AGENCY BOARD OF DIRECTORS.

F. **Establishment of Weed Abatement Program for 2009**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 09-21 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.

G. **Notice of Completion – Avenida Pico Improvements**

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

1. Accept the Avenida Pico Improvements, Project No. 12906, from the contractor, R.J. Noble Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Avenida Pico Improvements project.
3. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Engineering Division that no liens have been levied against R. J. Noble Company.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

H. **Contract Award – Via Pico Plaza Sewer Line Replacement and Rehabilitation, and Avenida Acapulco and Via Cisco Storm Drain Rehabilitation**

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

1. Approve the plans and specifications for the Via Pico Plaza Sewer Line Replacement and Rehabilitation, Project No. 19201, and the Avenida Acapulco and Via Cisco Storm Drain Rehabilitation, Project No. 19008.
2. Approve, and authorize the Mayor to execute, Contract No. C09-14, by and between the City of San Clemente and GCI Construction, Inc., providing for the Via Pico Plaza Sewer Line Replacement and Rehabilitation, Project No. 19201, and Avenida Acapulco and Via Cisco Storm Drain Rehabilitation, Project No. 19008, in the amount of \$38,800.

I. **Contract Award – Sidewalk Repair Program**

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

1. Approve the specifications for the Sidewalk Repair Program.
2. Approve, and authorize the Mayor to execute, Contract No. C09-15, by and between the City of San Clemente and D & L Paving, providing for the Sidewalk Repair Program, in the amount of \$261,700.

J. **Equipment Purchase - All Terrain Vehicles for Police Services**

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

1. Approve the purchase of two (2) All Terrain Vehicles (ATVs) for use by San Clemente Police Services.
2. Approve an appropriation of \$11,500 from the General Fund undesignated fund balance to Account 001-218-45600.

K. **Lease Agreement for Development of a Miniature Golf Facility at La Pata/Vista Hermosa Sports Park**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve, and authorize the Mayor to execute, a Lease Agreement, Contract No. C07-41, by and between the City of San Clemente and Scott Melcher, for the purpose of leasing approximately 1.5 acres of property located generally within the La Pata/Vista Hermosa Sports Park for the purpose of developing a miniature golf course.

N. **Creation of Economic Development and Housing Director Classification**

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

1. Adopt Resolution No. 09-18 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING RESOLUTION NO. 97-09, ADOPTING A REVISED SALARY TABLE FOR A NEW JOB CLASSIFICATION.
2. Approve the Economic Development and Housing Director job description.
3. Approve an appropriation of \$25,000 from the Undesignated Fund Balance to the Human Resources Account 001-171-43690, Other Professional Services.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

L. **204 South El Camino Real (Duke's Restaurant) – Lease Agreement to Provide for Conversion of Private Parking Resources to Public Parking Resources**

Community Development Director Holloway responded to questions by Council and John Tengdin.

MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve, and authorize the Mayor to execute, a Lease Agreement, Contract No. C09-16, by and between the City of San Clemente and M.S. Clipper, Inc., dba Reno Room and Cocorenos, for the purpose of converting private parking resources at 204 South El Camino Real to public parking resources.

M. **Driving Range Improvements at the Municipal Golf Course**

Council directed that Staff install the sidewall fencing on the driving range as soon as possible to increase safety.

MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve an appropriation of \$120,000 to Account 056-666-45300 (Golf Depreciation Reserve) for the purpose of completing the Driving Range Improvement Project at the Municipal Golf Course.

8. **UNFINISHED BUSINESS**

A. **Clarification of the Definition of “Commercial Vehicles”**

Report from the Chief of Police Services concerning the definition of the term “Commercial Vehicle” as it relates to Title 10 - Vehicles and Traffic of the San Clemente Municipal Code.

Police Chief D’Auria narrated a PowerPoint presentation entitled “Parking 104 - Proposed Amendment to Parking Ordinance San Clemente Municipal Code (SCMC) 10.28.230” and responded to Council inquiries. A hard copy of Chief D’Auria’s presentation, dated March 17, 2009, is on file with the City Clerk.

John Koch, San Clemente, opined that commercial vehicles that are parked on the street create unsafe conditions and blight; conveyed support for Option 2.

Glen Frohlich, San Clemente, requested that Council consider establishing a temporary permit process for parking larger vehicles on the street for specific projects; requested that Council not hinder the ability of business operators to make a living because others do not approve of their vehicles’ appearance; questioned the fairness of receiving a citation because supplies were mistakenly left in a truck parked on the street.

Tom Lorch, San Clemente, supported Option 2; spoke in support of allowing pipe racks and a permit system to allow overnight parking of U-haul trucks when moving; presented a letter, dated 3-16-09, which is on file with the City Clerk.

Ken Nielsen, San Clemente, commented that many commercial vehicles park on the street in the Neighborhood Pride area, thereby creating blight; supported Option 1 to eliminate the exception for stake beds that are 80" in length or less.

Larry Culbertson, San Clemente, spoke in support of Option 1 to eliminate the exception for stake beds that are 80" in length or less; suggested allowing personal use pick-up trucks to park on streets as long as tools are removed; urged enforcement of the commercial vehicle parking ban to increase street parking for non-commercial vehicles.

John Tengdin, San Clemente, supported Option 1 with the modification that it reference "goods, wares, or property of a *commercial* nature."

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve the substance of the below verbiage defining commercial vehicles (i.e., a variation of Option 2) and direct Staff to work with the City Attorney to revise and re-submit San Clemente Municipal Code Sections 10.04.010 and 10.28.230 to Council for consideration.

"Commercial Vehicle" is defined as:

Any vehicle meeting the definition of "Commercial Vehicle" in Section 260 of the California Vehicle Code, as that definition may be amended from time to time; provided, however, that for the purposes of this chapter (a) No "Pick-up Truck," as that term is defined in California Vehicle Code Section 471, shall be considered a commercial vehicle unless: (1) goods, wares, or property of any **commercial** nature loaded thereon extend above the manufacturer's box; or (2) the standard bed has been replaced with a utility or stake bed over 80 inches in width; or (3) the vehicle has been modified to include a rack extending over the length of the vehicle's bed which currently has goods or wares of a commercial nature stored thereon.

***Bold type indicates added verbiage.**

9. **NEW BUSINESS**

None.

MEETING CONTINUED PAST 11:00 P.M.

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

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

(1) **Consideration of Rescheduling the Regular Council Meeting of May 19, 2009 to enable the Council Chambers to be used as a Polling Site**

Report from the City Clerk concerning the possibility of rescheduling the Regular Council Meeting of May 19, 2009 to enable the Council Chambers to be used as a polling site for the Special Statewide Election.

City Clerk Baade reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to reschedule the Regular Council Meeting of May 19, 2009 so that the City Council Chambers can be used as a polling site for the Special Statewide Election. If Councilmember Eggleston is available, the second meeting in May will take place on May 18, 2009. If he is not available, the meeting will take place on May 21, 2009, following the budget workshop.

C. **City Attorney**

None.

D. **Council Members**

(1) **Salary Grade of the City Manager Classification**

Report from the Council Subcommittee concerning the possibility of adding the City Manager classification to the City's Salary Table, establishment of the salary range for the City Manager classification, and step placement of the current City Manager within the established salary range.

City Manager Scarborough asked to be excused and left the Chambers at 11:05 p.m.

Councilmember Anderson reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to:

1. Approve the placement of the City Manager classification into Salary Range Grade 96 of the City's Salary Table and place the City Manager at Step C as outlined in the Administrative Report, dated March 17, 2009, which is on file with the City Clerk.
2. Approve an appropriation of \$14,230 from the undesignated fund balance to Account 001-121-41010 for the City Manager compensation adjustment.

City Manager Scarborough returned to the Council Chambers at 11:12 p.m.

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

Mayor Pro Tem Dahl reported on animals available for adoption at the San Clemente-Dana Point Animal Shelter; invited the public to attend the Wag-a-Thon that will be held on April 25, 2009 at the Dana Point Harbor.

(3) **Junior Lifeguard Program – Recognition of Rocket Klein**

Councilmember Baker commended the Marine Safety Division for the Junior Lifeguard program; recognized Rocket Klein, who used techniques learned in the Junior Lifeguard Program to rescue two girls caught in riptides last week.

(4) **Carnival Colossal and Earth Day Festivities**

Mayor Donchak reported that Carnival Colossal will take place on April 17-19, 2009 and Earth Day will be celebrated on April 18, 2009 at the pier.

12. **RESOLUTIONS/ORDINANCES**

None.

13. **ADJOURNMENT**

MOTION BY MAYOR DONCHAK, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to adjourn at 11:15 p.m.

The next Regular Council Meeting will be held on April 7, 2009 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 5:30 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