

# CITY OF SAN CLEMENTE

## City Council Minutes

### Adjourned Regular City Council Meeting - November 17, 2009

*These minutes reflect the order in which items appeared on the meeting agenda and do not necessarily reflect the order in which items were actually considered.*

An Adjourned Regular Meeting of the San Clemente City Council was called to order on November 17, 2009 at 4:05 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Donchak.

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

**ABSENT**                         DAHL

**STAFF PRESENT**             George Scarborough, City Manager; Jeff Oderman, City Attorney; Joanne Baade, City Clerk; Anthony Mejia, Deputy City Clerk.

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### **CLOSED SESSION**

City Attorney Oderman requested a Closed Session to discuss Items A and B as listed on the Closed Session agenda.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to recess to Closed Session at 4:10 p.m. to discuss the following:

- A.     PUBLIC EMPLOYEE PERFORMANCE EVALUATION, pursuant to Government Code Section 54957:

Title: City Manager

*Closed Session items continued on next page*

- B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, pursuant to Government Code Section 54956.8:

Property: The North Beach site (which is comprised of a triangle site bounded by El Camino Real to the north, the Ole Hanson Beach Club to the south and Avenida Estacion to the west). The Marblehead site (which is bounded by Avenida Pico to the east, Prima Deshecha flood control channel to the west and open space to the west and north).

Negotiating Parties: George Scarborough, City Manager and Shaheen Sadeghi

Under Negotiation: Both Price and Terms of Payment.

In attendance for the full Closed Session were all members of Council and City Manager Scarborough. City Attorney Oderman, Community Development Director Holloway and City Clerk Baade were present for Item B only.

#### **MEETING RECONVENED**

Council reconvened at 6:05 p.m., with all members present.

#### **INVOCATION**

Jim Davis, Orange County Sheriff's Department Senior Chaplain, gave the invocation.

#### **PLEDGE OF ALLEGIANCE**

Councilmember Anderson led the Pledge of Allegiance.

#### **1. SPECIAL PRESENTATIONS**

##### **A. San Clemente High School Student Report**

Katherine (Katelin) Hamming and Morgan Bermingham, student representatives of San Clemente High School, reported on upcoming campus activities.

**Family Week Proclamation**

Mayor Donchak presented a Proclamation to Marcene Kylander, of the Church of Jesus Christ of Latter-day Saints, declaring November 22-28, 2009 as Family Week.

**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 narrated a PowerPoint presentation entitled "Update on Playa Del Norte (LAB)" and responded to Council inquiry. A hard copy of Mr. Holloway's presentation, dated November 17, 2009, is on file with the City Clerk.

Council directed Staff to investigate whether Avenida Pico will be widened near Boca De La Playa and whether the proposed change from parallel parking to angled parking will cause a net reduction in lawn area from the Ole Hanson Beach Club.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to receive and file the Administrative Report, dated November 17, 2009, that is on file with the City Clerk.

**C. Presentation by SunCal, LLC - Status of the Marblehead Residential/SunCal Project**

Peter Johnson, representing SunCal, provided an update on the status of the Marblehead residential/SunCal project; stated that the Bankruptcy Receiver authorized improvements on Avenida Pico, El Camino Real/Pacific Coast Highway, completion of the Avenida Vista Hermosa bridge, winterizing of the site and restoration of the open space areas; noted that it is anticipated that they will receive a final signed order in the next week that will allow them to either commence the work or to solicit bids for the projects; related that work will likely commence shortly after the start of the new year.

D. **Poche Beach Urban Run-Off Filtration System - Status Report**

Mary Anne Skorpanich, Director of Orange County Watersheds Program, provided a status report on the Poche Beach Urban Run-off Filtration System; explained that performance trials must be conducted to test and refine the filtration system prior to accepting the project from the contractor; noted that the system's performance trials to date have failed to meet the State's standards that require the removal of 99.9% of bacteria colonies; summarized the modifications and repairs that have been implemented and noted that the contractor has been directed to either replace the UV component of the system or install a second UV light system to increase the system's effectiveness; noted that it is anticipated that a performance trial will be conducted in January 2010. In response to Council inquiry, Ms. Skorpanich explained the processes for preventing and removing debris from the upper waterways and addressed the possibility of installing a second debris boom near Pacific Coast Highway.

Virginia Hall, San Clemente, expressed concern regarding the water quality at Poche Beach and the excessive amount of time to repair the water filtration system; advised Council that the notices of water contamination at Poche Beach have persuaded her family to avoid this beach and instead drive to farther beaches with better water quality; conveyed hope that the City and County will work together to resolve the issues and repair the water filtration system at Poche Beach.

Paige Foreman, San Clemente, voiced concern that none of the involved agencies take responsibility for the filthy conditions at Poche Beach and summarized her efforts to encourage a remedy to the water quality issue; voiced concern that the catwalk is often submerged with water which forces her family to either wade through the contaminated water or cross the railroad tracks illegally to access the beach; voiced disappointment that a ribbon cutting ceremony occurred to celebrate the construction of an ineffective water filtration system; asserted that if the water filtration system became operable that the water would then pond on the beach and then become re-contaminated; requested that the filtered water be discharged directly into the ocean; noted that Poche Beach was given an F rating for water quality; urged Council to demand accountability by the County and other responsible agencies and encouraged Council to communicate with all involved agencies.

Camille Wyatt, San Clemente, stated that Poche Beach was not polluted in the 1970s when she was a child; voiced concern that thousands of seagulls congregate at the drainage system due to the access to food; asserted that the water quality is comparable to a sewage pit; noted that she owns an environmental consulting company and expressed concern regarding the high levels of contamination and lack of corrective action; opined that it is improbable that the water filtration system will ever work on a consistent basis; asserted that if the contamination were caused by a private company, government would have demanded an expeditious resolution.

Cheryl Cogan Powitzky, San Clemente, stated that Poche Beach is referred to as "Polio Pit"; voiced concern regarding the hazardous and filthy water conditions; opined that families near Poche Beach have suffered through escalating water quality problems for over 45 years; voiced concern that \$3,000,000 was expended for an ineffective filtration system; asserted that Poche Beach is the filthiest beach in California; requested that Council diligently address the water quality at Poche Beach.

Natalie McGinley, San Clemente, noted that her comments are directed towards the County, but encouraged Council to also help resolve the water quality problems at Poche Beach; asserted that the concept of the water filtration system may never work as intended; asserted that if the water filtration system does become operational, the filtered water would then pond on the sand for several weeks and then become re-contaminated; suggested that the filtered water should be discharged directly into the ocean or that the County tractor should release the sand berms on a frequent basis; spoke on the difficulty of persuading the County to release the sand berms due to the possibility of disturbing wildlife; stressed the importance of providing a clean beach to protect the health of people and wildlife.

Bill Hart, Chairman of the San Clemente Watershed Task Force and leader of the San Clemente Clean Ocean Coalition, expressed disappointment that the water filtration system at Poche Beach is not operational; spoke on his efforts to garner community support for the clean ocean fee, noting that he promised that the fee passage would result in improved water quality; opined that the filtered water is being discharged directly into a pond where it becomes re-infected; suggested that the contractor should be required to fix the water filtration system; spoke on the difficulty of modifying the California Coastal Commission permit to allow filtered water to be discharged directly into the ocean, but recommended that Council begin the process; asserted that until the filtered water can be discharged directly into the ocean, Poche Beach will continue to be one of the dirtiest beaches in Orange County; noted that a portion of the responsibility for the conditions at Poche Beach lies with the residents that cause the run-off and litter which flows to the beach.

John Tengdin, San Clemente, urged that the California Coastal Commission be asked to remove the restriction which prevents the filtered water from being discharged directly into the ocean.

Following discussion, Council provided direction as follows: 1) Staff is to prepare a letter to County Supervisor Bates that includes a transcript of the comments offered this evening; 2) The Coastal Advisory Committee is to develop an action plan for Council review that addresses possible changes to the system, necessary funding, potential amendments to the California Coastal Commission permit and public education; and 3) Requested Ms. Skorpanich to submit her Council presentation to the City in writing, including milestones and measures of success for the next 12 months.

E. **Fiscal State of the City, Presentation of Quarterly Financial Reports, and Introduction of the 2010 Issue Papers and Objectives**

Presentation of the Fiscal State of the City, quarterly financial reports for the 4th Quarter of Fiscal Year 2009 and the 1st Quarter of Fiscal Year 2010, and introduction of the 2010 Issue Papers and Objectives.

Assistant City Manager/City Treasurer Gudgeirsson narrated a PowerPoint presentation entitled "Fiscal State of the City" and responded to Council inquiries. A hard copy of Mr. Gudgeirsson's presentation, dated November 17, 2009, is on file with the City Clerk.

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

**Courtney's Sandcastle Fundraiser at Holly Jolly Hoopla Festival**

Lori Shelton, representing Courtney's Sandcastle Subcommittee, invited the community to purchase tile-decorating vouchers at the Holly Jolly Hoopla Festival; noted that the proceeds will benefit Courtney's Sandcastle; presented Council with tiles decorated by Courtney Smith and Spencer Shelton.

**Possible Minor Exception Permit and Cultural Heritage Permit at 320 Avenida Gaviota**

Christy Armstrong, San Clemente, expressed concerns regarding a Minor Exception Permit and Cultural Heritage Permit for a proposed residential addition at 320 Avenida Gaviota that will be considered by the Planning Commission on November 18, 2009; expressed concern with the project's mass, design, and potential for slope failure.

**Code Enforcement at 414 Via Alegre**

Ed Martinez, San Clemente, stated that he purchased the property at 414 Via Alegre in 2002 that included a wall that was constructed around 1964; stated that he re-landscaped his front lawn in 2004 after receiving a letter from Code Enforcement acknowledging that the wall was pre-existing and that it was satisfactory; related that he has now received a letter from Code Enforcement advising that the wall height has been reevaluated and that the previous determination was incorrect; stated that in October 2009, he received another letter from Code Enforcement stating that if the wall violation was not corrected by the end of the year, he would face fines and prosecution; requested that Council allow the wall to remain in its current condition.

**Casino Special Activities**

John Tengdin, San Clemente, voiced concern that a number of not-for-profit organizations in the City would like to use the Casino for fundraising in 2010, but the City has indicated that it can't issue special activities permits past the end of this year.

Community Development Director Holloway explained that the LAB has not applied for a special activities permit for 2010; related that the Planning Commission will consider, at its December 2, 2009 meeting, a Conditional Use Permit that would allow permanent entertainment and restaurant use at the Casino; stated that the Parking Mitigation Agreement with the LAB will be agendaized for Planning Commission, and subsequent Council consideration, during December 2009.

3. MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, 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 Oderman stated that Council took no reportable action on any of the items listed on the Closed Session agenda.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve the Consent Calendar, with the removal of Items D, F, H, I, J, K and L.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve the minutes of the Adjourned Regular City Council meeting of October 20, 2009.

B. MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to receive and file:

- (1) Design Review Subcommittee Meeting minutes of October 14, 2009 and October 28, 2009.
- (2) Zoning Administrator Meeting minutes of November 4, 2009.
- (3) Planning Commission Regular Meeting minutes of November 4, 2009.
- (4) Planning Commission Regular Study Session meeting minutes of November 4, 2009.

C. **Warrant Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve Warrant Nos. 806686 through 806852 for the period 10-19-09 through 10-23-09 in the amount of \$1,753,770.91; approve Handwrite No. 807002, Wire Transfers Nos. 627 through 629, and Warrant Nos. 806853 through 807001 for the period 10-26-09 through 10-30-09 in the amount of \$1,161,995.14; for a total Warrant Register in the amount of \$2,915,766.05.



**Payroll Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve Warrant Nos. 321741 through 321752, Automatic Deposit Advises 163012 through 163266, for the period 10-19-09 through 11-01-09 in the amount of \$419,318.79; for a total Payroll Register in the amount of \$419,318.79.

**E. Federal Energy Efficiency and Conservation Block Grant Allocations**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to:

1. Approve the use of the City's Energy Efficiency and Conservation Block Grant allocation for implementation of the following proposed activities: 1) Community Center Solar Electricity Generation; 2) AB 811 Energy Efficiency Financing District Startup; 3) Climate Action Plan; 4) Energy Efficiency Improvements; 5) Community Development Parking Lot Light Retrofit; and 6) Bicycle Master Plan.
2. Authorize Staff to submit to the U.S. Department of Energy for final approval the following proposed activities: 1) Community Center Solar Electricity Generation; 2) AB 811 Energy Efficiency Financing District Startup; 3) Climate Action Plan; 4) Energy Efficiency Improvements; 5) Community Development Parking Lot Light Retrofit; and 6) Bicycle Master Plan.

**G. Contract Award - Reservoir No. 9 Pipe Replacements and Lining**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to:

1. Approve the plans and specifications for the Reservoir No. 9 Pipe Replacements and Lining, Project No. 26403.
2. Approve, and authorize the Mayor to execute, Contract C09-63, by and between the City of San Clemente and NEWest Construction Company, Inc., providing for the Reservoir No. 9 Pipe Replacements and Lining, in the amount of \$232,684.

*(Council action continued on next page)*

3. Approve, and authorize the Mayor to execute, the First Amendment to Contract AC-388, by and between the City of San Clemente and Infrastructure Engineering Corporation, providing for engineering construction phase services of the Reservoir No. 9 Pipe Replacements and Lining project. This amendment increases the contract cost from \$24,900 to \$33,800 (an increase of \$8,900).

M. **Professional Services Agreement with ATS Communications**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve, and authorize the City Manager to execute, the Letter Agreement regarding Consulting Contract C04-49, by and between the City of San Clemente and Telecom Partners Group, dba ATS Communications.

7. **PUBLIC HEARINGS**

A. **Amendment to the La Pata/Vista Hermosa Park Master Plan**

Public Hearing to consider approval of a City-initiated amendment to the La Pata/Vista Hermosa Park Master Plan to: 1) establish the new playground/Courtney's Sand Castle location within the park; 2) establish the lease area within the park; 3) establish the requirement for a Conditional Use Permit for any potential use of the lease area; and 4) establish areas of future development. The park site is located at the southwest corner of the intersection of Avenida Vista Hermosa and Avenida La Pata and is a portion of Assessor's Parcel Number 124-081-64.

Associate Planner Nicholas narrated a PowerPoint presentation entitled "Amendment to the La Pata/Vista Hermosa Master Plan" during the ensuing discussion, Associate Planner Nicholas and Landscape Architect Shaw responded to Council inquiries. A hard copy of Mr. Nicholas' presentation, dated November 17, 2009, is on file with the City Clerk.

Mayor Donchak opened the Public Hearing.

Melissa Echelberger, representative of the Courtney's Sandcastle Subcommittee, requested that Council consider including Courtney's Sandcastle in the La Pata/Vista Hermosa Sports Park bid process; spoke on the importance of developing universally accessible playgrounds.

Ryan Steel, San Clemente, expressed support for Courtney's Sandcastle; spoke on the potential benefits of universally accessible playgrounds for children with disabilities.

Teri Steel, San Clemente, explained the hardships that she experienced while transporting her family to the City of Lake Forest to attend universally accessible parks and facilities; expressed support for including Courtney's Sandcastle at the La Pata/Vista Hermosa Sports Park.

Sam Masotto, President of the San Clemente Little League, noted that San Clemente Little League is growing 5%-10% each year which increases the need for more baseball fields; thanked Council for moving forward with the La Pata/Vista Hermosa Sports Park.

Bill Thomas, San Clemente, speaking as a private citizen, summarized the history of Courtney's Sandcastle; spoke on the possibility that the playground may serve as a regional park for children and adults with special needs.

Carolyn Bredek, San Clemente, expressed support for Courtney's Sandcastle; noted that the playground will foster an atmosphere of inclusivity between children with and without disabilities; spoke on the importance of sensory stimulation for children with autism.

Scott Bowen, representing Pacifica San Clemente Homeowners Association, noted that the homeowners within his association favor a park but are concerned with light and sound emissions; requested that Council direct Staff to investigate the potential light and sound impacts.

Mayor Donchak advised Mr. Bowen that a Councilmember and/or Staff could be available to attend a homeowners association meeting to discuss the La Pata/Vista Hermosa Sports Park, if desired.

Raad Ghantous, San Clemente, spoke on the importance of utilizing universally accessible design methods to accommodate the varying accessibility needs of future generations.

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

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to:

1. Adopt Resolution No. 09-72 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AN AMENDMENT TO THE AVENIDA LA PATA/AVENIDA VISTA HERMOSA PARK MASTER PLAN FOR A NEW LAND USE MAP FOR THE INCLUSION OF COURTNEY'S SAND CASTLE, LEASE AREA, AND FUTURE DEVELOPMENT AREAS.
2. Approve the requirement of a Conditional Use Permit for any use to be established in the Lease Area.

#### **MEETING RECESSED AND RECONVENED**

Council recessed at 8:30 p.m. and reconvened at 8:40 p.m., with all members present, except for Mayor Pro Tem Dahl.

#### 8. **ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

##### D. **Lease Agreement to Provide for Conversion of Private Parking Resources to Public Parking Resources in the Downtown Area - Nick's Restaurant (213 Avenida Del Mar)**

In response to Council inquiry, Community Development Director Holloway and City Manager Scarborough explained that the City requires restaurants to install grease interceptors; explained that Nick's Restaurant installed its grease interceptor underneath its parking lot, which necessitated reconstruction of the lot; pointed out that Nick's Restaurant funded the full cost of the grease interceptor, but is requesting that the City pay half of the \$25,000 parking lot reconstruction cost because the work was necessitated by the grease interceptor.

Following discussion, MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to:

1. **DENY** Staff Recommendation to authorize a payment of \$12,500 to D.E.K.K. Associates, owners of Nick's Restaurant property.

*(Council action continued on next page)*

2. Approve, and authorize the Mayor to execute, Contract C09-59, a lease agreement by and between the City of San Clemente and D.E.K.K. Associates, owners of Nick's Restaurant property, providing for the conversion of private parking resources at 213 Avenida Del Mar to public parking resources.
3. Authorize the City Clerk to submit the Memorandum of Lease to the Orange County Recorder for recordation.

F. **Pilot Commercial Food Waste Diversion Program**

Following clarification, MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to:

1. Approve, and authorize the Mayor to execute, Funding Assistance Agreement No. D09-1, by and between the City of San Clemente and the County of Orange for the Pilot Commercial Food Waste Diversion Program to increase waste diversion from landfills. (Contract C09-60)
2. Approve, and authorize the Mayor to execute, Contract C09-61, by and between the City of San Clemente and CR&R, Inc., to implement the Pilot Commercial Food Waste Diversion Program.
3. Approve, and authorize the Mayor to execute, the Joint Cooperative Agreement by and between the City of San Clemente and the Cities of Aliso Viejo, Dana Point, Laguna Hills, Laguna Niguel, Rancho Santa Margarita, San Juan Capistrano, and Tustin to establish a partnership for the Pilot Commercial Food Waste Diversion Program. (Contract C09-62)

H. **Contract Award - West Avenida Palizada Sidewalk Improvements**

Council complimented the Public Works Department for its thorough review of contract documents.

MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to:

1. Approve the plans and specifications for the West Avenida Palizada Sidewalk Improvements, Project No. 10313.

*(Council action continued on next page)*

2. Approve, and authorize the Mayor to execute, Contract C09-64, by and between the City of San Clemente and Team C Construction, providing for the construction of sidewalk improvements on West Avenida Palizada, in the amount of \$105,285.
3. Approve a transfer of \$23,000 from the Gas Tax Fund balance to the Sidewalk Improvements CDBG Account 017-896-45715-000-10313.
4. Approve a supplemental appropriation of \$23,000 to Sidewalk Improvements CDBG Account 017-896-45715-000-10313 for the West Avenida Palizada Sidewalk Improvements.

I. **Funding Appropriation - Recruiting Services for the Beaches, Parks and Recreation Director Position**

Larry Culbertson, San Clemente, noted that Al King will soon retire and suggested that the City's Human Resources Division should conduct the recruitment to fill the upcoming vacancy instead of outsourcing the recruitment effort; voiced concern that the \$25,000 cost to retain a recruitment firm could be better spent on other City needs.

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0, to approve an appropriation of \$22,500 from the General Fund Undesignated Fund Balance to the Human Resources Other Professional Services Account 001-171-43690. This appropriation will be used to fund the \$16,000 cost of a professional services agreement for recruiting services for the Beaches, Parks and Recreation Director position and also fund \$6,500 for associated expenses.

J. **Contract Award - Utility Bill Printing and Mailing Services and Electronic Bill Presentment and Payment Services**

John Tengdin, San Clemente, commended Finance Manager Rendina for adding a 15-month utility usage summary in water bills and for also including a description of the term "unit".

In response to Council inquiry, Finance Manager Rendina explained the process for citizens to request electronic receipt of their utility bills.

MOTION BY MAYOR DONCHAK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to approve, and authorize the Mayor to execute, Contract C04-61, by and between the City of San Clemente and Infosend, Inc., providing for utility bill printing and mailing services and electronic bill presentment and payment services for a three-year period, in an amount not to exceed \$302,000.

K. **Reappropriation of Prior Year Encumbrances**

Following clarification, MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to:

1. Approve the reappropriation of the encumbrances outstanding at June 30, 2009 in the total amount of \$56,808,820, and the commitments not formally encumbered in the total amount of \$19,183,480, both as indicated in the Administrative Report entitled "Reappropriation of Prior Year Encumbrances," dated November 17, 2009, which is on file with the City Clerk.
2. Approve the reappropriation of revenues in the amount of \$3,749,362.
3. Approve the reappropriation of the transfers in/out between funds of \$4,489,362.

L. **Contract Award - Avenida Presidio and Avenida Palizada Corridors Traffic Operations Analysis**

Following clarification, MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to approve, and authorize the Mayor to execute, Contract C09-65, by and between the City of San Clemente and KOA Corporation, providing for the Avenida Presidio and Avenida Palizada Corridors Traffic Operations Analysis, in an amount not to exceed \$40,995.

9. **UNFINISHED BUSINESS**

None.

10. **NEW BUSINESS**A. **Contract Award to Update the General Plan and Creation of the General Plan Advisory Committee**

Report from the Community Development Director concerning the possibility of entering into a professional services agreement to update the General Plan and prepare an Environmental Impact Report, and to create a General Plan Advisory Committee.

Principal Planner Wisneski reviewed the contents of the Administrative Report and introduced Brian Judd, of The Planning Center; responded to Council inquiries.

In response to Council concern, Mr. Judd stated that the scope of services will be modified to include the following verbiage: *“As part of the traffic analysis, Fehr & Peers will evaluate traffic impacts with and without the completion of La Pata, the 241 Toll Road extension, and the buildout of Rancho Mission Viejo.”*

Pete Van Nuys, San Clemente, opined that the proposed General Plan Advisory Committee makeup is overwhelmingly represented by business associations; voiced concern that homeowners associations are not represented.

Michael Metcalf, San Clemente, speaking as a private citizen, spoke in support of including a Bicycle Master Plan as an element of the General Plan.

John Tengdin, San Clemente, voiced opposition to the issuance of Requests for Proposals for the Bicycle Master Plan and Climate Master Plan and suggested that the plans should be sub-contracted by The Planning Center to ensure uniformity with the General Plan; opined that business associations are over-represented on the General Plan Advisory Committee and urged that homeowner associations be added; suggested that Council consider the Visioning Document before moving forward with developing the General Plan.

Brenda Miller, San Clemente, noted that Oceanside developed a Bicycle Master Plan through a separate Request for Proposal and then blended the two documents into a cohesive General Plan; reviewed the results of the recent telephone survey and stressed the importance of improved transportation and pedestrian access.



Following discussion, MOTION BY MAYOR DONCHAK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to create a General Plan Advisory Committee consisting of:

- a. Two Planning Commissioners
- b. One Parks and Recreation Commissioner
- c. One Human Affairs Committee Member
- d. One Coastal Advisory Committee Member
- e. Four Representatives from Special Interest Groups (Two Chamber of Commerce Members, one Historical Society Member, and one San Clemente Green Member)
- f. Members-at-Large - No more than 12 members representing various demographic groups, occupations and geographic locations to create diversity and inclusivity.

Council directed Staff to advertise the General Plan Advisory Committee vacancies immediately and requested that Staff investigate the process to implement the Visioning Document and agendize the issue for the Council meeting of January 5, 2010.

Following further discussion, MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to:

1. Approve, and authorize the Mayor to execute, Contract C09-66, by and between the City of San Clemente and The Planning Center, providing for the preparation of a General Plan and the preparation of an Environmental Impact Report, in an amount not to exceed \$1,366,028, with the inclusion of the following verbiage in the Scope of Work - Section 7.1: "That based upon analysis The Planning Center will create exhibits that map where inconsistencies would occur. The exhibits would provide Staff with guidance with future Zoning Map and Specific Plan revisions."
2. Allocate a Contingency Fund of \$136,603 for unanticipated tasks as determined appropriate by the City Manager.
3. Authorize Staff to develop two Requests for Proposals (RFP) for the development of the Bicycle/Pedestrian Master Plan and Climate Action Plan and return with the recommended consultants and costs for Council's consideration.
4. Defer the selection process for individuals to be appointed to the General Plan Advisory Committee until the pool of candidates has been determined.

B. **City Policy and Procedure No. 304-1 - Waiver of Minor Architectural or Cultural Heritage Permit Fees for Mural Displays on Commercial Buildings or Walls**

Report from the City Manager concerning the possibility of approving a Policy and Procedure that would waive Minor Architectural or Cultural Heritage Permit Fees for Mural Displays on commercial buildings or walls.

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

Following discussion, MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 3-1 (COUNCILMEMBER BAKER VOTING NOE), to approve Policy and Procedure 304-1 entitled "Waiver of Minor Architectural or Cultural Heritage Permit Fees for Mural Displays," effective November 17, 2009, as modified to specify that only property owners and/or tenants may apply for fee waivers for mural displays.

**(The following item was actually considered following Item 7-A.)**

C. **Plans and Specifications and Bidding Authorization - Phase 1B of the La Pata/Vista Hermosa Sports Park**

Report from the Beaches, Parks and Recreation Director concerning plans and specifications and bid authorization for Phase 1B of the La Pata/Vista Hermosa Sports Park.

Landscape Architect Shaw narrated a PowerPoint presentation entitled "La Pata/Vista Hermosa Sports Park" and responded to Council inquiries. A hard copy of Mr. Shaw's presentation, dated November 17, 2009, is on file with the City Clerk.

In response to inquiry, City Attorney Oderman advised Council that the alternative proposal to select a "Construction Manager At-Risk" is not appropriate in this situation in light of a California Supreme Court decision that determined that a competitive bidding process is required.

Following discussion, MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to:

1. Approve the plans and specifications for Phase 1B of the La Pata/Vista Hermosa Sports Park.
2. Authorize Staff to bid the project based upon the schedule as outlined in the Administrative Report, dated November 17, 2009, which is on file with the City Clerk.

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

None.

12. **REPORTS**

A. **Commissions and Committees**

(1) **Orange County Vector Control District Vacancy**

Report from the City Clerk concerning an upcoming vacancy on the Orange County Vector Control District.

City Clerk Baade reviewed the contents of the Administrative Report and responded to Council inquiries.

Following discussion, MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR DONCHAK, CARRIED 4-0, to:

1. Authorize Staff to advertise the vacancy on the Orange County Vector Control District for a term to expire on December 31, 2011.
2. Direct that interviews and appointment be agendized for the Council meeting of December 15, 2009.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

(1) **U.S. Open in Tennis (Qualification of City resident Doris Stevens)**

Councilmember Baker announced that San Clemente resident Doris Stevens has qualified for the U.S. Open in Tennis.

(2) **Foothill South Corridor Alignment**

Mayor Donchak reported that Mayor Pro Tem Dahl and she attended a meeting with the Toll Road Corporation, at which it was requested that a letter be sent to U.S. Congressman Calvert and U.S. Senator Feinstein concerning the proposed Foothill South Corridor Alignment; read a copy of the proposed letter which opposed the Central Alignment and supported realignment of the corridor to connect with the Interstate-5 south of the City limits. During the ensuing discussion, Councilmembers expressed contrasting views as to whether the verbiage relating to support for the realignment of the corridor south of San Clemente should be included. Consequently, it was determined that the letter would be deferred and that Mayor Donchak and City Manager Scarborough will discuss the possibility of agendaizing the issue for a future Council meeting.

(3) **Banners on N. El Camino Real**

Councilmember Eggleston spoke on a recent newspaper communication concerning the propriety of the Presbyterian Church banner on North El Camino Real. City Manager Scarborough stated that he will inform the Chamber of Commerce that it is the Chamber's decision as to whether or not the banner should remain.

13. **RESOLUTIONS/ORDINANCES**

None.

14. **ADJOURNMENT**

MOTION BY MAYOR DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0, to adjourn at 11:00 p.m., to an Adjourned Regular Council Meeting to be held on December 1, 2009 in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items will be considered at 4:00 p.m. The Business Meeting will commence at 6:00 p.m.

Joanne Baade  
CITY CLERK of the City of  
San Clemente, California

Jim Dahl  
MAYOR of the City of  
San Clemente, California