

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting - November 3, 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.

A Regular Meeting of the San Clemente City Council was called to order on November 3, 2009 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Donchak.

PRESENT ANDERSON, BAKER, DAHL, EGGLESTON, MAYOR DONCHAK

ABSENT NONE

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

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CLOSED SESSION

Assistant City Attorney Goldfarb requested a Closed Session to discuss Items A, B and C as listed on the Closed Session agenda.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to recess to Closed Session at 5:03 p.m. to discuss the following:

- A. 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.

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

Property: Fisherman's Restaurant at the base of the Municipal Pier, located at 611 Avenida Victoria, San Clemente

City Negotiator: George Scarborough, City Manager

Negotiating Parties: City of San Clemente and Hal Griffith

Under Negotiation: Lease Amendment, Both Price and Terms of Payment.

- C. CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION, pursuant to Government Code Section 54956.9(c):

Number of Potential Cases: 90

In attendance for the full Closed Session were all members of Council, City Manager Scarborough, Assistant City Attorney Goldfarb, Assistant City Manager/City Treasurer Gudgeirsson and City Clerk Baade. Additionally, Community Development Director Holloway was present for Items A and C only. Central Services Officer Elston was present for Item B only. Senior Code Enforcement Officer Smith was present for Item C only.

MEETING RECONVENED

Council reconvened at 6:00 p.m., with all members present.

INVOCATION

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

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Dahl led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Proclamation Presentation - Buddy Poppy Days**

Mayor Donchak presented a Proclamation to Jim Behmerwohld, Chairman of Buddy Poppy Days, proclaiming November 6-8, 2009 as Buddy Poppy Days.

REORDERING OF THE AGENDA - SAN CLEMENTE CITY COUNCIL AND REDEVELOPMENT AGENCY

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to reorder the agenda to enable Family Assistance Ministries' Affordable Housing Agreement to be considered following the City Attorney's Closed Session Report.

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

Ole Hanson Pool Fee Increase

Michelle Blanda, San Clemente, voiced concern regarding the Ole Hanson Pool fee increase; provided Council with a written proposal recommending that the Ole Hanson Pool fee remain at \$2.00 for children 0-17 years old (instead of being increased to \$4.00) and increase the adult fees; stressed concern that the increased youth charges would serve as a disincentive for children to learn to swim. A hard copy of Ms. Blanda's proposal, dated November 3, 2009, is on file with the City Clerk.

Council directed Staff to contact Ms. Blanda concerning her proposal to keep the Ole Hanson Pool fee at \$2.00 for children 0-17 years old.

Mark Blanda, San Clemente, emphasized the importance of children learning to swim in a large swimming pool to fully develop their endurance.

Proposed Change in Dates of Regular City Council Meetings

John Tengdin, San Clemente, expressed appreciation for the letter from City Manager Scarborough explaining the rationale for not changing Council's meeting schedule; stated that the Village Courtyard letter that prompted his initial suggestion for a change in Council meeting dates was received after 5:00 p.m. on October 2, 2009 (Dark Friday); stated that because the letter was received after 5:00 p.m., it would not have been retrievable by the letter writer until the following Monday even if City Hall had been open; asserted that the submittal of the letter was carefully constructed to ensure that the letter was received when the City was closed.

3. MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, 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**

Assistant City Attorney Goldfarb stated that Council took no reportable action on any of the items listed on the Closed Session agenda.

JOINT SESSION WITH REDEVELOPMENT AGENCY

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to convene in Joint Session with the Redevelopment Agency at 6:17 p.m. to consider the following item (which appeared on the Redevelopment Agency Agenda as Item 7-A)

9-C. **Affordable Housing Agreement - Purchase and Rehabilitation of 602 Calle Canasta (Gilchrist House Shelter) - Family Assistance Ministries (FAM)**

Report from the Community Development Director concerning an Affordable Housing Agreement with Family Assistance Ministries for the purchase and rehabilitation of 602 Calle Canasta (Gilchrist House Shelter).

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

Gretchen Hesse, representing Family Assistance Ministries, thanked Council and Staff for supporting the purchase and rehabilitation of the Gilchrist House Shelter.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to adopt Resolution No. 09-71 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, FINDING THAT THE USE OF LOW AND MODERATE INCOME HOUSING FUNDS FROM THE REDEVELOPMENT PROJECT AREA OUTSIDE THE PROJECT AREA, FOR THE PURPOSE OF INCREASING, IMPROVING, AND PRESERVING THE COMMUNITY'S SUPPLY OF LOW- AND MODERATE-INCOME HOUSING, IS OF BENEFIT TO THE PROJECT AREA.

(Council action continued on next page)

MOTION BY RDA DIRECTOR EGGLESTON, SECOND BY RDA DIRECTOR DAHL, CARRIED 5-0, to:

1. Approve, and authorize the Redevelopment Agency Chair to execute, the Affordable Housing Agreement, by and between the Redevelopment Agency of the City of San Clemente and Family Assistance Ministries, for the purchase and rehabilitation of 602 Calle Canasta. (Contract C09-56)
2. Adopt Resolution No. RDA-09-04 entitled A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN CLEMENTE, CALIFORNIA, FINDING THAT THE USE OF LOW AND MODERATE INCOME HOUSING FUNDS FROM THE REDEVELOPMENT PROJECT AREA OUTSIDE THE PROJECT AREA, FOR THE PURPOSE OF INCREASING, IMPROVING, AND PRESERVING THE COMMUNITY'S SUPPLY OF LOW- AND MODERATE-INCOME HOUSING, IS OF BENEFIT TO THE PROJECT AREA.

The Redevelopment Agency adjourned at 6:24 p.m.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items 6-B(3) and the deletion of Item 6-E from the agenda.

A. **City Council Minutes**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve the minutes of the Adjourned Regular City Council meeting of October 6, 2009 and October 13, 2009.

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

- (1) Parks and Recreation Commission Meeting minutes of September 8, 2009, September 29, 2009 and October 13, 2009.
- (2) Design Review Subcommittee Meeting minutes of September 9, 2009 and September 23, 2009.
- (4) Human Affairs Committee Meeting minutes of September 9, 2009.

C. **Warrant Register**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Warrant Nos. 806289 through 806496 for the period 10-5-09 through 10-9-09 in the amount of \$1,663,133.94; approve Wire Transfers Nos. 625 and 626, and Warrant Nos. 806497 through 806685 for the period 10-12-09 through 10-16-09 in the amount of \$646,745.21; for a total Warrant Register in the amount of \$2,309,879.15.

Payroll Register

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to approve Warrant Nos. 321725 through 321740, Automatic Deposit Advises 162753 through 163011, for the period 10-05-09 through 10-18-09 in the amount of \$416,503.87; for a total Payroll Register in the amount of \$416,503.87.

D. **Notice of Completion - SCADA at 4 Radio Repeater Sites (W-4)**

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

1. Accept the SCADA at 4 Radio Repeater Sites (W-4), Project Nos. 12605 and 13501, from the contractor, Halcyon Electric, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the SCADA at 4 Radio Repeater Sites (W-4), Project Nos. 12605 and 13501. (Contract C09-09)
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 Halcyon Electric, Inc.
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.

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

This item was deleted from the agenda at the request of Staff.

7. **PUBLIC HEARINGS**

A. **Hapa J's Live Entertainment and Amplified Music at 2016 S. El Camino Real - Conditional Use Permit 09-236**

Public Hearing to consider an appeal by the City Council to consider the Planning Commission's approval of Conditional Use Permit 09-236, a request to allow live entertainment and amplified music at an existing restaurant located at 2016 S. El Camino Real in the Neighborhood Commercial (NC3) zoning district. The legal description is Tract 852, Block 7 Lots 4 and 5, Assessors Parcel Number 690-443-02.

Assistant Planner Ciampa reviewed the contents of the Administrative Report and responded to Council inquiries.

Mayor Donchak opened the Public Hearing.

Justin Shea, Applicant, disputed comments made by neighbors at the Planning Commission meeting, noting that those comments did not pertain to the issue of live entertainment and amplified music; opined that live entertainment would improve the restaurant's viability and bring Hawaiian culture to San Clemente; proposed the following amendments to the Conditions of Approval:

- Condition No. 6 - Expand to specify that live entertainment can also include hula dancing.
- Condition No. 7 - Delete this condition.
- Condition No. 10 - Modify the condition to specify that live entertainment with amplified music may occur from 11:00 a.m. to 9:30 p.m. daily.
- Condition No. 11 - Modify the condition to permit the front door of the restaurant to remain open provided the door to the lounge (where the music is played) is closed.
- Condition No. 16 - Expand the condition to include the following italicized and bolded verbiage: "In the event that a noise issue emerges and that noise emanating from the site exceeds noise ordinance standards ***on a consistent basis and that proof is provided***, then the owner must soundproof the facility to eliminate the problem to the satisfaction of the City Planner."

- Condition No. 19 - Modify the condition to include the following italicized and bolded verbiage: “***During evening hours only***, the applicant shall provide a uniformed security guard in the parking lot during live and amplified entertainment to one half hour after the live entertainment ends.”
- Condition No. 22 - Modify the condition as follows: “If City Council ***feels is provided with proof*** that there are still noise issues with the use after the six month review period, then a noise monitoring system that has the capabilities of providing a history of the noise levels, remote access, EtherNet port, and a light/alarm shall be installed at the restaurant to establish onsite monitoring of the live entertainment with amplified music.”

In response to Council inquiry, Mr. Shea explained his rationale for submitting a letter to the neighbors stating that no live entertainment would be performed at the restaurant; identified the various violation notices the restaurant has received from the Department of Alcoholic Beverage Control (ABC); expressed willingness to accept non-amplified music versus amplified music.

Jack Baxter, San Clemente, expressed opposition to allowing any type of music at the subject location; expressed concern that if the restaurant changes owners that the Conditional Use Permit will permit other types of music and/or dance.

Erin Crowe, San Clemente, expressed concern regarding prior violations issued by the ABC; stated that the windows and doors are always open and that live entertainment and music should be prohibited at this location; noted that Mr. Shea distributed a letter prior to the restaurant’s opening that indicated that no live music or karaoke would be performed. In response to Council inquiry, Ms. Crowe stated that she has not heard music emanating from previous restaurants at this location.

Tim Elsner, San Clemente, stated that Mr. Shea distributed a letter prior to opening the restaurant indicating that no live music or karaoke would be performed; asserted that the business owner has not followed the terms of the ABC license; expressed concern that music will resonate down the cul-de-sac.

Phil Van Kampen, San Clemente, requested that Council deny the Conditional Use Permit due to the restaurant’s proximity to residential dwellings; noted that the windows and doors are frequently open and that a uniformed security guard is not present. In response to Council inquiry, Mr. Van Kampen recalled that Mr. Shea distributed the letter indicating that no live entertainment or karaoke would be performed prior to the opening of the restaurant.

Danny Villareal, Hapa J's, noted that security guards are present on Friday and Saturday nights; urged neighbors to contact the restaurant's management if problems occur.

Richard Prescott, Hapa J's, explained the Hawaiian terms of "aloha" and "ohana"; noted that the Planning Commission unanimously approved the application for live entertainment and amplified music; opined that the entertainment would not generate additional parking demands.

Sonny Salinas, San Clemente, opined that Hapa J's is a quality business; advised that a public address (PA) system is necessary to amplify a singer's voice over acoustical instruments.

Joshua Yanes, Hapa J's, sang a Hawaiian style song to demonstrate the proposed live entertainment for Hapa J's restaurant.

Marina Small, San Clemente, voiced opposition to any music at the subject location; advised that she sent a letter to Mr. Shea requesting that he review the ABC license restrictions; read an excerpt of a letter from Code Enforcement Officer Smith indicating that the building does not bode well for sound containment; played a recording of sound heard from Hapa J's. In response to Council inquiries, Ms. Small stated that she has heard music emanating from the previous restaurant at this location and that Hapa J's never notified neighbors that live entertainment would be performed.

James Eichenbaum, San Clemente, questioned, and received clarification that the current ABC license requires all windows and doors to remain closed during normal business operations; voiced support to allow live entertainment and music at Hapa J's restaurant.

Shandel Hose-Shea, Hapa J's, introduced Christine Leonida, who performed a hula dance to demonstrate the live entertainment proposed for Hapa J's restaurant.

Brad Wright, San Clemente, opined that the proposed entertainment at Hapa J's would raise awareness of Hawaiian culture; expressed support for allowing entertainment at Hapa J's restaurant.

Aaron Lee, Hapa J's, opined that the proposed style of music does not constitute noise and should be permitted at Hapa J's restaurant; stated that a security guard is present on Friday and Saturday nights.

Jim Rutter, San Clemente, spoke on the ambiance of Hapa J's restaurant and Hawaiian style entertainment; urged Council to allow entertainment at Hapa J's restaurant.

Mario Rodriguez, San Clemente, opined that Hawaiian style entertainment would increase cultural awareness and is appropriate for the subject location; encouraged Council to approve the CUP for entertainment at Hapa J's restaurant.

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

In response to Council inquiry, Police Chief D'Auria spoke on the difficulty of enforcing Conditional Use Permits (CUP); noted the potential that the proposal could result in increased parking impacts and restaurant patrons congregating on the cul-de-sac; noted that the application could lead to increased code enforcement and police responses to this location; pointed out that Police Services has not had any complaints about Hapa J's.

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 4-1 (COUNCILMEMBER EGGLESTON VOTING NOE), to adopt Resolution No. 09-69 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT 09-236, HAPA J'S LIVE ENTERTAINMENT WITH NON-AMPLIFIED MUSIC, A REQUEST TO ALLOW FOR INDOOR LIVE ENTERTAINMENT WITH NON-AMPLIFIED MUSIC WITHIN AN EXISTING RESTAURANT USE LOCATED AT 2016 SOUTH EL CAMINO REAL, with the following revisions:

- a. Condition No. 6 (relating to the request that music be limited to a Hawaiian style) shall be deleted in its entirety.
- b. Condition No. 11 shall be modified to read in its entirety as follows: *"All live entertainment activities are to occur indoors. All doors and windows to the room where entertainment is being provided shall remain closed when entertainment is being provided. The front door need not be closed if all intervening doors and windows between the room where the entertainment is being provided and the room where the front door is located are closed."*

(Council action continued on next page)

- c. Condition No. 21 (relating to Council review of the Conditional Use Permit in six-months) shall be deleted in its entirety.
- d. Condition No. 22 (relating to the installation of a noise-monitoring system) shall be deleted in its entirety.
- e. All Conditions of Approval shall be modified to be consistent with Council direction to allow live entertainment and non-amplified music.
- f. The Minor Conditional Use Permit shall be valid for a period of six months following approval of live entertainment from Alcohol Beverage Control.

MEETING RECESSED AND RECONVENED

Council recessed at 8:31 p.m. and reconvened at 8:40 p.m., with all members present.

B. Density Bonus Update, Zoning Amendment 09-100

Public Hearing to consider an amendment to the San Clemente Municipal Code, Section 17.24.070, Density Bonuses and other incentives, to be in compliance with California Government Code Section 65915 which requires every city to adopt an ordinance providing density bonuses and other incentives or concessions to persons wishing to develop affordable housing projects and senior housing projects.

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

Mayor Donchak opened the Public Hearing.

Larry Culbertson, San Clemente, suggested that affordability restrictions should be permanent instead of terminating after 30 years; questioned, and received clarification, that the appreciation resulting from the resale of affordable units does not affect the term of affordability for said property.

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

Council directed Staff to determine if a 55-year affordability term can be required and to also determine if the expanded affordability term would have financial implications.

Following discussion, MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to continue the Public Hearing to the Regular Council Meeting of December 1, 2009.

C. **Serra Vista Mixed-Use Building at 136-142 Avenida Serra - Time Extension for Site Plan Permit 06-459/Time Extension for Cultural Heritage Permit 06-460/Time Extension for Conditional Use Permit 06-461**

Public Hearing to consider a request for a time extension on a previously approved project for the construction of a 16,658 square-foot mixed-use building featuring a private storage facility at the basement level, a retail storefront at the ground level, eight professional office suites at the second level and three residential units at the third level. Associated parking facilities would be located at both the basement and ground levels of the building. The project site is located at 136-142 Avenida Serra in the Downtown Mixed-Use (MU3-A) Zone.

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

Mayor Donchak opened the Public Hearing.

Michael Luna, Architect, representing the Applicant, stated that it appears promising that the applicant will obtain financing for the project; noted that the project meets all zoning requirements. In response to Council inquiries, Mr. Luna explained the proposed subterranean storage area and asserted that the City should support mixed-use developments.

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

Council directed Staff to provide Council with a 10-year retrospective of pulled building permits and determine if there are any long-term financial implications.

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 09-70 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING A TIME EXTENSION FOR SITE PLAN PERMIT (SPP) 06-459/CULTURAL HERITAGE PERMIT (CHP) 06-460/CONDITIONAL USE PERMIT (CUP) 06-461, SERRA VISTA MIXED-USE BUILDING, A REQUEST TO ALLOW A MIXED-USE PROJECT WITH PRIVATE STORAGE FACILITIES AT 136-142 AVENIDA SERRA.

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

B(3). **Zoning Administrator Regular Meeting Minutes of October 21, 2009**

MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to receive and file the Zoning Administrator Regular Meeting minutes of October 21, 2009, with the exception of Item 4-B (Casino Special Events - Special Activities Permit 09-372) for further discussion by Council.

Following clarification regarding security requirements for special events to be held at the Casino, MOTION BY MAYOR PRO TEM DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to receive and file Item 4-B (Casino Special Events - Special Activities Permit 09-372) from the Zoning Administrator Regular Meeting minutes of October 21, 2009.

9. **UNFINISHED BUSINESS**

A. **Role of a Planning Commissioner in the City of San Clemente**

Report from the Community Development Director concerning the role of a Planning Commissioner in the City of San Clemente.

City Planner Pechous reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to receive and file the Planning Commission's report entitled "The Planning Commissioner's Role," which is attached to the Administrative Report, dated November 3, 2009, that is on file with the City Clerk.

B. **Possible Enactment of Councilmember and/or Commissioner/Committee Member Term Limits**

Report from the City Clerk concerning the possible enactment of Councilmember and/or Commissioner/Committee Member term limits.

City Clerk Baade reviewed the contents of the Administrative Report.

Charles Mann, San Clemente, stated that term limits are typically enacted in cities with populations over 50,000 and that term limits generate new ideas; noted that 84% of Orange County cities with populations over 50,000 have enacted term limits; noted that of the 240 residents he surveyed, no one opposed term limits; requested that Council submit the question of term limits to the voters at the November 2, 2010 General Municipal Election.

John Alpay, San Clemente, speaking as a private citizen, voiced support for term limits; requested that Council direct Staff to research the possibility of enacting campaign financing limits and to consider the proposal at a future Council meeting.

Council directed the City Attorney to evaluate the legalities of John Alpay's proposal to limit campaign contributions and expenditures for candidates and Political Action Committees.

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 3-2 (COUNCILMEMBERS BAKER AND EGGLESTON VOTING NOE), to discontinue further discussion of term limits.

10. **NEW BUSINESS**

A. **Contract Amendment - Exclusive Negotiating Agreement with LAB Holding, LLC Relating to the North Beach Project**

Report from the City Manager concerning the First Amendment to the Exclusive Negotiating Agreement with LAB Holding, LLC to extend the term of the Agreement relating to the potential future development of multiple parcels of land located near the intersection of Avenida Pico and El Camino Real in the North Beach area.

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

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to approve, and authorize the Mayor to execute, the First Amendment to the Exclusive Negotiating Agreement by and between the City of San Clemente and LAB Holding, LLC, to extend the term of the agreement relating to the potential future development of multiple parcels of land located near the intersection of Avenida Pico and El Camino Real in the North Beach area. (Contract C06-34)

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

15th Annual San Clemente Car Show

Dave Anderson, representing the Downtown Business Association, advised that he intends to query Police Services and local merchants relative to the possibility of closing El Camino Real from Avenida Victoria to Avenida Cabrillo for the 15th Annual San Clemente Car Show; stated that the possibility of conducting the car show on a Saturday, instead of a Sunday, will also be explored.

12. **REPORTS**

A. **Commissions and Committees**

(1) **Human Affairs Committee Vacancy**

Report from the City Clerk concerning a vacancy on the Human Affairs Committee.

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

Council determined to not fill the vacancy until the annual appointment process in June 2010.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

Veterans Day and Marine Corps Birthday Ceremony

Councilmember Eggleston announced that a Veterans Day and Marine Corps birthday ceremony will be held on Saturday, November 7, 2009 at 2:00 p.m. at Park Semper Fi.

Possible Waiver of Permit Fees for Mural Displays on Commercial Buildings or Walls

Councilmember Eggleston requested that the possibility of waiving permit fees for mural displays on commercial buildings or walls be agendaized for the Council meeting of November 17, 2009.

Exchange Club Golf Tournament

Councilmember Baker commended the Exchange Club for hosting a successful fundraiser at the San Clemente Municipal Golf Course to support family assistance for Marines; complimented the conditions of the greens.

Parking Zone at the T-Street Overpass

Council requested Staff to investigate the possibility of amending the parking zone at the T-Street overpass.

13. **RESOLUTIONS/ORDINANCES**

None.

14. **ADJOURNMENT**

MOTION BY MAYOR DONCHAK, SECOND BY MAYOR PRO TEM DAHL, CARRIED 5-0, to adjourn at 10:07 p.m., to an Adjourned Regular Council Meeting to be held on November 10, 2009 at 7:00 p.m. in the second floor conference room of the Community Development Department facility, located at 910 Calle Negocio, San Clemente, for the purpose of meeting in joint session with the City's Investment Advisory Committee.

A subsequent Adjourned Regular Council Meeting will be held on November 11, 2009 at 4:00 p.m. in Conference Room A of the Community Development Department facility, located at 910 Calle Negocio, San Clemente, for the purpose of meeting with State Senator Mark Wyland.

The next Regular Council Meeting will be held on November 17, 2009 in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items will be considered at 5:00 p.m. The Business Meeting will commence at 6:00 p.m.

CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California