

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting - October 20, 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 October 20, 2009 at 4:30 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, B, C, D and E as listed on the Closed Session agenda.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to recess to Closed Session at 4:32 p.m. to discuss the following:

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

Name of Case: Avenida San Juan Partnership v. City of San Clemente, et al.,
OCSC Case No. 30-2008-00101411-CU-EI-CJC

Closed Session items continued on next page

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

Property: Third floor of the Community Development Department building, located at 910 Calle Negocio, San Clemente

Agency Negotiator: George Scarborough, City Manager

Negotiating Parties: City of San Clemente and Sunstone Hotel Investors

Under Negotiation: Both Price and Terms of Payment.

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

Name of Case: Klein v. City of San Clemente, U.S. Court of Appeals, Ninth Circuit, D.C. No. CV-07-03747-AHM

- D. 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.

Closed Session items continued on next page

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

Property: The .273-acre Avenida Cadiz right-of-way located between El Camino Real to the west and the Interstate 5 Freeway right-of-way to the east and the .095-acre strip of land extending north of Avenida Cadiz and to the east of the Exxon Service Station located at 795 South El Camino Real.

Agency Negotiator: George Scarborough, City Manager

Negotiating Parties: City of San Clemente and Jeff Appel, Apro LLC

Under Negotiation: Both Price and Terms of Payment.

In attendance for the full Closed Session were all members of Council (with the exception of Mayor Pro Tem Dahl), City Manager Scarborough, City Attorney Oderman and City Clerk Baade. Ed Richards, of the lawfirm of Kutak Rock, and Dwight Kunz of the California JPIA, were in attendance for Closed Session Item C only.

MEETING RECONVENED

Council reconvened at 6:03 p.m., with all members present, except Mayor Pro Tem Dahl.

INVOCATION

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

PLEDGE OF ALLEGIANCE

Councilmember Baker 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 San Clemente High School's recent homecoming activities and upcoming Red Ribbon Week, choir and band events.

B. **9th Annual Skateboard Contest and 2nd Annual Surf Contest of September 19 and 20, 2009 - Recognition of Skate-Surf Champion and Surf Contest Coordinator**

Mayor Donchak presented Certificates of Recognition to Ricky Lovato in acknowledgement of achieving the distinction of San Clemente Open Skate-Surf Champion and John Dowell, San Clemente High School Surf Coach, for volunteering his time, talent and skills in organizing the surf contest. Don Kindred, San Clemente Beaches, Parks and Recreation Foundation representative, also presented Ricky Lovato and John Dowell with plaques in recognition of their meritorious achievements.

C. **Presentation of Proclamation - National "Character Counts!" Week**

Mayor Donchak presented a Proclamation to Crime Prevention Officer Leslie Mowers declaring the week of October 18-24, 2009 as "Character Counts!" Week.

D. **Red Ribbon Week Proclamation**

Mayor Donchak presented a proclamation to Jan Sener and Janet Dunford, of Police Services Crime Prevention, declaring October 25-31, 2009 as Red Ribbon Week.

E. **Recognition of Orange County Sheriff Department Beach Patrol Deputies and Crime Prevention Unit**

Don Davey and Linda Wicks, T-Street area Neighborhood Watch Block Captains, recognized Orange County Sheriff Department Beach Patrol Deputies and the Crime Prevention Unit for their hard work and diligence in keeping the area quiet and safe during the summer.

F. **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 provided an update on the LAB Playa Del Norte project, noting that the Exclusive Negotiating Agreement and economic deal points are being discussed in Closed Session; reported that the City received a submittal today that will finalize the punch list items needed to restart the CEQA environmental review process for the project.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to receive and file the Administrative Report, dated October 20, 2009, that is on file with the City Clerk.

G. **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 court has authorized emergency grading repairs and replacement of erosion control devices; noted that it is anticipated that the Bankruptcy Court will consider in November the release of funds to complete mitigation work for the wetlands and wildlife.

Mayor Donchak expressed concern regarding the property's appearance and requested that Mr. Johnson relay the message to the appropriate authority.

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

Water Quality and Run-Off Issues at Poche Beach

Natalie McGinley, San Clemente, presented photographs that depict debris and water quality conditions at Poche Beach; voiced concern that the infrastructure is deteriorating and that the water filtration system is ineffective; requested that Council address water quality and urban run-off issues at Poche Beach.

Brooke Briggs, San Clemente, expressed concerns regarding the water quality and debris at Poche Beach; expressed hope that these issues will be resolved.

Council directed Staff to write a letter, and include transcripts of the above speakers' comments, to County Supervisor Bates to raise awareness regarding water quality and urban run-off issues at Poche Beach.

Traffic Signal Synchronization on Camino De Los Mares

Lou Avera, San Clemente, speaking as a public citizen, complimented the recent traffic signal synchronization on Camino De Los Mares and commended the Engineering Division for its efforts to improve traffic.

John Tengdin, San Clemente, commended City Traffic Engineer Hindiyeh for working with the California Department of Transportation (Caltrans) to synchronize the traffic signals on Camino De Los Mares.

United Nations Week

Lyn Harris Hicks, San Clemente, summarized the history of the United Nations and announced that United Nations Week will take place October 24-31, 2009.

"Shop and Dine in San Clemente" Campaign

Councilmember Eggleston announced that the San Clemente Chamber of Commerce has initiated a "Shop and Dine in San Clemente" campaign; stressed the importance for residents to patronize local establishments.

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 reported the following Closed Session actions: 1) On October 6, 2009, Council voted 5-0 to authorize an appeal at the appropriate time of the Writ of Mandate decision issued in the case entitled Avenida San Juan Partnership v. City of San Clemente. 2) On October 20, 2009, Council authorized the City's legal counsel to appeal the U.S. Court of Appeals, Ninth Circuit, decision in the Klein v. City of San Clemente case at the appropriate time to the U.S. Supreme Court. This decision is contingent upon the Joint Powers Insurance Authority (JPIA) providing funding for this effort. If the JPIA declines funding, Council will re-evaluate its determination.

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, G and H.

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 September 15, 2009.

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

- (1) Golf Course Committee Regular Meeting minutes of September 3, 2009.
- (2) Planning Commission Regular Meeting minutes of October 7, 2009.
- (3) Planning Commission Regular Study Session minutes of October 7, 2009.

C. **Warrant Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve Wire Transfer No. 622, and Warrant Nos. 805944 through 806111 for the period 9-21-09 through 9-25-09 in the amount of \$2,935,159.67; approve Wire Transfers Nos. 623 and 624, and Warrant Nos. 806112 through 806288 for the period 9-28-09 through 10-2-09 in the amount of \$893,295.37; for a total Warrant Register in the amount of \$3,828,455.04.

Payroll Register

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve Warrant Nos. 321705 through 321724, Automatic Deposit Advises 162490 through 162752, for the period 9-21-09 through 10-4-09 in the amount of \$415,184.28; for a total Payroll Register in the amount of \$415,184.28.

E. Contract Amendment - Delivery and Supply of Chlor-Alkali and Ferric Chloride to Wastewater Treatment Facility

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to approve, and authorize the Mayor to execute, the First Amendment to the Contract Services Agreement (City Contract C06-54) between South Orange County Wastewater Authority (SOCWA), Santa Margarita Water District (SMWD), El Toro Water District (ETWD) and the City of San Clemente, and on the other hand, Miles Chemical Company, Inc., providing for the delivery and supply of chlor-alkali and ferric chloride to the wastewater treatment facility.

I. Declaration and Disposition of Surplus Property - Furniture and Pianos

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to declare the furniture and two pianos identified in the Administrative Report, dated October 20, 2009, as surplus and direct Staff to dispose of the surplus property in compliance with City Policy 201-2-4.

J. Declaration and Disposition of Surplus Property - Desktop Computers

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to declare the computers identified in the Administrative Report, dated October 20, 2009, as surplus and direct Staff to donate up to 50 Dell GX60 desktop computers to the Shorecliffs Middle School Education Foundation.

K. **Equipment Purchase - ATV to Replace Potentially Unsafe Yamaha "Rhino" Vehicle**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to appropriate \$6,000 from the undesignated fund balance in the Fleet Replacement Fund to Account 065-824-45600 to accommodate the purchase of a Yamaha all terrain vehicle (ATV).

7. **PUBLIC HEARINGS**

A. **Potential Closure of the At-Grade El Portal Pedestrian Railroad Crossing**

Public Hearing to consider the potential closure of the at-grade El Portal pedestrian railroad crossing. The El Portal underpass crossing will remain open and pedestrians would also be able to access the beach at the nearby Dije pedestrian railroad crossing. The City is examining this closure to help the effort with the Safety/Quiet Zone. The Safety/Quiet Zone is a program that would help reduce the amount of train horns that would have to be sounded by the rail operators while improving the safety of the overall Beach Trail and railroad corridor.

Community Development Director Holloway narrated a PowerPoint presentation entitled "The Potential Closing of the At-Grade El Portal Pedestrian Railroad Crossing". A hard copy of Mr. Holloway's presentation, dated October 20, 2009, is on file with the City Clerk.

During the course of his presentation, Community Development Director Holloway reported that the City does not have as much information tonight as it had hoped, due to the following: 1) A diagnostic meeting was held on September 24, 2009 with the City and various regulatory agencies to identify potential safety improvements to the coastal trail, but the results of that meeting are not yet available; 2) Mayor Donchak and Councilmember Eggleston met with the CEO of the Orange County Transportation Authority (OCTA) on October 1, 2009. The OCTA is working on issues that will help the City, but the City has not yet received a formal communication from OCTA; 3) It is not yet known whether closure of the El Portal pedestrian railroad crossing will make the City liable for the repayment of grant funding used to build the coastal trail.

Mayor Donchak opened the Public Hearing.

Wilma Bloom, San Clemente, opined that the City's efforts to communicate and educate other agencies concerning the train horn noise issue have been effective; stated that the train horns serve a safety purpose and asserted that closure of the El Portal pedestrian railroad crossing would be a mistake.

John Dorey, San Clemente, expressed support for a comprehensive solution to the train horn noise problem; opined that the installation of wayside horns would result in reduced decibel levels and could be installed quickly; recommended that Council table this item until the reports are received from the regulatory agencies.

Michael Metcalf, San Clemente, opined that reducing the number of train horn soundings from 14 to 13 would not substantially improve conditions; voiced support for continuing this matter.

Bill Hart, San Clemente, expressed misgivings about closing the El Portal at-grade crossing, particularly in light of the other options being pursued.

Vivian Plowman, San Clemente, opined that train horns are not a problem and actually improve public safety; stressed the importance of the subject pedestrian railroad crossing to the neighborhood and voiced opposition to its closure.

Claire Hendrick, San Clemente, opined that the number of train horn soundings has recently been reduced; noted that residents could install soundproof windows and doors to reduce train horn noise impacts; expressed concern that a City-wide Safety/Quiet Zone may jeopardize public safety.

Jana Girard, San Clemente, opined that train horn soundings are necessary for public safety; applauded the Council for its efforts but recommended that the pedestrian railroad crossing remain open.

Franz Schultz, San Clemente, asserted that in previous public meetings the neighborhood residents voiced concern that train horn noise negatively impacts their sleepability and health; requested that Council proceed with the closure of the El Portal pedestrian railroad crossing.

Lyn Harris Hicks, San Clemente, questioned, and received clarification, that the fencing off of the pedestrian railroad crossings at night may lead to trespassing issues.

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

Council directed the Coastal Advisory Committee and Staff to provide statistics on the number of people that utilize the City's pedestrian railroad crossings.

Following discussion, MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to continue this item to a date uncertain to enable additional information to be obtained.

B. **Wixted Residence at 202 Avenida Serra - Amendment to Historic Property Preservation Agreement 08-476**

Public Hearing to consider a request to amend the Historic Property Preservation Agreement between the property owner of 202 Avenida Serra and the City of San Clemente. The legal description being Lot 20, Block 14 of Tract 779, APN 058-122-20.

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

Mayor Donchak opened the Public Hearing.

Tom Eidem, San Clemente, representing Margaret Wixted, expressed support for the proposed Amendment and thanked Council for taking the time to analyze the Historic Property Preservation Agreement Policy.

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

Council directed Staff to include photos, square footage measurements and any additional pertinent information in future Administrative Reports concerning Historic Property Preservation Agreements.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to adopt Resolution No. 09-68 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE AMENDMENT TO HISTORIC PROPERTY PRESERVATION AGREEMENT 08-476 FOR THE PROPERTY LOCATED AT 202 AVENIDA SERRA.

C. **Serra Vista Mixed-Use Building at 136 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 explained that the Applicant was unable to provide the City with the required Public Hearing noticing materials; requested that the Public Hearing be deferred to the Council meeting of November 3, 2009 so that the Public Hearing can be properly noticed.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-0, to continue the Public Hearing to the Council meeting of November 3, 2009.

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

D. **Proposed Change in Time of Regular City Council Meetings**

John Tengdin, San Clemente, recommended that Council schedule future Council meetings so that they always fall after a Friday when City Hall is open so as to expand the timeframe during which a member of the public can obtain meeting-related information from the City.

City Manager Scarborough stated that Staff will evaluate the possibility of City Hall remaining open on the Fridays preceding Council meetings and/or scheduling Council meetings so that they always fall after a Friday when City Hall is open.

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0, to adopt Resolution No. 09-67 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ESTABLISHING THE DATE, TIME, AND LOCATION OF THE REGULAR SAN CLEMENTE CITY COUNCIL MEETINGS AND RESCINDING RESOLUTION NO. 08-84.

F. **Replacement of Sewer Vactor**

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

1. Approve the replacement of Fleet Unit No. 957 - Sewer Vactor, one year ahead of schedule, with equipment that will be compliant with federal and state air quality and emission standards.
2. Approve an appropriation of \$382,000 to Fleet Replacement Reserve Account 065-824-45600.

G. **Contract Award - Initial Study and Preparation of an Environmental Analysis for the Target Project (Located at the Northwest Corner of Avenida Vista Hermosa and Avenida La Pata)**

Following clarification, MOTION BY MAYOR DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0, to approve, and authorize the Mayor to execute, Contract C09-53, by and between the City of San Clemente and Ultra Systems, providing for preparation of an environmental analysis for the Target project located on the northwest corner of Avenida Vista Hermosa and Avenida La Pata, in an amount not to exceed \$85,782.

H. **Rejection of Bid - Water Reclamation Plant Storage Bin Covers**

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

1. Reject all bids for the Water Reclamation Plant Storage Bin Covers, Project Nos. 16525 and 35804.
2. Authorize Staff to revise construction documents and rebid the Water Reclamation Plant Storage Bin Covers, Project Nos. 16525 and 35804.

MEETING RECESSED AND RECONVENED

Council recessed at 7:53 p.m. and reconvened at 8:10 p.m., with all members present, except Mayor Pro Tem Dahl.

9. **UNFINISHED BUSINESS**

A. **Draft 2008 Housing Element - Consideration of Revisions**

Report from the Community Development Director concerning possible revisions to the Draft 2008 Housing Element.

Senior Housing Coordinator Davis narrated a PowerPoint presentation entitled "Submittal of Revised Draft Housing Element to State" and responded to Council inquiries. A hard copy of Ms. Davis' presentation, dated October 20, 2009, is on file with the City Clerk.

Larry Culbertson, San Clemente, questioned, and received clarification, that the State of California Housing and Community Development (HCD) made relatively few comments on the Draft Housing Element and that the hiring of another consultant would not be required to respond to the State's comments.

Lyn Harris Hicks, San Clemente, questioned, and received clarification, that incentives are provided to encourage affordable workforce housing as well as affordable senior housing and that concept designs for workforce housing on Avenida Serra are expected to be agendaized for the Redevelopment Agency meeting of November 3, 2009.

Council directed Staff to investigate the possibility of expanding the Affordable Housing Overlay Zone during the upcoming General Plan update process.

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0, to approve the revisions to the Draft 2008 Housing Element of the General Plan and direct Staff to submit it to the State Department of Housing and Community Development.

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, opined that the following statements support the implementation of term limits: 1) San Clemente's population exceeds the average population of cities that have already implemented term limits; 2) The residents possess talents and a desire to participate in local government; 3) Term limits minimize the influence of special interest groups; 4) Term limits encourage residents to seek election; requested that Council submit the question of term limits to the voters at the November 2, 2010 General Municipal Election.

John Tengdin, San Clemente, stated that the voters are perceptive and typically re-elect only productive incumbents; asserted that term limits for Planning Commissioners would be impractical because of the length of time to learn the complexities of California planning laws; requested that Council not expend City funds on an election to consider term limits.

Bill Hart, San Clemente, asserted that campaign financing reform and term limits would mitigate the influence that special interest groups have on elections; recommended that if Council desires to submit the question of term limits to the voters, that the issue of campaign financing reform also be considered.

Larry Culbertson, San Clemente, expressed support for submitting to the voters the question of term limits.

During the course of deliberations, Councilmember Anderson and Mayor Donchak expressed opposition to pursuing term limits, while Councilmembers Baker and Eggleston felt that the question should be decided by the electorate. Because Mayor Pro Tem Dahl was not present at the meeting, Council decided to continue the issue to the Council meeting of November 3, 2009 so that Mayor Pro Tem Dahl could indicate his preference and break the tie vote.

Following discussion, MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 4-0, to continue this item to the Council meeting of November 3, 2009.

10. **NEW BUSINESS**A. **Casa Romantica Grant Request - World War II Photographic Exhibit**

Report from the City Manager concerning a grant request from the Casa Romantica Cultural Center and Gardens to help fund a World War II photographic exhibit to be held at the Casa Romantica on February 21 through April 18, 2010.

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

Guy Varriano and Ruth DeNault, representatives of the Casa Romantica, summarized the World War II photographic exhibit and associated events that will take place at the Casa Romantica from February 21 through April 18, 2010; requested that Council fund a portion of the exhibit by providing a grant of \$15,000. In response to Council inquiry, Mr. Varriano and Mrs. DeNault stated that the exhibit will be free to the public on the opening day of March 6, 2010 and that they will ask the full Casa Romantica board about the possibility of making the exhibit free to City employees on other dates as well.

Councilmember Eggleston announced that he would abstain from voting on this item because of his involvement in fundraising for this exhibition.

City Attorney Oderman explained that although Councilmember Eggleston has recused himself, his abstention is not required because he does not have a direct financial interest in the matter. Additionally, Mr. Oderman noted that Councilmember Baker and Mayor Donchak are not required to recuse themselves by virtue of their membership in the Casa Romantica because they don't have a personal financial interest in the outcome of this agenda item.

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER BAKER, CARRIED 3-0-1 (COUNCILMEMBER EGGLESTON ABSTAINING), to:

1. Grant \$5,000 to the Casa Romantica Cultural Center and Gardens for the purpose of partially funding a World War II photographic exhibit to be held at the Casa Romantica on February 21 through April 18, 2010.
2. Authorize a transfer of \$5,000 from Account 001-203-44900 (Council Contingency) to Account 001-111-43890 (Council Contractual Services).

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

None.

12. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

San Clemente City Amateur Golf Tournament

Councilmember Baker commended the employees at the San Clemente Golf Course for coordinating the recent San Clemente City Amateur Golf Tournament that was held last weekend; complimented the excellent condition of the greens.

13. **RESOLUTIONS/ORDINANCES**

A. **Resolution of Denial - Village Courtyard (Ralphs Commercial Center at 911 S. El Camino Real) - General Plan Amendment (GPA 08-129), Zoning Amendment (ZA 08-130), Site Plan Permit (SPP 08-131) and Architectural Permit (AP 08-132)**

Susan Ambrose, San Clemente, addressed Council during Oral Communications Part 1 to express support for the Village Courtyard project; noted that she has received phone calls and e-mails in support of the project; voiced concern that the Downtown Vision Plan provides for a 40,000 square foot grocery store on the Ralph's site, yet Council denied the project; stated that Council has approved zoning and general plan amendments for other projects.

John Tengdin, San Clemente, voiced concern with the submittal, and later withdrawal, of a letter threatening litigation against the City if the Village Courtyard project were to be approved; opined that it is inappropriate to require a developer to indemnify the City against litigation if the project is approved.

Matthew Kolysko, San Clemente, voiced support for the project; asserted that the Downtown Vision Plan anticipated a project of the size and height proposed for Village Courtyard.

Pete Van Nuys, San Clemente, voiced opposition to the project; asserted that the Downtown Vision Plan allows overdevelopment; requested that Council adopt the resolution of denial.

Jerry Collamer, San Clemente, requested that Council adopt the resolution of denial; spoke on the possibility that the current grocery store will be expanded and beautified.

Jack Bellis, San Clemente, questioned, and received clarification, that a resolution of denial is required to formalize Council's action of October 6, 2009; opined that Councilmembers should be consistent in their votes.

Lyn Harris Hicks, San Clemente, voiced opposition to the project, citing that the project would have set a negative precedent for high-rise development; asserted that San Clemente should enhance its traffic standards.

Alan Korsen, San Clemente, thanked Council for taking the time and effort to consider the Village Courtyard project; summarized the Planning Commission and Council proceedings concerning the project.

Georgette Korsen, San Clemente, opined that the Council carefully and thoughtfully scrutinized the project.

Following discussion, MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR DONCHAK, CARRIED 3-1 (COUNCILMEMBER ANDERSON VOTING NOE), to adopt Resolution No. 09-24 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DENYING GENERAL PLAN AMENDMENT (GPA 08-129), ZONING AMENDMENT (ZA 08-130), SITE PLAN PERMIT (SPP 08-131), ARCHITECTURAL PERMIT (AP 08-132), AND DISPOSITION OF PROPERTY, VILLAGE COURTYARD SHOPPING CENTER, A REQUEST TO CONSTRUCT A THREE-STORY COMMERCIAL BUILDING OF APPROXIMATELY 70,000 SQUARE FEET WITH ATTACHED PARKING STRUCTURE, AT 911 SOUTH EL CAMINO REAL.

MEETING RECESSED

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR DONCHAK, CARRIED 4-0, to recess to a meeting of the San Clemente Redevelopment Agency at 10:02 p.m.

MEETING RECONVENED

Council reconvened at 10:03 p.m., with all members present, except Mayor Pro Tem Dahl.

14. **ADJOURNMENT**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0, to adjourn at 10:05 p.m., in memory of Ralph J. Klaasen.

The next Regular Meeting will be held on November 3, 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.

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

Lori Donchak
MAYOR of the City of
San Clemente, California