

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting - March 2, 2010

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 March 2, 2010 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Dahl.

PRESENT ANDERSON, BAKER, DONCHAK, EGGLESTON, MAYOR DAHL

ABSENT NONE

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 Clerk Baade requested a Closed Session to discuss the item listed on the Closed Session agenda.

MOTION BY MAYOR DAHL, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to recess to Closed Session at 5:01 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.

In attendance for the full Closed Session were all members of the Council, City Manager Scarborough, Assistant City Manager Gudgeirsson and City Clerk Baade.

MEETING RECONVENED

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

INVOCATION

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

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Baker led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Presentation of Proclamation - Multiple Sclerosis Awareness Week**

Mayor Dahl presented a proclamation to Shashona Reynolds, National Multiple Sclerosis Pacific South Coast Chapter Board Member and Ambassador, proclaiming March 8-12, 2010 as Multiple Sclerosis Awareness Week.

B. **Presentation by Mothers Against Drunk Driving (MADD) of Honoraria to Sheriff Deputies for Exceeding 25 DUI Arrests in 2009**

Desiree Garcia and Andrew Casey, representing MADD Orange County, presented honoraria to the following Sheriff Deputies for exceeding 25 DUI arrests in 2009:

Deputy Shane Stewart	36 Arrests
Deputy Daniel Corwin	30 Arrests
Deputy Jeremiah Prescott	27 Arrests
Deputy Richard Covington	25 Arrests

C. **Trauma Intervention Program Report**

Wayne Fortin and Dana Galasso, of the Trauma Intervention Program, provided an update relative to its programs, accomplishments and activities.

D. **Presentation by League of California Cities - Initiative to Prevent State Raids and Borrowing of Local Government and Transportation Revenues**

Presentation by Tony Cardenas, Public Affairs Regional Manager of the Orange County Division of the League of California Cities, concerning an initiative to prevent State raids and borrowing of revenues dedicated for local government services, transportation projects and transportation services.

Council continued this item to the Council meeting of March 16, 2010.

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

Presentation by SunCal concerning the status of the Marblehead residential/SunCal project.

Peter Johnson, representing SunCal, provided an update on the status of the Marblehead residential/SunCal project; reported that it is anticipated that SunCal will request a 90-day funding authorization extension for the continuation of erosion control, fencing repairs and mitigation work; offered to provide cost estimates and contract request documents to Staff for the projects identified in the Settlement Agreement with Arch Insurance Company. In response to Council inquiry, Mr. Johnson agreed to investigate and address damage to the perimeter fencing.

Council requested that Staff communicate with the Sheriff's Department concerning the possibility of enforcing traffic regulations on Avenida Vista Hermosa in the vicinity of Shorecliffs Middle School.

F. **Tri-City Trolley - Status Report**

Report from Councilmember Eggleston concerning the status of the Tri-City Trolley.

Councilmember Eggleston narrated a PowerPoint presentation entitled "OCTA Go Local Program Step 2 Tri-City Trolley" and responded to Council inquiries.

G. **Downtown Fire Station/Senior Center Construction Update**

Report from the Community Development Director concerning the status of the construction of the Downtown Fire Station and Senior Center.

Building Official Jorgensen narrated a PowerPoint presentation entitled "Downtown Fire Station and Senior Center" and responded to Council inquiries.

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

City Budget Deficit - La Pata/Vista Hermosa Sports Park

Doug Younkin, San Clemente, voiced concern that insufficient funding is available to construct the La Pata/Vista Hermosa Sports Park; suggested that the City implement employee pay freezes, furloughs, and retirement benefit reductions to reduce the projected deficit.

Stevie Younkin, San Clemente, suggested that Council consider imposing employee pay freezes, increasing the retirement age, and transferring police and fire services to the City to reduce the budgetary deficit.

John Openshaw, San Clemente, recommended that Council commission a feasibility study to assess various retirement benefit options that could help reduce the projected City budget shortfall.

City Sports Facilities and Infrastructure

David Dimond, San Clemente, voiced support for the construction of sport facilities and urged Council to make the difficult decisions necessary to fund infrastructure improvements.

Leslie Park Fence - Vandalism at Sea Cliff Villas

Larry Culbertson, San Clemente, commended the high quality and aesthetics of the new Leslie Park fence; pointed out that vandals broke several windows at Sea Cliff Villas.

Emergency Preparedness Responsibility

Lyn Harris Hicks, San Clemente, stated that the Federal Emergency Management Agency (FEMA) has indicated that the City's emergency preparedness plans are well prepared; conveyed that FEMA has expressed that it is the responsibility of the City and State to protect the general public.

Safety Violations at San Onofre Nuclear Generating Station (SONGS)

Gary Headrick, San Clemente, pointed out that more than 60 persons have written letters to express safety concerns regarding the San Onofre Nuclear Generating Station; reviewed safety violations identified in the Nuclear Regulatory Commission's quarterly report for SONGS.

3. MOTION BY COUNCILMEMBER ANDERSON, 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**

City Attorney Oderman stated that Council took no reportable action during this evening's Closed Session.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to return to Closed Session following this evening's general business meeting to continue discussion concerning property negotiations for the LAB Playa Del Norte property.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items B(5), D and E.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve the minutes of the Adjourned Regular Meeting of February 2, 2010 and Special Meeting of February 16, 2010.

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

- (1) Design Review Subcommittee Meeting minutes of January 27, 2010.
- (2) Parks and Recreation Commission Regular Meeting minutes of February 9, 2010.
- (3) Zoning Administrator Regular Meeting Minutes of February 17, 2010.
- (4) Planning Commission Regular Meeting Minutes of February 17, 2010.

C. **Warrant Register**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve Handwrite No. 809017, Wire Transfers Nos. 659 through 662, and Warrant Nos. 808854 through 809016 for the period 02-01-10 through 02-05-10 in the amount of \$927,353.54; approve Warrant Nos. 809018 through 809161 for the period 02-08-10 through 02-12-10 in the amount of \$1,471,584.59; for a total Warrant Register in the amount of \$2,398,938.13.

Payroll Register

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve Warrant Nos. 321857 through 321873, Automatic Deposit Advises 164819 through 165071, for the period 01-25-10 through 02-07-10 in the amount of \$393,692.22; for a total Payroll Register in the amount of \$393,692.22.

F. **Contract Amendment - Playground Maintenance**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve, and authorize the Mayor to execute, the First Amendment to Contract C00-83, by and between the City of San Clemente and Jamey Clark, Inc., providing for playground maintenance. This amendment authorizes a maximum of \$14,000 annually to fund work that exceeds the scope of services contained in the original contract.

G. **Notice of Completion - Via Bellota Improvements**

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

1. Accept the construction of the Via Bellota Improvements, Project 16343, from the contractor, La Strada Contracting Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the construction of the Via Bellota Improvements, Project No. 16343. (Contract C09-30)
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 La Strada Contracting Company.
4. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction costs.
5. Authorize the transfer of \$42,141 from Account 042-848-45300-000-10309 (Via Bellota Rehabilitation) to Account 068-816-45300-000-16343 (Via Bellota Improvements).

H. **Parking Prohibitions and Restrictions on Paseo De Cristobal (Passenger Loading Zone at the West Side of Paseo de Cristobal Beach Access)**

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adopt Resolution No. 10-14 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MASTER TRAFFIC RESOLUTION NO. 1846, ESTABLISHING "NO PARKING AREAS" AND "RESTRICTED PARKING AREAS" ON PASEO DE CRISTOBAL.

7. **PUBLIC HEARINGS**

None.

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

B(5). **Planning Commission Study Session Minutes of February 17, 2010**

Council commended the Planning Commission for its proactive exploration of new ways to serve the community, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to receive and file the Planning Commission Study Session minutes of February 17, 2010.

D. **Parking Prohibitions and Restrictions on Portico Del Sur and Portico Del Norte**

Following clarification, MOTION BY MAYOR DAHL, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to adopt Resolution No. 10-15 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MASTER TRAFFIC RESOLUTION NO. 1846, ESTABLISHING "NO PARKING AREAS" ON PORTICO DEL SUR AND PORTICO DEL NORTE.

E. **Contract Amendment - El Camino Real and Avenida Pico Intersection Improvements**

Following clarification, MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to approve, and authorize the Mayor to execute, the First Amendment to Contract C09-42, by and between the City of San Clemente and RBF Consulting, relating to design services for the El Camino Real and Avenida Pico Intersection Improvements, Project No. 12903. This amendment increases the contract amount from \$158,848 to \$188,429 (an increase of \$29,581).

9. **UNFINISHED BUSINESS**

None.

10. **NEW BUSINESS**A. **Code Amendment - Mission of the Coastal Advisory Committee**

Report from the Public Works Director/City Engineer concerning the possibility of amending the Code of the City of San Clemente as it relates to the Coastal Advisory Committee's mission.

Assistant City Engineer Bonigut reviewed the contents of the Administrative Report.

Bill Hart, Chairman of the Coastal Advisory Committee, noted that Council encouraged the Coastal Advisory Committee to develop an action-oriented mission. In response to Council inquiry, Mr. Hart explained that the Committee will not review development projects as a matter of course, but noted that the Council has the discretion to refer individual projects to the Committee if it desires.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to introduce Ordinance No. 1500 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 2.42 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE COASTAL ADVISORY COMMITTEE MISSION.

B. **Fee Waiver Request - Senior Center Facility (San Clemente Friends of the Library)**

Report from the Beaches, Parks and Recreation Director concerning the possibility of waiving fees for use of the senior center for the San Clemente Friends of the Library's monthly book sale.

Recreation Manager DiCandia reviewed the contents of the Administrative Report and responded to Council inquiries.

Carla Lalley, representing San Clemente Friends of the Library, explained that book sale revenues have increased since the sale was relocated to the senior center; pointed out that the Friends is a volunteer organization that donates all of its proceeds (i.e., \$50,000+ per year) to the Library to fund additional programs. In response to Council inquiry, Ms. Lalley explained that the monthly book sale was previously conducted in the lobby between the senior center and library.

David Estes, President of the San Clemente Friends of the Library, pointed out that the funds raised by the Friends benefit the City. In response to Council inquiries, Mr. Estes stated that if Council does not grant a fee waiver for use of the senior center, then the book sale will be operated in the lobby that is located between the library and senior center; expressed a willingness to limit the setup and operation of the book sale to Sundays only.

Following discussion, MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to waive the fees associated with use of the senior center by the San Clemente Friends of the Library for its monthly book sale, with the proviso that the fee waiver shall apply on Sundays only. The Beaches, Parks and Recreation Department is to advise Council if a conflict arises with regard to Sunday rentals.

MEETING RECESSED AND RECONVENED

Council recessed at 8:05 p.m. and reconvened at 8:15 p.m., with all members present.

C. **Contract Award - Construction Management of the La Pata/Vista Hermosa Sports Park Project, Phase 1B**

Report from the Beaches, Parks and Recreation Director concerning the possibility of awarding a contract for construction management services for the La Pata/Vista Hermosa Sports Park project, Phase 1B.

Landscape Architect Shaw reviewed the contents of the Administrative Report. In response to Council inquiries, Mr. Shaw explained that RBF's proposal is approximately 10% higher than the lowest proposal due to a more-comprehensive list of tasks and close-out phase activities; related that Staff successfully negotiated with RBF to reduce its overall proposal amount.

Following discussion, MOTION BY COUNCILMEMBER ANDERSON, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-1 (COUNCILMEMBER DONCHAK VOTING NOE), to approve, and authorize the Mayor to execute, Contract C10-07, by and between the City of San Clemente and RBF Consulting, providing for construction management of the La Pata/Vista Hermosa Sports Park, Phase 1B, Project No. 18142, in an amount not to exceed \$907,638.

D. **Contract Amendments - Various City Maintenance Agreements**

Report from the Beaches, Parks and Recreation Director concerning amendments to various City maintenance agreements to extend the terms through December 31, 2010.

Beaches and Parks Manager Reed reviewed the contents of the Administrative Report and responded to Council inquiries.

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

1. Approve, and authorize the Mayor to execute, the Second Amendment to Contract C05-32, by and between the City of San Clemente and Stewart and Associates, providing for inland trail maintenance. This amendment extends the term of the contract through December 31, 2010.
2. Approve, and authorize the Mayor to execute, the Second Amendment to Contract C08-64, by and between the City of San Clemente and Stewart and Associates, providing for beach trail maintenance. This amendment extends the term of the contract through December 31, 2010.
3. Approve, and authorize the Mayor to execute, the Third Amendment to Contract C05-33, by and between the City of San Clemente and TruGreen LandCare, providing for streetscape maintenance. This amendment extends the term of the contract through December 31, 2010.
4. Approve, and authorize the Mayor to execute, the First Amendment to Contract C05-37, by and between the City of San Clemente and TruGreen LandCare, providing for beach maintenance. This amendment extends the term of the contract through December 31, 2010.
5. Approve, and authorize the Mayor to execute, the First Amendment to Contract C05-34, by and between the City of San Clemente and TruGreen LandCare, providing for beach and park restroom maintenance. This amendment extends the term of the contract through December 31, 2010.
6. Approve, and authorize the Mayor to execute, the First Amendment to Contract C05-36, by and between the City of San Clemente and Animal Pest Management Services, providing for landscape rodent control. This amendment extends the term of the contract through December 31, 2010.

E. **Contract Award - San Clemente Traffic Model Update**

Report from the Public Works Director/City Engineer concerning the possibility of entering into an agreement to update the City's traffic model.

City Traffic Engineer Hindiyeh reviewed the contents of the Administrative Report. In response to Council inquiry, Mr. Hindiyeh explained that the traffic model is utilized as a tool to determine traffic impacts that projects are expected to generate and to assist the General Plan consultant in developing the Circulation Element of the new San Clemente General Plan.

Discussion ensued relative to the service that Austin-Foust will provide as compared to the work that the Planning Center will perform in developing the City's new Circulation Element.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 4-1 (MAYOR PRO TEM BAKER VOTING NOE), to approve, and authorize the Mayor to execute, Contract C10-05, by and between the City of San Clemente and Austin-Foust Associates, Inc., providing for an update to the City's Traffic Model, in an amount not to exceed \$50,100.

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

None.

12. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

(1) **Code Amendment - Prevailing Party's Recovery of Attorney Fees in Code Enforcement Actions**

Report from the City Attorney concerning the possibility of amending the Code of the City of San Clemente to allow the prevailing party to recover attorney's fees in Code Enforcement actions filed by the City.

City Attorney Oderman reviewed the contents of the Administrative Report and responded to Council inquiries.

MOTION BY COUNCILMEMBER ANDERSON, SECOND BY COUNCILMEMBER EGGLESTON, CARRIED 5-0, to introduce Ordinance No. 1501 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING VARIOUS CHAPTERS RELATING TO THE RECOVERY OF ATTORNEY FEES INCURRED IN CODE ENFORCEMENT PROCEEDINGS.

MEETING RECESSED

MOTION BY MAYOR DAHL, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to recess to a meeting of the Redevelopment Agency at 9:00 p.m.

MEETING RECONVENED

Council reconvened at 9:01 p.m., with all members present.

D. **Council Members**

(1) **Casa Romantica - World War II Photographic Exhibit**

Councilmember Eggleston invited the public to attend the Memories of World War II photographic exhibit grand opening that will take place at the Casa Romantica on March 6, 2010.

(2) **Parking Options for Avenida Del Mar - Walker Parking Study Update**

Councilmember Eggleston stated that several merchants and the Downtown Business Association have expressed concerns regarding parking in the Avenida Del Mar area; requested that parking options for Avenida Del Mar, as well as an update to the Walker Parking Study, be agendaized for a future Council meeting.

(3) **Mayor's Prayer Breakfast**

Mayor Dahl commended the Mayor's Prayer Breakfast that was held this morning.

13. **RESOLUTIONS/ORDINANCES**

None.

CLOSED SESSION

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to recess to Closed Session at 9:05 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.

In attendance for the full Closed Session were all members of the Council, City Manager Scarborough, City Attorney Oderman and City Clerk Baade.

MEETING RECONVENED

Council reconvened at 9:22 p.m., with all members present.

CLOSED SESSION REPORT

City Attorney Oderman stated that Council took no reportable action during this evening's Closed Session.

14. **ADJOURNMENT**

MOTION BY COUNCILMEMBER EGGLESTON, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to adjourn at 9:23 p.m.

The next Regular Council Meeting will be held on March 16, 2010 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 5:00 p.m. The General Session will begin at 6:00 p.m.

A subsequent Adjourned Regular Meeting will be held on March 30, 2010 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, for the purpose of conducting a meeting concerning the City's new General Plan.

JOANNE BAADE
CITY CLERK of the City of
San Clemente, California

JIM DAHL
MAYOR of the City of
San Clemente, California