

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular Meeting - July 19, 2005

A Regular Meeting of the San Clemente City Council was called to order on July 19, 2005 at 6:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

**PRESENT**                      DAHL, EGGLESTON, RITSCHEL

**ABSENT**                        MAYOR ANDERSON

**STAFF PRESENT**            George Scarborough, City Manager; Jeff Oderman, City Attorney; Myrna Erway, City Clerk; Joanne Baade, Deputy City Clerk

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### **CLOSED SESSION**

City Attorney Oderman requested that Council recess to Closed Session to discuss the Callan/Johnson litigation cases as well as a potential litigation matter involving a construction claim on the El Camino Real Revitalization project (the contractor is L.A. Engineering).

MOTION BY COUNCILMEMBER RITSCHEL, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to recess to Closed Session at 6:00 p.m. to discuss the following:

A.      CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(b): One Potential Case

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

Name of Cases: Callan v. City of San Clemente, et al., OCSC Case No. 01CC07556 and Johnson v. City of San Clemente, et al., OCSC Case No. 01CC015381.

City Manager Scarborough, City Attorney Oderman, Assistant City Manager Gudgeirsson, Public Works/Economic Development Director Lund, City Engineer Cameron and City Clerk Erway were in attendance.

**MEETING RECONVENED**

Council reconvened at 7:00 p.m., with all members present.

**INVOCATION**

Jan Cleaves, Family Assistance Ministries, gave the invocation.

**PLEDGE OF ALLEGIANCE**

Councilmember Ritschel led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **New San Clemente Senior Center - Capital Campaign**

Dr. Richard French presented copies of the "San Clemente Seaside Senior Center Capital Campaign Feasibility Study"; advised that 100% of the persons he interviewed supported the idea of a capital campaign in the City to fund a new senior center; explained that the plan for the \$2 million capital campaign is identified in the feasibility study; stated that the intention is to raise 40% to 50% of the money quietly and then to proceed with the public aspect of the campaign; asserted that the campaign will not be easy and projected that a two-year effort will be necessary; commented that he believes that the goal may be too high, but noted that one or two lead gifts would change things significantly; opined that 80% of the money will come from 10% of the donors, and explained that they will concentrate on the persons comprising the 10% at the beginning of the campaign; requested that the City donate \$100,000 to begin the campaign; requested that Councilmembers provide names of high-profile individuals who could make a difference in the campaign and advised that large donors can name a room, section or piece of equipment; stated that a lead gift of \$666,000 has been received from Dorothy Visser.

Council stated that the City is donating the land on which the senior center will be constructed and Marblehead, through the generosity of Jim Johnson, is donating \$1 million; noted that Council has not yet considered the \$100,000 funding request.

2. MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHHEL, CARRIED 3-0, to waive reading in full of all Resolutions and Ordinances.

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

**Contract Award - Election Services**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHHEL, CARRIED 3-0, to add the following item to the agenda since there is a need to take immediate action and the need for action came to the attention of the City subsequent to the agenda being posted: "Contract Award - Election Services".

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHHEL, CARRIED 3-0, to approve, and authorize the Mayor to execute, Contract C05-44 by and between the City of San Clemente and Martin & Chapman Company, providing for election services for the November 8, 2005 Special Municipal Election in an amount not to exceed \$90,000, if the City's request for consolidation with the Statewide Election is denied by the County of Orange.

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

**Request for Support for the Creation of a United States Department of Peace**

Sandra Weaver, San Clemente, stated that she is the leader of a citizens' group in Congressional District 44 that was formed for the purpose of creating awareness of, and generating support for, a bill to create a cabinet-level United States Department of Peace; provided an overview of the bill, noting that it will be re-introduced into Congress on September 14, 2005; requested that the City adopt a resolution supporting the legislation.

5. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve the Consent Calendar with the removal of Items D, K and L.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve the City Council minutes of June 21, 2005.

B. MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to receive and file:

- (1) Zoning Administrator meeting minutes of July 6, 2005.
- (2) Golf Course Committee minutes of May 5, 2005.
- (3) Planning Commission minutes of July 6, 2005.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve Wire Transfers Nos. 767982 through 767983, Warrant Nos. 767681 through 767981, for the period 6-20-05 through 6-24-05 in the amount of \$3,780,343.96; approve Wire Transfers Nos. 333 and 334 and Warrant Nos. 767982 through 768127, for the period 6-27-05 through 7-1-05 in the amount of \$551,043.54; for a total Warrant Register of \$4,331,387.50.

**Payroll Register**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve Warrant Nos. 316329 through 316414, Automatic Deposit Advises 135897 through 136101, for the period 6-20-05 through 7-3-05 in the amount of \$350,331.45; for a total Payroll Register of \$350,331.45.

E. **Contract Amendment - Engineering Design Services for Phase II of the Railroad Corridor Pedestrian Beach Trail**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve, and authorize the Mayor to execute, Amendment No. 6 to Contract C00-92 by and between the City of San Clemente and Borthwick, Guy, Bettenhausen, Inc., relating to the provision of engineering design services for Phase II of the Railroad Corridor Pedestrian Beach Trail, for an amount not to exceed \$374,044.

F. **Bond Release - Tract 16411, Talega Technology Park, Inc.**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to adopt Resolution No. 05-57 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE RELEASE OF THE IMPROVEMENT BONDS, WITHOUT LIMITATION, FOR TRACT 16411, TALEGA TECHNOLOGY PARK, INC.

G. **Bond Release - Tract 16211, Planning Area 4, The Reserve South at Forster Highlands (Shea Homes, Inc.)**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to adopt Resolution No. 05-58 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ACCEPTING THE DEDICATED SEWER AND WATER IMPROVEMENTS AND AUTHORIZING THE RELEASE OF THE IMPROVEMENT BONDS, WITHOUT LIMITATION, FOR TRACT 16211, PLANNING AREA 4, THE RESERVE SOUTH AT FORSTER HIGHLANDS (SHEA HOMES, INC.).

H. **Contract Award - Surveying Services (Street Improvement Program for FY 2005-06)**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve, and authorize the Mayor to execute, Contract C05-43 by and between the City of San Clemente and Ron Martin and Associates, Inc., relating to surveying services in connection with certain streets included in the Street Improvement Program for FY 2005-06, in an amount not to exceed \$45,480.

I. **Joint Regional Water Supply System Budget for FY 2005-06**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve the FY 2005-06 budget for the Joint Regional Water Supply System.

J. **Contract Extension - Ambulance Billing and Collection Services**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C96-75 by and between the City of San Clemente and Wittman Enterprises, providing a two-year extension (from June 30, 2005 to June 30, 2007) of the ambulance billing and collection services contract, for a continued cost of 7% of net collections.

M. Memorandum of Understanding with San Clemente City Employees' Association and Implementation of Salary and Benefit Changes for General, Mid-Management, Executive, Confidential and Part-Time Employees

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to:

1. Approve, and authorize the Mayor to execute, the Memorandum of Understanding (MOU) between the City and San Clemente City Employees' Association.
2. Adopt Resolution No. 05-62 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING RESOLUTION NO. 04-66, ADOPTING REVISED SALARY SCHEDULES.
3. Approve a supplemental appropriation in the amount of \$692,190 to the following funds:

General Fund	\$473,110
Water Fund	\$ 65,960
Sewer Fund	\$ 75,860
Golf Fund	\$ 27,080
Clean Ocean Fund	\$ 16,290
IT Fund	\$ 33,890

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

**D. Weed Abatement - 2004 Tax Liens**

In response to Council inquiry, Staff clarified that the resolution under consideration would place tax liens on properties that failed to pay their weed abatement charges from the year 2004.

MOTION BY MAYOR PRO TEM EGGLESTON, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to:

1. Adopt Resolution No. 05-56 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REQUESTING THE ORANGE COUNTY AUDITOR-CONTROLLER TO ADD 2004 WEED ABATEMENT ASSESSMENTS TO THE FY 2005-06 TAX ROLLS.
2. Direct the City Clerk to file Resolution No. 05-56 with the Orange County Auditor-Controller, thereby placing a lien on the affected properties in order to collect revenue owed to the City.

**K. Records Destruction**

Following discussion, MOTION BY MAYOR PRO TEM EGGLESTON, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to:

1. Adopt Resolution No. 05-59 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF CERTAIN CITY RECORDS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA, with the removal of the records relating to the 1933 recall election. *(Note: The recall records that Staff has proposed for destruction represent general records associated with the recall election and do not constitute the official records from that election.)*
2. Authorize the City Clerk to donate the recall records that would have been destroyed to the San Clemente Historical Society.



L. **Notice of Completion - El Camino Real Revitalization**

City Attorney Oderman reported that the following action was taken during this evening's Closed Session relative to the El Camino Real revitalization contract: "MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to 1) Credit the City \$200 per tree times 79 trees for a total credit back to the City in the sum of \$15,800; 2) Pay the contractor 1/3 of the cost (\$6,600) for the Change Order for ordering and installing concrete benches with wood backs; and 3) Authorize a delay damage payment to the contractor in the sum of \$84,200 as a result of 74 days of unanticipated delays caused by various problems.

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to:

1. Accept the El Camino Real Revitalization, Project No. 11115.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the El Camino Real Revitalization, Project No. 11115. (Contract C04-10)
3. Authorize the City Engineer to execute a change order for the negotiated settlement amount approved by Council.
4. Approve a supplemental appropriation of an amount equal to the negotiated settlement from the Developers Improvement Fund to Account 037-867-45300-000-11115.

6. **PUBLIC HEARINGS**

None.

7. **UNFINISHED BUSINESS**

None.

8. **NEW BUSINESS**

A. **Initiation of Amendments to the City's Zoning Ordinance and Specific Plans to Address Various New Regulations and Uses**

Report from the Community Development Director concerning the initiation of amendments to the City's Zoning Ordinance and Specific Plans to address various new regulations and uses.

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

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to:

1. Initiate amendments to the City's Zoning Ordinance and Specific Plans.
2. Authorize the Mayor and Planning Commission Chair to appoint two representatives each from their respective hearing bodies to a Staff-initiated steering committee, on an as-needed basis.

**B. Revision of Facility Rental Fees and Procedures**

Report from the Director of Beaches, Parks and Recreation concerning modification to facility rental fees and procedures.

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

Jeff McConnell, Parks and Recreation Commission, advised that he was part of the Commission's sub-committee that addressed the facility fee issue; noted that the sub-committee analyzed other cities' procedures with respect to their fee structures for facility rentals; recommended that Council approve only "Private" and "Non-Private" classifications in order to streamline the process for Staff and avoid the potential for misrepresentations by parties seeking to rent facilities.

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to:

1. Adopt Resolution No. 05-60 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REVISING THE POLICIES AND FEES GOVERNING THE RENTAL OF THE COMMUNITY CENTER, OLE HANSON BEACH CLUB AND THE SENIOR CENTER AND RESCINDING RESOLUTION NO. 95-93, with modifications as follows:
  - a. A 10% facility rental discount (rounded to the nearest \$5 increment) is to be granted for San Clemente residents for the next 12 months. (Staff is to report to Council at the end of the 12-month period with respect to the workability of the facility fees, including the 10% discount being offered to City residents.)
  - b. That the Policy be expanded to require that doors and windows be closed when music-making and sound amplification equipment is being utilized.

*Action continued on next page*

- c. That the Policy be expanded to require that licensed bartenders attend a responsible beverage service training course if the course is not automatically required as a prerequisite to becoming a licensed bartender.
2. That sensitivity be exercised with regard to any renovations of the Ole Hanson Beach Club in light of its status on the National Register of Historic Places.
3. Direct Staff to review the public use facility rental procedures and fees in 12 months and every three years thereafter to comply with the City's cost recovery efforts.
4. Approve revenue and expenditure adjustments to the 2005-06 budget beginning January 1, 2006 for additional custodial/maintenance and Recreation Division staffing, based upon recovery of funds with new revenues.

Additionally, during the course of discussion, Councilmember(s) requested as follows: 1) That Staff investigate the possibility of charging rental fees for special functions at parks (such as weddings) as well as the possibility of managing uses at parks to ensure that functions are not detrimental to the surrounding neighborhoods (Calafia Beach Park was specifically noted as a park where special functions cause parking problems in the area); and 2) That Staff determine the type of proof that will be required to ensure that persons requesting the 10% City resident discount do, in fact, live in San Clemente.

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

None.

10. **REPORTS**

A. **Commissions and Committees**

(1) **Resignation of Geoffrey Layng from the Orange County Senior Citizens Advisory Council Transportation Committee**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to accept the resignation of Geoffrey Layng as the City's representative on the Orange County Senior Citizens Advisory Council Transportation Committee, with regret.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

(1) **Council Position on Orange County Division, California League of Cities Issues.**

None.

(2) **Council Position on Legislative Issues.**

None.

(3) **Orange County Fire Authority Status Update.**

Councilmember Ritschel reminded citizens that it is fire season and urged them to clear vegetation around their property.

(4) **San Clemente-Dana Point Animal Services Authority.**

Councilmember Dahl reported on animals available for adoption at the San Clemente-Dana Point Animal Services Authority and expressed appreciation to the veterinarians, staff and volunteers.

(5) **Transportation Corridor Agencies Status Report.**

Councilmember Dahl reported that it is hoped that an announcement will be made concerning the proposed alignment of the Foothill/South Transportation Corridor in October or November 2005.

(6) **Integrated Waste Management District Report.**

None.

(7) **Appointment of Two Council Members to the Shorecliffs Neighborhood Residential Bulk and Massing Study Task Force**

MOTION BY COUNCILMEMBER DAHL, SECOND BY MAYOR PRO TEM EGGLESTON, CARRIED 3-0, to appoint Councilmember Ritschel and Mayor Anderson to serve as Council's representatives on the Shorecliffs Residential Bulk and Massing Study Task Force.

(8) **General Assembly Delegate - Orange County Council of Governments (OCCOG)**

MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to appoint Mayor Joe Anderson to represent the City of San Clemente as a voting delegate to the annual General Assembly of the Orange County Council of Governments, to be held in Lake Forest on August 25, 2005.

(9) **Councilmember Items.**

None.

11. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1304 (Second Reading) - Zoning Amendment 05-041, Corrections to Zoning and Subdivision Ordinances**

MOTION BY MAYOR PRO TEM EGGLESTON, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to adopt Ordinance No. 1304 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 16 OF THE SAN CLEMENTE MUNICIPAL CODE, RELATING TO SUBDIVISIONS, AND CHAPTER 17 OF THE SAN CLEMENTE MUNICIPAL CODE, RELATING TO ZONING, FOR PURPOSES OF CORRECTING INCONSISTENT PROVISIONS WITHIN THOSE CHAPTERS AND CONFORMING CERTAIN PROVISIONS TO CURRENT CITY PRACTICES.

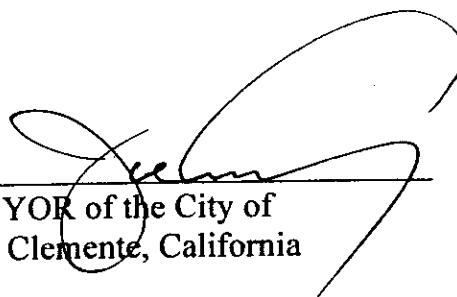
B. **Ordinance No. 1305 (Second Reading) - Impoundment of Unauthorized Refuse Containers**

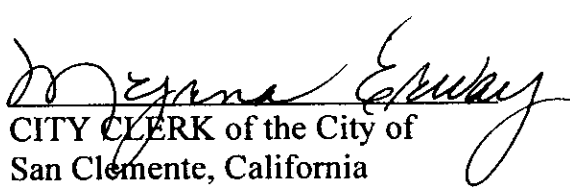
MOTION BY COUNCILMEMBER RITSCHER, SECOND BY COUNCILMEMBER DAHL, CARRIED 3-0, to adopt Ordinance No. 1305 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING (i) CHAPTER 8.28 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE IMPOUNDMENT OF UNAUTHORIZED REFUSE CONTAINERS; (ii) CHAPTER 8.52 OF THE SAN CLEMENTE MUNICIPAL CODE TO DECLARE THE USE OF UNAUTHORIZED REFUSE CONTAINERS A PUBLIC NUISANCE; AND (iii) SECTION 1.16.010 OF THE SAN CLEMENTE MUNICIPAL CODE TO ESTABLISH A FINE FOR VIOLATIONS OF THE CHAPTER 8.28.

12. **ADJOURNMENT**

MOTION BY COUNCILMEMBER DAHL, SECOND BY COUNCILMEMBER RITSCHER, CARRIED 3-0, to adjourn at 8:25 p.m., in memory of Cesar "Cid" Baez and Mrs. Jane Fetterly. The next Regular Meeting will be held on August 2, 2005 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 6:00 p.m. The General Session will begin at 7:00 p.m.

**The Regular Council Meeting of August 16, 2005 was previously cancelled.**

  
MAYOR of the City of  
San Clemente, California

  
CITY CLERK of the City of  
San Clemente, California