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CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting - December 4, 2012

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 December 4, 2012 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by City Clerk Baade.

City Clerk Baade recessed the meeting to 5:30 p.m. The meeting was reconvened at 5:30 p.m. with Mayor Evert presiding.

PRESENT BAKER, BROWN, DAHL, DONCHAK, MAYOR EVERT

ABSENT NONE

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

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CLOSED SESSION

City Attorney Goldfarb requested a Closed Session to discuss the items listed on the Closed Session agenda.

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DAHL, CARRIED 5-0, to recess to Closed Session at 5:30 p.m. to discuss the following:

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

Daniel Walker as Trustee for the 1997 Walker Family Trust v. City of San Clemente, Orange County Superior Court Case No. 30-2012-00591239-CU-WM-CJC

GA-1

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(b):
One potential case

The Closed Session was conducted in the Ocean View Conference Room at City Hall. In attendance for the full Closed Session were all members of the City Council, Councilmember-Elect Hamm, City Manager Scarborough, Assistant City Manager Gudgeirsson, Community Development Director Holloway, City Attorney Goldfarb and City Clerk Baade.

MEETING RECONVENED

Council reconvened at 6:01 p.m., with all members present.

INVOCATION

Rev. Dr. Paula A. Ferris, St. Andrews by the Sea United Methodist Community of Faith, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Evert led the Pledge of Allegiance.

A. **APPROVAL OF MINUTES**

(1) **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve the minutes of the Joint City Council/General Plan Advisory Committee Meeting of November 13, 2012.

6A-2

B. **ELECTION RESULTS, ADMINISTRATION OF OATH OF ALLEGIANCE, AND ELECTION OF MAYOR AND MAYOR PRO TEMPORE**

(1) **Results of the General Municipal Election Held on November 6, 2012**

City Clerk Baade reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to adopt Resolution No. 12-61 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD NOVEMBER 6, 2012, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

Mayor Evert presented a Commendation, San Clemente painting by artist Rick Delanty and a lifetime pass to the San Clemente Municipal Golf Course to Councilmember Jim Dahl for his outstanding service to the citizens of San Clemente.

Michael Kaupp, San Clemente, expressed gratitude to Jim Dahl for his support of the business community and downtown.

Diane Harkey, State Assemblywoman, presented Jim Dahl with a certificate in recognition for his service as a member of the City Council.

Councilmember Dahl conveyed gratitude to his wife; reflected on his career as a firefighter and experience serving on Council; summarized the City's accomplishments during his tenure, which included: 1) developing and remodeling of community parks and the Vista Hermosa Sports Park, 2) establishing the beach trail and ridgeline trails, 3) improving City services and facilities, and 4) fostering the business community.

(2) **Oath of Allegiance - Newly-Elected City Clerk and City Treasurer**

Mayor Evert administered the Oath of Allegiance to City Clerk-Elect Joanne Baade and City Treasurer-Elect Pall Gudgeirsson.

(3) **Oath of Allegiance - Newly-Elected Councilmembers**

City Clerk Baade administered the Oath of Allegiance to Councilmembers-Elect Robert Baker and Chris Hamm.

Councilmembers Baker and Hamm assumed their seats at the dais.

(4) **Election of Mayor and Mayor Pro Tempore**

Mayor Evert expressed gratitude to the Council, Commissions and Committees, City Manager, Staff, and local media; reflected on the Council's accomplishments during the past year and reviewed projects that are in progress; thanked his wife for her support.

City Clerk Baade opened nominations for Mayor.

MOTION BY COUNCILMEMBER BROWN, SECOND BY COUNCILMEMBER EVERT to nominate Robert Baker to the office of Mayor. There being no other nominations, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to close nominations and elect Robert Baker to the office of Mayor.

Mayor Baker opened nominations for Mayor Pro Tem.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to nominate and elect Tim Brown to the office of Mayor Pro Tem.

Councilmember Hamm thanked the citizens of San Clemente; stated that he will work to ensure San Clemente is the best place to live, work and play.

Mayor Baker thanked the citizens of San Clemente for their vote of confidence; thanked Jim Dahl for his 16 years of service on the City Council; conveyed gratitude to his family and campaign committee for their support; advised that his priority is to improve communications between the residents and the City.

Mayor Baker presented a plaque to Councilmember Evert in recognition of his service and dedication as Mayor.

1. **SPECIAL PRESENTATIONS**

A. **Holiday Serenade - San Clemente High School Madrigals**

The San Clemente High School Madrigals, under the direction of Tiffany Fernandez, performed a series of holiday songs.

6A-4

B. Certificates of Recognition - Red Ribbon Week Celebration

Mayor Baker presented Certificates of Recognition to Red Ribbon Week sponsors in appreciation of their valuable contributions to the celebration.

2. ORAL COMMUNICATIONS (PART ONE)**Metrolink Holiday Toy Express**

George Gregory, San Clemente, requested that citizens make donations to help him purchase children's bicycles for the Metrolink Holiday Toy Express; noted that he will assemble the bicycles that will be distributed to deserving children.

Pete Van Nuys, San Clemente, thanked the Council and Chamber of Commerce for arranging for the Metrolink Holiday Toy Express to stop in North Beach; advised that he is committed to helping assemble bicycles for the toy drive.

San Clemente Trail System

Don Kunze, San Clemente, thanked Jim Dahl for his service as a Councilmember and welcomed Councilmember Hamm; spoke on his vision for the City's trail system, pointing out that he is opposed to the toll-road extension through San Clemente.

Council Election

Michael Kaupp, San Clemente, congratulated Chris Hamm and Robert Baker for their election and expressed a desire to work collaboratively with the Council.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, 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 Goldfarb stated that Council took no reportable action during this evening's Closed Session.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items B(2) and G.

A. **City Council Minutes**

This agenda item was considered immediately following Roll Call so that the 2012 City Council could approve the minutes from the November 13, 2012 meeting. (Please refer to Page 2 of these minutes for that action.)

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

- (1) Zoning Administrator Adjourned Regular Meeting minutes of November 20, 2012.

C. **Warrant Register**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve Handwrite No. 504653 and Warrant Nos. 504523 through 504652, for the period 11-12-12 through 11-16-12, in the amount of \$1,391,097.89; for a total Warrant Register in the amount of \$1,391,097.89.

D. **Contract Award - Crossing Guard Services**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C06-40, by and between the City of San Clemente and All City Management Services, Inc., providing for crossing guard services, in an amount not to exceed \$101,000.

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E. **Fiscal Year 2011-2012 Measure M2 Expenditure Report**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to adopt Resolution No. 12-62 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO ADOPT THE FISCAL YEAR 2011-2012 MEASURE M2 EXPENDITURE REPORT FOR THE CITY OF SAN CLEMENTE.

F. **Avenida Vaquero Storm Drain Replacement and Easement Agreement for Camino De Los Mares/Avenida Vaquero Storm Drain Upgrade**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, the Avenida Vaquero Storm Drain Replacement and Easement Agreement, by and between the City of San Clemente, and GC8, a joint venture of LHC Investments, LLC, and James and Suzan Wu (Shorecliffs Golf Course) for the Camino De Los Mares/Avenida Vaquero Storm Drain Upgrade, Project No. 16001.
2. Authorize payment of \$7,500 to Staff to pay GC8, a joint venture of LHC Investments, LLC, and James and Suzan Wu, for granting this easement and the grantor's attorney review fees.

H. **State-Mandated Disability Access and Education Fee for Business Licenses**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to adopt Resolution No. 12-63 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DIRECTING THE COLLECTION OF THE STATE MANDATED DISABILITY ACCESS AND EDUCATION FEE FOR BUSINESS LICENSE APPLICATIONS.

I. **Parking Standards for Group Instructional Uses**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to direct Staff to improve parking requirements when the Zoning Ordinance is updated.

6A-7

J. **Settlement Agreement and Mutual Release Related to the Construction of the Downtown Fire Station and Senior Center**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, the Settlement Agreement and Mutual Release, by and between the City of San Clemente and Fidelity and Deposit Company of Maryland, related to the construction of the Downtown Fire Station and Senior Center.
2. Authorize Staff to release the final construction payment held in retention in accordance with the Settlement Agreement.

K. **Contract Award - SCADA Support and Maintenance Services**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C12-51, by and between the City of San Clemente and AppIT, LLC, providing for on-call support and maintenance services for the City's SCADA System, in an amount not to exceed \$125,000 for a 24-month period.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

B(2). **Planning Commission Adjourned Regular Meeting Minutes of November 15, 2012 and November 20, 2012**

Mayor Baker thanked the Planning Commission for starting its review of the draft Coastal Element of the new General Plan. MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to receive and file the Planning Commission Adjourned Regular Meeting minutes of November 15, 2012 and November 20, 2012.

6A-8

G. **Contract Amendment - Communications Site Lease Agreement (2916½ Via San Gorgonio)**

Following discussion, MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve, and authorize the Mayor to execute, the First Amendment to Communications Site Facility Lease, by and between the City of San Clemente and Los Angeles SMSA Limited Partnership, dba Verizon Wireless, for the installation of back-up generators at a cellular site located at 2916½ Via San Gorgonio. (Contract C11-23)

7. **PUBLIC HEARINGS**

A. **Mitigated Negative Declaration (MND) for the Avenida Columbo Storm Drain Extension Project**

Public Hearing to consider a proposal to extend the existing 24" High Density Polyethylene (HDPE) storm drain line by connecting a new, above-ground 24" HDPE pipe. The new pipe will extend approximately 175 feet from the existing pipe to the bottom of the canyon. The project site is located in the southeast portion of the City of San Clemente at the end of the Avenida Columbo cul-de-sac. The nearest cross street is Avenida Salvador.

Assistant City Engineer Rebensdorf displayed a slide depicting the project site; reviewed the contents of the Administrative Report; responded to Council inquiries. A hard copy of Mr. Rebensdorf's slide is on file with the City Clerk.

Mayor Baker opened and closed the Public Hearing, there being no one desiring to speak to this issue.

MOTION BY COUNCILMEMBER EVERT, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adopt Resolution No. 12-64 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE MITIGATED NEGATIVE DECLARATION FOR THE AVENIDA COLUMBO STORM DRAIN EXTENSION PROJECT NO. 18005.

8. **UNFINISHED BUSINESS**

None.

6A-9

9. **NEW BUSINESS**A. **Contract Award - Recycled Water System Expansion Projects**

Report from the Public Works Director/City Engineer concerning the possibility of awarding contracts for the Recycled Water System Expansion Projects.

Assistant City Engineer Rebensdorf narrated a PowerPoint presentation entitled "Recycled Water System Expansion Projects" and responded to Council inquiries. A hard copy of Mr. Rebensdorf's presentation, dated December 4, 2012, is on file with the City Clerk.

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to:

1. Approve the plans and specifications for the Recycled Water System Expansion, Water Reclamation Plant and Pump Station, Project No. 18201A, Cordillera Water and Recycled Water Reservoirs and Bella Collina Towne & Golf Club Meter, Project No. 18201B, Pipeline Schedule III, Project No. 18201E, and Pipeline Schedule IV, Project No. 18201F, Pipeline Schedule I, Project No. 18201C and Pipeline Schedule II & Pressure Reducing Station, Project No. 18201D.
2. Approve a supplemental appropriation in the amount of \$609,000 from the Sewer Fund Connection Fee Reserve to Account 054-477-45300-000-18201.
3. Find the HPS Mechanical, Inc. bid proposal to be non-responsive due to missing bid form pages for the Recycled Water System Expansion, Cordillera Water and Recycled Water Reservoirs and Bella Collina Towne & Golf Club Meter, Project No. 18201B, Pipeline Schedule III, Project No. 18201E, and Pipeline Schedule IV, Project No. 18201F.
4. Waive minor irregularities in the Colich & Sons, L.P. bid for the Recycled Water System Expansion, Pipeline Schedule I, Project No. 18201C, and Pipeline Schedule II & Pressure Reducing Station, Project No. 18201D.

(Council action continued on next page.)

5. Waive minor bid irregularity claimed by Stanek Construction for the Recycled Water System Expansion, Water Reclamation Plant and Pump Station, Project No. 18201A.
6. Approve, and authorize the Mayor to execute, Contract C12-52, by and between the City of San Clemente and Gateway Pacific Contractors, Inc., providing for the construction of the Recycled Water System Expansion, Water Reclamation Plant and Pump Station, Project No. 18201A, in the amount of \$7,579,932.
7. Approve, and authorize the Mayor to execute, Contract C12-53, by and between the City of San Clemente and Canyon Springs Enterprises, dba RSH Construction, providing for the construction of the Recycled Water System Expansion, Cordillera Water and Recycled Water Reservoirs and Bella Collina Towne & Golf Club Meter, Project No. 18201B, Pipeline Schedule III, Project No. 18201E, and Pipeline Schedule IV, Project No. 18201F, in the amount of \$4,227,000.
8. Approve, and authorize the Mayor to execute, Contract C12-54, by and between the City of San Clemente and Colich & Sons, L.P., providing for the construction of the Recycled Water System Expansion, Pipeline Schedule I, Project No. 18201C, and Pipeline Schedule II & Pressure Reducing Station, Project No. 18201D, in the amount of \$6,546,637.

B. Beach, Park and Landscape Maintenance Contracts

Report from the Beaches, Parks and Recreation Director regarding whether to extend current beach, park and landscape maintenance contracts or to rebid all, or a portion thereof, of the subject contracts.

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

Following discussion, MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to negotiate extensions of all current maintenance contracts scheduled to end on June 30, 2013, with the exception of the Beach Trail Fence Repair and Playground Maintenance contracts, as they need to be re-bid as Public Works Contracts. Staff will return to the City Council to award contracts.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

(1) **Appointment of a New City Manager**

Report from the City Manager concerning the appointment of a new City Manager.

City Manager Scarborough reviewed the contents of the Administrative Report.

In response to Council inquiry, Assistant City Manager Gudgeirsson confirmed his desire to serve as City Manager upon the retirement of George Scarborough; noted that it is his intent to maintain the momentum of the City.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to declare intent to appoint Pall Gudgeirsson as City Manager upon George Scarborough's retirement on March 20, 2013.

C. **City Attorney**

None.

D. Council Members**(1) Metrolink Holiday Toy Express**

Councilmember Evert announced that the Metrolink Holiday Train will be visiting North Beach at 7:45 p.m. on December 8, 2012; noted that North Beach businesses will be hosting a community event and proceeds will be donated to Courtney's SandCastle.

(2) Menorah Lighting Ceremony on the Pier

Mayor Pro Tem Brown advised that the Chabad Jewish Center will conduct a menorah lighting ceremony on the San Clemente Pier on December 9, 2012.

(3) Mayor Pro Tem Appointment/Commendation to Newly Appointed Mayor

Mayor Pro Tem Brown thanked Council for appointing him as Mayor Pro Tem; commended Robert Baker for his appointment as Mayor and wished him success over the next year.

(4) Consideration of Removing City Trees Blocking Views

Mayor Baker requested that Staff agendize for Council consideration the issue of potentially allowing trees to be removed when the trees are subject to the City's jurisdiction, the trees are blocking views, and the removal/replacement of the trees is cost neutral.

(5) Neighborhood Beach Watch

Mayor Baker encouraged residents to participate in the Neighborhood Beach Watch class being offered at the Community Center on December 6, 2012 at 5:30 p.m.

(6) Low-Cost Vaccination Clinic

Mayor Baker announced that the San Clemente/Dana Point Animal Shelter is offering a low-cost vaccination clinic on December 12, 2012.

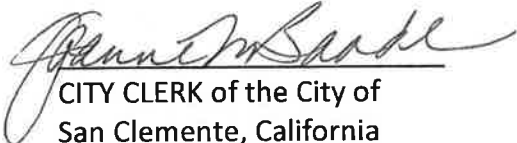
12. RESOLUTIONS/ORDINANCES

None.

13. ADJOURNMENT

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adjourn at 7:45 p.m.

The next Regular Council Meeting will be held on Tuesday, December 18, 2012 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 commence at 6:00 p.m.


CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California

6A14