

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular City Council Meeting – October 21, 2014

*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 October 21, 2014 at 5:03 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Brown.

**PRESENT**           BAKER, DONCHAK, EVERT, HAMM, MAYOR BROWN

**ABSENT**            NONE

**STAFF PRESENT** James Makshanoff, City Manager; Jeff Oderman, City Legal Counsel; Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

### **CLOSED SESSION**

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

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

Joseph A. Arriola vs. L.H.C. Investments LLC, et al (OCSC Case No. 30-2011-00450299-CU-CD-CXC)

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

Hector Birman vs. Duke's Griddle N Grill, et al (OCSC Case No. 30-2012-00552716-CU-PO-CJC)

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

Callan, et al. v. Marlborough Seaview Estates Homeowners Association, et al., OCSC Case No. 01CC07556 (consolidated with Case No. 01CC15381)

*Closed Session items continued on following page*

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

Property: Vista Hermosa Sports Park, 987 Avenida Vista Hermosa, San Clemente

Agency Negotiator: James Makshanoff, City Manager

Negotiating Parties: City of San Clemente and Surf N' Turf Paradiso, LLC

Under Negotiation: Price and terms of payment

In attendance for the full Closed Session were all members of the City Council, City Manager Makshanoff, City Legal Counsel Oderman, Assistant City Manager Sund, and City Clerk Baade. Public Works Director/City Engineer Cameron was in attendance for Closed Session Items A, B and C only. Community Development Director Holloway, Ed Richards (from Kutak Rock), and Paul Zeglovitch (from California JPIA) were in attendance for Closed Session Items A and B only.

**MEETING RECONVENED**

Council reconvened at 6:09 p.m., with all members present.

**INVOCATION**

Reverend Patrick Crerar, St. Clements-by-the-Sea Episcopal Church, gave the invocation.

**PLEDGE OF ALLEGIANCE**

Councilmember Donchak led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Presentation of Proclamation – Red Ribbon Week**

Mayor Brown presented a Proclamation to Crime Prevention Specialist Janet Dunford, setting apart October 20 through October 24, 2014 as Red Ribbon Week.

B. **San Clemente High School Update**

San Clemente High School students McKenna Brownell and Daniel Klevit narrated a PowerPoint presentation concerning San Clemente High School campus activities. A hard copy of the presentation is on file in the City Clerk Department.

**C. Proclamation - Purple Heart Cities**

Mayor Brown presented a Proclamation to Orange County Supervisor Pat Bates setting aside November 2014 as Purple Heart Month. Supervisor Bates subsequently presented the proclamation to Daniel Watkins, on behalf of Chapter 752 Military Order of the Purple Heart.

**D. Proclamation – Buddy Poppy Days**

Mayor Brown presented a Proclamation to Dolores Padgett, San Clemente Veterans of Foreign Wars, declaring November 8 and November 9, 2014 as Buddy Poppy Days.

**E. United States Marine Corps. Adopted Units Update**

Lt. Col Edward Powers, Commanding Officer of HLMA 469, San Clemente's adopted USMC Squadron, Vengeance, provided an update concerning the Squadron's recent activities and November deployment.

Lt. Col Mike Wilonsky, Commanding Officer of 2nd Battalion 4th Marines, San Clemente's adopted regiment, Magnificent Bastards, provided an update concerning the unit's recent activities and November deployment.

**2. ORAL COMMUNICATIONS (PART 1)****I-5 Sound Walls**

Stephen Hill, San Clemente, urged Council to contact CalTrans to request the installation of SoundSorb on the I-5 soundwalls in an effort to reduce freeway noise and protect property values; displayed an article from the Marin Independent Journal concerning soundwalls. A hard copy of the article is on file in the City Clerk Department.

**Bicycle Lanes**

Pete van Nuys, on behalf of Orange County Bicycle Coalition, voiced concerns regarding bicycle safety and urged Council to implement safe bicycle infrastructure improvements and remind motorists that bicyclists share the roadways.

**Welcome to New City Manager**

Don Kunze, San Clemente, welcomed City Manager Makshanoff to the City; expressed his preferences for the City's future and urged the City Manager to consider the General Plan when making decisions.

3. MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, 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**

**Surf 'N Turf Paradiso Property Negotiations (Closed Session Item D)**

City Legal Counsel reported that Council considered the Surf 'N Turf Paradiso property lease negotiations in Closed Session (Closed Session Item D); reported that Council determined that the lessee did not satisfy two of the three conditions of the lease terms by the October 13, 2014 deadline and hence, the lease has automatically terminated pursuant to the lease terms; stated that staff will provide written notification to the former lessee.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the Consent Calendar, with the removal of items 6-L and 6-M. Councilmember Baker recused himself from item 6-G because he resides in close proximity to the Trafalgar Canyon project.

- A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the minutes of the Regular City Council meeting minutes of September 2, 2014 and the Regular City Council meeting minutes of September 16, 2014.

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

- (1). Minutes of the Regular Golf Course Committee meeting of September 4, 2014.
- (2). Minutes of the Regular Zoning Administrator meeting of October 8, 2014.
- (3). Minutes of the Regular Coastal Advisory Committee meeting of July 10, 2014.
- (4). Minutes of the Planning Commission Regular Study Session of October 8, 2014.
- (5). Minutes of the Regular Planning Commission meeting of October 8, 2014.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the following:

Wire Transfers Nos. 1309 through 1313, paid on 10/3/14, and Warrant Nos. 519506 through 519615, paid on 10/3/14, in the amount of.....\$1,435,882.78

Warrant Nos. 519616 through 519842, paid on 10/8/14, in the amount of.....\$1,022,070.19

TOTAL WARRANT REGISTER.....\$2,457,952.97

**Payroll Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the following:

Warrant Nos. 336 through 337 and Automatic Deposit Advises 19006 through 19308 for the period 9/15/14 through 9/28/14, paid on 10/3/14, in the amount of.....\$ 414,212.14

TOTAL PAYROLL REGISTER.....\$ 414,212.14

D. **Contract Award – Geographic Information Systems (GIS) Professional Services**

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

1. Approve the selection of Compass Rose GIS for GIS Professional Services.
2. Approve, and authorize the Mayor to execute, Contract C14-43 by and between the City of San Clemente and Compass Rose GIS, providing for enhancement of the City's Geographical Information Systems, in an amount not to exceed \$95,000.

E. **Contract Award – Water Reclamation Plant SCADA Integration and Upgrade Design**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C14-44, by and between the City of San Clemente and ACS Engineering, Inc., providing for Water Reclamation Plant SCADA Integration and Upgrade Design, in the amount of \$227,760. (Project No. 12605)

F. **Contract Award – Water Reclamation Plant Fire Service Rehabilitation**

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

1. Approve the plans and specifications for the Water Reclamation Plant Fire Service Rehabilitation, Project No. 24203.
2. Relieve Falcon Construction of its bid in the amount of \$148,760 and release its bid bond due to a mistake in filling out the bid form.
3. Approve, and authorize the Mayor to execute, Contract C14-45, by and between the City of San Clemente and Atlas-Allied, Inc., providing for the Water Reclamation Plant Fire Service Rehabilitation, in the amount of \$186,071.

G. **Contract Award – Trafalgar Canyon Outlet Water Quality and Sewer Line Support at Trafalgar Canyon**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0-1 (COUNCILMEMBER BAKER ABSTAINED BECAUSE HE RESIDES IN CLOSE PROXIMITY TO THE PROJECT), to approve, and authorize the Mayor to execute, Contract C14-46 by and between the City of San Clemente and Pacific Advanced Civil Engineering (PACE), providing for development of a scope of work for the Trafalgar Canyon Outlet Water Quality and Sewer Line Support at Trafalgar Canyon, in the amount of \$44,006. (Project Nos. 14005 and 21202)

H. **Contract Amendment – Water Reclamation Plant Solids Handling Rehabilitation**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C11-03, by and between the City of San Clemente and Pacific Advanced Civil Engineering, providing for additional programming and integration work for the Water Reclamation Plant Solids Handling Rehabilitation, Project No. 10204. This Amendment increases the contract amount from \$284,392 to \$312,692, an increase of \$28,300.

I. **Contract Award – Calafia Pump Station Surge Tank Rehabilitation**

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

1. Approve the plans and specifications for the Calafia Pump Station Surge Tank Rehabilitation, Project No. 12449.
2. Approve, and authorize the Mayor to execute, Contract C14-47, by and between the City of San Clemente and Fleming Environmental, Inc., providing for the Calafia Pump Station Surge Tank Rehabilitation, in the amount of \$139,260.

**J. Contract Amendment – On-Call Building Plan Review Services**

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

1. Approve a supplemental appropriation of \$12,000 from the General Fund unassigned fund balance into Account 001-421-43890-000-00000.
2. Approve, and authorize the Mayor to execute, Amendment No. 4 to Contract C10-37, by and between the City of San Clemente and VCA Code Group, providing for temporary on-site building plans examiner services. This amendment increases the contract amount from \$113,000 to \$125,000, an increase of \$12,000.

**K. Establishment of Findings Related to Council's Prior Approval of the Orange County Fire Authority's Second Amendment to the Amended Joint Powers Authority (Equity Sharing)**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to adopt Resolution No 14-45 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, MAKING FINDINGS RELATED TO THE CITY'S PRIOR APPROVAL OF THE ORANGE COUNTY FIRE AUTHORITY'S SECOND AMENDMENT TO THE AMENDED JOINT POWERS AUTHORITY AGREEMENT.

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION****L. Proposed Extension of Recreation Sports Partnership Agreements**

Recreation Manager Passow responded to Council inquiries.

Following clarification, MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C13-43, by and between the City of San Clemente and American Youth Soccer Organization (AYSO), extending the agreement through May 31, 2015.
2. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C13-44, by and between the City of San Clemente and San Clemente Girls Softball, extending the agreement through May 31, 2015.

*Motion continued on following page*



3. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C13-45, by and between the City of San Clemente and San Clemente Little League, extending the agreement through May 31, 2015.
4. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C13-46, by and between the City of San Clemente and South Coast Youth Football, extending the agreement through May 31, 2015.
5. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C13-47, by and between the City of San Clemente and Elite Soccer, extending the agreement through May 31, 2015.

**M. Proposed Extension of San Clemente Aquatics Agreement**

Recreation Manager Passow responded to Council inquiries.

Following clarification, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C13-42, by and between the City of San Clemente and San Clemente Aquatics, extending the agreement through January 31, 2015.

**7. PUBLIC HEARINGS**

**A. Foundation Fitness (232 Avenida Fabricante, Suite 106) – Conditional Use Permit 14-261**

Public Hearing to consider an appeal of the Planning Commission's approval of Conditional Use Permit (CUP) 14-261 that would allow a commercial recreation use at 232 Avenida Fabricante, Suite 106.

Associate Planner Wright narrated a PowerPoint presentation entitled "Foundation Fitness CUP 14-261" and responded to Council inquiries. A hard copy of the presentation is on file in the City Clerk's Department.

Mayor Brown opened the Public Hearing.

Peter Scharer, Laguna Beach, voiced concerns regarding the parking requirements for the project due to his belief that the business constitutes a gym; stated that non-compliant vehicles will be towed; urged Council to not approve the Conditional Use Permit for Foundation Fitness.

Steve Yates, San Clemente, owner of the adjoining office condominium, stated that Foundation Fitness is a fitness facility as opposed to a group instruction facility and asserted that the associated parking demand should be considered; opined that there will be ongoing issues with noise associated with the fitness classes; asserted Foundation Fitness will need 27 parking spaces for its clients; noted that each unit is assigned specific parking spaces and alleged that those spaces cannot be legally transferred to another business.

Alfie Gallegos, Foundation Fitness, asserted that their clients use the facility and leave in a short amount of time; stated there is no fitness equipment for clients to use, only group instruction classes, and their primary revenue source is one-on-one personal training; explained they have made appropriate efforts to soundproof the facility.

There being no others wishing to speak, Mayor Brown closed the Public Hearing.

Council requested that Staff provide the applicant with a copy of the City's noise ordinance.

Following discussion, MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adopt Resolution No. 14-46 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-261, FOUNDATION FITNESS, A REQUEST TO ALLOW A COMMERCIAL RECREATION USE, GROUP INSTRUCTION OF FITNESS CLASSES, IN AN INDUSTRIAL BUILDING LOCATED AT 232 AVENIDA FABRICANTE, SUITE 106.

## 8. UNFINISHED BUSINESS

### A. Billing for 2014 Weed Abatement Program

Report from the Community Development Director concerning billing for the 2014 Weed Abatement Program.

Code Compliance Supervisor Panas reviewed the contents of the Administrative Report.

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

1. Waive the City's notification costs for the compliant property owners.
2. Approve the Weed Abatement Report.
3. Authorize the Weed Abatement Contract Administrator to bill the property owners the amounts indicated in the report.

9. **NEW BUSINESS**

A. **Recycled Water Retrofit Loan Program**

Report from the Public Works Director/City Engineer concerning the Recycled Water Loan Retrofit Program.

Assistant City Engineer Rebensdorf narrated a PowerPoint presentation entitled "Recycled Water Retrofit Loan Program". A hard copy of the presentation is on file in the City Clerk Department.

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

1. Approve a loan program consistent with the information in the Administrative Report, dated October 21, 2014, and direct staff to work with the City Attorney to formalize loan documents.
2. Approve an appropriation of \$400,000 from the Water Operating Fund for the Loan Program.
3. Authorize the City Manager to execute the Loan Agreements.

B. **Appointment of City Council Representatives and Key Stakeholders for San Clemente Hospital Sub-Committee**

Report from the Assistant City Manager concerning the appointment of City Council representatives and key stakeholders for a San Clemente Hospital Sub-Committee.

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

Duane Cave urged that Jim Leach be appointed as an additional facilitator of the Sub-Committee, noting that he would be an asset.

Mike Clark, San Clemente, stated that he is a retired Chief Strategy Officer for a \$6 billion healthcare system; identified issues that should be assessed by the San Clemente Hospital Sub-Committee and offered to serve as a member of the Sub-Committee.

Dr. Gus Gialamus, San Clemente, spoke in opposition to the closure of San Clemente Hospital's Emergency Room, citing concerns that mortality rates will increase; requested a seat on the Sub-Committee.

Randy Newkirk, San Clemente, stated that a nonprofit organization, such as Saddleback Memorial, qualifies for tax benefits; urged Council and the Sub-Committee to research whether or not a nonprofit organization can change an emergency room to an urgent care facility.

Dr. Steve Cullen, San Clemente, urged Council to appoint Susan Ritschel and Dr. Gialamas to the Sub-Committee; reported on the formation of a non-profit corporation entitled "Save Saddleback San Clemente Hospital" (501(c)3 status pending), and offered to represent the corporation on the Sub-Committee; opined that the South Orange County Economic Coalition is not unbiased and hence its members should not provide facilitator services on the Sub-Committee; suggested that Council request that the hospital defer its proposed closure date to June 2016.

Susan Ritschel, San Clemente, urged Council to appoint Dr. Gialamas and Dr. Cullen to the Sub-Committee to represent the medical community, and offered her services on the Sub-Committee to represent the community at large; asserted that an additional objective for the Sub-Committee should be to evaluate alternatives to the hospital's closure.

Don De La Rosa, San Clemente, voiced concerns regarding the closure of the hospital and spoke highly of the medical care his family received at the hospital; asserted that the closure of the hospital will result in lost jobs and decreased property values; opined that the new construction in South Orange County necessitates more hospitals, not fewer.

Duane Cave, South Orange County Economic Coalition, volunteered to act as a non-biased facilitator for the newly formed Sub-Committee.

Council outlined the following objectives for the San Clemente Hospital Advisory Sub-Committee:

- Evaluation of market forces
- Analysis of alternatives
- Identification of future demand
- Identification of resources necessary to enable the hospital to remain in San Clemente
- Potential Solutions
- Milestones
- Fact Finding
- Community Engagement

Council formed a San Clemente Hospital subcommittee to consist of the following:

Hospital Board of Directors	1 Member
City Council	Mayor Pro Tem Hamm
Public Safety	Captain John Coppock (OCSD); Assistant Chief Dave Thomas (OCFA), or designee(s)
Saddleback Memorial Center – San Clemente	Tony Struthers, or designee
Human Affairs Committee	1 member; Human Affairs Committee to select
City Staff	Jim Holloway, Community Development Director
South Orange County Economic Coalition	Duane Cave and Jim Leach (facilitators)
County EMSA Representative	County to designate
Hospital Association of California	Julie Puentes
Community/Hospital Representatives	Susan Ritschel, Dr. Gus Gialamas, Mike Clark.

Council requested that Mayor Pro Tem Hamm report back to Council on a regular basis concerning the Sub-Committee meetings.

**C. Appointment of City Council Representatives to City Attorney Services Request for Proposal Review Committee**

Report from the Assistant City Manager concerning the appointment of City Council Representatives to serve on the City Attorney Services Request for Proposal Committee.

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

Council appointed Councilmember Baker and Councilmember Donchak to serve on the City Attorney Services Request for Proposal Review Committee.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

**Movie in the Park**

Mayor Brown commended Beaches, Parks, and Recreation staff and members of the Friends of the Beaches, Parks and Recreation Foundation for their work in making the City's first Movie in the Park successful; noted the event was well attended and suggested the City host another Movie in the Park event in April.

**Aging in Place Village Group**

Councilmember Baker reported on his attendance at the first Aging in Place Village Group meeting; announced the next meeting will take place on November 13, 2014 and encouraged the public to attend.

**Cottons Point Senior Housing Project Grand Opening**

Councilmember Baker reported on his attendance at the Cottons Point Senior Housing grand opening.

12. **RESOLUTIONS/ORDINANCES**

None.

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 5-0, to adjourn at 8:48 p.m., to an Adjourned Regular Council Meeting to be held on November 6, 2014 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 5:00 p.m. The Regular Business Meeting will commence at 6:00 p.m.

Note: The next Council meeting will take place on November 6, 2014 rather than November 4, 2014 to allow the Council Chambers to be used as a polling place for the General Municipal Election on November 4, 2014.

  
CITY CLERK of the City of  
San Clemente, California

---

MAYOR of the City of  
San Clemente, California