

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting – November 6, 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.

An Adjourned Regular Meeting of the San Clemente City Council was called to order on November 6, 2014 at 5:04 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Brown.

PRESENT BAKER, DONCHAK, HAMM, MAYOR BROWN

ABSENT EVERT

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

CLOSED SESSION

MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to recess to Closed Session at 5:05 p.m. to discuss the following:

- A. 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: James Makshanoff, City Manager

Negotiating Parties: City of San Clemente and Corrective Solutions

Under Negotiation: Both Price and Terms of Payment.

- B. 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)

In attendance for the full Closed Session were all members of the City Council, except for Councilmember Evert. Also in attendance for the Closed Session were City Manager Makshanoff, City Legal Counsel Oderman, Assistant City Manager Sund, Public Works/Economic Development Director Cameron, and City Clerk Baade.

MEETING RECONVENED

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

INVOCATION

Pastor Mike Fanning, of Heritage Christian Fellowship, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Presentation of Proclamation – Pancreatic Cancer Awareness Month**

Mayor Brown presented a Proclamation to Bob Sottile, setting aside the month of November 2014 as Pancreatic Cancer Awareness Month.

B. **Certificate of Recognition – Deputy Rod Valdez**

Mayor Brown presented a Certificate of Recognition to Deputy Rod Valdez for 28 years of service with the Orange County Sheriff's Department and San Clemente Police Services.

2. **ORAL COMMUNICATIONS (PART 1)**

CURE San Clemente

Pondo Vleisides, San Clemente, requested a partnership with the City to allow CURE San Clemente, an organization formed to help young people stay sober, to receive fee waivers for use of City parks.

Save San Clemente

Lauren Spencer, San Clemente, stated that she founded a program called "Save San Clemente" which provides resources for at-risk teenagers; requested City support in their efforts to provide healthy activities and connections.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), 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**

City Legal Counsel Oderman advised that Council took no reportable actions at the 5:00 p.m. Closed Session.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to approve the Consent Calendar, with the removal of items 6-B(1) and 6-D.

- A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to approve the minutes of the Regular City Council meeting of October 7, 2014 and the Regular City Council meeting of October 21, 2014.

- B. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to receive and file the following:

- (2) Minutes of the Regular Planning Commission meeting of October 22, 2014.
- (3) Minutes of the Regular Zoning Administrator meeting of October 22, 2014.

C. Warrant Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to approve the following:

Wire Transfers Nos. 1314 through 1318, paid on 10/17/14, and Warrant Nos. 519843 through 520017, paid on 10/17/14, in the amount of.....\$2,189,047.17

Warrant Nos. 520018 through 520157, paid on 10/24/14, in the amount of.....\$ 575,846.20

TOTAL WARRANT REGISTER.....\$2,764,893.37

Payroll Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to approve the following:

Warrant Nos. 338 through 339 and Automatic Deposit Advises 19309 through 19623 for the period 9/29/14 through 10/12/14, paid on 10/17/14, in the amount of.....\$ 445,641.94

TOTAL PAYROLL REGISTER.....\$ 445,641.94

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

6B(1). Minutes of the Planning Commission Regular Study Session of October 22, 2014

Following clarification from staff relative to the agenda item entitled "Peacemaking on a Budget", MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to receive and file the minutes of the Planning Commission Regular Study Session of October 22, 2014.

D. **Land Lease – Gratitude Garden Preschool, City Property to the North of 92 Avenida La Pata**

Council discussed the propriety of the proposed \$1,200 per annum rent for the land lease and suggested that the rent figure should be determined utilizing a desk-top appraisal that is subsequently discounted according to an appropriate methodology.

Dr. Dustine Rey, Founder of Gratitude Garden Preschool, noted that the standard of care for educational child care is that children have 35 square feet inside the building and 75 square feet outside; reviewed licensing requirements for child care operations, and noted that the proposed playground is required for the preschool to open; explained that the playground will be nature-based (i.e., not paved); reviewed that their prices will be competitive with other preschools and described the demand for the facility in San Clemente; expressed willingness to work with the City in developing a mutually-agreeable lease rental figure.

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to approve, and authorize the Mayor to execute, a land lease agreement (Contract C14-49) by and between the City of San Clemente and ROSE SOCAL, LLC (Gratitude Garden Preschool), providing for the lease of a portion of the City-owned property located to the north of 92 Avenida La Pata to Gratitude Garden Preschool, with the direction that Staff and the Applicant develop an appropriate rent figure for the land lease.

7. **PUBLIC HEARINGS**

A. **Conduit Financing for The Presidio (Formerly Casa de Seniors Apartments) - 72 Unit Senior Multifamily Rental Housing Project at 105 Avenida Presidio**

Public Hearing to consider conduit financing from the California Municipal Finance Authority (CMFA) for The Presidio (72 Unit Senior Multifamily Rental Housing Project at 105 Avenida Presidio).

Housing Programs Planner Obrero narrated a PowerPoint Presentation entitled "The Presidio Tefra Bond Hearing". A hard copy of the presentation is on file in the City Clerk Department.

Mayor Brown opened the Public Hearing.

Jeff Green, representing the developer, and Ben Barker representing the California Municipal Finance Authority (CMFA), responded to Council inquiries; stressed that the City will not have any legal or moral responsibility to pay any of the debt.

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

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to:

1. Adopt Resolution No. 14-47 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE APPROVING THE ISSUANCE OF THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,000,000 FOR THE PURPOSE OF FINANCING THE ACQUISITION, IMPROVEMENT AND EQUIPPING OF THE PRESIDIO AND CERTAIN OTHER MATTERS RELATING THERETO.
2. Approve the issuance of the Bonds by the California Municipal Finance Authority (CMFA) for the benefit of The Presidio, LP (the "Borrower"), to provide for the financing of the project.

B. Historic Property Preservation Agreement 14-298, Myhren Residence, 245 Avenida Del Poniente

Public Hearing to consider approving Historic Property Preservation Agreement 14-298, for the historic residence located at 245 Avenida Del Poniente.

Mayor Pro Tem Hamm recused himself from participation, and left the Council Chambers at 6:50 p.m., because he owns property within 500' of the historic property at 245 Avenida Del Poniente.

Associate Planner Ciampa narrated a PowerPoint presentation entitled "Historic Property Preservation Agreement, Myhren Residence" and responded to Council inquiries. A hard copy of the presentation is on file in the City Clerk Department.

Mayor Brown opened the Public Hearing, and there being no one wishing to speak, the Public Hearing was closed.

Council requested a status report concerning the circumstances surrounding the four historic properties that are identified in Attachment 4 of the Administrative Report as being non-compliant with their Historic Property Preservation Agreements.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 3-0-1 (MAYOR PRO TEM HAMM ABSTAINING AND COUNCILMEMBER EVERT ABSENT), to adopt Resolution No. 14-48 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AGREEMENT 14-298 FOR THE PROPERTY LOCATED AT 245 AVENIDA DEL PONIENTE.

Mayor Pro Tem Hamm returned to the dais at 6:59 p.m.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Consideration of Resolution - Dry Cask Storage of Spent Nuclear Fuel at the San Onofre Nuclear Generating Station (SONGS)**

Report from the Public Works Director concerning the possibility of adopting a Resolution concerning the Dry Cask Storage of Spent Nuclear Fuel at the San Onofre Nuclear Generating Station (SONGS).

Public Works Director/City Engineer Cameron reviewed the contents of the Administrative Report and proposed Resolution.

Jennifer Massey, San Clemente, urged Council to adopt a Resolution stating its position on the dry cask storage containers and urging relocation of the nuclear waste.

Patti Davis, San Clemente, spoke in support of the relocation of the dry cask storage containers; opined Council should provide input into the selection of storage containers.

Donna Gilmore, San Clemente, opined that the dry cask canisters currently at SONGS are unsafe and could crack; provided Council with a handout which includes options for different types of canisters.

Ace Hoffman, Carlsbad, urged Council to adopt a Resolution urging that waste be removed from SONGS and stated his intent to recommend that the City of Carlsbad adopt a similar Resolution; spoke in support of the closure of Diablo Canyon.

Sharon Hoffman, Carlsbad, opined it is Council's responsibility to protect its residents and neighboring cities; thanked Council for its involvement in the SONGS issue; urged Council to adopt the proposed Resolution.

Chris Johnson, San Clemente, opined that there is no way to know if there are cracks in the dry cask storage containers that could leak radioactive isotopes into the environment; stated that studies have shown that children living in close proximity to radioactive materials have a greater risk of acquiring leukemia; stated the current canisters are not designed to be moved; urged Council to consider other options for dry cask storage canisters.

Jeff Steinmetz, San Clemente, suggested that a plan is not in place for maintenance of the dry cask storage canisters; voiced concern that cracks in the canisters cannot be readily identified and urged Council to request that the safest canisters be used.

Gary Headrick, San Clemente Green, commended Council and staff for considering the proposed Resolution; stated that the proposed Resolution is very strong; suggested that the current dry cask storage containers could potentially fail, thereby jeopardizing safety; urged Council to invite the Department of Energy to explain its long-term plans for spent fuel storage.

Gene Stone, Residents Organized for a Safe Environment, stated the purpose of the proposed Resolution is to take a stand to protect residents; urged that Council request a hearing with the Department of Energy to begin discussions on a national level for a long-term plan for the storage of nuclear waste; urged Council to adopt the Resolution.

Roger Johnson, San Clemente, urged Council to adopt the proposed Resolution as written; stated that Council should consider options that do not include the Department of Energy and do not include a permanent repository; suggested that Council seek interim solutions including waste removal; urged Council to send a delegation to meet with the Governor, Congress, and State Senators.

Alan Korsen, San Clemente, voiced concerns with the lack of an evacuation plan in the event of an emergency; suggested Council adopt a Resolution to promote relocation of spent fuel and urged Council to use every influence available to help ensure public safety.

Sandy Stiassny, Irvine, thanked Council for its Resolution which led to the decommissioning of SONGS; spoke in support of the proposed Resolution and expressed hope that other cities will take similar actions.

Tom Palmisano, Vice President and Chief Nuclear Officer for Southern California Edison, responded to Council inquiries.

Following lengthy deliberations, MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to adopt Resolution No. 14-49 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DECLARING THE CITY'S POSITION ON STORAGE OF SPENT NUCLEAR FUEL AT THE SAN ONOFRE NUCLEAR GENERATING STATION (SONGS) WHILE UNDERGOING DECOMMISSIONING, with the following modifications:

1. The following "Whereases" were deleted from the Resolution:

"WHEREAS, the California Public Utilities Commission (CPUC) has authority over financial matters affecting the nuclear plants owned by the utilities it regulates, including SONGS; and

"WHEREAS, the NRC regulations for the storage of spent nuclear fuel do not require "defense in depth" or multiple layers of redundant protection as currently required for operating nuclear power plants, nor does it require the maximum protection available given other technology currently available internationally; and

"WHEREAS, in 1976 the State of California passed a moratorium on New Nuclear Power Plant Development which allowed the permitting of new nuclear power plants in the state only if the California Energy Commission (CEC) could show that the federal government has identified and approved a demonstrated technology for the construction and operation of nuclear fuel rod reprocessing plants and the permanent disposal of high-level nuclear waste. State law specifically exempted Diablo Canyon and SONGS from these new requirements."

2. The enabling portion of the Resolution shall read in its entirety as follows:

NOW, THEREFORE, the City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City of San Clemente reiterates its request that the DOE move forward with the creation of a permanent spent nuclear fuel repository as tasked by the Nuclear Waste Policy Act of 1982.

Action continued on following page

Section 2. *The City of San Clemente formally requests that the DOE and the NRC renew efforts to find a real and lasting solution to our nation's nuclear waste problem.*

Section 3. *The City of San Clemente supports re-establishment of Yucca Mountain as a permanent spent fuel repository.*

Section 4. *The City of San Clemente supports Senate Bill S2326.*

Section 5. *The City of San Clemente supports the State of California's 1976 Moratorium on New Nuclear Power Plant Development.*

Section 6. *The City Clerk is hereby directed to forward certified copies of this resolution to the Nuclear Regulatory Commission, California Public Utilities Commission, Southern California Edison, Governor Jerry Brown, Senator Barbara Boxer, Senator Dianne Feinstein, Congressman Darrell Issa, and San Clemente's surrounding cities.*

Section 7. *The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.*

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

HERO Program

Sandy Exelby, San Clemente, expressed appreciation for Council's unanimous endorsement of the HERO Program; invited residents to attend a public meeting on November 13, 2014 concerning home energy assessments; stated California Assembly Bill 32 requires that cities work to reduce carbon emissions to 1990 levels by 2020.

Potential Closure of San Clemente Hospital

Dr. Gus Gialamas, San Clemente, reported that the Department of Surgery at San Clemente Hospital adopted a Resolution stating the closure of the emergency room would have a negative impact on the community; cited an example of a 15-month-old child who was transported to the emergency room in respiratory distress; opined that if there were not an emergency room in San Clemente, the child may not have survived.

Dr. Steve Cullen, San Clemente, voiced concern that the hospital could close in as early as four months and suggested that Memorial Care is not interested in considering alternatives; urged Council to adopt a Resolution that expresses the negative impact that closure of the hospital would have on the community.

11. REPORTS**A. Commissions and Committees**

None.

B. City Manager

None.

C. City Attorney

None.

D. Council Members**(1) City Vote – ACC-OC Representative to the Orange County Transportation Authority (OCTA) (District 5)**

Council unanimously supported Councilmember Donchak to fill the position of ACC-OC representative to the Orange County Transportation Authority (OCTA) and appointed Councilmember Donchak to serve as the Mayor's proxy vote at the November 13, 2014 City Selection Committee meeting.

Councilmember Donchak reported that the OCTA Board voted in favor of general purpose lanes, and against toll lanes, on the I-405; noted that Caltrans supports toll lanes.

(2) Update on Status of the Potential Closure of the San Clemente Campus of Saddleback Memorial Hospital

Mayor Pro Temm Hamm provided an update on the first meeting of the San Clemente Hospital Advisory Sub-committee concerning the closure of San Clemente Hospital; advised that the next meeting is scheduled to be held on November 20, 2014 at the Community Center from 11:30 a.m. to 1:30 p.m. and the public is encouraged to attend.

Veteran's Day

Councilmember Baker announced the Veteran's Day ceremony at Park Semper Fi on November 8, 2014 and invited the public to attend.

San Clemente Village Program

Councilmember Baker invited residents to attend the San Clemente Village Program meeting on November 13, 2014 at the Church of Jesus Christ of Latter-day Saints located at 310 Avenida Vista Montana.

12. **RESOLUTIONS/ORDINANCES**

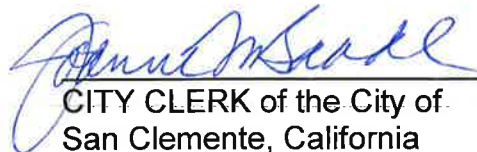
None.

13. **ADJOURNMENT**

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0 (COUNCILMEMBER EVERT ABSENT), to adjourn at 9:21 p.m. in memory of Cynthia Rosier and Linda Gimbel. The next Regular Council Meeting will be held on November 18, 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.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California