

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting – April 7, 2015

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 April 7, 2015 at 4:40 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Hamm.

PRESENT BAKER, DONCHAK, WARD, MAYOR HAMM

ABSENT BROWN

STAFF PRESENT James Makshanoff, City Manager; Scott Smith, City Attorney;
Joanne Baade, City Clerk; Laura Campagnolo, Deputy City Clerk

CLOSED SESSION

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0, to recess to Closed Session at 4:40 p.m. to discuss the following:

- A. **PUBLIC EMPLOYEE RELEASE**
Pursuant to Government Code Section 54957

- B. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
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 SC Surf LLC
Under Negotiation: Price and terms of payment

- C. **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to Government Code Section 54956.9(d)(1)
Case Name: Capistrano Shores, Inc. v. City of San Clemente
Case Numbers: OC SC 30-2014-00709987 and 30-2014-00726889

- D. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code Section 54956.9(d)(1)
Case Name: Select Electric v. City of San Clemente
Case Number: OC SC 30-2014-00753366

- E. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code Section 54956.9(d)(1)
Case Name: Emergency Shelter Coalition v. City of San Clemente
Case Number: OC SC 30-2014-00758880

- F. **CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**
Pursuant to Government Code Section 54956.9(d)(4)
Initiation of Litigation
Number of potential cases: 2

- G. **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**
Pursuant to Government Code Section 54956.9(d)(2)
Significant Exposure to Litigation
Number of potential cases: 2

In attendance for the full Closed Session were all members of the Council (except Councilmember Brown), City Manager Makshanoff, Assistant City Manager Sund, City Attorney Smith and Attorney Jeff Dunn from Best Best & Krieger. City Clerk Baade was in attendance for Closed Session Items B, C, D, E, F and G only. Building Official Jorgensen was in attendance for Closed Session Items C, F and G only. Public Works Director/City Engineer Cameron was in attendance for Closed Session Item D only. Code Enforcement Supervisor Panas was in attendance for Closed Session Items F and G only.

MEETING RECONVENED

Council reconvened at 6:16 p.m., with all members present.

INVOCATION

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

PLEDGE OF ALLEGIANCE

Councilmember Ward led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Certificate of Recognition - Division Chief Kirk Wells, Orange County Fire Authority**

Mayor Hamm presented a Certificate of Recognition to Kirk Wells, Orange County Fire Authority Division Chief, in recognition of 27 years of exemplary service to the citizens of San Clemente and surrounding communities.

B. **Modern Roundabout Education and Outreach Program**

Transportation Engineering Manager Frank and Senior Transportation Engineer Rosales displayed a video concerning roundabouts and responded to Council inquires.

Brenda Miller, San Clemente, spoke in support of roundabouts; noted a benefit to roundabouts is safety for bicyclists and pedestrians.

C. **Recognition of Schwörer Family**

Mayor Hamm presented the Schwörer family with a Certificate of Recognition for their efforts to bring awareness to the importance of conserving energy and our planet's precious resources and wishing them the best as they continue their worldwide expedition.

D. **Donate Life Month Proclamation**

Mayor Hamm presented a Proclamation to Dick Veale proclaiming the month of April 2015 as Donate Life Month.

E. **Update by Saddleback Memorial Hospital on Status of the Potential Closure of the San Clemente Campus**

Tony Struthers, of Saddleback Memorial Care Hospital, provided an update concerning the status of the potential closure of the San Clemente campus; reported that the Saddleback Memorial Board of Directors agreed to continue the feasibility study to determine whether it can continue emergency services as part of its proposal to transform the hospital; noted that the Saddleback Memorial Board continues to support transforming the hospital from an in-patient oriented facility to an out-patient medical pavilion, while also supporting AB 911 (Brough) and SB 787 (Bates) to allow a free standing emergency room on its campus; urged Council to create a coalition to help support the legislation.

Paul Henry, San Clemente, spoke in support of the legislation to allow San Clemente to have a freestanding emergency room and urged Council to lobby in support of the effort.

Wayne Brown, Government Relations for South Orange County Economic Coalition, opined that it is possible for Senator Bates' and Assemblyman Brough's mirror bills to pass this session, provided they remain specific to San Clemente; offered to advocate in support of AB 911 and SB 787.

Carol Wilson, San Clemente, noted that the Save Our Hospital Foundation lobbied in Sacramento for stand-alone emergency services in San Clemente; suggested that a smaller hospital, with an emergency room, is feasible; offered to work with the coalition to promote the bills' passage.

Dr. Robert Realmuto, San Clemente resident and Chairman of the Emergency Department for Orange Coast Community Medical Center, spoke in support of the legislation introduced by Senator Bates and Assemblyman Brough; represented that a freestanding emergency department and full-service outpatient pavilion will be a significant advance in healthcare for San Clemente residents.

Dr. Gus Gialamus, San Clemente, reported that the Save San Clemente Hospital Foundation traveled to Sacramento to lobby for a free-standing emergency department; noted that AB 911 and SB 787 are facing opposition from the California Nurses Association and may not be successful; opined that a smaller hospital could be constructed for \$28 million, which is less than the \$40 million that Memorial Care indicated that it can spend.

Council requested that staff add contact information on the City's homepage that would enable residents to convey opinions to Senator Bates and Assemblyman Brough concerning the legislation to allow a free-standing emergency department.

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

Human Trafficking

Brenda Wells, San Clemente, voiced concern regarding human trafficking in Orange County; requested that Council adopt a Resolution to declare a zero tolerance policy for human trafficking. A hard copy of the proposed Resolution is on file with the City Clerk.

San Clemente Christian School

Dr. Nicky Magnuson, Principal at Capistrano Beach Christian School, stated that her school is relocating to San Clemente in Fall 2015; stated that the San Clemente Christian School (new name) will serve kindergarten through 12th grade.

Condition of Trees

Patricia Holloway, San Clemente, voiced concern regarding the condition of trees in San Clemente and narrated a PowerPoint to display areas of concern; urged that the City protect its trees and allocate funds to replace trees that must be removed because of disease or construction. A hard copy of the presentation is on file with the City Clerk.

North El Camino Real Parking Lot

Tom Barnes, San Clemente, narrated a PowerPoint presentation that demonstrated an alternate plan to the Council-approved North El Camino Real parking lot design. A hard copy of the presentation is on file with the City Clerk.

Vonne Barnes, San Clemente, narrated a PowerPoint presentation that outlined options for the proposed North El Camino Real parking lot; asserted that the City's parking plan would not complement the City's historical North Beach District; displayed photo simulations of an alternate plan for the North El Camino Real parking lot.

3. MOTION BY MAYOR PRO TEM BAKER, SECOND BY COUNCILMEMBER DONCHAK CARRIED 4-0 (COUNCILMEMBER BROWN 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 Attorney Smith reported that Council took no reportable actions during this evening's Closed Session.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve the Consent Calendar, with the removal of Items 6B(1), 6B(2), 6B(3), 6-F, 6-G, and 6-H.

A. **City Council Minutes**

(1) MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve the minutes of the Regular City Council Meeting of March 17, 2015.

C. **Warrant Register**

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

Warrant Nos. 522943 through 523124,
paid on 3/13/15, in the amount of.....\$ 634,552.31

Wire Transfer Nos. 1372 through
1375 paid on 3/20/15, and Warrant Nos.
523125 through 523271, paid on 3/20/15,
in the amount of.....\$1,341,205.22

Warrant Nos. 523272 through 523503,
paid on 3/27/15, in the amount of.....\$2,471,374.88

TOTAL WARRANT REGISTER.....\$4,447,132.41

Payroll Register

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

Warrant Nos. 366 through 369 and
Automatic Deposit Advises 22579 through 22883
for the period 3/2/15 through 3/15/15,
paid on 3/20/15, in the amount of.....\$ 427,468.86

TOTAL PAYROLL REGISTER.....\$ 427,468.86

D. **Contract Award – Water Reclamation Plant Solids Handling Storage Tank, Progressive Cavity Pump Replacements, and Digester No. 1 Structural and Mechanical Improvements**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to:

1. Approve plans and specifications for the Solids Handling Sludge Holding Tank, Progressive Cavity Pump Replacements, and Digester No. 1 Structural and Mechanical Improvements (Project Nos. 14205, 23202, and 15204).
2. Approve a supplemental appropriation of \$948,010 from the Sewer Fund Depreciation Reserve to Account 054-476-45300-15204.
3. Approve, and authorize the Mayor to execute, Contract C15-16 by and between the City of San Clemente and Newest Construction Company, Inc., providing for the Solids Handling Sludge Holding Tank, Progressive Cavity Pump Replacements, and Digester No. 1 Structural and Mechanical Improvements (Project Nos. 14205, 23202, and 15204), in the amount of \$1,899,420.

E. **Public Improvements Related to Trails and West Avenida Vista Hermosa in the Marblehead Coastal Development and Establishing No Stopping Zones on West Avenida Vista Hermosa**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to:

1. Adopt Resolution No. 15-11 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE ACCEPTANCE OF CERTAIN IMPROVEMENTS RELATED TO WEST AVENIDA VISTA HERMOSA AND THE MARBLEHEAD COASTAL TRAIL, AND DELEGATING AUTHORITY TO RELEASE PERFORMANCE AND PAYMENT BONDS.
2. Adopt Resolution No. 15-12 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING MASTER TRAFFIC RESOLUTION NO. 1846, ESTABLISHING "NO STOPPING ZONES" ON WEST AVENIDA VISTA HERMOSA.

I. **Contract Award – Replacement of Traffic Signal Controllers**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve, and authorize the Mayor to execute, Contract C15-19, by and between the City of San Clemente and Control Tech West, Inc., providing for replacement of Traffic Signal Controllers, in the amount of \$48,563. Project No. 15313.

J. **Notice of Completion – Street Rehabilitation for Calle Sarmentoso, Phase 2, Calle Aguila, Avenida Vista Montana, Phase 2, and Avenida Presidio, Phase 2**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to:

1. Accept the following street rehabilitation projects: Calle Sarmentoso, Phase 2, Project No. 11303; Calle Aguila, Project No. 12336; Avenida Vista Montana, Project No. 12339 and Avenida Presidio, Phase 3, Project No. 14332, from the contractor, R.J. Noble Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Calle Sarmentoso, Phase 2, Project No. 11303; Calle Aguila, Project No. 12336; Avenida Vista Montana, Project No. 12339 and Avenida Presidio, Phase 3, Project No. 14332.
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 the contractor, R.J. Noble 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 cost.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

6B(1). **Minutes of the Regular Zoning Administrator Meeting of March 18, 2015.**

AND

6B(2). **Minutes of the Regular Planning Commission Study Session of March 18, 2015.**

AND

6B(3). **Minutes of the Regular Planning Commission Meeting of March 18, 2015.**

Council referenced the portion of the Zoning Administrator meeting minutes of March 18, 2015 relating to the fence for San-O Tires and the portion of the Planning Commission minutes of March 18, 2015 relating to the La Ventura Event Center; noted that the two projects are interrelated and involve ownership issues.

Don Kappauf, Applicant for the La Ventura Event Center, stated that the City has indicated on multiple occasions that it does not recognize private easements, noting that the easement in question is private; stated that he has done everything the City has requested and pointed out that the project was approved by the Planning Commission by a 6-1 vote.

Following discussion, MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-1-1 (MAYOR PRO TEM BAKER VOTING NOE AND COUNCILMEMBER BROWN ABSENT), to call up the fence for San-O Tires and the La Ventura Event Center for Council consideration.

Council discussed the portions of the Zoning Administrator meeting minutes of March 18, 2015 that pertained to the Donello Remodel and Addition project at 510 Avenida La Costa and the Pursuit Residence Remodel and Addition project at 2931 Via San Gorgonio.

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to call up the Donello Remodel and Addition project at 510 Avenida la Costa for Council consideration, and to direct staff to reimburse the member of the public who previously appealed the project.

Council referenced the portion of the Planning Commission Regular Study Session minutes of March 18, 2015 that related to the General Plan Changes and the Zoning Ordinance Update; noted that the minutes indicated that Consultant Planner Hare discussed how plate line and height

measurements will be calculated and that he agreed to consult with architects to ensure that definitions are clearly worded to avoid the potential that individuals could find loopholes to circumvent the intent. Council requested a presentation on this issue at a future Council meeting.

MOTION BY MAYOR PRO TEM BAKER, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to receive and file the Regular Planning Commission Study Session minutes of March 18, 2015.

MOTION BY MAYOR PRO TEM BAKER, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve the balance of the Regular Zoning Administrator Meeting minutes of March 18, 2015 and the balance of the Regular Planning Commission meeting minutes of March 18, 2015.

F. **Bid Rejections - North Beach Traffic Calming and Pedestrian Improvements**

Jim Ruehlin, San Clemente, opined that traffic calming and pedestrian improvements are important to the North Beach area; urged Council to support the project.

Brenda Miller, San Clemente, expressed concern with the cost of the project; noted the importance of the proposed improvements to the North Beach neighborhood.

Transportation Engineering Manager Frank and Public Works Director/City Engineer Cameron responded to Council inquiries.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to:

1. Reject all bids for the North Beach Traffic Calming and Pedestrian Improvements, Project No. 15806.
2. Authorize staff to value engineer and rebid the North Beach Traffic Calming and Pedestrian Improvements, Project No. 15806.

G. **Contract Award – Poche Beach Bird Abatement Services**

Senior Management Analyst Vondrak narrated a PowerPoint entitled “Gulls at Poche” and responded to Council inquiries. A hard copy of the presentation is on file with the City Clerk.

George Gregory, San Clemente, voiced concerns with the cost of the falconry contract; urged Council to seek solutions that are more cost effective.

Mitch Calapinto, Kola Surf Camp, spoke in support of bird abatement services; urged Council to vote in favor of staff’s recommendation.

MOTION BY MAYOR PRO TEM BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve, and authorize the Mayor to execute, Contract C15-17, by and between the City of San Clemente and Adam’s Falconry Service, LLC, providing for Poche Beach Bird Abatement Services, in the amount of \$52,800.

Council requested that staff provide a detailed report on the effectiveness of the falconry program in one year.

H. **Amendment to Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 Megahertz (800MHz) Countywide Coordinated Communications System (CCCS)**

Finance Manager Vincent responded to Council inquiries.

Council requested information on radio deployment and the possibility of reducing the number of radios to be purchased.

MOTION BY MAYOR PRO TEM BAKER, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve, and authorize the Mayor to execute, an Amendment to the Joint Agreement for the Operation, Maintenance and Financial Management of the Orange County 800 Megahertz Countywide Coordinated Communications System. (C95-31)

MEETING RECESSED

Council recessed at 8:29 p.m., and reconvened at 8:44 p.m., with all members present with the exception of Councilmember Brown, who was absent.

7. **PUBLIC HEARINGS**

A. **Code Amendments - Water Conservation and Declaration of a Level 2 Water Alert**

Public Hearing to consider an Urgency Ordinance to amend the Code of the City of San Clemente with regard to water conservation, and declaring a Level 2 Water Alert.

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

Water Conservation Analyst Kanzler responded to Council inquiries.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to:

1. Adopt Urgency Ordinance No. 1593 entitled URGENCY ORDINANCE OF THE CITY OF SAN CLEMENTE AMENDING CHAPTER 13.12 OF TITLE 13 OF THE SAN CLEMENTE MUNICIPAL CODE TO UPDATE THE CITY'S WATER CONSERVATION ORDINANCE AND WATER CONSERVATION PROGRAM TO TAKE EFFECT IMMEDIATELY UPON ADOPTION.
2. Adopt Resolution No. 15-13 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DECLARING A WATER SHORTAGE LEVEL 2 WATER ALERT.
3. Direct staff to expedite the conversion of private recycled water sites by utilizing the Mandatory Recycled Water Use Ordinance Chapter 13.44.
4. Launch an education and awareness campaign to make the residents aware of a Level 2 Water Alert.

B. **U-Haul Left Turn Lane (310 Avenida Pico) - Amendment to Conditional Use Permit (CUP) 80-11**

Public Hearing to consider an amendment to Conditional Use Permit (CUP) 80-11, U-Haul Left Turn Lane, located at 310 Avenida Pico.

Associate Planner Nicholas narrated a PowerPoint presentation entitled "Pico U-Haul Left Turn Lane" and responded to Council inquiries. A hard copy of the presentation is on file with the City Clerk.

Mayor Hamm opened the Public Hearing.

Jim Warmer, America Real Estate (property owner of the U-Haul site), stated that customers are complaining that the new Pico median is making it necessary for them to take less-direct routes to access the U-Haul facility; narrated a PowerPoint presentation that outlined alternative U-Haul access paths, noting that the Applicant is proposing Alternative 2 (left-turn into the U-Haul only); disagreed with the Planning Commission's recommendation that traffic be re-routed through the Los Molinos district, citing the significant number of conflict points. A hard copy of the presentation is on file with the City Clerk.

Sam Jacoby, Traffic Consultant to U-Haul, noted that Alternative 2 on the Applicant's PowerPoint represents U-Haul's preferred alternative; opined that U-Haul's preferred option would minimize conflict points and, consequently, enhance traffic safety.

Kevin Scoffield, U-Haul, urged Council to approve the left-turn lane on Pico; opined the left-turn lane will benefit the North Beach community by keeping large trucks out of residential neighborhoods.

Erick Crocker, U-Haul, assured Council that U-Haul will remain in its current location for the long term; opined that a left-turn lane would improve safety.

There being no others desiring to speak to this issue, the Public Hearing was closed.

Public Works Director/City Engineer Cameron responded to Council inquiries.

MOTION BY MAYOR HAMM, SECOND BY MAYOR PRO TEM BAKER, **FAILED 2-2** (COUNCILMEMBERS DONCHAK AND WARD VOTING NOE), to continue the Public Hearing for four weeks and direct the Applicant to return with traffic studies that address impacts that take into account the completion of the Pico extension, La Pata extension, outlet mall and Marblehead Coastal residential development.

Mayor Hamm reopened the Public Hearing and Council continued the Public Hearing to the April 21, 2015 Council meeting.

C. **Code Amendments - Clarification and Streamlining of Processes**

Public Hearing to consider amending the Code of the City of San Clemente with regard to clarification and streamlining of processes.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to continue the Public Hearing to the Regular Council Meeting of April 21, 2015.

D. **Estrella Shopping Center Master Sign Program Phase I – 550 Camino de Estrella - Appeal of Discretionary Sign Permit 15-044/Sign Exception Permit 15-045**

Public Hearing to consider an appeal of Discretionary Sign Permit 15-044 and Sign Exception Permit 15-045 for the Estrella Shopping Center Master Sign Program Phase I, located at 550 Camino de Estrella.

Associate Planner Nicholas narrated a PowerPoint presentation entitled “Estrella Master Sign Program Phase I” and responded to Council inquiries. A hard copy of Mr. Nicholas’ PowerPoint is on file with the City Clerk.

City Attorney Smith reported that Associate Planner Nicholas has presented special findings that identify the uniqueness of the subject property and explained that approval of the sign exception permit would only be precedent setting if a future sign request shares the same characteristics; noted that the Applicant had the right to request that different legal counsel represent Council on the appeal since Best Best & Krieger represented the Planning Commission during its consideration of the issue, but the Applicant’s legal counsel has determined to waive that opportunity; noted that Council had a brief discussion as to whether to call up the subject issue when it considered the minutes of the Planning Commission meeting at which the project was approved; reported that Council needs to consider the appeal without bias and based on evidence presented at the hearing (other than the information contained in the written record), unless evidence heard outside the hearing forum is disclosed for the record.

In response to Council inquiry, City Attorney Smith explained that the City’s Municipal Code requires that Council decide the appeal by a majority vote; recommended that if it appears that Council will deadlock on the issue this evening, that it continue the matter to allow all five Councilmembers to vote.

Mayor Hamm opened the Public Hearing.

Steve Usdan, Applicant, reported that he has worked with the retailers of the Estrella Shopping Center project to further reduce the size of the signage on the north and east frontages; distributed a revised signage plan, which reflects that Sports Authority has reduced the height of its letters from 7-1/2' to 6', Stein Mart has reduced the height of its letters from 6'6" to 6', and the height of all three tenants' signs are being capped at 6' with a proportional reduction in sign width; voiced concern that the appeal has necessitated an extension of the project timeline and asserted that the project will not come to fruition without the proposed signage; pointed out that Sports Authority has the right to terminate its lease if its signage is not approved by May 20, 2015; distributed documents entitled "Estrella Signage", that is on file with the City Clerk, and requested that Council approve the project, subject to the revised sign heights as depicted in Attachment C of that document.

Tom Barnes, stated that Richard Boyer (Appellant) was unable to attend this evening's meeting; read a letter on Mr. Boyer's behalf that indicated that the subject property is in demand and the need for a freeway-oriented sign has not been demonstrated; asserted that the Planning Commission voted 4-3 to approve the application because of pressure from the Applicant; opined that an appeal was necessary to ensure public participation in the governance process; stated that the area is blighted because of issues between the owner and tenants. Speaking on behalf of himself, Mr. Barnes opined that it was confusing for the Planning Commission to take three separate votes on two resolutions; voiced concern that a freeway sign will set a moral precedent.

Sue Jagodzinski, Kornwasser Shopping Center Properties, explained that Sports Authority has termination rights if its signage is not approved, noting that its termination will negatively affect the entire center; pointed out that the project will bring jobs to the community and tax revenue to the City.

Therese Hotvedt, President of Burnham USA (co-developer of the adjacent property), stated that the Kornwasser project will affect her development; stated that TJ Maxx does not want any signage that is less than 6' in height; stated that they have attempted to respond to all of the City's requests, including changing the architecture from modern to Spanish Colonial Revival; pointed out that signage is important to national retailers and urged Council to approve the proposed signage.

Ken Ross, San Clemente, explained that the neighbors support the project inasmuch as it will correct an eyesore; opined that the project's benefits outweigh its potential negative effects; urged Council to approve the proposed signage.

Evan Weiss, San Clemente, voiced concern that the signage would set a precedent; opined that it would be prudent for Council to delay action to allow a full complement of Councilmembers to decide the issue; suggested that the Applicant is pressuring the City to approve the proposal; urged that the City canvass the project's neighbors to determine their sentiments about the project.

Pete van Nuys, San Clemente, voiced concern that the project does not meet the City's quality standards; asserted that the freeway-oriented sign would become even more visible after the I-5 is widened and will set a precedent.

Gregg Lipanovich, San Clemente, spoke in opposition to the signage proposal, but noted that he supports the shopping center; opined that large signage is not needed to attract business.

Dixie Walker, Capistrano Beach, stated that he has been in the commercial real estate business for 30 years; noted that it is difficult to negotiate with major retailers, and signage is important to the tenants.

Brian Manning, San Clemente, stated that the subject property has been a long-time eyesore; stated that signs are important to individuals unfamiliar with the community.

Michael Metcalf, San Clemente, asserted that the proposed signage is not suitable for San Clemente.

Charles Mann, San Clemente, conveyed that he likes the project, but objects to the developer pressuring the Council to approve the sign exception permit; stated that good communities do not allow freeway signs.

There being no others desiring to speak to this issue, the Public Hearing was closed.

Mayor Hamm subsequently re-opened the Public Hearing to hear Mr. Usdan's response to comments raised by Council.

Steve Usdan summarized signage concessions that were made by the retailers and opined that they will not accept smaller signs.

Following discussion, Council took straw votes as follows:

MOTION BY MAYOR HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0, to approve the northern-facing, larger than 64 square foot, signage at 550 Camino de Estrella, as outlined in Attachment C of the document entitled "Estrella Signage" that was provided by the Applicant this evening.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, **FAILED 2-2** (COUNCILMEMBER WARD AND MAYOR HAMM VOTING NOE), to approve Staff's recommendation for a single freeway sign in support of Sports Authority at the currently proposed size.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to adopt Resolution No. 15-17 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING SIGN EXCEPTION PERMIT (SEP) 15-045, ESTRELLA SHOPPING CENTER MASTER SIGN PROGRAM PHASE I, FOR WALL SIGNS LARGER THAN 64 SQUARE FEET FOR A COMMERCIAL CENTER LOCATED AT 550 CAMINO DE ESTRELLA, with modifications as follows:

1. All references to the freeway-oriented sign are to be excluded from the resolution.
2. The size dimensions of the approved signage are to be consistent with the sizes outlined by the Applicant in Attachment C of his document entitled "Estrella Signage", that is on file with the City Clerk.
3. The Public Hearing for the freeway-oriented sign is to be continued to the Council meeting of April 21, 2015.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to close the Public Hearing on the sign program (except for the freeway-oriented sign) and adopt Resolution No. 15-16 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING DISCRETIONARY SIGN PERMIT (DSP) 15-044, ESTRELLA SHOPPING CENTER MASTER SIGN PROGRAM PHASE I, FOR MONUMENT SIGNS UP TO TEN FEET TALL AND ESTABLISHMENT OF A MASTER SIGN PROGRAM FOR A COMMERCIAL CENTER LOCATED AT 550 CAMINO DE ESTRELLA.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Design of Additional Beach Trail Fencing to Support Safety/Quiet Zone Efforts**

Report from the Public Works Director/City Engineer concerning design of additional beach trail fencing to support Safety/Quiet Zone efforts.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to continue this item to the Regular Council Meeting of April 21, 2015.

B. **Coastal Advisory Committee (CAC) Recommendations - Street Sweeping Parking Restrictions**

Report from the Public Works Director concerning Coastal Advisory Committee (CAC) recommendations regarding street sweeping parking restrictions.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to continue this item to the Regular Council Meeting of April 21, 2015.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

(1) **Scheduling of Meetings to Interview and Appoint Individuals to Serve on Various City Commissions and Committees and Friends of the Reserve Commission**

Council continued this item to its Regular Meeting of April 21, 2015.

B. City Manager

None.

C. City Attorney

None.

D. Councilmembers

Save our Hospital Organization - Trip to Sacramento

Mayor Hamm reported on his trip to Sacramento with the Save Our Hospital Foundation to lobby for a free-standing emergency room; noted the amount of support has increased.

Assembly Bill 1217 (Daly)

Councilmember Donchak requested that Assembly Bill 1217 (Daly) concerning governance of the Orange County Fire Authority (OCFA) be agendized for the April 21, 2015 Council meeting; stated that the OCFA can change its governance mechanism on its own without the involvement of State legislation.

12. RESOLUTIONS/ORDINANCES

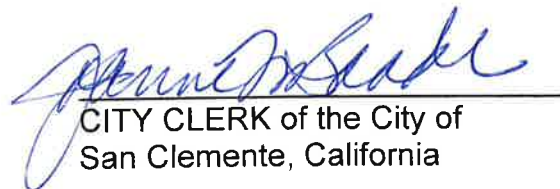
None.

13. ADJOURNMENT

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to adjourn at 11:45 p.m. The next Regular Council Meeting will be held on April 21, 2015 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