

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – September 1, 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.

A Regular Meeting of the San Clemente City Council was called to order on September 1, 2015 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Hamm.

PRESENT BAKER, BROWN, DONCHAK, WARD, MAYOR HAMM*
*Arrived at 5:25 p.m.

ABSENT NONE

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

CLOSED SESSION

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

- A. 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: OCSC 30-2014-00758880
- B. 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: OCSC 30-2014-00709987 and 30-2014-00726889
- C. CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION**
Pursuant to Government Code Section 54956.9(d)(1)
Number of Cases: 8

City of San Clemente, etc. v. Dual Diagnosis Treatment Center, Inc., et al.
(1211 Puerta Del Sol)
Case Number: OCSC 30-2015-00805214

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City of San Clemente, etc. v. Sobertec LLC, a California Corporation, et al.
(14 Via Lampara)
Case Number: OCSC 30-2015-00805227

City of San Clemente, etc. v. Sobertec LLC, a California Corporation, et al.
(1402 N. El Camino Real)
Case Number: OCSC 30-2015-00805234

City of San Clemente, etc. v. New Mindset, LLC, a California Limited Liability Company, et al.
(1401 N. El Camino Real, #101, 202)
Case Number: OCSC 30-2015-00805235

City of San Clemente, etc. v. 449 Recovery, Inc., a California Corporation, et al.
(1401 N. El Camino Real , #102, 104, 106, 113, 205, 207)
Case Number: OCSC 30-2015-00805270

City of San Clemente, etc. v. Faith By The Sea, Inc., et al.
(655 Camino De Los Mares, #118)
Case Number: 30-2015-00805980

City of San Clemente, etc. v. Sober Spot, LLC, et al.
(655 Camino De Los Mares, #121)
Case Number: 30-2015-00805975

City of San Clemente, etc. v. New Mindset, LLC, et al. (2)
(655 Camino De Los Mares, #120)
Case Number: 30-2015-00805981

D. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(4)
Initiation of litigation
Number of potential cases: 10

E. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: North Beach Passenger Services Building, 1900 North El Camino Real, San Clemente
Agency Negotiator: Assistant City Manager
Negotiating Party: Pete Van Nuys
Under Negotiation: Term and Rent for Possible Lease Extension

Closed Session items continued on following page

F. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)
Significant exposure to litigation
Number of potential cases: 1

G. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6
Agency Designated Representative: Erik Sund
Employee Organization: San Clemente City Employees Association

In attendance for the full Closed Session were all members of the City Council, City Manager Makshanoff, Assistant City Manager Sund, and City Attorney Smith. Community Development Director Gallardo-Daly was in attendance for Items A, B and C.

MEETING RECONVENED

Council reconvened at 6:22 p.m., with all members present.

INVOCATION

Bishop Rod Gillins, Church of Jesus Christ of Latter-Day Saints, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS**A. World Surf League – Championship Tour Event**

Graham Stapelberg displayed a video and provided an update on the upcoming World Surf League Championship Tour Event at Trestles Beach.

2. ORAL COMMUNICATIONS (PART 1)**Beach Parking Impact Fees**

Bob Thompson, San Clemente, opined the lawsuit concerning Beach Parking Impact Fees was an unproductive use of resources; urged Council to refund the beach parking fees; suggested Council consider the possibility of establishing a legal advisory committee to provide input on legal matters.

Brad Malamud, San Clemente, urged Council to accept the judgment and refund the beach parking fees; stated that approximately one quarter of City households will benefit from the refund; offered his assistance in implementing the refunds to the residents.

San Clemente Pier Bowl Train Stop

Rick Anderson, Pier Bowl Merchants Association, noted that several local service groups and political groups oppose closure of the Pier Bowl train stop; reported that downtown merchants on the 100 and 200 blocks of Avenida Del Mar have signed a petition to keep the train stop open; urged Council to find a solution to the problem of the broken ticket kiosk as opposed to closing the train stop; presented Council with a check for the remainder of monies due from his 2013 Promissory Note to reimburse the City for installing Ole Hanson pavers at the Pier Bowl at-grade crossing.

Safety Concerns in T-Street Neighborhood

John Reed, San Clemente, voiced concerns that individuals in the T-Street area are utilizing drugs and alcohol, engaging in public urination and sex, and disregarding vehicle codes; voiced concern that public safety is jeopardized and urged that Sheriff patrols be increased and that violators receive consequences.

Sober Living Moratorium

Joe Sklari, San Clemente, commented on the lethal nature of heroin; stated the federal government has determined that the best solution to the drug epidemic is to discourage drug use and treat people with addictions in residential settings; noted that he operates sober living homes and that residents of his homes experience success in achieving sobriety; voiced concern that the City is suing operators of sober living homes.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, 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**Civil Abatement Actions**

City Attorney Smith reported that Council has authorized the initiation of 10 abatement cases, noting that the defendants will be disclosed at a subsequent Council meeting following completion of the service process; conveyed that Council voted unanimously to initiate nine of the abatement actions, with one abatement action receiving a 4-0-1 vote due to Councilmember Donchak's abstention because she owns property within 500 feet of that particular property.

6. CONSENT CALENDAR

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR HAMM, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items A-1, B-2, D, E, F, I and J.

B. Commission/Committee Minutes

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR HAMM, CARRIED 5-0, to receive and file:

1. Minutes of the Adjourned Regular Study Session of the Planning Commission of August 10, 2015.
3. Minutes of the Regular Planning Commission Study Session of August 19, 2015.
4. Minutes of the Regular Planning Commission Meeting of August 19, 2015.
5. Minutes of the Regular Coastal Advisory Committee Meeting of July 9, 2015.
6. Minutes of the Regular Beaches, Parks and Recreation Commission Meeting of August 11, 2015.

C. Warrant Register

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

Warrant Nos. 526735 through 526924,
paid on 8/14/15,
in the amount of.....\$2,003,107.36

Wire Transfer Nos. 1424 through 1427,
paid on 8/21/15, Warrant Nos. 526925
through 527063, paid on 8/21/15,
in the amount of.....\$2,556,253.74

TOTAL WARRANT REGISTER.....\$4,559,361.10

Payroll Register

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

Warrant Nos. 420 through 423 and
Automatic Deposit Advises 26261 through 26613
for the period 8/3/15 through 8/16/15,
paid on 8/21/15, in the amount of.....\$ 459,720.87

TOTAL PAYROLL REGISTER.....\$ 459,720.87

G. Contract Award – Storm Drain Rehabilitation at 346 Avenida Adobe 2014-2015

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

1. Approve the plans and specifications for the Storm Drain Rehabilitation at 346 Avenida Adobe 2014-2015, Project No. 26001.
2. Approve, and authorize the Mayor to execute, Contract C15-63 by and between the City of San Clemente and Sancon, providing for Storm Drain Rehabilitation at 346 Avenida Adobe 2014-2015, in the amount of \$51,000.

H. Bid Rejection – City-Wide Janitorial Services

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR HAMM, CARRIED 5-0, to reject all proposals from RFP 06-15 (Janitorial Services) and authorize Staff to advertise with new non-professional services selection criteria language included in the RFP.

K. Side Letter of Agreement – Standby Requirements for Positions Represented by the San Clemente City Employees' Association (SCCEA)

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

1. Approve, and authorize the Mayor to execute, the Side Letter of Agreement by and between the City of San Clemente and San Clemente City Employees' Association.
2. Approve supplemental appropriations of \$3,033 each to Account 001-611-41460 and Account 001-617-41460 for additional standby pay in the General Fund.
3. Approve supplemental appropriations of \$6,546 each to Account 052-461-41460, Account 052-462-41460, Account 052-463-41460, Account 054-471-41460, Account 054-472-41460, Account 054-473-41460 for additional standby pay in the Utility Funds.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**6A 1. Minutes of the Special and Regular City Council Meeting of August 18, 2015**

MOTION BY COUNCILMEMBER BROWN, SECOND BY MAYOR PRO TEM BAKER, CARRIED 5-0, to approve the minutes of the Special and Regular City Council meeting of August 18, 2015, with the modifications that the motions for the aquatics partnership and recreation sports partnership items be revised to clarify that the applicants for the partnership applications can apply for higher-level City partnerships in the event that they achieve all qualifications for the higher partnership level prior to completion of the two-year agreement period. By virtue of this action, the below motions will be modified to read as follows:

A. Aquatics Partnership Applications

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

1. Grant Senior Partnership status to San Clemente Aquatics with a three-year agreement.
2. Grant Junior Partnership status to the San Clemente Water Polo Club with a two-year agreement.
3. *Determine that if San Clemente Water Polo reaches the 300-member threshold necessary to qualify for Senior Partnership status **prior to conclusion of its two-year agreement**, that its partnership request be referred back to the Beaches, Parks and Recreation Commission for a recommendation to Council concerning possible Senior Partnership.*

B. Recreation Sports Partnership Applications

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, to take action as follows:

1. Approve American Youth Soccer Organization Region 111 and San Clemente Little League for Platinum Partnership with three-year agreements.
2. *Approve Elite Soccer League, San Clemente Girls Softball, and San Clemente Youth Football for Gold Partnership with two-year agreements. ~~for the Soccer League, and an option for San Clemente Youth Football League to be re-addressed in the event it meets the 300-member threshold.~~ **This decision will be reconsidered if any of the sports groups attain the requirements for Platinum Partnership prior to conclusion of the two-year agreement period.***
3. *Deny Partnership Status to the San Clemente Bears Football Club, San Clemente Youth Rugby Club, and San Clemente Surf Soccer Club at this time. ~~with the understanding that their partnership status will be reconsidered in the event their membership(s) reach the 300-member threshold.~~ **This decision will be reconsidered if any of the sports groups attain the requirements for partnership status in advance of the two-year revisitation date.***

Following discussion, the MOTION ON THE FLOOR WAS WITHDRAWN.

*MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 5-0, to approve American Youth Soccer Organization Region 111 and San Clemente Little League for Platinum Partnership with three-year agreements; and 2) deny partnership status to the San Clemente Bears Football Club, San Clemente Youth Rugby Club, and the San Clemente Surf Soccer Club, ~~with the understanding that they can work with the Beaches, Parks and Recreation Department for possible City partnership if their qualifications change.~~ **This decision will be reconsidered if the San Clemente Bears Football Club, San Clemente Youth Rugby Club, and/or San Clemente Surf Soccer Club attain the requirements for partnership status in advance of the two-year revisitation date.***

*MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR HAMM, CARRIED 5-0, to approve Elite Soccer League and San Clemente Youth Football for Gold Partnerships with two-year agreements, with the understanding that they can apply for partnership status upgrades ~~if their qualifications change.~~ **in the event they attain all requirements for Platinum Partnership prior to the conclusion of the two-year agreement period.***

Motion continued on following page

MOTION BY MAYOR HAMM, SECOND BY MAYOR PRO TEM BAKER, CARRIED 3-2 (COUNCILMEMBERS DONCHAK AND WARD VOTING NOE), to grant Platinum Partnership status to San Clemente Girls Softball for a one-year period, with the direction that milestones are to be established by Staff.

6B 2. **Minutes of the Regular Zoning Administrator Meeting of August 19, 2015**

Council referred to the portion of the Zoning Administrator meeting minutes of August 19, 2015 that related to the Special Activities Permit for a two-week trial relating to Downtown valet operations.

In response to Council inquiry, City Planner Pechous noted that Staff will be on site to monitor the trial valet program and will use that opportunity to obtain direct feedback on the valet service from persons who utilize the valet service as well as those who do not utilize the valet service. Staff will report back to Council on the valet program via a tray memo.

MOTION BY MAYOR PRO TEM BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to receive and file the minutes of the Regular Zoning Administrator Meeting of August 19, 2015.

D. **Contract Award – Calle Puente Sidewalk Improvements**

In response to Council inquiries, Transportation Engineering Manager Frank noted that possible funding sources to enable the Calle Puente sidewalk to be extended to Mariposa will be agendized for Council consideration in the future.

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

1. Approve the plans and specifications for the CDBG Calle Puente sidewalk improvements, Project No. 16349.
2. Approve, and authorize the Mayor to execute, Contract C15-61 by and between the City of San Clemente and FCO Construction, Inc., providing for construction of the CDBG Calle Puente Sidewalk Improvements, in the amount of \$64,420.

E. **Bid Rejection – Water Reclamation Plant Emergency Generator Replacement**

Deputy Public Works Director Rebensdorf responded to Council inquiries relative to the rationale for Staff's reservations with the low bid for the Water Reclamation Plant Emergency Sewer Replacement.

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

1. Reject the bid for the Emergency Generator Replacement Project, Project No. 24200.
2. Authorize Staff to rebid the Emergency Generator Replacement Project.

F. **Contract Award – Fiscal Year 2015 Sidewalk Repair Program**

Councilmember Brown recused himself from participation on this item because he owns property within 500 feet of sidewalk that is included in the subject project; left the Chambers at 7:06 p.m.

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

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BAKER, CARRIED 4-0-1 (COUNCILMEMBER BROWN ABSTAINING), to revisit Resolution No. 03-04 (concerning the City's sidewalk repair program) with goals of consistency, cost responsibility to the residents, and honoring the City's historic roots, and to delay action on the proposed contract for the Fiscal Year 2015 Sidewalk Repair Program for 60-90 days.

Councilmember Brown returned to the dais at 7:19 p.m.

I. **Notice of Completion – Base of Pier Restroom**

Deputy Public Works Director Rebensdorf responded to Council inquiries relative to the proposed \$20,000 privacy screen walls.

MOTION BY MAYOR PRO TEM BAKER, SECOND BY MAYOR HAMM, CARRIED 4-1 (COUNCILMEMBER BROWN VOTING NOE), to:

1. Determine to not pursue privacy screen walls for the Base of Pier Restroom.
2. Accept the Base of Pier Restroom Rehabilitation, Project No. 12560, from the contractor, Jasper Construction.
3. Approve a supplemental appropriation in the amount of \$26,000 from the General Fund Unassigned Fund Balance to Account 001-636-45300-12560 for the Base of Pier Restroom Rehabilitation.

Motion continued on following page

4. Approve a \$22,620 increase in the construction contract contingency for the Base of Pier Restroom Rehabilitation.
5. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Base of Pier Restroom Project.
6. 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, Jasper Construction.
7. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

J. **Contract Award – Camino Del Rio Intersection Improvements: Alternates Development, Analysis and Design Project**

Council requested that the Camino Del Rio study take into consideration the following: 1) Trip generation figures should contemplate that new homes will be built in Rancho Mission Viejo, but not in San Clemente; and 2) The intersections of Camino Del Rio/Camino De Los Mares and Camino Del Rio/Sarmentoso could be opportunities for roundabouts.

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

1. Approve, and authorize the Mayor to execute, Contract C15-64 by and between the City of San Clemente and Stantec, providing for preparation of design alternatives and construction documents for intersection improvements on Camino Del Rio, in the amount of \$191,709.
2. Approve, and authorize the Public Works Director/City Engineer to execute, As-Needed Transportation Design Services Agreements for agreements up to \$200,000 per task authorization and within the individual project budgets.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Review of the Completed Assessment of the City Clerk's Department**

Report from the Assistant City Manager concerning the Completed Assessment of the City Clerk's Department done by Matrix Consulting Group.

Assistant City Manager Sund provided introductory remarks.

Richard Brady, President, and Khushboo Hussein, Senior Associate, of Matrix Consulting Group, narrated a PowerPoint presentation entitled "Presentation of the Final Report on the City Clerk's Department Review" and responded to Council inquiries. A hard copy of the presentation is on file with the City Clerk.

Assistant City Manager Sund, Information Technology Manager Brower, and City Clerk Baade responded to Council inquiries.

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

1. Receive and file the report by Matrix Consulting Group on the assessment of the City Clerk's Department.
2. Direct Staff to move forward with implementation of the assessment recommendations per the approach presented in the Administrative Report, dated September 1, 2015, and on file with the City Clerk.
3. Direct Staff to provide periodic updates on the status and progress of implementation.
4. Direct Staff to include the office of City Treasurer in its research for possible transition from an elected office to an appointed position. The research is to be complete in time for the 2016 election cycle.

B. **Special Event Application - Slide the City**

Report from the Beaches, Parks and Recreation Department concerning a Special Event application for Slide the City.

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

Council discussion ensued relative to the current drought situation and whether a Slide the City event is appropriate at this time.

Council directed that Slide the City be referred to the Beaches, Parks and Recreation Commission for recommendation for a possible spring event.

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

T-Street Safety Issues

Pamela Baker, San Clemente, explained her safety concerns with the T-Street area and suggested that parking at T-Street Beach be prohibited from sunset to sunrise.

City Manager Makshanoff stated that he will meet with John Reed (who addressed Council during Oral Communications Part 1 on the T-Street safety issue), and Lt. Moodie to develop a work plan to address the situation.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Councilmembers**

I-5 HOV Carpool Lane Extension

Councilmember Donchak voiced concern that the study concerning possible extension of the HOV carpool lanes on the I-5 to the San Diego County line has been placed on hold because the Transportation Corridor Agency plans to announce realignments that might affect the HOV lane; noted the importance of extending the HOV lanes and requested that Councilmember Ward (the City's representative to the Transportation Corridor Agency) report to Council at its next meeting concerning the issue.

Movies in the Park

Councilmember Brown reported on the successful Movies in the Park events and recommended that Council continue the Movies in the Park on an annual basis.

Assistant City Manager Sund reported that the City will continue to seek additional vendors to serve the Movies in the Park and Beach Concert Series.

Watershed Task Force Art Auction

Councilmember Ward invited the community to attend the Watershed Task Force Art Auction on September 11, 2015 at 6:00 p.m. at the San Clemente Art Gallery.

Parent Information Meeting on School District Reorganization

Councilmember Brown invited the public to attend the Parent Information Meeting on School District Reorganization on September 8, 2015 at 6:00 p.m. at the Dorothy Visser Senior Center.

North Beach Roundabout

Councilmember Brown requested that Staff agendaize the North Beach roundabout project for the September 15, 2015 City Council meeting.

Beach Concert Series

Mayor Hamm reported that the recent beach concert at Linda Lane Park was well attended and displayed a photograph of the event.

Possible Funding of Sheriff's Deputy Position with Savings from Reorganization of the Beaches, Parks and Recreation Department

Mayor Hamm requested that Staff research the possibility of using a portion of the salary savings from the reorganization of the Beaches, Parks and Recreation Department to hire a seasonal Sheriff's deputy.

Staff will report back to Council with a quarterly budget update and a proposal from the Orange County Sheriff's Department on costs associated with hiring a seasonal deputy.

12. **RESOLUTIONS/ORDINANCES**

None.

13. **ADJOURNMENT**

MOTION BY MAYOR HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adjourn at 8:57 p.m. The next Regular City Council meeting will be held on September 15, 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.



CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California