

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – December 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 December 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*
*Left the meeting at 8:07 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 HAMM, CARRIED 5-0, to recess to Closed Session at 5:07 p.m. to discuss the following:

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code Section 54956.9(d)(1)
Case Name: Daniel Walker v. City of San Clemente
Case Numbers: 30-2012-00591239-CU-WM-CJC; G050552 and G050987;
S229788 and S229789
- B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Pursuant to Government Code Section 54956.8
Property: 1030 Calle Negocio
Agency negotiator: Assistant City Manager
Negotiating party: Family Assistance Ministries
Under Negotiation: Term and Rent for Possible Lease Extension
- C. 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

Closed Session items continued on following page

D. 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-CU-EI-CXC and 30-2014-00726889-CU-WM-CJC

E. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: 2.8 acre San Mateo site north of Calle Bahia, adjacent to the Golf Course site

APN(s): 060-010-37, 060-010-38

Agency negotiator: Assistant City Manager

Negotiating party: San Diego Gas and Electric Company

Under Negotiation: Price and Terms of Payment

F. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Case Name: City of San Clemente v Eric Olson

Case Number:30-2015-00811144

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 D, E and F.

MEETING RECONVENED

Council reconvened at 6:14 p.m., with all members present.

INVOCATION

Chris Smith, Pastor with Southcoast Church International, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Hamm led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Holiday Serenade – Our Lady of Fatima Catholic School Student Performance

Students from Our Lady of Fatima Catholic School performed a holiday serenade, under the direction of Marion Smithson.

B. Presentation of Painting to Mayor Hamm

Artist Monte Livingston, of the Living Art Gallery, presented a painting of a dive bell to Mayor Hamm.

C. Election of Mayor and Mayor Pro Tempore

Bill Brough, California Assembly Member, thanked Mayor Hamm for his outstanding service and presented him with an Assembly Resolution.

Mayor Hamm expressed gratitude to Council, staff, his family and the community for their support during his mayoral term; expressed concern with the potential closure of San Clemente Hospital and urged residents to continue to be involved in the community.

City Clerk Baade opened nominations for the office of Mayor.

Councilmember Donchak nominated Councilmember Baker for the office of Mayor. Councilmember Hamm seconded the nomination. There being no further nominations, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to close nominations and elect Councilmember Baker to the office of Mayor.

Mayor Baker opened nominations for the office of Mayor Pro Tem.

Mayor Baker nominated Councilmember Ward for the office of Mayor Pro Tem. Councilmember Brown seconded the nomination. There being no further nominations, MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to close nominations and elect Councilmember Ward to the office of Mayor Pro Tem.

2. ORAL COMMUNICATIONS (PART 1)**Short -Term Vacation Rentals**

Michelle Howe, San Clemente, noted that she owns a short-term vacation rental property; stated she has improved her property and as a result, her neighbors have also improved their properties.

Russ Parks, San Clemente, reported that he owns short and long-term rentals in San Clemente and rents to both local families and families that are vacationing; asserted that he enforces the rules of his leases which include curfews and quiet times.

Eric Olson, San Clemente, reported that his vacation rental is a high-end home and clients are affluent families that bring revenue to the City; explained that he has taken steps to alleviate the occasional problem, which included raising the minimum age of renters from 21 to 25, hiring a trash service, and retaining a rental management company.

Jerry Quinland, San Clemente, noted that he owns a vacation rental and strictly enforces a 9:30 p.m. quiet time; asserted that he has had only positive experiences with his renters.

Judy Minor, San Clemente; explained that she has used her home as a vacation rental for the past 9 months and has not experienced any problems.

Greg Webster, San Clemente, suggested a solution to the issue of vacation rentals is properly managing the properties and enforcing noise and nuisance laws; pointed out that renters provide revenue to the City.

Michelle Alexander, San Clemente, noted that she manages a vacation rental in San Clemente; asserted that the rental property attracts families that bring revenue to the City.

Don Slater, San Clemente, spoke on the benefits of sharing San Clemente with families on vacation.

Bradley Den Dulk, owner of Beachside Vacation Rentals, reported that his business manages over 40 properties in six coastal cities; asserted that renters pay significant rent and will not damage homes or disrupt neighborhoods.

Scott Ostlund, Coto de Caza, stated that he owns a vacation property in San Clemente; suggested that Transient Occupancy Taxes could be used to retain the hospital; opined that property owners and long-term renters on the street of his vacation rental create more problems than his short-term renters; asserted that outlawing vacation rentals by owners will cause unintended consequences.

City Manager Makshanoff reported that the Planning Commission is having a Study Session concerning short term vacation rentals on December 3, 2015 at the Community Development Department.

Saddleback Hospital – San Clemente Campus

Carol Wilson, Dana Point, thanked Councilmembers for their efforts to keep the hospital open and offered her assistance; stated that a Kaiser Hospital was constructed in one year in San Diego.

3. MOTION BY COUNCILMEMBER BROWN, 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**

City Attorney Smith announced that Council took no reportable action during Closed Session.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items G and J.

- A. **City Council Minutes**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve the following:

1. Minutes of the Special and Regular City Council Meeting of November 3, 2015.

- B. **Commission/Committee Minutes**

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

1. Minutes of the Regular Golf Course Committee Meeting of September 3, 2015.
2. Minutes of the Regular Coastal Advisory Committee Meeting of September 10, 2015.
3. Minutes of the Regular Zoning Administrator Meeting of November 18, 2015.
4. Minutes of the Regular Planning Commission Study Session of November 18, 2015.

Motion continued on following page

- 5. Minutes of the Regular Planning Commission Meeting of November 18, 2015.

C. Warrant Register

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

Handwrite No. 528960,
 Wire Transfer Nos. 1450 through 1453
 and Warrant Nos. 528814 through 528959
 paid on 11/13/2015, in the amount of \$1,696,019.58

Wire Transfer No. 1454
 and Warrant Nos. 528961 through 529137
 paid on 11/20/2015, in the amount of \$1,813,355.05

TOTAL WARRANT REGISTER \$3,509,374.63

Payroll Register

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

Warrant Nos. 442 through 447 and
 Automatic Deposit Advises 28230 through
 28536 for the period of 10/26/2015 through
 11/8/2015, paid on 11/13/2015,
 in the amount of \$429,001.71

TOTAL PAYROLL REGISTER \$429,001.71

D. Final Tract Map 17500 – Reef Point Villas Condos (410 Arenoso Lane)

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

- 1. Accept on behalf of the City of San Clemente, the water rights as dedicated.

Motion continued on following page

2. Accept on behalf of the City of San Clemente, the sidewalk and public pedestrian access easement as dedicated.
3. Approve Final Tract Map 17500 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Tract Map.
4. Authorize the Public Works Director/City Engineer to execute the Final Tract Map upon verification of California Coastal Commission approval.
5. Authorize the City Clerk to execute and submit the Final Tract Map to the County of Orange Recorder's Office for recordation.

E. **Contract Amendment – Electronic Document Imaging and Indexing Services**

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

1. Approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C03-47, by and between the City of San Clemente and Maris Imaging Solutions, providing for City-wide electronic document imaging services, for a term to expire February 18, 2017, with the option for four additional one-year extensions.
2. Approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C14-56, by and between the City of San Clemente and Maris Imaging Solutions, providing for electronic document indexing services for the City's Building Division, for a term to expire February 18, 2017, with the option for four additional one-year extensions.

F. **Contract Award – Community Center Painting**

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

1. Approve, and authorize the Mayor to execute, Contract C15-75, by and between the City of San Clemente and Astro Painting, providing for painting of the Community Center, in an amount not to exceed \$90,000.
2. Approve the letter from Astro Painting, listed as Attachment 1 to the Administrative Report dated December 1, 2015, to waive the bid irregularity.

H. **Final Tract Map 17820 – Del Comercio Condos (2717 Calle Del Comercio)**

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

1. Accept on behalf of the City of San Clemente, the water rights as dedicated.
2. Accept on behalf of the City of San Clemente, the sidewalk and public pedestrian access easement as dedicated.
3. Approve Final Tract Map 17820 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Tract Map.
4. Authorize the Public Works Director / City Engineer to execute the Final Tract Map.
5. Authorize the City Clerk to execute and submit the Final Tract Map to the County of Orange Recorder's Office for recordation.

I. **Contract Amendment – Design and Permitting of Recycled Water Site Retrofit of City Parks, Medians and Customer Sites**

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

1. Approve a supplemental appropriation in the amount of \$156,000 from the Sewer Fund Connection Fee to Account 054-477-43890-000-34201.
2. Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C14-52, by and between the City of San Clemente and RMC Water and Environment. This Amendment extends the term of the contract from December 1, 2015 to September 1, 2016 and increases the contract amount from \$350,000 to \$506,000, an increase of \$156,000.

K. **Contract Amendment – City Manager Employment Agreement**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C14-36, the employment agreement by and between the City of San Clemente and City Manager James Makshanoff.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**G. Contract Award – T-Street Overpass Concrete Maintenance Stair Nosing and Concrete Deck Repairs**

Mayor Baker recused himself from deliberations on this item because he owns property within 500' of the project; left the Chambers at 7:20 p.m.

During the course of discussion, Public Works Director/City Engineer Cameron and Senior Civil Engineer Ilkhanipour responded to Council inquiries relative to the possibility of closing the overpass during the repair period to save \$30,000 to \$40,000 and ensure a cohesive final appearance, versus paying the additional cost so that half of the overpass could remain open during construction.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER BROWN, CARRIED 3-1-1 (COUNCILMEMBER DONCHAK VOTING NOE AND MAYOR BAKER ABSTAINING) to:

1. Approve the plans and specifications for the T-Street Overpass Concrete Maintenance Stair Nosing and Concrete Deck Repairs, Project No. 25801.
2. Approve a supplemental appropriation in the amount of \$65,183 from the General Fund's Unassigned Fund Balance to Account 001-636-45700-000-25801.
3. Approve, and authorize the Mayor to execute, Contract C15-76, by and between the City of San Clemente and The Richards Group, providing for the T-Street Overpass Concrete Maintenance Stair Nosing and Concrete Deck Repairs, in the amount of \$119,000.

Mayor Baker returned to the dais at 7:37 p.m.

J. Initiation of Zoning Amendment - Prohibit or Regulate Medical Marijuana Dispensaries, Medical Marijuana Manufacturers, Marijuana Cultivation, and Delivery of Marijuana

MOTION BY MAYOR PRO TEM WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to advise the Planning Commission that Council supports prohibition of the subject marijuana uses and direct Staff to take the issue to the Planning Commission and return to Council with a zoning amendment that prohibits commercial cultivation, manufacturing, retail sale, transport, distribution, delivery and testing of medical cannabis.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

None.

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

Short -Term Vacation Rentals

Tricia Mading, San Clemente, asserted that vacation rentals are incompatible with residential neighborhoods; opined that vacation rentals are detrimental to health, safety and general welfare and strain public safety services.

Jim Laurent, San Clemente, stated that short-term vacation rentals are businesses that generate significant revenue for property owners; identified the negative impacts of short-term rentals on neighborhoods, noting that the best case scenario is having owners reside on site.

Jennifer Massey, San Clemente, explained that she is the owner of a vacation rental; opined that private home rentals are less expensive than hotels and consequently make it possible for more families to vacation at the beach; noted that owners keep their vacation rentals in attractive condition to attract guests.

Patrick Telfor, San Clemente, opined that regulations need to be established for short-term rentals; asserted that business licenses should be reviewed annually and re-issued with satisfactory performance.

North Beach Bulbouts

Don Slater, San Clemente, thanked Council for approving the bulbouts at North Beach; noted that pedestrian safety has improved as a result of the bulbouts due to a decreased rate of vehicle speed.

San Clemente, Chile

Fred Swegles, San Clemente, presented Council with a letter from the Mayor of San Clemente, Chile, and displayed photographs from his recent trip to Chile. Hard copies of the photographs are on file with the City Clerk.

Councilmember Hamm left the meeting at 8:07 p.m.

11. REPORTS

A. Commissions and Committees

None.

B. City Manager

None.

C. City Attorney

None.

D. Council Members

(1) Council Appointed Representatives to Regional Committees, Commissions and Boards

1. Council updated its regional committee appointments as follows:

Committee/Commission	Representative(s)
Bicycle Committee	Baker
Capistrano Unified School District Liaison Committee	Brown/Baker
Chamber of Commerce Representative	Ward (Any Councilmember may serve as Alternate)
Coastal Animal Services Authority (CASA)	Hamm/Donchak (Alt.)
Coastal Coalition (California)/Offshore Oil)	Mayor and Mayor Pro Tem
Conservancy (Elected/Appointed Representative to Friends of the Reserve Commission)	Brown is the City's Elected/Appointed Rep; Patricia Holloway is the Community "At Large" Representative (term expires June 30, 2018); The Talega HOA Representative position is Laurie Gooch (term expires June 30, 2016).

Economic Development	Brown and Ward
Emergency Operational Area Council (Orange County)	Mayor and Mayor Pro Tem
Fire Authority (Orange County)	Baker
Insurance Authority (California Joint Powers Insurance Authority)	Donchak/Brown (Alt.)
Investment Advisory Committee	Baker
League of Cities and AC-COC - O.C. Monthly - City Selection	All Council Mayor
Legislative Delegate Program - Representative to Senate District 38	Mayor and Mayor Pro Tem
Legislative Delegate Program - Representative to 73 rd Assembly District	Mayor and Mayor Pro Tem
Library Task Force (Orange County)	Donchak/Ward (Alt.)
Mayors (South Orange County Association of Mayors)	Mayor
U.S. Marine Corps Liaison	Brown
MWDOC Interaction of Elected Officials	Baker
Mobility Task Force	Donchak/Brown
Nine South County Water Agencies (This is the name of a group that consists of nine South Orange County water agencies).	Baker
Pier Bowl Association	Hamm
Project Participation Committee (Dana Point Ocean Water Desalination Plant Project)	Baker/Ward (Alt.)
Safety/Quiet Zone	Brown/Donchak
Sand Replenishment Project	Hamm
SCAG General Assembly	Donchak
Social Service/Community Service Budget Committee	Donchak
South Orange County Watershed Management Area Executive Committee	Baker/Ward (Alt.)
Transportation Corridor JPA (Board-San Joaquin Hills)	Ward/Baker (Alt.)
Transportation Corridor JPA (Foothill)	Ward/Baker (Alt.)
Transportation Corridor System	Ward/Baker (Alt.)

Vector (Orange County Vector Control)	Jim Dahl (term expires 1- 5-16)
Wall of Recognition	Hamm

2. MOTION BY MAYOR PRO TEM WARD, SECOND BY COUNCILMEMBER BROWN, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT) to adopt Resolution No. 15-54 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DESIGNATING AND APPOINTING ITS REPRESENTATIVE TO THE ORANGE COUNTY FIRE AUTHORITY'S BOARD OF DIRECTORS, naming Mayor Baker as the City's representative to the Orange County Fire Authority.

Transportation Corridor Agency (TCA)

Mayor Pro Tem Ward reported that the TCA has notified the AQMD and OCTA that it does not plan to pursue the contract for the Tesoro extension so as to enable Rancho Mission Viejo to move forward with road construction for the new homes being built; reported that the TCA has stated that the 241/91 connector will become its priority project; explained that the TCA is continuing to research the connection between the 241 and I-5 and has invited City Councilmembers and staff to join public meetings beginning in January to learn about the project.

San Clemente Tree Lighting

Mayor Baker invited residents to attend the holiday tree lighting on December 5, 2015 at the Community Center.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1611 (Second Reading) – Emergency Shelters**

MOTION BY COUNCILMEMBER BROWN, SECOND BY MAYOR BAKER, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT) to adopt Ordinance No. 1611 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTIONS 17.56.103 AND 17.53.104 OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO EMERGENCY SHELTERS.

13. ADJOURNMENT

MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adjourn at 8:17 p.m., in memory of Jeff Whitaker, to an Adjourned Regular Council Meeting to be held on December 15, 2015 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Interviews/Appointment for the City representative to the Orange County Mosquito and Vector Control District Board of Trustees will take place at 4:30 p.m. 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