

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – April 5, 2016

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 April 5, 2016 at 5:04 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Baker.

PRESENT DONCHAK, HAMM, WARD, MAYOR BAKER

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 DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to recess to Closed Session at 5:04 p.m. to discuss the following:

A. LIABILITY CLAIMS

Pursuant to Government Code Section 54956.95

Claimant: AmeriCare MedServices, Inc. dba AmeriCare Ambulance

Agency claimed against: City of San Clemente

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Existing litigation pursuant to Government Code section 54956.9(d)(1)

Number of Cases: 12

Case Name: City of San Clemente v Dual Diagnosis Treatment Center, Inc.

Case Number: 30-2015-00805214

Case Name: City of San Clemente v Sobertec LLC (1)

Case Number: 30-2015-00805227

Case Name: City of San Clemente v Sobertec LLC (2)

Case Number: 30-2015-00805234

Closed Session items continued on following page

Case Name: City of San Clemente v New Mindset, LLC
Case Number: 30-2015-00805235

Case Name: City of San Clemente v 449 Recovery, Inc.
Case Number: 30-2015-00805270

Case Name: City of San Clemente v Faith By The Sea, Inc.
Case Number: 30-2015-00805980

Case Name: City of San Clemente v New Mindset, LLC
Case Number: 30-2015-00805891

Case Name: City of San Clemente v Sober Spot, LLC
Case Number: 30-2015-00805975

Case Name: City of San Clemente v A Mission For Michael, Inc.
Case Number: 30-2015-00806046

Case Name: City of San Clemente v William W. Martin, PHD
Case Number: 30-2015-00806055

Case Name: City of San Clemente v Coast To Coast Referral Center, Inc.
Case Number: 30-2015-00806052

Case Name: City of San Clemente v Eric Olson
Case Number: 30-2015-00811144

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code section 54956.9(d)(4)
Number of potential cases: 3

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Gov. Code 54956.9(d)(1): Petition for Review of Order No. R9-2015-0100,
State Water Resources Control Board File No. A-2456(l)

E. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

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

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 Closed Session Items B, C and E. Deputy Public Works Director Bonigut was in attendance for Closed Session Item D.

MEETING RECONVENED

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

INVOCATION

Don Kappauf, Senior Chaplain with the Orange County Fire Authority, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Hamm led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **California Parks and Recreation Society (CPRS) Awards**

Mayor Baker presented the CPRS Champion of the Community Award to Carla Hogan in recognition of her ongoing support to the Marine community at Camp Pendleton and in San Clemente.

Mayor Baker presented the CPRS Courtney's Sandcastle Sensory Garden, Excellence in Design: Park Planning Award to Assistant Beaches, Parks and Recreation Director Passow and the Courtney's Sandcastle Charitable Foundation.

B. **Donate Life Month Proclamation**

Mayor Baker presented a Proclamation to Dick Veale declaring the month of April 2016 as Donate Life Month.

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

Initiative for Councilmember District Elections

Brad Malamud, San Clemente, reported that he has started the process of gathering signatures on an initiative petition to place the issue of creating Councilmember districts on the ballot.

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

A. LIABILITY CLAIMS

Pursuant to Government Code Section 54956.95

Claimant: AmeriCare MedServices, Inc. dba AmeriCare Ambulance

Agency claimed against: City of San Clemente

City Attorney Smith announced that Council voted 4-0 during Closed Session (Councilmember Brown was absent) to authorize Staff to send a denial of claim to the claimant, AmeriCare MedServices.

C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code section 54956.9(d)(4)

Number of potential cases: 3

City Attorney Smith reported that Councilmember Donchak recused herself from Closed Session deliberations on one of the three potential cases listed on the agenda because she lives within 500 feet of the property under discussion.

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Gov. Code 54956.9(d)(1): Petition for Review of Order No. R9-2015-0100, State Water Resources Control Board File No. A-2456(l)

City Attorney Smith reported that Council voted 4-0 during Closed Session (COUNCILMEMBER BROWN ABSENT) to authorize the City Attorney to work with the co-petitioners under the County's auspices to respond to the next phase of the administrative proceedings.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM WARD, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve the Consent Calendar, with the removal of Item D.

A. **City Council Minutes**

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

1. Approve the minutes of the Regular City Council Meeting of March 1, 2016.
2. Approve the minutes of the Special and Regular City Council Meeting of March 15, 2016.

B. **Receive and file:**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM WARD, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to receive and file the following:

1. Minutes of the Regular Golf Course Committee Meeting of March 3, 2016.
2. Minutes of the Regular Beaches, Parks and Recreation Commission Meeting of March 8, 2016.
3. Minutes of the Adjourned Regular Planning Commission Meeting of March 16, 2016.
4. Minutes of the Regular Coastal Advisory Committee Meeting of February 11, 2016.

C. **Warrant Register**

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

Warrant Nos. 531188 through 531345
 paid on 3/11/2016, in the amount of \$1,059,328.31

Wire Transfer Nos. 1491 through 1494
 and Warrant Nos. 531346 through 531513
 paid on 3/18/2016, in the amount of \$1,288,226.18

Warrant Nos. 531514 through 531729
 paid on 3/25/2016, in the amount of \$2,186,589.99

TOTAL WARRANT REGISTER \$4,534,144.48

Payroll Register

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

Warrant Nos. 473 through 478 and
 Automatic Deposit Advises 30867 through 31181
 for the period of 2/29/16 through 3/13/16
 paid on 3/18/2016, in the amount of \$ 394,970.40

TOTAL WARRANT REGISTER\$ 394,970.40

E. **California Beverage Container Recycling City/County Payment Program**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM WARD, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to adopt Resolution No. 16-20 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING SUBMITTAL OF AN APPLICATION FOR CALRECYCLE PAYMENT PROGRAMS AND RELATED AUTHORIZATIONS.

F. **Notice of Completion – Via Ballena Storm Drain Relocation**

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

1. Accept the Via Ballena Storm Drain Relocation from the contractor, PALP, Inc., dba Excel Paving Company. (Project No. 13016)
2. Authorize the Mayor to execute, and City Clerk to record, the Notice of Completion for the Via Ballena Storm Drain Relocation.
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 PALP, Inc., dba Excel Paving 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.

Motion continued on following page

5. Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract AC-581, by and between the City of San Clemente and GeoKinetics, providing for geotechnical construction and testing. This amendment modifies the scope of services and increases the maximum contract amount from \$35,280 to \$41,715, an increase of \$6,435.

G. **Contract Award – Initial Study and Environmental Analysis for a 75-Unit Multi-Family Development on Calle Frontera**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM WARD, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve, and authorize the Mayor to execute, Contract C16-19, by and between the City of San Clemente and Keeton Kreitzer Consulting, providing for preparation of the environmental analysis for the Frontera Multi-Family Development, in an amount not to exceed \$62,836.

H. **Final Tract Map 17776 – Del Reposo Condos (117 Avenida Del Reposo)**

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

1. Accept on behalf of the City of San Clemente, the water rights within Final Tract 17776 as dedicated.
2. Approve Final Tract Map 17776 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Tract Map.
3. Authorize the Public Works Director/City Engineer to execute the Final Tract Map.
4. Authorize the City Clerk to execute and submit Final Tract Map 17776 to the County of Orange Recorder's Office for recordation.

I. **Resolution Authorizing Specified Staffing Changes**

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

1. Adopt Resolution No. 16-21 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A REVISED SALARY SCHEDULE AND NEW CLASSIFICATIONS AND AMENDING RESOLUTION NO. 15-45 AND ANY OTHER RESOLUTIONS IN CONFLICT THEREWITH.

Motion continued on following page

2. Approve the job descriptions for Deputy Community Development Director, Deputy Administrative Services Director, Risk Management/Human Resources Officer, Principal Civil Engineer/Asset Manager, and Computerized Maintenance Management Systems Coordinator.

J. **Kaiser Permanente Grant Submittal – Fun on the Run Recreation and Fitness Programs**

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

1. Authorize the submittal of the Kaiser Permanente Obesity/Overweight Prevention grant application to expand and enhance current Fun on the Run Recreation and Fitness programs.
2. Adopt Resolution No. 16-22 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA APPROVING THE SUBMITTAL OF THE KAISER PERMANENTE OBESITY/OVERWEIGHT PREVENTION GRANT FOR THE FUN ON THE RUN RECREATION AND FITNESS PROGRAMS.

K. **License Agreement for Geographic Information System (GIS) Software**

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

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to the Small Government Department Platform Agreement (No. 2014SGP7089), to terminate the current software license agreement with the Public Works Department.
2. Approve, and authorize the Mayor to execute, Contract C16-20, a Small Enterprise License Agreement by and between the City of San Clemente and Environmental Systems Research Institute, Inc. (Esri), providing for Citywide use of the Esri software, in an amount not to exceed \$50,000/annually.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**D. Contract Award – Highland Light Ductile Iron Pipeline Replacements, Phase I**

Following confirmation that Staff is comfortable with the sole bid that was received, MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to:

1. Approve the plans and specifications for the Phase 1 Highland Light Ductile Iron Pipeline Replacements Phase 1. (Project No. 14403)
2. Approve a supplemental appropriation in the amount of \$792,827 from the Water Fund Depreciation Reserve to Account 052-466-45300-14403.
3. Approve, and authorize the Mayor to execute, Contract C16-17 by and between the City of San Clemente and GCI Construction, Inc., providing for the construction of the Highland Light Ductile Iron Pipeline Replacement project, in the amount of \$748,980.

7. PUBLIC HEARINGS**A. Code Amendment – Waste Discharge Pretreatment**

Public Hearing to consider adding a section to the City's Pretreatment Ordinance to address Notification of a Discharge of Hazardous Waste to the City's wastewater system.

Deputy Public Works Director Rebensdorf reviewed the contents of the Administrative Report.

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

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM WARD, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to introduce Ordinance No. 1621 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING SECTION 13.28.702 TO THE MUNICIPAL CODE RELATING TO WASTE DISCHARGE PRETREATMENT AND SOURCE CONTROL PROGRAM.

B. Fee Changes – Facilities, Parks, Permits, Programs

Public Hearing to consider changes to facilities and parks fees, permit fees, and program fees.

Mayor Baker opened the Public Hearing, but no one desired to address Council at this time.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to continue the Public Hearing to the City Council meeting of April 19, 2016.

8. UNFINISHED BUSINESS

None.

9. NEW BUSINESS

A. Request by the Center for Natural Lands Management to Install Donation Collection Boxes at the Sea Summit Trails

Report by the Public Works Director/City Engineer concerning a proposal by the Center for Natural Lands Management to install donation collection boxes at the Sea Summit trails, to fund activities beyond general management.

In response to Council inquiry, Deputy Public Works Director Bonigut explained that the Center for Natural Lands Management has indicated willingness to work with Staff to ensure that the donation collection boxes are painted in a range of earth tones that blend with the natural environment; displayed a photograph of the proposed collection box that was included in a PowerPoint entitled "Proposed Donation Boxes by Center for Natural Lands Management".

Council expressed an interest in possibly installing collection boxes at other major trails if the donation boxes at the Sea Summit trails prove to be economically successful.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM WARD, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to approve three Iron Ranger donation collection boxes to be installed at the Sea Summit trails within the Sea Summit development utilizing earth tones, and to direct Staff to report back to Council in one year relative to the amount of donations that were collected.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

Consideration of Code Amendment – Noise Ordinance

Council requested that a possible amendment to the City's Noise Ordinance be amended in the near future that would allow a relaxation of air conditioner noise standards when neighboring property owners sign off on the application.

Orange County Transportation Authority (OCTA)

Councilmember Donchak reported on her attendance at the OCTA Regional Highways and Planning Committee meeting of April 4, 2016, noting that the Pacific Coast Highway Corridor Study (that affects beach cities from Seal Beach to San Clemente) was presented; reported that the subject study will be presented to Council at a future meeting.

Saddleback Hospital Closure

Councilmember Hamm reported that Orange County Medical Emergency Services (OCEMS) has suggested that the Mayor write a letter urging that the closure of the San Clemente Campus of Saddleback Memorial Hospital be slowed until a suitable alternative is found. Council agreed to amend this item for its April 19, 2016 meeting.

Springtacular

Mayor Baker reported on his attendance at the Springtacular at the Vista Hermosa Sports Park.

Village San Clemente Meeting

Mayor Baker reported on his attendance at the recent Village San Clemente meeting.

Meals on Wheels

Mayor Baker reported on the Senior Center Meals on Wheels program and encouraged residents to become involved with the program.

12. RESOLUTIONS/ORDINANCES**A. Ordinance No. 1619 (Second Reading) – Sign Regulation**

Kevin Daehnke, stated that he is an attorney representing Eddie Ghassemi, owner of the Valero Gas Station; voiced concern with a ban on freeway-oriented signs and urged Council to defer action for one month to enable Council to meet with constituents; stated that Council has received letters from the California Business Properties Association, MG Development Company (on behalf of the owner of Pico Plaza shopping center) and Cox Castle Nicholson (on behalf of Eddie Ghassemi).

Brad Malamud, San Clemente, asserted that the reasons for adopting the proposed ordinance are unsubstantiated inasmuch as no proof has been presented that freeway signage causes accidents or that freeway signage blocks ocean views; opined that the Ordinance is arbitrary and capricious inasmuch as it bans signage that would conform to the City's Sign Ordinance if it were not visible from the freeway.

Eddie Ghassemi, owner of Valero Gas Station, urged Council to oppose the proposed Ordinance; opined the Ordinance is illegal and unconstitutional.

Scott Williams, representing San Clemente Shell, urged Council to encourage small businesses; disagreed with the assertion that freeway-oriented signs will become antiquated because of cell phones; urged Council to table the proposed ordinance.

City Attorney Smith and Community Development Director Gallardo-Daly responded to comments raised by the public.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BAKER to adopt Ordinance No. 1619 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING ZONING AMENDMENT 15-225, AMENDING TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE REGARDING SIGN REGULATION.

SUBSTITUTE MOTION BY COUNCILMEMBER DONCHAK to table the Sign Regulation Ordinance. The substitute motion died for lack of a second.

THE ORIGINAL MOTION WAS VOTED ON AND CARRIED 3-1 (COUNCILMEMBER DONCHAK VOTING NOE AND COUNCILMEMBER BROWN ABSENT).

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (COUNCILMEMBER BROWN ABSENT), to adjourn at 7:08 p.m. in memory of Mary Anna Anderson. The next Regular Council Meeting will be held on April 19, 2016 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