

CITY OF SAN CLEMENTE

City Council Minutes

Special and Regular City Council Meeting – April 19, 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 Special and Regular Meeting of the San Clemente City Council was called to order on April 19, 2016 at 4:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Baker.

PRESENT BROWN, DONCHAK*, HAMM, WARD, MAYOR BAKER
*Arrived at 4:12 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 WARD, CARRIED 4-0 (COUNCILMEMBER DONCHAK ABSENT), to recess to Closed Session at 4:10 p.m. to discuss the following:

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 5

Case Name: Brault v. City of San Clemente
Case Number: OCSC 30-2016-00843347-CL-MC-CJC

Case Name: City of San Clemente v. Dual Diagnosis Treatment Center, Inc.
Case Number: OCSC 30-2015-00805214

Case Name: Dual Diagnosis Treatment Center, Inc. v. City of San Clemente
Case Number: USDC 8:15-cv-01611CJC-JCG

Case Name: Emergency Shelter Coalition v. City of San Clemente
Case Number: OCSC 30-2014-00758880

Closed Session items continued on following page

Case Name: Memorial Care Services, et al. v. City of San Clemente
Case Number: 30-2016-00845211-CU-WM-CJC

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

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

C. 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 City Council, except for Councilmember Donchak who recused herself from deliberations on one of the four potential cases on Item B because she lives within 500 feet of property on La Cuesta that was the subject of discussion. Also in attendance for the full Closed Session were City Manager Makshanoff, Assistant City Manager Sund, and City Attorney Smith. Attorney Jeff Dunn, with Best, Best & Krieger, was in attendance for Closed Session Items A and B. Attorney Bruce Beach, with Best, Best & Krieger, participated via teleconference for one of the potential cases on Closed Session Item C.

MEETING RECONVENED

Council reconvened at 6:13 p.m., with all members present.

INVOCATION

Roger Gales, Pastor with Heritage Christian Fellowship, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Ward led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. San Clemente High School Update

San Clemente High School students McKenna Brownell and Daniel Klevit narrated a PowerPoint presentation entitled "San Clemente High School April 2016" concerning campus activities. A hard copy of the PowerPoint presentation is on file with the City Clerk.

B. Operation Lifesaver California – Rail Safety Campaign

Sarah Logan, of Operation Lifesaver California, narrated a PowerPoint presentation entitled “California Operation Lifesaver” concerning the rail safety campaign and responded to Council inquiries. A hard copy of the PowerPoint presentation is on file with the City Clerk.

C. Coastal Animal Services Authority (CASA) Update

Kim Cholodenko, CASA General Manager, narrated a PowerPoint presentation entitled “Coastal Animal Services Authority’s Strategic Plan” concerning Animal Shelter activities, and responded to Council inquiries. A hard copy of the PowerPoint presentation is on file with the City Clerk.

D. City Tile – Mike Jorgensen, Retired Building Official

Mayor Baker presented Mike Jorgensen with a City Tile, in recognition of 14 years of exemplary service as Building Official of the City of San Clemente.

2. ORAL COMMUNICATIONS (PART 1)**Orange County Mosquito and Vector Control District (OCMVCD)**

Michelle Schumacher, representing Non-Toxic San Clemente, voiced concern that the Orange County Mosquito and Vector Control District (OCMVCD) Board of Trustees may vote to authorize its general manager to determine whether to aerial spray the pesticide DUET in Orange County to control mosquitoes; cited health risks that the aerial application of pesticides could have on humans or their pets; urged Council to provide direction to Jim Dahl, the City’s representative to OCMVCD, to oppose the aerial spraying of pesticides.

Tara Hamilton, San Clemente, stated that she has a medical condition that places her at an increased risk from environmental toxins; reported that individuals with neurological disorders are especially vulnerable to harm from pesticides.

Stephanie Fetzer, Board Member of Non-Toxic San Clemente, voiced concern that the OCMVCD Board of Trustees is considering delegating its decision-making power relative to aerial pesticide spraying to its general manager; stated that her daughters have chemical sensitivities and expressed concern that OCMVCD is contemplating spraying DUET, which is linked to neurological problems in sensitive individuals.

Council noted that the issue of aerial spraying of pesticides is not on the agenda and Jim Dahl (the City's representative to the OCMVCD) is not present to provide additional information. It was agreed that individual Councilmembers will contact Mr. Dahl to discuss the issue and provide input.

Councilmanic Districts/Vacation Rentals By Owner

Anthony LaFrano, San Clemente, asserted that establishing Councilmanic districts in San Clemente is ill-advised and will change the City's culture; spoke in opposition to the City allowing 500 vacation rentals and urged that the issue be studied further.

City Concerns (Hospital Closure/Drones/Beach Safety)

Wayne Richardson, San Clemente, voiced concern with the possible ramifications from the closure of the San Clemente campus of Saddleback Hospital; voiced concern that drones violate privacy; provided Council with a copy of a letter from a homeless resident (name not provided) that expressed that he no longer feels safe on the beach. A hard copy of the subject letter is on file with the City Clerk.

Councilmanic Districts

Jim Bieber, San Clemente, referenced a recent newspaper editorial by Mayor Pro Tem Ward that opposed Councilmanic districts; voiced concern that City Staff may have been utilized to write an article relating to an initiative campaign.

City Mission Statement

Jim Vetter, San Clemente, reported that he is homeless and feels threatened by certain individuals; noted that the Sheriff's Department cannot take action to keep homeless residents safe unless a Deputy witnesses a threatening situation or a crime in progress.

Creation of Coastal Water District

Richard Gardner, Capistrano Beach, suggested the creation of a coastal water district in South Orange County, noting that a multi-jurisdictional district could provide high-level water and sewer services with a lower level of overhead.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, 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**

Recusal from Closed Session Item B (Anticipated Litigation)

City Attorney Smith reported that Councilmember Donchak recused herself from Closed Session deliberations on one of the four anticipated litigation cases listed on the agenda as Closed Session Item B; reported that Councilmember Donchak's recusal was due to the fact that she resides within 500 feet of property on La Cuesta that was the subject of discussion.

6. **CONSENT CALENDAR**

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

A. **City Council Minutes**

None.

B. **Receive and file:**

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

1. Zoning Administrator Regular Meeting minutes of April 6, 2016.
2. Planning Commission Adjourned Regular Meeting minutes of April 6, 2016.

C. **Warrant Register**

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

Wire Transfer Nos. 1495 through 1499
and Warrant Nos. 531730 through 531904
paid on 4/1/16, in the amount of \$1,835,295.03

Wire Transfer No. 1500, paid on 4/6/16, and
Warrant Nos. 531905 through 532056
paid on 4/8/16, in the amount of \$5,227,322.66

**Note: Check #531982 was paid on 4/7/2016*

TOTAL WARRANT REGISTER\$7,062,617.69

Payroll Register

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

Warrant Nos. 479 through 482 and
Automatic Deposit Advises 31182 through 31476
for the period of 3/14/16 through 3/27/16
paid on 4/1/16, in the amount of \$ 397,960.15

TOTAL WARRANT REGISTER\$ 397,960.15

D. **Contract Award – Delivery of Ferric Chloride to the Member Agencies of South Orange County Wastewater Authority (SOCWA)**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C16-21, a Service Agreement by and between the South Orange County Wastewater Authority (SOCWA) member agencies and Olin Corporation, dba Olin Chloro-Alkali Products, providing for the delivery and supply of sodium hypochlorite to the member agencies of SOCWA.

E. **Supplemental Appropriation- Sewer System Rehabilitation**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve a supplemental appropriation in the amount of \$95,000 from the Sewer Fund Depreciation Reserve to Account 054-476-43420-24200.

H. **Purchase Agreement – Water Line Easement for a New Water Line Between Reservoirs 6 and 10**

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

1. Approve, and authorize the Mayor to execute, Contract C16-23, an Agreement for Acquisition of Real Property, by and between the City of San Clemente and G Companies Management, LLC, providing for the acquisition of an easement for a new water line between Reservoirs 6 and 10.
2. Authorize payment of \$7,100 to G Companies Management, LLC for the purchase of the easement for a new water line between Reservoirs 6 and 10.
3. Authorize the City Manager to execute all documents in the name of the City of San Clemente necessary to complete the purchase and record the easement on behalf of the City.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

F. **Fee Waiver - Lifeguard Challenge Fundraiser**

Al King, Board Member of San Clemente Lifeguard and Junior Lifeguard Foundation, provided an overview of the proposed Lifeguard Challenge Fundraiser, noting the event will promote the importance of ocean safety.

MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve the fee waiver request from the Friends of San Clemente Beaches, Parks and Recreation Foundation and the San Clemente Lifeguard and Junior Lifeguard Foundation, for the permit and lifeguard fees associated with “The Lifeguard Challenge” that will be held on June 5, 2016 north of the pier in front of the Marine Safety Headquarters.

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

Mitch Colapinto, San Clemente, reported that water quality at Poche Beach has improved as a result of the presence of falcons; urged Council to approve the proposed contract.

Deputy Public Works Director Bonigut responded to Council inquiries concerning the benefits of abating the bird situation at Poche Beach through the use of live falcons, which are natural predators, versus coyote statues.

Council requested a memo that describes the testing protocols that are utilized to determine ocean water quality ratings.

Following discussion, MOTION BY COUNCILMEMBER BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-1 (MAYOR PRO TEM WARD VOTING NOE), to approve, and authorize the Mayor to execute, Contract C16-22, by and between the City of San Clemente and Adam's Falconry Service, LLC, providing for bird abatement services at Poche Beach, in an amount not to exceed \$52,800, for the initial year of the agreement.

I. **SB 1283 (Bates) – Structured Sober Living Homes**

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

1. Support SB 1283.
2. Direct Staff to send the support letter, which is attached to the Administrative Report, dated April 19, 2016, to the author of the bill, by the next hearing date by the Senate Health Committee (April 20, 2016), with the following modifications:
 - *The phrase "the predominantly unlicensed" in paragraph 2 is to be eliminated;*
 - *The phrase "good neighbor rules" in paragraph 2 is to be replaced with "good neighbor laws".*
3. Direct Staff to send a copy of the letter to those persons listed on page 2 of the letter.

J. **AB 2772 (Chang) – Drug Treatment Programs**

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

1. Support AB 2772.
2. Direct Staff to send the support letter, which is attached to the Administrative Report, dated April 19, 2016, to the author of the bill, with the following amendments:
 - *The following sentence is to be added to the end of paragraph 1 on page 2: "The challenges deriving from noncompliant residential treatment facilities are a strain on public safety resources";*
 - *The word "unlicensed" in the first sentence on paragraph 2 on page 2 is to be eliminated;*
 - *The phrase "good neighbor rules" in paragraph 2 on page 2 is to be replaced with "good neighbor laws".*
3. Direct Staff to send a copy of the letter to those persons listed on page 2 of the letter.

7. **PUBLIC HEARINGS**

A. **Beaches, Parks and Recreation Fees**

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

Assistant Beaches, Parks and Recreation Director Passow reviewed the contents of the Administrative Report and responded to Council inquiries.

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

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

1. Adopt Resolution No. 16-23 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REVISING THE POLICIES AND FEES GOVERNING THE RENTAL OF THE FIELDS; AND AMENDING RESOLUTION NO. 15-31.

Motion continued on following page

2. Adopt Resolution No. 16-24 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADJUSTING THE FEE FOR PARTICIPATION IN THE JUNIOR LIFEGUARD PROGRAM AND RESCINDING RESOLUTION NO. 11-67.

8. **UNFINISHED BUSINESS**

None.

MEETING RECESSED

Council recessed at 8:06 p.m. and reconvened at 8:17 p.m., with all members present.

9. **NEW BUSINESS**

A. **Proposed 910 Calle Negocio Renovation and City Hall Relocation**

Report from the Assistant City Manager and Building Official (Retired) concerning proposed renovations for the 910 Calle Negocio building and City Hall relocation.

Assistant City Manager Sund and Retired Building Official Jorgensen reviewed the contents of the Administrative Report and responded to Council inquiries.

Council determined that the following civic center alternatives are not practical, or no longer viable, and consequently eliminated them from further consideration:

- Build-to-Suit Downtown Civic Center
- Civic Center on 2.7 acres of the 9-acre site at the northwest corner of Avenida Vista Hermosa and Avenida La Pata (current location of the Target store)
- Civic Center on 3.1 acres of the 9-acre site at the northwest corner of Avenida Vista Hermosa and Avenida La Pata (current location of the Target store)

Deliberations ensued relative to the following alternatives: 1) a consolidated adaptive reuse of the 910 Negocio facility, 2) an upgraded civic center at the existing City Hall site, and 3) a civic center on 2.27 acres at the southwest corner of Avenida La Pata and Avenida Vista Hermosa. During the course of discussion, individual Councilmember(s) voiced opinions as

follows. The below sentiments were expressed by at least one Councilmember and do not necessarily reflect Council consensus:

- There is significant value to locating all staff at the same location.
- Relocating City and Police personnel to 910 Calle Negocio is workable and cost-effective. Additionally, the Negocio site is located close to the geographic center of the City and the City would be able to sell the existing City Hall property during a seller's market.
- The City has been successful in its real estate transactions and the City should retain its real estate assets.
- The price that the City could receive for selling the City Hall site should not be based on an increase in allowable density and should realistically reflect the geotechnical issues associated with the site.
- Locating all staff in one location is not necessary because department heads are located in the same buildings as their staffs and strategies for a stratified work environment are feasible.
- Utilizing a concrete tilt-up building at the current City Hall site represents a cost-effective alternative to traditional construction.
- It is important for the new City Hall to serve as an iconic development. Desirable features include the ability to serve as a community meeting place and to be future-focused. Emphasis should be placed on technology, community engagement and transportation.
- It would be more prudent to re-build City Hall than to attempt to remedy structural deficiencies and retrofit the existing building.

Council ultimately expressed a preference to pursue an adaptive re-use of the current City Hall structure, or construct a new City Hall, on the existing City Hall property, and directed Staff to report back at a future meeting with a more in-depth analysis that includes possible concepts. Additionally, Council authorized Staff to pursue leases of Floors 2 and 3 of the 910 Calle Negocio building through the Year 2023.

B. Installation of Donated Pet Waste Bag Stations on Public Property

Report from the Assistant City Manager concerning the possibility of installing donated pet waste bag stations on public property.

Assistant Beaches, Parks and Recreation Director Passow reviewed the contents of the Administrative Report and responded to Council inquiries.

Following discussion, MOTION BY COUNCILMEMBER BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 3-2 (MAYOR BAKER AND COUNCILMEMBER DONCHAK VOTING NOE), to:

1. Direct Staff to develop a one-year beta test program with Public Safety Industries that would entail a disbursement of ten signs across various San Clemente parks. The signs would provide pet waste bags and include some sponsorship opportunity.
2. After the one-year test period, Staff is to return to Council with a report that identifies how the program was received by the public.
3. If the program doesn't trigger concerns, the City receives value out of the program, and the cost is appropriate, the City will proceed from there.

C. **Preliminary Determinations and Declaring Intention to Issue Refunding Bonds for Proposed Reassessment District ("RAD") No. 2016-1 and Ordering Report Thereon**

Report from the Assistant City Manager concerning the possibility of making preliminary determinations and declaring intention to issue refunding bonds for proposed Reassessment District ("RAD") No. 2016-1 and ordering report thereon.

Jim Fabian, Fieldman Rolapp, narrated a PowerPoint presentation entitled "City of San Clemente (Reassessment District No. 98-1)" and responded to Council inquiries. A hard copy of Mr. Fabian's PowerPoint presentation is on file with the City Clerk.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR BAKER, CARRIED 5-0, to adopt Resolution No. 16-25 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, MAKING PRELIMINARY DETERMINATIONS AND DECLARING INTENTION TO ISSUE REFUNDING BONDS FOR PROPOSED REASSESSMENT DISTRICT NO. 2016-1, AND ORDERING A REPORT THEREON.

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**

City Clerk Baade reviewed the contents of the Administrative Report and responded to Council inquiries.

Council set meeting dates for June 20, 2016 at 4:00 p.m. and June 29, 2016 at 5:00 p.m. for the purpose of interviewing and making appointments to fill 17 vacancies on the Planning Commission, Golf Course Committee, Beaches, Parks and Recreation Commission, Human Affairs Committee, Coastal Advisory Committee, Investment Advisory Committee and the Talega Representative to the Friends of the Reserve Commission.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

Financial Safeguards

Council noted that a large sum of money was embezzled from the City of Placentia; requested, and received, a verbal report from Assistant City Manager Sund relative to the protocols and safeguards that are in place to prevent a similar occurrence in San Clemente.

(1) **Postponement of Hospital Closure Request**

Assistant City Manager Sund reviewed the contents of the Administrative Report.

Council took action as follows:

1. Directed that the proposed letter to Orange County Emergency Medical Services (that urges that the hospital closure be slowed until an alternative healthcare provider can be found) be modified in the following respects:

- *The 3rd sentence of the 2nd paragraph is to be expanded to read as follows: "If this hospital is to close, it will negatively affect the residents of San Clemente and South Orange County."*
- *The 4th sentence of the 2nd paragraph is to be revised to read as follows: "Not only will medical transport times increase significantly with the closure, the City will incur at least \$1.2 million in additional public safety costs, and mortality rates will increase between 5% and 15% throughout the entire South Orange County region."*

2. Directed Staff to immediately send the letter, as amended, to Orange County Emergency Medical Services and to also send copies of the letter to the individuals listed as cc's to the letter. Council expanded the cc list to include Congressman Issa, Association of California Cities-Orange County (ACC-OC), Orange County Fire Authority (OCFA), Orange County Sheriff's Department (OCSD), Cities of San Juan Capistrano and Dana Point, and any others felt appropriate by Staff.

California Parks and Recreation Society District 10 Awards

Councilmember Donchak reported on her attendance at the California Parks and Recreation Society District 10 Awards, noting that volunteer Nonie Fickling received the Volunteer of Merit Award.

Skatepark Coalition – Consideration of Letter of Support

Councilmember Brown requested that the possibility of authorizing a letter of support for the Skatepark Coalition be agendaized for the Council meeting of May 3, 2016; noted that a letter of support will assist the Coalition in reaching its fundraising goals.

Bonito Park Grand Opening

Mayor Baker reported on his attendance at the Bonito Park Grand Opening.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1621 (Second Reading) – Waste Discharge Pretreatment and Source Control Program**

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

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adjourn at 10:05 p.m. The next Regular Council Meeting will be held on May 3, 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