

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – November 15, 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 November 15, 2016 at 5:02 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Baker.

PRESENT BROWN, DONCHAK, HAMM, WARD, MAYOR BAKER

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 MAYOR BAKER, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to recess to Closed Session at 5:02 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: Emergency Shelter Coalition v. City of San Clemente
Case Number: OCSC 30-201400758880

Case Name: City of San Clemente v Sobertec LLC (1)
Case Number: OCSC 30-2015-00805227

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

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

Closed Session items continued on following page

B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Number of potential cases: 1

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: 7,038 sq. ft. vacant land parcel located at 754 Avenida Acapulco

APN: 690-372-03

Agency negotiator: Assistant City Manager

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8:

Property: 10,000 sq. ft. vacant land parcel located at 200 Trafalgar Ln.

APN: 629-252-22

Agency Negotiator: Assistant City Manager

Negotiating Parties: City of San Clemente and Robert D. Schumacher

Under Negotiation: Price and Terms of Payment

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 two of the items discussed under Item A.

MEETING RECONVENED

Council reconvened at 6:11 p.m., with all members present.

INVOCATION

Don Kappauf, Chaplain, Orange County Sheriff's Department, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Hamm led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Marine Safety - National Award for Readiness and Incident Response**

Mayor Baker presented the "National Award for Readiness and Incident Response", which was awarded to the City from the United States Lifeguard Association (USLA), to Marine Safety Officer Nick Giugni.

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

Sewer Hookup Fees – La Ventura Events Center

Don Kappauf, Dana Point, voiced concern that he was required to pay \$45,000 for a sewer hook-up for his La Ventura Events Center project, even though a sewer hook-up was installed in 1983 and paid in full by the previous property owner.

Council requested that Mr. Kappauf communicate with the City Manager to ascertain the reasoning for the additional payment and the method by which the \$45,000 cost was determined.

3. MOTION BY COUNCILMEMBER BROWN, 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**

City Attorney Smith stated that Council took no reportable action during this evening's Closed Session.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items 6B-1 and 6-F.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve the minutes of the Special and Regular City Council Meeting of November 1, 2016.

B. **Receive and file:**

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

- 2. Minutes of the Regular Beaches, Parks and Recreation Commission meeting of September 13, 2016.
- 3. Minutes of the Regular Golf Course Committee meeting of September 1, 2016.

C. **Warrant Register**

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

Wire Transfer Nos. 1567 through 1570 and
Warrant Nos. 536799 through 536962
paid on 10/28/2016, in the amount of\$3,561,509.53

Warrant Nos. 536963 through 537112
paid on 11/4/2016, in the amount of\$ 473,549.22

TOTAL WARRANT REGISTER\$4,035,058.75

Payroll Register

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

Warrant Nos. 537 through 539 and
Automatic Deposit Advises 35897 through 36193
for the period 10/10/16 through 10/23/16,
paid on 10/28/2016, in the amount of \$420,655.02

TOTAL PAYROLL REGISTER \$420,655.02

D. **Contract Award – Provision of Rental Work Uniforms, Floor Mats, Shop Towels and Laundry Service for Various Departments and Divisions**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C16-69, by and between the City of San Clemente and Mission Linen and Uniform Supply, providing for Rental Work Uniforms, Floor Mats, Shop Towels and Laundry Services, in an amount not to exceed \$85,428.72, for the five-year contract term.

E. **Contract Award – Wells 5, 6, 8 and Calafia Rehabilitation Design**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C16-70, by and between the City of San Clemente and Stantec, providing for engineering design services for Wells 5, 6, 8 and the Calafia rehabilitation, in the amount of \$97,568.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

B1. **Minutes of the Adjourned Regular Planning Commission Meeting of November 2, 2016**

Council referenced Item 9-A on the Planning Commission minutes of November 2, 2016 that related to the 2016 T-Zone Occupancy Count Update, and expressed an interest in agendizing the issue for a future Council meeting.

City Planner Pechous responded that Staff intends to agendize the issue for Council consideration, noting that Staff's report will include short-term and long-term parking management recommendations.

MOTION BY MAYOR PRO TEM WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to receive and file the minutes of the Adjourned Regular Planning Commission meeting of November 2, 2016.

F. **Supplemental Appropriation - Conversions of Protected Left-Turn Signals to Protective-Permissive Left-Turn Signals on Avenida Pico**

Council discussed the possibility of directing Staff to assess whether protective-permissive left-turn signals should be installed at all controlled left-hand turns in Talega (as opposed to limiting the protective-permissive left-turn signals to the proposed three signals on Avenida Pico). At the conclusion of deliberations, Council requested that Staff provide Council with safety studies concerning protective-permissive turn signals. If Council is satisfied with the findings of the safety studies, funding for additional protective-permissive left-turn signals may be allocated during the City's budget process.

Council requested that Staff notify the Talega Homeowners Association of 1) the three protective-permissive left-turn signals that will be installed on Avenida Pico, and 2) Council's action relative to the possibility of allocating resources for additional protective-permissive left-turn signals in Talega during the next budget cycle.

Lastly, Council requested that the spelling of "Talega" on the map that was attached to the Administrative Report be corrected.

MOTION BY COUNCILMEMBER BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve a supplemental appropriation in the amount of \$60,000 from the Gas Tax undesignated fund balance to Account 012-861-45300, Protected-Permissive Left-turn Signal Conversion Project.

7. **PUBLIC HEARINGS**

A. **Substantial Amendment to Community Development Block Grant (CDBG) 2016-2017 Annual Action Plan**

Public Hearing to consider a proposed substantial amendment to the 2016-2017 Annual Action Plan to include funding of two new CDBG-eligible activities: West Avenida Palizada Sidewalks Installation and San Luis Rey Park Playground Equipment Replacement.

Senior Planner Gregg 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 DONCHAK, SECOND BY MAYOR BAKER, CARRIED 5-0, to:

1. Approve a Substantial Amendment to the Annual Action Plan for Fiscal Year 2016-17.
2. Accept revenues in the form of unspent CDBG funds in the amount of \$385,689 to Account 017-000-33171.
3. Approve supplemental appropriations in FY 2017 of \$200,000 for Palizada Sidewalk Improvements and \$175,000 for San Luis Rey Park Playground Improvements to Account 017-896-45300, and \$10,689 for the completion of the Calle Puente sidewalk improvements to Account 017-896-45300-000-17336.
4. Authorize staff to electronically transmit the amended FY 2016-17 Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD) via the eCon Planning Suite in the Integrated Disbursement and Information System (IDIS).

B. Reserve Community Landscape Amendment (Amendment to Site Plan Permit 98-63 and Tentative Tract Map 15718)

Public Hearing to consider a proposed modification to the Reserve community's landscape, located in the general area between Avenida Vista Hermosa and Costero Risco.

City Planner Pechous reported that the applicant has requested that Council defer the Public Hearing on this item to its meeting of January 17, 2017 (rather than December 6, 2016) to allow time for the Reserve Board of Directors to review the revisions to the landscape plans with Reserve homeowners.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM WARD, CARRIED 4-1 (COUNCILMEMBER DONCHAK VOTING NOE) to continue the Public Hearing to the Council meeting of December 6, 2016. *Councilmember Donchak voted in opposition to the motion because she wanted to grant the Reserve's request for a continuation to the meeting of January 17, 2017.*

C. **Building Code Regulations and Local Amendments**

Public Hearing to consider adopting Ordinance No. 1636 to amend the Code of the City of San Clemente as it relates to building regulations.

Deputy Community Development Director King 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 BROWN, SECOND BY MAYOR PRO TEM WARD, CARRIED 5-0, to adopt Ordinance No. 1636 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTERS 15.08, 15.12, 15.16, 15.20, 15.21, 15.22, AND 15.23 OF TITLE 15 OF THE SAN CLEMENTE MUNICIPAL CODE ADOPTING BUILDING REGULATIONS.

D. **Fire Code Regulations and Local Amendments**

Public Hearing to consider adopting Ordinance No. 1637 to amend the Code of the City of San Clemente as it relates to Fire Code regulations.

Deputy Community Development Director King 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 BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adopt Ordinance No. 1637 entitled AN ORDINANCE OF THE CITY COUNCIL OF SAN CLEMENTE AMENDING CHAPTER 8.16 OF THE SAN CLEMENTE MUNICIPAL CODE AND ADOPTING FIRE CODE REGULATIONS FOR THE CITY OF SAN CLEMENTE.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

None.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

Locking Public Restrooms at Night

Councilmember Hamm requested that the issue of whether or not to lock public restrooms at night be agendaized for a future Council meeting.

Transportation Corridor Agency (TCA) – 241 Extension

Mayor Pro Tem Ward reported that the TCA has entered into a settlement agreement with all of the environmental groups that had been suing it for 15 years to protect an area south of San Clemente; noted that the agreement was signed by all cities, except San Clemente and San Juan Capistrano, which opposed the agreement; noted that the TCA expects to award a contract for preparation of an Environmental Impact Report in December that will study two alignments that would extend the 241 into San Clemente. Council noted the need to develop an action plan to oppose the San Clemente alignments and directed Staff to develop discussion points for Council to consider at its December 6, 2016 Council meeting.

Community Engagement Panel (CEP) Meeting

Councilmember Brown reported on his attendance at the Community Engagement Panel meeting of November 10, 2016, noting that a consolidated effort is underway to find an interim storage location for the spent fuel from SONGS; stated the next CEP meeting will take place in the first quarter of 2017.

Blood Drives

Mayor Baker reported that two blood drives are scheduled to take place on November 25, 2016 -- one at the Church of Latter-Day Saints and the other at the Community Center.

Holiday Events

Mayor Baker reported that Santa's Village by the Sea, Christmas at the Casa and Puttin' on the Glitz will take place on December 3, 2016.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1632 (Second Reading) - Regulation of Personal, Medical and Commercial Use of Marijuana (Zoning Amendment 16-313)**

City Attorney Smith summarized the provisions of Proposition 64 (Marijuana Legalization) that was passed by California voters on November 8, 2016; explained that certain parts of the law went into effect on November 9, 2016 while other parts will become effective in January 2017.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM WARD, CARRIED 5-0, to adopt Ordinance No. 1632 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING TITLE 9 OF THE SAN CLEMENTE MUNICIPAL CODE TO ESTABLISH REASONABLE REGULATIONS OF LIMITED HOME CULTIVATION OF MARIJUANA FOR PERSONAL USE AND APPROVING ZONING AMENDMENT 16-313, AMENDING TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE, TO REGULATE THE PERSONAL, MEDICAL, AND COMMERCIAL USE OF MARIJUANA.

13. **ADJOURNMENT**

MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER BROWN, CARRIED 5-0, to adjourn at 7:08 p.m. in memory of Deputy Courtney Ward. The next Regular City Council Meeting will be held on December 6, 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.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California