

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – March 21, 2017

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 March 21, 2017 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Ward.

PRESENT BROWN, DONCHAK, HAMM, SWARTZ, MAYOR WARD

ABSENT NONE.

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

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CLOSED SESSION

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to recess to Closed Session at 5:00 p.m. to discuss the following:

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code section 54957

Title: City Attorney

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

Number of Cases: 4

Case Name: Memorial Health Services, et al. v. City of San Clemente

Case Number: USDC 8:16-cv-00852-DOC-JCG

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: Jim Bieber v. City of San Clemente, et al.

Case Number: OCSC 30-2017-00906718

C. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**, pursuant to Government Code Section 54956.8:

Property: 8 lots within Tract 17049 of Shorecliffs Mobile Home Park, located at 3000 Calle Nuevo, San Clemente

Agency Negotiators: James Makshanoff, City Manager; Erik Sund, Assistant City Manager

Negotiating Parties: Five Star Homes; Factory Housing

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 Closed Session Item B.

MEETING RECONVENED

Council reconvened at 6:12 p.m., with all members present.

INVOCATION

Mrs. Robin Margraf, M.A., M.S., with Our Lady of Fatima Catholic Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **San Clemente Police Services Update**

Lt. Dave Moodie, San Clemente Police Services, narrated a PowerPoint presentation which provided an update on Police Services matters and crime statistics. A hard copy of Lt. Moodie's presentation is on file with the City Clerk.

2. ORAL COMMUNICATIONS (PART 1)

Law Enforcement and Immigrant Rights

Jackie Dooley, San Clemente, spoke on the importance of respecting immigrant rights and opined that law enforcement should not inquire as to a person's immigration status.

Judy Jones, San Clemente, commented on the importance for all individuals to have equal rights regardless of their residency status.

Paul Walker Statue

Chad Kroeger, San Clemente, requested the City erect a statue of Paul Walker on the San Clemente Pier, as a unifying figure.

Bodhi Johnson, San Clemente, spoke in support of a Paul Walker statue being erected on the San Clemente Pier.

Nuclear Waste at San Onofre Nuclear Generating Station (SONGS)

Jenifer Massey, San Clemente, voiced concerns with the storage of nuclear waste at SONGS; urged Council to schedule discussions with lawmakers and the Coastal Commission to find an alternative location for the storage of nuclear waste.

Gary Headrick, San Clemente Green, spoke in opposition to nuclear waste being buried at SONGS, possibly for a duration that exceeds the life expectancy of the dry casks; urged Council to submit an amicus curiae brief, prior to the Coastal Commission hearing on April 14, 2017, that urges revocation of the permit that currently allows nuclear waste to be buried at SONGS.

Police Services Matrix Study

Anthony LaFrano, San Clemente, spoke in support of Police Services and Lt. Moodie in particular; suggested that a heroin epidemic exists at the high school and urged Council to take a hard approach to drug and transient issues.

Cabrillo Playhouse

Sandra Weaver, representing Cabrillo Playhouse, reported on upcoming performances at the Cabrillo Playhouse and noted that she will report back to Council periodically to share entertainment opportunities.

Arson/Burglary Victim

Edward McMahon, San Clemente, reported that a transient/addict burglarized and burned his home; voiced concern with the lack of communication from the Sheriff's Department concerning the suspect and noted that he fears for the safety of his family because the suspect threatened his family and may post bail; noted the importance of victims' rights in criminal cases.

3. MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, 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**

Jim Bieber v. City of San Clemente

City Attorney Smith advised that Council took no reportable action during this evening's Closed Session; noted, however, that Council agreed to defend the individual respondents in the case of Jim Bieber v. City of San Clemente.

6. **CONSENT CALENDAR**

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

A. **City Council Minutes**

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

- (1) Approve the Adjourned Regular City Council Meeting minutes of March 2, 2017.

B. Receive and file:

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

- (1) Minutes of the Regular Zoning Administrator Meeting of February 22, 2017.
- (2) Minutes of the Regular Study Session of the Planning Commission of February 22, 2017.
- (3) Minutes of the Regular Planning Commission Meeting of March 8, 2017.

C. Warrant Register

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

Wire Transfers Nos. 1608 through 1614,
 paid on 3/3/17, and Warrant Nos. 539454
 through 539596, paid on 3/3/17, in the amount
 of.....\$2,803,962.30

Warrant Nos. 539597 through 539801,
 paid on 3/10/17 in the amount of.....\$ 859,680.36

TOTAL WARRANT REGISTER.....\$3,663,642.66

Payroll Register

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

Warrant Nos. 559 through 561, and
 Automatic Deposit Advises 38458 through 38751,
 for the period 2/13/17 through 2/26/17, paid on
 3/3/17, in the amount of.....\$ 413,036.80

TOTAL PAYROLL REGISTER.....\$ 413,036.80

D. Notice of Completion – Avenida Vaquero Street Rehabilitation

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

1. Accept the Street Rehabilitation for Avenida Vaquero, from the contractor, R.J. Noble Company, Project Nos. 11302 & 13311.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Street Rehabilitation for Avenida Vaquero.
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 the contractor, R.J. Noble 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.

E. Contract Award – LED Street Light Conversion

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

1. Approve the specifications for the LED Street Light Conversion, Project No. 16505.
2. Approve a supplemental appropriation of \$15,000 from the Facilities Maintenance Reserve undesignated fund balance to Account 014-811-45300-000-16505.
3. Approve a purchase order with Leotek Electronics USA, LLC, not to exceed \$213,400, for the LED Street Light Conversion.
4. Approve, and authorize the Mayor to execute, Contract C17-10, by and between the City of San Clemente and Macadee Electrical Construction, providing for the LED Street Light Conversion, in the amount of \$46,543.
5. Authorize the Public Works Director to submit and execute a SDG&E energy efficiency rebate application and related documents as may be required by SDG&E.

F. Farmers Market at North Beach

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

1. Approve a weekly market at North Beach as a pilot program beginning April 2017.
2. Authorize the City Manager to draft an amendment to the Farmers Market Agreement (Contract C15-39), by and between the City of San Clemente and Introductions Unlimited, Inc., to include a weekly market at the North Beach/El Camino Real lot.

H. Contract Amendments - Temporary Staff Augmentation in the Planning Division of the Community Development Department

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

1. Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract AC-699, by and between the City of San Clemente and Civic Solutions, providing for temporary planning staffing services. This contract amendment increases the contract amount from \$59,986 to \$81,986, an increase of \$22,000, and extends the term of the contract through June 30, 2017, or until services are no longer needed.
2. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C16-73, by and between the City of San Clemente and Lilley Planning Group, Inc., providing for temporary planning staffing services. This contract amendment extends the contract terms to August 31, 2017, or until services are no longer needed.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**G. Draft Water Quality Improvement Plan Development and Draft Jurisdictional Runoff Management Program Update**

Interim Public Works Director Bonigut conveyed that the Coastal Advisory Committee requests that Staff Recommendation #3 be expanded to read as follows: "Authorize the Public Works Director to **accept input from the Coastal Advisory Committee after the draft is available and** approve minor corrections to the WQIP and JRMP after a 30-day public review/comment period and annual updates thereafter."

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

1. Authorize the submittal of the Draft South Orange County Water Quality Improvement Plan (WQIP) to the Regional Water Quality Control Board by April 1, 2017.
2. Authorize the submittal of the Draft San Clemente Jurisdictional Runoff Management Plan (JRMP) to the Regional Water Quality Control Board by April 1, 2017.
3. Authorize the Public Works Director to accept input from the Coastal Advisory Committee after the draft is available and approve minor corrections to the WQIP and JRMP after a 30-day public review/comment period and annual updates thereafter.

I. Contract Contingency Increase – San Luis Rey Park Playground Replacement

Council requested that Administrative Reports include details of the reasoning for significant contract overruns.

Staff is to inform Council whether or not swingsets will be installed at San Luis Rey Park.

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to:

1. Approve a supplemental appropriation in the amount of \$22,400 from the Community Development Block Grant undesignated fund balance to Account 017-896-45300-000-17349 for the San Luis Rey Park Playground Project.
2. Approve an increase to the contingency from \$7,500 to \$29,900 for the San Luis Rey Park Playground, Project 12724.

J. **Establishment of 2017 Weed Abatement Program**

City Clerk Baade recommended that Resolution No. 17-06 be revised to reflect the correct Public Hearing date of May 2, 2017.

Interim Code Compliance Supervisor Atamian responded to Council inquiries.

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adopt Resolution No. 17-06 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, PURSUANT TO SECTIONS 39561 AND 39562 OF THE CALIFORNIA GOVERNMENT CODE DECLARING WEEDS, RUBBISH, REFUSE, AND DIRT UPON STREETS, SIDEWALKS, PARKWAYS, AND PRIVATE PROPERTY TO BE PUBLIC NUISANCES AND PROVIDING FOR THE ABATEMENT THEREOF, with the modification that the Resolution reflect the correct Public Hearing date of May 2, 2017.

K. **SB 687 (Skinner) – Attorney General Authority on Hospital Closures Support Letter**

Council urged citizens to learn more about SB 687 and how they can help; pointed out the passage of the bill will not reverse the closure of San Clemente Hospital.

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

1. Support SB 687 (Attorney General Authority on Hospital Closures).
2. Authorize the Mayor to execute the letter of support to be submitted to the Senate Committee on Health.

7. PUBLIC HEARINGS**A. General Plan Consistency for Shorecliffs Senior Housing Site – Specific Plan Amendment 16-361**

Public Hearing to consider applicant-initiated amendments to the Forster Ranch Specific Plan. The site is located adjacent to the Shorecliffs Golf Course in an area presently occupied by the club house and driving range at 501 Avenida Vaquero. The site is approximately 500 feet to the west of the Interstate-5 Avenida Vaquero overpass, and 430 feet to the northwest of the intersection of Calle Arco and Avenida Vaquero. There are residences located beyond the golf course to the west, south, and east fronting Calle Grande Vista, Avenida Vaquero, and Calle Arco.

Associate Planner Wright reviewed the contents of the Administrative Report and responded to Council inquiries.

Mayor Ward opened the Public Hearing.

Mark McGuire, attorney representing the property owners, conveyed support for Staff's recommendation and responded to Council inquiry.

There being no others desiring to speak, the Public Hearing was closed.

Following discussion, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to:

1. Find the project is exempt from further review of the California Environmental Quality Act (CEQA) beyond the Centennial General Plan Environmental Impact Report (EIR), State Clearinghouse No. 2013041021, certified on February 13, 2014, pursuant to California Public Resources Code §21083.3.
2. Introduce Ordinance No. 1639 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING SPECIFIC PLAN AMENDMENT 16-361, AMENDING LAND USE DESIGNATIONS AND STANDARDS FOR A PORTION OF THE FORSTER RANCH SPECIFIC PLAN SECTOR G TO BE CONSISTENT WITH THE CENTENNIAL GENERAL PLAN.

8. UNFINISHED BUSINESS**A. Contract Award – San Clemente Summer Trolley**

Report from the Interim Public Works Director concerning a contract award for the operation of the San Clemente Summer Trolley.

Interim Public Works Director Bonigut reviewed the contents of the Administrative Report and responded to Council inquiries.

Council requested that the trolley be parked in strategic locations on Mondays through Thursdays as a means of advertising the trolley.

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

1. Confirm white roofs on the trolleys.
2. Approve, and authorize the Mayor to execute, Contract C17-11, by and between the City of San Clemente and Professional Parking and Transportation Services, providing for Summer Trolley Transit Operations Services on Fridays through Sundays, in the amount of \$78,336.

B. Staffing Changes within the Community Development Department

Report from the Assistant City Manager concerning staffing changes within the Community Development Department.

Human Resources Manager Lowe reviewed the contents of the Administrative Report and, along with Interim Code Compliance Supervisor Atamian, responded to Council inquiries.

Following discussion, MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to:

1. Adopt Resolution No. 17-07 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. 16-66 AND ANY OTHER RESOLUTIONS IN CONFLICT THEREWITH.
2. Approve the job descriptions for Code Compliance Manager, Code Compliance Technician and Community Development Technician I.

9. **NEW BUSINESS**

A. **Consideration of Letter Concerning the Potential 241 Toll Road Extension Option Number 9**

Report from the Interim Public Works Director concerning the possibility of submitting a letter to the appropriate transportation agencies and regional stakeholders concerning the potential 241 Toll Road Extension Option Number 9.

Interim Public Works Director Bonigut reviewed the contents of the Administrative Report and displayed a map that depicted routes that the TCA is considering for the toll road extension.

Mark McGuire, San Clemente, explained that he opposes an arterial that would follow the route delineated in Option 8 (La Pata/Cristianitos Road extension) because of its negative impact to sensitive habitat areas; commended Council for actively opposing any toll road alignment through San Clemente; recommended that Council support a toll road extension that ends at Cow Camp Road or Ortega Highway.

Dan Bane, San Clemente, urged Council to support Option 8 (La Pata/Cristianitos Road extension) and Option 15 (which would extend the 241 around San Clemente to an I-5 connection at Cristianitos Road); recommended that Council be aggressive in letters relating to the Environmental Impact Report; urged that Best, Best & Krieger investigate options available to the City; requested that property in San Clemente that is already owned by the TCA be identified to provide insight as to the alignment that the TCA intends to pursue.

Pete Van Nuys, San Clemente, noted that the beltway (i.e., the connection of the 5, 241 and 73) would alleviate traffic in Mission Viejo and San Juan Capistrano and is the best option available.

Gary Headrick, San Clemente Green, noted that San Clemente Green would publicly advocate against a toll road extension through San Clemente and spoke in support of the use of simulations as a communication tool to educate the public.

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

1. Authorize Staff to prepare a letter to the Transportation Corridor Agency that will begin, and end, with emphasis on San Clemente's opposition to any toll road alignment through the City. The letter is to promote the development of an arterial solution that could include routes indicated as Option 8 (La Pata/Cristianitos Road extension), Option 9 (east/west connection between 73 and 241 toll roads), and the Crown Valley Parkway extension. Copies of the letter are to be provided to Assemblymembers, State Senators, County Supervisor, OCTA and Caltrans.
2. Direct Staff to develop a plan for the individual alignments to be considered separately, with the understanding that simulations would be developed and that residents affected by each alignment would be notified so that they could speak at the appropriate Council meeting.

Council requested that updates on the toll road extension issue be provided at each Council meeting for the next six months.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

(1) **Consideration of Forming a Committee with the Cities of San Juan Capistrano and Dana Point to Discuss Issues of Mutual Concern**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to extend an invitation to the Cities of San Juan Capistrano and Dana Point to meet with representatives from the City of San Clemente on a monthly basis for a one-year trial period. Attendees from each City will consist of the Mayor, City Manager or Assistant City Manager, and possibly one Councilmember (to be determined by each city). The purpose of the meetings is to exchange ideas and synergize on issues of mutual concern. A summary from each meeting is to be provided to Council via memorandum.

B. City Manager

None.

C. City Attorney

None.

D. Council Members**Support Local Businesses**

Councilmember Swartz encouraged residents to support San Clemente businesses by shopping locally.

Orange County Transportation Authority Report (OCTA)

Councilmember Donchak provided an update on OCTA-funded signal synchronization projects throughout the City.

Retired Senior Volunteer Patrol (RSVP)

Councilmember Donchak requested that Staff research the possibility of opening the RSVP program to persons under 55 years of age.

San Onofre Nuclear Generating Station (SONGS)

Councilmember Donchak referenced the Interim Consolidated Storage Act and Price-Anderson Nuclear Industries Indemnity Act and requested that Best, Best & Krieger research the possibility of redefining the definition of a "Consent-Based Community" to include involuntary hosts, such as San Clemente, so that San Clemente can receive the associated benefits (financial, insurance, etc.). Council further suggested that the City also seek to receive the financial benefits of being an Interim Consolidated Storage site, including retroactive compensation for the past 40+ years of storage of nuclear material at SONGS.

Sign Ordinance

Councilmember Donchak requested the Sign Ordinance be agendized to enable the temporary signage to remain in place at the Outlet mall while the permanent sign process is in motion.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 3-2 (COUNCILMEMBERS DONCHAK AND SWARTZ VOTING NOE), to **not** agendize the possibility of initiating a change to the Sign Ordinance as it relates to temporary signage at the Outlet mall.

Transportation Corridor Agency

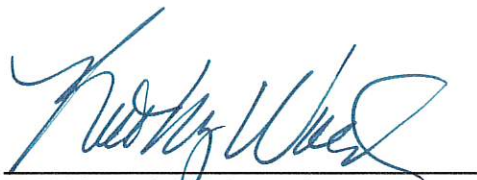
Mayor Ward reported that CalTrans independently initiated a settlement agreement to not build a road in the toll road avoidance area.

12. **RESOLUTIONS/ORDINANCES**

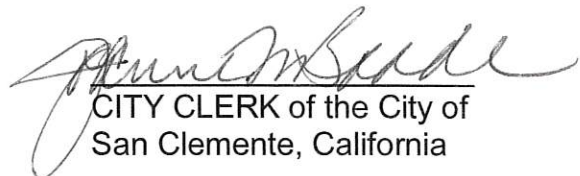
None.

13. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adjourn at 8:55 p.m., in memory of Kristin Nusenow, teacher at Marblehead Elementary School, to an Adjourned Regular City Council Meeting to be held on April 4, 2017 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 4:30 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