

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting – April 4, 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.

An Adjourned Regular Meeting of the San Clemente City Council was called to order on April 4, 2017 at 4:34 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Ward.

PRESENT DONCHAK, HAMM, SWARTZ, MAYOR WARD

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 SWARTZ, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to recess to Closed Session at 4:35 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: 6

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: Emergency Shelter Coalition v. City of San Clemente
Case Number: OCSC 30-201400758880

Case Name: Raymundo Cueto v. City of San Clemente
Workers Compensation Appeals Board Case Numbers: ADJ9854901;
ADJ9854900; ADJ8221707; ADJ9958508

Closed Session items continued on next page

Case Name: Jim Bieber v. City of San Clemente, et al.
Case Number: OCSC 30-2017-00906718

- B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS** Pursuant to Government Code Section 54956.8
Property: 1 Acre Vacant Land Parcel North of the Northeast Corner of Avenida Fabricante and Calle Extremo, APN # 690-661-09
Agency Negotiator: Erik Sund, Assistant City Manager
Negotiating Parties: City of San Clemente and Glaukos Corporation
Under Negotiation: Price and Terms of Payment for Purchase

- C. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9
Number of potential cases: 1

In attendance for the full Closed Session were all members of the City Council, except Mayor Pro Tem Brown who was absent, City Manager Makshanoff, Assistant City Manager Sund and City Attorney Smith. Community Development Director Gallardo-Daly was in attendance for Closed Session Items A and C.

MEETING RECONVENED

Council reconvened at 6:08 p.m., with all members present, except Mayor Pro Tem Brown, who was absent.

INVOCATION

Don Kappauf, Chaplain with the Orange County Sheriff-Coroner, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **San Clemente High School Update**

This item was deferred to the Council meeting of May 2, 2017.

B. Donate Life Month Proclamation

Mayor Ward presented a Proclamation to Dick Veale proclaiming the month of April 2017 as Donate Life Month.

C. Certificates of Recognition – Mt. Kilimanjaro Expedition to Bring Awareness to Elephant Poaching

Mayor Ward presented Certificates of Recognition to Hayden Hanson, Jacob Hernandez, Matthew Risley, and Tanner Payan, of the band "Tunnel Vision", and Daniel Delacruz (in absentia), band member of "Slightly Stoopid" for reaching the summit of Mt. Kilimanjaro, to bring awareness to elephant poaching. This expedition resulted in setting world records for the highest live-stream concert and highest live-stream saxophone performance in history.

2. ORAL COMMUNICATIONS (PART 1)**Southern California Edison**

Karalee Darnell, Southern California Edison, stated that she is the new local Government Affairs representative for South Orange County; noted that she works out of the Santa Ana service center and distributed her contact information to Council.

Opposition to Proposed Toll Road

Dr. Dustine Rey, Gratitude Garden Preschool, spoke in opposition to the construction of a toll road in San Clemente, citing health and safety concerns for children.

Eva O'Keefe, San Clemente, narrated a PowerPoint presentation entitled "No Toll Road Through Beautiful San Clemente". A hard copy of Ms. O'Keefe's PowerPoint presentation is on file with the City Clerk.

Carmen Everett, San Clemente, stated that she opposes any toll road alignment through San Clemente, but supports the beltway option and arterial road that would connect Cristianitos Road to La Pata.

Consideration of Thursday Trolley Service

Mikii Rathmann, representing the Downtown Business Association, urged Council to reconsider the issue of implementing trolley service on Thursdays during the summer to alleviate parking issues in the downtown.

Council requested that the possibility of adding Thursday service to the summer trolley schedule be agendized for the meeting of April 18, 2017.

San Onofre Nuclear Generating Station (SONGS) – Support for Revocation of Coastal Permit

Gary Headrick, San Clemente Green, urged Council to send a letter to the San Diego Superior Court that asserts that the California Coastal Commission did not consider all appropriate factors in issuing a permit to allow Southern California Edison to bury nuclear waste at SONGS; opined that the permit should be revoked.

Plastic Free SC Campaign

Jackson Hinkle, President and Founder of Team Zissou Environmental Club at San Clemente High School, explained the club's Plastic Free SC campaign, noting that the campaign advocates an action plan to eliminate plastic water bottles in San Clemente.

Josh Greene, Co-Founder of Team Zissou, stated that the club is selling reusable stainless steel water bottles and is working with local restaurants to encourage them to stop selling plastic water bottles and promote a transition to sustainable practices; urged Council to install water refill stations in San Clemente.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR PRO TEM 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**

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

6. **CONSENT CALENDAR**

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

A. **City Council Minutes**

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

- (1) Approve the Regular City Council Meeting minutes of March 7, 2017.
- (2) Approve the Regular City Council Meeting minutes of March 21, 2017.

B. **Receive and file:**

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

- (1) Minutes of the Regular Coastal Advisory Committee Meeting of January 12, 2017.
- (2) Minutes of the Regular Coastal Advisory Committee Meeting of February 9, 2017.
- (3) Minutes of the Regular Zoning Administrator Meeting of March 22, 2017.

C. **Warrant Register**

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

Wire Transfers Nos. 1616 through 1619, paid on 3/17/17, and Warrant Nos. 539802 through 539978, paid on 3/17/17, in the amount of.....\$ 1,081,857.07

Wire Transfer No. 1620, paid on 3/24/17, and Warrant Nos. 539979 through 540179, paid on 3/24/17, in the amount of.....\$11,052,615.60

TOTAL WARRANT REGISTER.....\$12,134,472.67

Payroll Register

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

Warrant Nos. 562 through 566, and Automatic Deposit Advises 38752 through 39052, for the period 2/27/17 through 3/12/17, paid on 3/17/17, in the amount of.....\$ 417,495.52

TOTAL PAYROLL REGISTER.....\$ 417,495.52

D. **Contract Award and Acceptance of Grant Revenue – South El Camino Real Street Rehabilitation**

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

1. Approve the plans and specifications for Street Rehabilitation for South El Camino Real, Project No. 14326.
2. Approve, and authorize the Mayor to execute, Contract C17-12, by and between the City of San Clemente and R.J. Noble Company, providing for Street Rehabilitation for South El Camino Real, in the amount of \$709,949.

Motion continued on following page

3. Accept grant revenue from the Orange County Transportation Authority in the amount of \$395,043 for FY 2017 to Account 012-000-33180-000-00000, Other Federal Grants.

F. **Notice of Completion – Street Improvements for Calle de los Molinos, Calle Valle, Calle Bonito, Rincon Court, and Avenida de la Estrella**

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

1. Accept the FY 2016 Street Improvements for Calle De Los Molinos, Calle Valle, Calle Bonito, Rincon Court, and Avenida De La Estrella, from the contractor, All American Asphalt, Project Nos. 18118, 19102 & 16351.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for FY 2016 Street Improvements for Calle De Los Molinos, Calle Valle, Calle Bonito, Rincon Court, and Avenida De La Estrella.
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, All American Asphalt.
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.

G. Notice of Completion – FY 2016 Slurry Seal Program

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

1. Accept the FY 2016 Slurry Seal Program from the contractor, Pavement Coatings Co., Project No. 26302.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the FY 2016 Slurry Seal Program.
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, Pavement Coatings Co.
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.

H. Notice of Completion – FY 2017 Slurry Seal Program

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

1. Accept the FY 2017 Slurry Seal Program, from the contractor, American Asphalt South Inc., Project No. 27308.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the FY 2017 Slurry Seal Program.
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, American Asphalt South Inc.
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.

I. **Contract Amendments – Park Maintenance and Restroom Cleaning at the Jim Johnson Memorial Sports Park**

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

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C16-34, by and between the City of San Clemente and E. Stewart and Associates, providing for Park Maintenance at the Jim Johnson Memorial Sports Park for the period of April, 2017 through June 30, 2018. This amendment increases the contract amount from \$66,469 to \$121,494, an increase of \$55,025.
2. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C16-35, by and between the City of San Clemente and E. Stewart and Associates, providing for Restroom Cleaning at the Jim Johnson Memorial Sports Park for the period of April, 2017 through June 30, 2018. This amendment increases the contract amount from \$23,031 to \$30,056, an increase of \$7,025.

J. **SB 75 (Bates) – Violent Felonies**

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

1. Support SB 75 (Bates) – Violent Felonies.
2. Authorize the Mayor to execute the letter of support to be submitted to the Senate Committee on Public Safety.

K. **AB 27 (Melendez) – Violent Felonies: Sex Offenses**

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

1. Support AB 27 (Melendez) – Violent Felonies: Sex Offenses.
2. Authorize the Mayor to execute the letter of support to be submitted to the Assembly Appropriations Committee.

L. AB 1326 (Cooper) – Theft. Aggregate Valuation

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

1. Support AB 1326 (Cooper) – Theft. Aggregate Valuation.
2. Authorize the Mayor to execute the letter of support to be submitted to Assembly Member Jim Cooper.

M. Contract Award – Interactive Voice Response System and On-Line/Mobile Payment Processing Services

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

1. Approve, and authorize the City Manager to execute, Contract C17-14, by and between the City of San Clemente and Smart Utility Systems, providing for implementation of an Interactive Voice Response System and On-line/Mobile Payment Processing Services, in the amount of \$23,575.
2. Approve, and authorize the City Manager to execute, Contract C17-15, a Software as a Subscription Agreement, by and between the City of San Clemente and Smart Utility Systems, for the annual recurring subscription fee of \$21,020.

N. Community Center Sunday Operations

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to approve modifications to the rental restrictions on Sunday mornings at the San Clemente Community Center, allowing recurring rentals in all rooms except the Auditorium.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

E. Contract Award – Concordia Elementary School Pedestrian and Bicycle Improvement Project

Council explained that the subject Safe Routes to School project will make the neighborhood safer and more pedestrian friendly.

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

1. Approve the plans and specifications for the Concordia Elementary School Pedestrian and Bicycle Improvement Project, Project No. 17326.
2. Approve, and authorize the Mayor to execute, Contract C17-13, by and between the City of San Clemente and California Landscape and Design, Inc., providing for the Concordia Elementary School Pedestrian and Bicycle Improvement Project, in the amount of \$1,043,770.50.
3. Approve a transfer of \$237,000 to the General Fund from the Fund Balance of the Street Improvement Fund.
4. Approve a supplemental appropriation of \$237,000 in the General Fund to Account 001-416-45300-000-17326.

7. PUBLIC HEARINGS

A. Draft 2017-18 Annual Action Plan for Expenditure of Community Development Block Grant (CDBG) Funds

Public Hearing to consider the proposed submission of the 2017-18 Annual Action Plan for expenditure of Community Development Block Grant (CDBG) Funds.

Interim City Planner Gregg reviewed the contents of the Administrative Report and responded to Council inquiries.

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

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

1. Approve and adopt the Draft 2017-2018 Annual Action Plan for use of Community Development Block Grant Funds.
2. Authorize the City Manager to submit the Annual Action Plan to HUD, which will execute the HUD contract (Contract C17-16).

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Code Amendment – State Video Franchises**

Report from the Assistant City Manager concerning a proposed amendment to the Code of the City of San Clemente relating to State Video Franchises.

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

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to introduce Ordinance No. 1640 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, REAUTHORIZING AND AMENDING CHAPTER 5.26 ENTITLED “VIDEO FRANCHISE FEES, CUSTOMER SERVICE, AND OTHER VIDEO-RELATED MATTERS” IN THE SAN CLEMENTE MUNICIPAL CODE.

B. **Park Master Plan Amendment - Jim Johnson Memorial Sports Park Synthetic Turf Field Area**

Report from the Interim Public Works Director concerning a Park Master Plan Amendment to the Jim Johnson Memorial Sports Park Synthetic Turf Field Area.

Interim Public Works Director Bonigut narrated a PowerPoint presentation entitled “Park Master Plan Amendment, Jim Johnson Memorial Sports Park” and responded to Council inquiries.

Following discussion, MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to amend the Master Plan to only install 96' of the 30' tall post/netting (using Option B with galvanized posts) at the eastern end of the synthetic turf soccer field in the Jim Johnson Memorial Sports Park, and to not install any additional fencing along Avenida Vista Hermosa.

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

Cost of Orange County Fire Authority (OCFA) Contract

Stephen Wontrobski, Mission Viejo, opined that the personnel costs associated with the OCFA contract are excessive; asserted that private paramedic services are more cost-effective than OCFA paramedic services; recommended that Council confer with neighboring cities regarding OCFA costs.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

Update on SB2 Lawsuit

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to consider the City Manager report prior to Oral Communications Part 1.

Community Development Director Gallardo-Daly provided an update concerning the SB2 lawsuit; stated that the court issued an injunction which limits the City's ability to issue building permits in commercial and mixed use areas; noted that an agreement with opposing counsel was reached in March to allow the City to issue permits within the injunction areas for building improvements that are valued under \$75,000 and for projects that involve repairs including HVAC and re-roofs. Information on the scope of projects that may be permitted can be found on the City's website.

C. **City Attorney**

None.

D. **Council Members**

Temporary Sign Ordinance

Councilmember Swartz requested that San Clemente's temporary sign ordinance be agendized under Councilmember items for the April 18, 2017 City Council meeting.

Nuclear Energy – Interim Storage

Councilmember Donchak requested that consideration of taking a position on nuclear energy interim storage be agendized for the San Clemente City Council meeting of April 18, 2017.

Orange County Transportation Authority (OCTA) Major Investment Study

Council requested that OCTA's Major Investment Study be agendized for the April 18, 2017 City Council meeting, to enable Councilmember Donchak to provide a report.

Swallows Day Parade

Mayor Ward reported on her attendance at the Swallows Day Parade.

San Luis Rey Playground Equipment

Mayor Ward reported on her attendance at the ribbon-cutting ceremony for the San Luis Rey Park playground equipment.

North Beach Farmers Market

Councilmember Hamm noted that the first North Beach Farmers Market will take place on April 12, 2017 at 3:00 p.m.

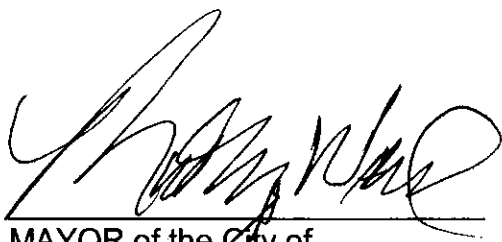
12. **RESOLUTIONS/ORDINANCES**

- A. **Ordinance No. 1639 (Second Reading) – Adopting Specific Plan Amendment 16-361, Amending Land Use Designations and Standards for a Portion of the Forster Ranch Specific Plan Sector G (Shorecliffs Senior Housing Site)**

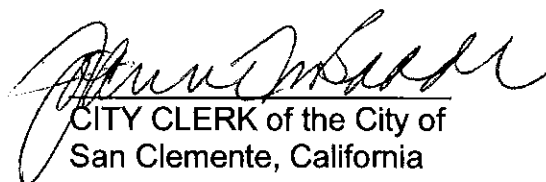
MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to adopt Ordinance No. 1639 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING SPECIFIC PLAN AMENDMENT 16-361, AMENDING LAND USE DESIGNATIONS AND STANDARDS FOR A PORTION OF THE FORSTER RANCH SPECIFIC PLAN SECTOR G TO BE CONSISTENT WITH THE CENTENNIAL GENERAL PLAN.

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to adjourn at 7:24 p.m. The next Regular City Council Meeting will be held on April 18, 2017 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