

# CITY OF SAN CLEMENTE

## City Council Minutes

### Adjourned Regular City Council Meeting – February 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.*

An Adjourned Regular Meeting of the San Clemente City Council was called to order on February 21, 2017 at 4:32 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Pro Tem Brown.

**PRESENT** BROWN, DONCHAK, HAMM, SWARTZ

**ABSENT** MAYOR WARD

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

#### **CLOSED SESSION (4:30 P.M.)**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to recess to Closed Session at 4:32 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: 5

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

*Closed Session items continued on following page*

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

Case Name: San Clemente Vacation Rental Alliance v. City of San Clemente  
Case Number: OCSC 30-2016-00858999-CU-WM-CJC

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

In attendance for the full Closed Session were all members of the City Council with the exception of Mayor Ward who was absent, City Manager Makshanoff and Assistant City Manager Sund. City Attorney Smith and Community Development Director Gallardo-Daly were in attendance for Closed Session Items B and C.

**MEETING RECONVENED**

Council reconvened at 6:06 p.m., with all members present.

**INVOCATION**

Mayor Pro Tem Brown gave the invocation.

**PLEDGE OF ALLEGIANCE**

Councilmember Hamm led the Pledge of Allegiance.

**1. SPECIAL PRESENTATIONS**

- A. Recognition of Watershed Task Force Beach Cleanup Crew**

Councilmember Donchak presented Certificates of Recognition to members of the Watershed Task Force Beach Cleanup Crew.

Bill Hart, Watershed Task Force Chair, reviewed the background of the Watershed Task Force and Adopt-a-Beach program, noting that beach quality grades have significantly improved; introduced Bill Vasilauskas, Coordinator of the Beach Cleanup Crew.

Bill Vasilauskas, Coordinator of the Beach Cleanup Crew, thanked Council for its recognition of the Beach Cleanup program and invited Council and the public to attend the upcoming Earth Day event; recognized Nanci Mavar for her efforts on the Watershed Task Force; noted that the beach trail bridge needs maintenance.

B. **Beaches, Parks and Recreation Spring Activities and Fun on the Run 10-Year Anniversary**

Wendyann Fernandez, Peggy Lacayo, Leslie Lopez and Alexis Honens of the Beaches, Parks and Recreation Department narrated a PowerPoint presentation entitled “Spring Activities and Fun on the Run Celebrates 10 Years”. A hard copy of the presentation is on file with the City Clerk.

C. **Orange County Human Relations Report**

Francisco Marmolejo and Susan Reese, of Orange County Human Relations, provided an overview of Orange County Human Relations activities, presented the City with a Certificate of Recognition, and distributed the 2015-2016 Annual Report, which is on file with the City Clerk.

D. **San Clemente Police Services Report Concerning Homelessness**

Lt. Dave Moodie and Community Liaison Deputy Joe Bull, of San Clemente Police Services, narrated a PowerPoint presentation entitled “San Clemente Homeless Status Report” and responded to Council inquiries. A hard copy of the presentation is on file with the City Clerk.

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

**Court Injunction Prohibiting the Issuance of Building Permits**

Michael Luna, representing the Architectural Guild of South Orange County, voiced concern with the court injunction that prohibits the issuance of building permits in certain areas of San Clemente until the City has complied with the court order relating to SB2 (Emergency Shelter Act); explained the negative impacts of the court injunction on property owners and urged Council to seek a timely resolution.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD 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****Daniel Walker v. City of San Clemente – Final Settlement Agreement**

City Attorney Smith advised that Council took no reportable action during this evening's Closed Session; noted, however, that at its meeting of January 17, 2017, Council voted 4-0 (Councilmember Hamm absent) in Closed Session to approve the terms of the final settlement agreement in the case of Daniel Walker v. City of San Clemente; reported that Council also approved the Stipulated Order for the Court to close out the case and maintain jurisdiction.

**6. CONSENT CALENDAR**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to approve the Consent Calendar, with the removal of Items G, I and L.

**A. City Council Minutes**

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

- (1) Approve the Special and Regular City Council Meeting minutes of February 7, 2017.
- (2) Approve the Adjourned Regular City Council Meeting minutes of February 13, 2017.

**B. Receive and file:**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to receive and file:

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

- (3) Minutes of the Adjourned Regular Planning Commission Meeting of February 8, 2017.

C. **Warrant Register**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to approve:

Wire Transfers Nos. 1598 through 1601, paid on 2/2/17, and Warrant Nos. 538827 through 538976, paid on 2/3/17, in the amount of.....\$2,200,374.97

Warrant Nos. 538977 through 539152, paid on 2/10/17, in the amount of.....\$ 668,445.21

TOTAL WARRANT REGISTER.....\$2,868,820.18

**Payroll Register**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to approve:

Warrant Nos. 555 through 556, and Automatic Deposit Advises 37897 through 38175, for the period 1/16/17 through 1/29/17, paid on 2/3/17, in the amount of.....\$ 410,146.93

TOTAL PAYROLL REGISTER.....\$ 410,146.93

D. **Ole Hanson Beach Club Pool Deck Furniture and Trash Receptacles**

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

1. Approve Option 1, which is depicted in the Administrative Report, dated February 21, 2017 and on file with the City Clerk, as the pool deck furniture for the Ole Hanson Beach Club.
2. Approve Option 1, which is depicted in the Administrative Report, dated February 21, 2017 and on file with the City Clerk, as the trash receptacle for the Ole Hanson Beach Club and the surrounding grounds area.

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

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to approve a supplemental appropriation in the amount of \$96,000 from the Sewer Fund Depreciation Reserve to Account 054-476-43420-24200 to fund anticipated expenditures for the Sewer System Rehabilitation through the end of the fiscal year.

F. **Notice of Completion – North Beach Opportunistic Sand Replenishment Project**

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

1. Accept the North Beach Opportunistic Sand Replenishment Project, Project No. 27701, from the contractor, Wright Construction Engineering Corporation.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the North Beach Opportunistic Sand Replenishment Project.
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, Wright Construction Engineering Corporation.
4. Authorize the City Clerk to release the Performance Bond.

H. **Contract Amendment – Support Management of Housing and Urban Development (HUD) Funds**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C16-25, by and between the City of San Clemente and Mike Linares, Inc., providing for support management of housing and urban development (HUD) funds. This contract amendment increases the contract amount from \$28,500 to \$43,500, an increase of \$15,000.

J. **Contract Amendment – Pre-Design and Final Design Services for New Information Systems Data Center (Inclusion of Backup Generator)**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to approve, and authorize the Mayor to execute, Amendment No. 2 to Contract AC-365, by and between the City of San Clemente and PTS Data Center Solutions, Inc., relating to the pre-design and final design of a new Information Systems Data Center. This amendment expands the scope of services to include a backup generator and increases the contract amount from \$40,880 to \$50,880, an increase of \$10,000.

K. **Contract Award – Purchase, Implementation, and Ongoing Maintenance of Rec1 Recreation Management Software**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR WARD ABSENT), to approve, and authorize the Mayor to execute, Contract C17-06, by and between the City of San Clemente and CivicPlus, Inc., dba CivicPlus, providing for the purchase, implementation, and ongoing maintenance of the Rec1 Recreation Software System, in an amount not to exceed \$22,000 for implementation and training, plus an estimated annual service fee of \$30,000.

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

G. **Contract Amendment – Preparation of Update to the Local Coastal Program and a Sea Level Rise Study**

Interim City Planner Gregg and Contract Planner Leslea Meyerhoff responded to Council inquiries concerning the Sea Level Rise Study.

During the course of discussion, Council directed that the Sea Level Rise study address the following: 1) a comprehensive analysis of historical sea level rise levels and future projections; 2) the affect of the sea level rise on the surf break; 3) the affect of the sea level rise on municipal infrastructure, including the San Clemente pier; and 4) to the extent possible, the affect of the sea level rise on the railroad tracks and the decommissioned San Onofre Nuclear Generating Station.

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

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C14-15, by and between the City of San Clemente and Dudek/McCabe and Company, providing for consultant services to update the Local Coastal Program and prepare a Sea Level Rise study. This contract amendment increases the contract amount from \$148,250 to \$283,250, an increase of \$135,000 in grant funds.
2. Accept grant revenues of \$135,000 from the State of California to Account 001-000-33490 and approve a related budget appropriation of \$135,000 to Account 001-431-43890.

I. **Contract Award – Code Enforcement Legal Services**

Assistant City Manager Sund and Matt Silver, of Silver & Wright, LLP, provided an overview of the legal services that the proposed contract will provide, noting that the primary goals are to achieve Code compliance and cost recovery in a customer-service oriented manner.

Following discussion, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR WARD ABSENT), to approve, and authorize the Mayor to execute, Contract C17-07, by and between the City of San Clemente and Silver & Wright, LLP, providing for code enforcement legal services, effective March 1, 2017, with the following provisions:

1. Staff is to work closely with the Orange County Sheriff's Department to maximize the impact of service.
2. The 12-month contract expenditures are to be capped at a net \$30,000 cost to the City. Staff is to return to Council if the City's legal fees exceed \$30,000.
3. Staff is to report back to Council with a status update at an appropriate interval on the success of the program.



L. **Appropriation and Transfer to the Beach Parking Impact Fee Program**

Following discussion, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR WARD ABSENT), to approve a supplemental appropriation in the Developers Improvement Fund for a transfer totaling \$700,000 to the Public Facilities Construction Fee Fund for the Beach Parking Impact Fee Program. Any unclaimed funds are to be held in a Restricted Fund intended for public capital projects to improve and enhance the North Beach community area.

7. **PUBLIC HEARINGS**

None.

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****Establishment of Joint Committee with the Cities of Dana Point and San Juan Capistrano**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR WARD ABSENT), to agendaize for a future Council meeting, the possibility of establishing a Committee consisting of Council and/or Staff representatives from the Cities of San Clemente, Dana Point and San Juan Capistrano to discuss issues of mutual concern.

**Coastal Animal Services Authority (CASA)**

Councilmember Donchak reported that she has received complaints concerning dogs off leash on trails and requested that Councilmember Hamm, as the Council representative to the CASA Board, discuss the issue with the Board and develop an enforcement plan. Councilmember Donchak will forward the complaints to the City Manager.

**Community Engagement Panel (CEP)**

Mayor Pro Tem Brown reported that he attended a CEP meeting on February 16, 2017 and noted that a seismologist from the Scripps Institute spoke about earthquake hazards and associated threats to the San Onofre Nuclear Generating Station; advised that the information that was presented can be accessed at [www.songscommunity.com](http://www.songscommunity.com). Mayor Pro Tem Brown conveyed that the CEP meets quarterly and the next meeting will focus on Consolidated Interim Storage (CIS).

**San Clemente Day**

Mayor Pro Tem Brown reported that Saturday, February 25, 2017 is the soft opening for the first San Clemente Day; displayed a video by Beaches, Parks and Recreation Staff inviting residents to attend the various San Clemente Day activities.

**Around Town on Traffic Calming**

Councilmember Hamm reported that he hosted an Around Town concerning traffic-calming projects in the City; advised that the video can be viewed from the City's website under "Public Service Announcements".

12. RESOLUTIONS/ORDINANCES

None.

13. ADJOURNMENT

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR WARD ABSENT), to adjourn at 7:32 p.m., in honor of Whittier Police Officer Keith Boyer, who was killed in the line of duty, and Whittier Police Officer Patrick Hazel, who was injured in the line of duty, to an Adjourned Regular City Council Meeting to be held on March 2, 2017 at 4:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, for the purpose of considering the Long Term Financial Plan.



MAYOR of the City of  
San Clemente, California



CITY CLERK of the City of  
San Clemente, California