

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting – June 6, 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.

The Adjourned Regular Meeting portion of the San Clemente City Council meeting of June 6, 2017, that was scheduled to commence at 3:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, was adjourned by the City Clerk due to lack of quorum.

PRESENT NONE

ABSENT BROWN, DONCHAK, HAMM, SWARTZ, MAYOR WARD

STAFF PRESENT Joanne M. Baade, City Clerk

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ADJOURNED REGULAR MEETING – PUBLIC HEARING

A. 305 West Avenida Gaviota - Appeal of San Clemente Administrative Hearing Decision, Short-Term Lodging Unit (STLU) Operating License 314801 – Appeal de Novo Hearing

Public Hearing to consider an appeal that was filed with the City of San Clemente appealing the decision rendered in an Administrative Hearing of a City-initiated STLU Operating License Revocation Hearing for the property located at 305 West Avenida Gaviota.

City Clerk Baade announced that the subject Public Hearing, that was scheduled to take place at 3:30 p.m., is being deferred to the Council meeting of June 20, 2017 at 3:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California; noted that the Public Hearing will be re-noticed.

CALL TO ORDER OF REGULAR CITY COUNCIL MEETING

A Regular Meeting of the San Clemente City Council was called to order on June 6, 2017 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, by Mayor Ward.

PRESENT BROWN, DONCHAK*, HAMM, SWARTZ, MAYOR WARD

*Left meeting at 10:05 p.m.

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 5:01 p.m. to discuss the following:

A. 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

B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 6

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

Case Name: Sober Network Properties et al. v. City of San Clemente
Case Number: USDC 8:16-cv-00668

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

Closed Session items continued on following page

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

C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8
Property: Lot 91 located at 754 Avenida Acapulco, San Clemente
APN: 690-372-03
Agency Negotiator: Erik Sund, Assistant City Manager
Negotiating Parties: City of San Clemente and Frank Bassett
Under Negotiation: Price and Terms of Payment for Purchase

In attendance for the full Closed Session were all members of the City Council, City Manager Makshanoff, Assistant City Manager Sund, City Attorney Smith, Attorney Winterswyk with Best, Best & Krieger, and Community Development Director Gallardo-Daly.

MEETING RECONVENED

Council reconvened at 6:15 p.m., with all members present.

INVOCATION

James "Jim" Davis, Chaplain, Orange County Sheriff's Department, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Swartz led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Presentation of Proclamation – Lt. Dave Moodie

Mayor Ward presented a Proclamation to Lt. Dave Moodie in recognition of his distinguished service as Chief of San Clemente Police Services.

B. Human Relations Leadership Award

Mayor Ward presented the Human Affairs Student Leadership Award to San Clemente High School student Samantha Olmos, in recognition of her dedicated commitment to human relations.

C. **White Sharks in San Clemente**

Marine Safety Chief Humphreys narrated a PowerPoint presentation entitled “White Sharks in San Clemente” and, along with Dr. Lowe with California State University Long Beach, responded to Council inquiries. A hard copy of Mr. Humphreys’ presentation is on file with the City Clerk.

Tom Gudauskas, San Clemente, read an email that he sent to Council concerning the importance of ocean safety, particularly at major surf events such as the Stoke-o-Rama; recommended that Council request that the California Department of Fish and Game lift the moratorium on fishing white sharks to reduce their presence in the area. A hard copy of Mr. Gudauskas’ email is on file with the City Clerk.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to receive and file the Administrative Report, dated June 6, 2017, which is on file with the City Clerk.

D. **San Clemente Friends of the Reserve Report**

Laurie Gooch, San Clemente Friends of the Reserve Representative, provided an update on programs and activities at the Richard and Donna O’Neill Land Conservancy.

E. **Pier Pride Presentation**

Julia Darden and Jim Nielsen narrated a PowerPoint presentation entitled “Pier Pride Update” concerning Pier Pride goals and activities. A hard copy of the presentation is on file with the City Clerk.

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

Memorial Day Event Brochure/Portable Restrooms at Linda Lane Park

Helen McCue, San Clemente, voiced concern that the Merchant Marines’ insignia was not included in the City’s Memorial Day brochure; urged Council to install portable restrooms near the playground area at Linda Lane Park during summer months.

Tree Removal/Replacement on Esplanade Median

Kathy Martz, San Clemente, stated she represents 58 homeowners; voiced concern with the proposed removal of the Brazilian Pepper trees from the center median of Esplanade; urged Council to engage Esplanade residents in the selection of replacement trees.

Potential Toll Road

Mark McGuire, San Clemente, suggested that Council add a toll road update to the agenda for each Council meeting; urged Council to retain a traffic consultant to help stop the toll road extension through San Clemente on the basis of traffic; reviewed traffic statistics, noting that the Transportation Corridor Agency's traffic projections are not accurate.

Fire/EMS Services

Stephen Wontrobski, Mission Viejo, voiced concern with the cost of the City's contract with the Orange County Fire Authority (OCFA); urged Council to evaluate the possibility of contracting with agencies other than the OCFA for paramedic and fire suppression services.

3. MOTION BY COUNCILMEMBER DONCHAK, 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**

City Attorney Smith advised that Council did not take any reportable actions during this evening's Closed Session; reported that Council will recess back to Closed Session at the end of the Business Meeting.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items B-2, E, and L. Councilmember Hamm announced that he will recuse from voting on Item 6-L because he owns property within 500' of one of the pothole projects on Avenida Princesa, and will recuse from voting on Item 6-R because he is employed by the Orange County Fire Authority (OCFA).

A. **City Council Minutes**

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

- (1) Approve the minutes of the Regular City Council Meeting of May 16, 2017.
- (2) Approve the minutes of the Adjourned Regular City Council meeting of May 22, 2017.

B. **Receive and file:**

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

- (1) Minutes of the Regular Beaches, Parks and Recreation Commission meeting of March 14, 2017.

C. **Warrant Register**

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

Handwrite No. 541296, paid on 5/12/17,
 Wire Transfers Nos. 1634 through 1637,
 paid on 5/12/17, and Warrant Nos. 541152
 through 541295, paid on 5/12/17, in the amount
 of.....\$ 650,842.82

Warrant Nos. 541297 through 541521,
 paid on 5/19/17, in the amount of.....\$ 3,185,319.43

Wire Transfers Nos. 1638 through 1643,
 paid on 5/26/17, and Warrant Nos. 541522
 through 541655, paid on 5/26/17, in the amount
 of.....\$ 1,135,843.95

TOTAL WARRANT REGISTER..... \$ 4,972,006.20

Payroll Register

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

Warrant Nos. 578 through 579, and Automatic Deposit Advises 39961 through 40266, for the period of 4/24/17 through 5/7/17, paid on 5/12/17, in the amount of.....\$ 426,509.06

Warrant Nos. 580 through 584, and Automatic Deposit Advises 40267 through 40598, for the period of 5/8/17 through 5/21/17, paid on 5/26/17, in the amount of.....\$ 425,741.49

TOTAL PAYROLL REGISTER.....\$ 852,250.55

D. SB 34 (Bates) – Residential Treatment Facilities

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to authorize the Mayor to execute a letter to Senator Bates in support of SB 34 (Bates) – Residential Treatment Facilities.

F. Notice of Completion – Primary Clarifier Number 5 Rehabilitation (Sludge Collection Equipment)

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

1. Accept the Primary Clarifier Number 5 Rehabilitation (Sludge Collection Equipment), City Project No. 16204, from the contractor, Spiess Construction Co., Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Primary Clarifier Number 5 Rehabilitation (Sludge Collection Equipment).
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 Spiess Construction Co., 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.

G. **Contract Award – Primary Clarifier Number 4 Rehabilitation (Sludge Collection Equipment and Tank Coating)**

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

1. Approve the plans and specifications for the Primary Clarifier No. 4 Rehabilitation (Sludge Collection Equipment and Tank Coating), Project No. 16204.
2. Approve a supplemental appropriation in the amount of \$78,060 from the Sewer Depreciation Reserve Fund Account 054-476-45300-000-16204.
3. Approve, and authorize the Mayor to execute, Contract C17-22, by and between the City of San Clemente and Tharsos, Inc., providing for the rehabilitation of Primary Clarifier No. 4 (Sludge Collection Equipment and Tank Coating), in the amount of \$455,000.

H. **Notice of Completion – Main Pump Station HVAC Modifications**

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

1. Accept the Main Pump Station HVAC Modifications from the contractor, Ricco Refrigeration & Air Conditioning Co.; Project No. 24200.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Main Pump Station HVAC Modifications.
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 Ricco Refrigeration & Air Conditioning 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.

I. **Amendment to Heritage of San Clemente Foundation Partnership Agreement**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the City Manager to execute, Amendment No. 1 to the Partnership Agreement by and between the City of San Clemente and the Heritage of San Clemente Foundation (Contract C08-45). This Amendment provides for the use of two additional parking spaces on Alameda Lane for the Independence Day event located at Park Semper Fi.

J. **Partnership Agreement – San Clemente Ocean Festival**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C17-23, a partnership agreement by and between the City of San Clemente and the San Clemente Ocean Festival, relating to the annual Ocean Festival, for a 5-year term with three (3) possible 5-year extensions. ***SEE NOTE BELOW.**

***NOTE: Council reconsidered this action later in the meeting. Please refer to Page 12 of these minutes for a summary of the revised action.**

K. **Rejection of Construction Contract Bids – West Avenida Palizada Sidewalk Project**

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

1. Reject all bids for the West Avenida Palizada Sidewalk Project, Project No. 16345.
2. Authorize Staff to value engineer and rebid the West Avenida Palizada Sidewalk Project.

M. **Contract Amendment - Audit of City Financial Records, Single Audit of Federal Grants, Audit of Public Financing Authority, Audit of Coastal Animal Services Authority and Issuance of Related Financial Reports**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the City Manager to execute, Amendment No. 1 to Contract C13-16, by and between the City of San Clemente and Van, Lant & Fankhanel, LLP. This Amendment increases the contract amount from \$129,600 to \$162,600 (an increase of \$33,000), and extends the term of the Agreement until the completion of the June 30, 2017 audit, unless terminated earlier pursuant to the terms of the original agreement.

N. **Declaration of Surplus Funds – Street Overlay and Replacement Assessment District No. 95-01**

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

1. Declare a surplus of \$160,000 related to the funds received under the assessment for the payment of bonds.
2. Authorize Staff to transfer the surplus funds to the Street Improvement Fund to be utilized for street rehabilitation projects.

O. **Citizens Option for Public Safety Programs (COPS)**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve the use of COPS Grant funds for a portion of one patrol deputy position for FY 2017-18.

P. **Park Master Plan Amendment – Vista Hermosa Sports Park’s Courtney’s Sandcastle Playground**

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

1. Approve Amendment No. 2 to the Master Plan of Vista Hermosa Sports Park’s Courtney’s Sandcastle Playground. This Amendment adds an additional shade structure located over the sandbox area adjacent to the picnic table shelter.
2. Approve Option Two of the proposed structure options, as delineated in the Administrative Report, dated June 6, 2017, and on file with the City Clerk.
3. Accept a commitment of funds from the Courtney’s Sandcastle Charitable Foundation up to \$20,000 to support the funding of the shade structure to Account 031-000-36790-000-10143, and approve a supplemental appropriation of \$20,000 for project expenditures in Account 031-862-45300-000-10143.

Q. **Light Attack Helicopter Squadron HMLA-469 – Discontinuation of Formal Adoption Arrangement**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to adopt Resolution No. 17-13 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DISCONTINUING THE CITY’S ADOPTION, THROUGH THE “AMERICA SUPPORTING AMERICANS” PROGRAM, OF LIGHT ATTACK HELICOPTER SQUADRON HMLA-469, AND RESCINDING RESOLUTION NO. 13-18.

R. **Orange County Fire Authority (OCFA) Letter Agreement for 4th Firefighter**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY MAYOR PRO TEM BROWN, CARRIED 4-0-1 (COUNCILMEMBER HAMM RECUSED BECAUSE HE IS EMPLOYED BY THE OCFA), to:

1. Approve the staffing modification to the OCFA Fire Services contract for a 4th firefighter position, with a phased-in cost-sharing approach as proposed by OCFA.
2. Approve, and authorize the City Manager to execute, a letter agreement providing for the staffing modification.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**6(2). Minutes of the Regular Beaches, Parks and Recreation Commission Meeting of May 9, 2017**

Council referenced the portion of the Beaches, Parks and Recreation Commission minutes of May 9, 2017 relating to the T-Street surfing policy; requested that the possibility of allowing, for a one-month trial period during the summer of 2018, the use of soft top surfboards while the blackball for standard surfboards is in effect. It was agreed that this issue will be agendized for a future Council meeting.

MOTION BY COUNCILMEMBER HAMM, CARRIED BY MAYOR PRO TEM BROWN, CARRIED 5-0, to receive and file the Beaches, Parks and Recreation Commission minutes of May 9, 2017.

E. Contract Award - Street Rehabilitation for Avenida Vaquero

In response to Council concern about time delays caused by All American Asphalt on the Camino Del Rio/Camino de Los Mares round-about project, Staff confirmed that all City construction contracts include a liquidated damages proviso and a baseline schedule for project completion.

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

1. Approve the plans and specifications for street rehabilitation for Avenida Vaquero (from Caltrans right-of-way to Calle Vallarta), Project No. 17342.
2. Approve, and authorize the Mayor to execute, Contract C17-21, by and between the City of San Clemente and R.J. Noble Company, providing for the rehabilitation of Avenida Vaquero (from Caltrans right-of-way to Calle Vallarta) in the amount of \$304,767.

J. Partnership Agreement – San Clemente Ocean Festival

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (COUNCILMEMBER HAMM ABSENT), to reconsider Council's action earlier this evening on Item 6-J.

Council pointed out that the City is a major sponsor of the Ocean Festival, and the Transportation Corridor Agency (TCA), which has interests in direct conflict with San Clemente and its residents, has donated \$5,000 to the Festival. Discussion ensued relative to the possibility of the City donating

\$5,000 to the Ocean Festival to replace the TCA's donation, and to also direct Staff to prepare a Donation/Gift Policy that would allow the City to decline donations from entities whose purposes are inconsistent with the City's goals, objectives or best interests.

Ernie Marques, President of the San Clemente Ocean Festival, concurred with Council's suggestion that the City replace the TCA's donation; reviewed the history of TCA donations, noting that the contributions were used for local grants and scholarships; explained that the Ocean Festival Board struggled with this year's TCA donation because of the benefit the community derives from donations versus the current climate with regard to the toll road issue.

In response to Council inquiry, Peggy Vance, San Clemente Ocean Festival, stated that the Ocean Festival entered into a contractual agreement with the TCA in March 2017; stated that in exchange for the TCA's \$5,000 donation, the Ocean Festival is obliged to include reference to the TCA in various marketing materials, some of which have already been printed and mailed; stated that she has been in communication with the TCA and believes that it would be willing to work with the Ocean Festival to implement Council's suggestion that the City replace the TCA's donation, with the understanding that the TCA will not be allotted a sponsor booth at the Festival but will still be included in the Festival's marketing material; concurred with Council's suggestion that the proposed agreement between the City and Ocean Festival be amended after a Donation/Gift Policy is developed that specifies that the City may decline donations from entities whose purposes conflict with City interests.

Brad Malamud, San Clemente, urged Council to not create a Gift/Donation Policy that bans donations from organizations that do not align with the City's values.

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

1. Approve, and authorize the Mayor to execute, Contract C17-23, a partnership agreement by and between the City of San Clemente and the San Clemente Ocean Festival, relating to the annual Ocean Festival, for a 5-year term with three (3) possible 5-year extensions, with the understanding that Staff will return to Council with an amendment to the 5-year contract after Staff develops a Donation/Gift Policy that specifies that the City may consider the public trust and decline donations from entities whose purposes are inconsistent with the City's goals, objectives or best interests.

Action continued on next page

2. Approve a \$5,000 donation to the Ocean Festival to replace the donation provided by the Transportation Corridor Agency (TCA).
3. Transfer \$5,000 from the Council Contingency Account 001-203-44900-000-00000 to Economic Development Contribution Account 001-151-44780-000-00000.

L. **Rejection of Construction Contract Bids – Street Rehabilitation and Slurry Seal Projects**

Councilmember Hamm announced that he would recuse himself from deliberations on this item because he owns real property within 500' of one of the pothole projects on Avenida Princesa; left the Chambers at 7:45 p.m.

In response to Council concern that combining numerous projects into one bid package could have made it difficult for small companies to bid on the subject projects, Staff responded that it will consider re-packaging the street rehabilitation and slurry seal projects if it believes that better bids will result.

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY MAYOR PRO TEM BROWN, CARRIED 4-0-1 (COUNCILMEMBER HAMM RECUSED), to:

1. Reject all bids for Street Rehabilitation for: Avenida Palizada, Project No. 17340; and Street Rehabilitation and Slurry Seal for: Avenida Presidio, Avenida Miguel and Avenida Salvador, Project No.17341; and FY 2016 Major Street Maintenance for: Avenida Calafia, West Avenida Junipero and Avenida Princesa, Project No. 27301; and Various Other Pavement Repair Locations, Project No. 27306.
2. Authorize Staff to value engineer and re-bid the projects discussed in the Administrative Report, dated June 6, 2017, and on file with the City Clerk.

Councilmember Hamm returned to the Council Chambers at 7:48 p.m.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

A. **Contract Award – Visual Simulations of Potential Toll Road Alignments**

Report from the Deputy Public Works Director concerning a contract award providing for visual simulations of potential Toll Road alignments.

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

Josh Hershman, San Clemente, suggested that the placement of signage along the proposed toll road route would be more effective in educating the public than photo simulations.

Mark McGuire, San Clemente, conveyed his support for photo simulations as a way to educate the public, but suggested that it is premature to obtain photo simulations at this time because insufficient information is currently available from the TCA.

Brad Malamud, San Clemente, stated that he is opposed to the toll road, but does not support the proposed contract for photo simulations; suggested the City submit a Public Records Request to the TCA requesting the drawings for potential toll road alignments through San Clemente.

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

1. Approve a Task Order under the existing As-Needed Professional Services Agreement (Contract C15-05), by and between the City of San Clemente and Kimley-Horn, providing for toll road visual simulations, at a cost of \$46,300, with the direction that the funding be held in reserve until such time as adequate data is available to produce simulations that are commensurate with the level of accuracy that residents deserve.
2. Approve an appropriation in the amount of \$46,300 from the Council Contingency Reserve Account 001-203-44900-000-00000 for the subject Task Order.
3. Direct Staff to submit a PRA request to the TCA that requests records that will help in the development of accurate simulations. The request is to include, but not be limited to, maps, elevations, engineering

materials and all design alternatives for toll road alignments located within San Clemente's borders.

4. Direct Staff to include TCA updates at the beginning of each future Council agenda.

It was agreed that Council will consider establishing a toll road subcommittee at its meeting of June 20, 2017.

9. **NEW BUSINESS**

A. **Water Utility Cost-of-Service Update**

Report from the Assistant City Manager concerning the water utility cost-of-service study.

Assistant City Manager Sund reviewed the purpose of the water cost-of-service study and introduced Robert Grantham, Vice President of Carollo Engineers. Mr. Grantham narrated a PowerPoint presentation concerning water rate structures and responded to Council inquiries. A hard copy of the PowerPoint is on file with the City Clerk.

Brad Malamud, San Clemente, suggested that multi-tiered water rates are illegal and inequitable; urged Council to implement a uniform rate structure.

Following discussion, Council directed that the water cost-of-service study be completed and that Staff return to Council with two rate structure options (i.e. a uniform rate structure and a two-tier rate structure) as well as Proposition 218 noticing for both options.

B. **Adoption of Fiscal Year 2017-18 City Budget**

Report from the Assistant City Manager concerning adoption of the Fiscal Year 2017-18 City Budget.

Deputy Administrative Services Director Vincent narrated a PowerPoint presentation entitled "City of San Clemente Budget Adoption Fiscal Year 2017-18". A hard copy of Ms. Vincent's PowerPoint is on file with the City Clerk.

Brad Abraham and Len Miller, Newport Beach, conveyed that their company, PPR Corporation, can safely solve the City's pigeon situation while saving the City \$100,000 from the \$375,000 projected cost that was cited in the Orange County Register.

Georgette Korsen, San Clemente, spoke in support of pigeons and urged that they be treated in a humane manner; urged Council to not authorize netting of the pier as a way to deter pigeons from nesting; opined that the intermittent elevated bacteria levels in the ocean are not caused by pigeons.

Alan Korsen, San Clemente, suggested that the Clean Ocean Fund should not be used to kill pigeons; urged Council to not waste \$375,000 of taxpayer money to add netting under the pier.

Deputy Public Works Director Bonigut explained that the proposed pier repair project includes netting of the underside of the pier from the base of the pier to Tower Zero to prevent pigeons from roosting; stressed that pigeons will not be killed.

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

1. Adopt Resolution No. 17-14 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING AND APPROVING THE BUDGET AT THE FUND LEVEL FOR THE CITY OF SAN CLEMENTE FOR THE 2017-18 FISCAL YEAR AND THE COMMITMENT OF FUND BALANCE.
2. Adopt Resolution No. 17-15 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING REVISED SALARY SCHEDULES AND NEW CLASSIFICATIONS AND AMENDING RESOLUTION NO. 17-07 AND ANY OTHER RESOLUTIONS IN CONFLICT THEREWITH.

C. **Fiscal Year 2017-18 City Police Services Contract**

Report from the Assistant City Manager concerning approval of the City Police Services contract for Fiscal Year 2017-18.

Deputy Administrative Services Director Vincent reviewed the contents of the Administrative Report and, along with Lt. Peters, responded to Council inquiries.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C17-24, by and between the City of San Clemente and the County of Orange, providing for police services for the 2017-18 fiscal year, in the amount of \$14,373,619.

10. ORAL COMMUNICATIONS (PART 2)**Orange County Fire Authority (OCFA) - Addition of 4th Paramedic to Engine 50**

Stephen Wontrobski, Mission Viejo, opined that fire captains should be trained in EMS (Emergency Medical Services) to negate the need for a 4th paramedic on Engine 50; recommended that Council request the OCFA to provide a list of potential cost-saving measures.

11. REPORTS**A. Commissions and Committees**

None.

B. City Manager

None.

C. City Attorney

None.

D. Council Members**1. Designation of Voting Delegate and Alternate(s) to Represent San Clemente at the League of California Cities Annual Business Meeting**

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to appoint City Manager Makshanoff as the voting delegate, and Assistant City Manager Sund as the alternate, to represent the City at the Annual Business Meeting of the League of California Cities Annual Conference on September 15, 2017.

2. **Consideration of letter from the City of Mission Viejo, dated May 31, 2017, expressing support for the Transportation Corridor Agencies (TCA) Efforts in Relieving Traffic Congestion – Mayor Pro Tem Brown**

Mayor Pro Tem Brown read portions of a letter from the City of Mission Viejo concerning its support for an extension of the toll road through San Clemente.

Council directed Staff to post Mission Viejo's letter to the City's website under Toll Road information and requested Staff to invite City of Mission Viejo representatives to meet with San Clemente residents. Mayor Ward will respond to the City of Mission Viejo's letter.

Camino Del Rio Safety Measures

Council requested that Staff agendize the possibility of the City constructing a 4' wall at the curve on Camino Del Rio to increase safety.

Drone Ordinance

Council directed Staff to revisit the City's drone ordinance, and to include the member of the public who expressed concerns about the ordinance in that dialogue. Staff is to report back to Council.

Association of California Cities – Orange County (ACC-OC) Meeting

Councilmember Hamm reported that he attended the recent ACC-OC meeting where regional issues, including sober living facilities and health care costs, were discussed; noted that solutions may be available for the subject issues by the end of the year.

Sidewalk Repairs

Council noted that a \$49,000 per year remodel triggers the requirement for a property owner to construct a sidewalk; explained that some property owners bifurcate their projects so that no more than \$49,000 is spent per year, thereby circumventing the sidewalk requirement; requested that Staff agendize ways to correct the subject situation, such as extending the \$49,000 threshold to a three-year period.

Orange County Transportation Authority (OCTA) Report on Senate Bill 1 (Beall) – Funding Impacts

Councilmember Donchak reviewed the contents of an OCTA memo, dated June 1, 2017, that addressed SB1 (Beall) funding impacts; asserted that the proposed toll road is inconsistent with SB 1's "fix it first" message. A hard copy of the memo from the OCTA is on file with the City Clerk.

San Clemente Trolley

Councilmember Donchak reported on the success of the San Clemente Trolley program; urged residents to be respectful when riding the trolley.

Transportation Corridor Agency (TCA) Public Forum

Mayor Ward reported that the TCA held a public forum at Saddleback College that was well attended by South Orange County residents, and San Clemente residents in particular; thanked citizens for attending the meeting to express their opinions.

12. **RESOLUTIONS/ORDINANCES**

None.

*Councilmember Donchak left the meeting at 10:05 p.m.

CLOSED SESSION

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 4-0, to recess to Closed Session at 10:05 p.m., to discuss the following:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

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

Number of Cases: 1

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

Case Number: OCSC 30-2016-00845211 CU-WM-CJC

In attendance were all members of the City Council (except for Councilmember Donchak), City Manager Makshanoff, Assistant City Manager Sund, and City Attorney Smith.


MEETING RECONVENED

Council reconvened at 10:40 p.m., with all members present, except for Councilmember Donchak.

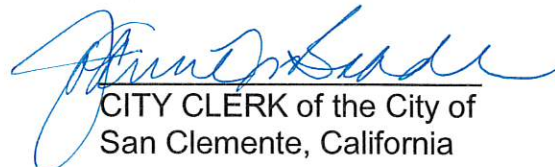
13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (COUNCILMEMBER DONCHAK ABSENT), to adjourn at 10:41 p.m. in memory of Los Angeles City Firefighter Kelly Wong, to an Adjourned Regular City Council meeting to take place on June 20, 2017 at 3:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, for the purpose of conducting an Appeal de Novo Hearing relating to Short-Term Lodging Unit (STLU) Operating License 314801 (located at 305 West Avenida Gaviota). Closed Session items will be considered at 5:00 p.m. The Regular Council Meeting will commence at 6:00 p.m.

Subsequent Adjourned Regular Meetings will take place on June 26, 2017 and June 27, 2017 at 4:00 p.m. for the purpose of interviewing and making appointments to the City's Commissions and Committees.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California