

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – August 15, 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 Regular City Council Meeting of August 15, 2017 was called to order at 5:04 p.m. by Mayor Ward.

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

*Arrived at 5:05 p.m.

ABSENT NONE

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

CLOSED SESSION

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to recess to Closed Session at 5:05 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: 2

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

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

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 and attorney Jeff Dunn, of Best Best & Krieger, were in attendance for Closed Session Item B.

MEETING RECONVENED

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

INVOCATION

Phil Johnson, Deacon, St. Michael's Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Brown led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Toll Road Update

City Attorney Smith reported that during the Closed Session of July 18, 2017, Council unanimously authorized the City to file a petition for Writ of Mandate challenging action by the Transportation Corridor Agency (TCA) in furtherance of any toll roads or freeways that would be routed through San Clemente; noted that the grounds for the lawsuit include the following: 1) the Collateral Agreement with CalTrans was entered into without authority by the TCA Board or the proper line of authority at CalTrans; 2) the environmental consequences associated with constructing a road through San Clemente open space was not assessed; and 3) there is a Cause of Action relating to efforts between the TCA and County of Orange

to convert Los Patrones Parkway from an open County arterial to a private toll road.

Council directed Staff to agendize appointment of a new Council representative/alternate to the San Joaquin Hills Transportation Corridor Board of Directors for the September 5, 2017 Council meeting.

Vonne Barnes, San Clemente, narrated a PowerPoint presentation that depicted simulations of Toll Road Alignment #14 (Avenida Pico), focusing on potential visual impacts and property takings. A hard copy of Mrs. Barnes' presentation is on file with the City Clerk.

Tom Barnes, San Clemente, continued narration of Vonne Barnes' PowerPoint, focusing on the potential visual impacts of Toll Road Alignment #14. A hard copy of the presentation is on file with the City Clerk.

Josh Hershman, San Clemente, thanked Council for opposing a toll road extension through San Clemente; noted that toll road fees vary, thereby making it difficult for users to understand the amount they are paying to use the toll road.

Mark McGuire, San Clemente, noted the importance of emphasizing that no toll road alternative through San Clemente is acceptable; asserted that an exhibit to the Settlement Agreement envisioned utilizing the central corridor of the I-5 for the toll road extension.

B. Recognition of Outgoing Members of City Commissions and Committees

Mayor Ward acknowledged the following outgoing members of San Clemente's Commissions and Committees and presented City tiles to those in attendance: Wayne Eggleston, Planning Commission; Tim Shaw, Beaches, Parks and Recreation Commission; Brian Haskins, Coastal Advisory Committee; Marta Smith and Patricia Hasbrook, Human Affairs Committee; and Joe Anderson, Investment Advisory Committee.

C. Orange County American Planning Association (APA) Award

Amy Vazquez, with the Orange County APA, presented the Transportation Planning Award for the Paseo Master Plan project to Community Development Director Gallardo-Daly and City Planner Gregg.

D. **Government Finance Officers Association (GFOA) – Certificate of Achievement for Excellence in Financial Reporting**

Mayor Ward presented the GFOA Certificate of Achievement for Excellence in Financial Reporting and an Award of Financial Reporting Achievement (AFRA) to the Finance Division for the City's Comprehensive Annual Financial Report (CAFR) for the fiscal year ended 2016 to Deputy Administrative Services Director Vincent.

E. **Recreation Update**

Recreation Manager Thomas provided an update concerning the fall edition of San Clemente Magazine and the SC Open Skate Contest.

Mayor Ward presented a framed copy of the fall edition of San Clemente Magazine to Bella Kenworthy, who was featured on the cover.

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

Ballena Landslide Repair Project

Al Cullen, San Clemente, opined that W&Z Development Corporation, dba Western Pacific Construction Service, is not qualified to complete the Ballena landslide repair project; voiced concern that a homeless shelter, rehabilitation facility or low-income housing will be constructed in the canyon; asserted that the landslide repair project should have been subject to CEQA; urged that open space and the Shorecliffs Golf Course be maintained.

Colony Cove Petition (Excessive Growth of Vegetation)

Helen Thole, San Clemente, submitted a petition signed by 37 residents of Colony Cove which expressed concerns with the excessive growth of weeds in the environmental habitat area adjacent to Colony Cove; requested that the City limit vegetation height in the area to 4-1/2' to maintain views and create a fire break. A hard copy of the petition is on file with the City Clerk.

Paul Walker Memorial

Chad Kroeger, San Clemente, requested that a 12-foot tall statue of Paul Walker be erected on the pier.

JT Parr, San Clemente, proposed that a Mt. Rushmore-style memorial to Paul Walker be etched into a San Clemente cliff.

Homeless Encampments on Avenida Pico

Anthony LaFrano, San Clemente, displayed a PowerPoint presentation entitled "Let's Keep Pico Clean"; suggested methods to eliminate homeless encampments on Avenida Pico. A hard copy of Mr. LaFrano's presentation is on file with the City Clerk.

Residential Parking

Jacky Kriskey, San Clemente, noted that much of the City's housing stock was constructed in the 1950s when the City required fewer parking spaces per unit; stated that Sheriff personnel mark the tires of vehicles parked or stored on public streets, but owners then move their cars slightly to avoid a citation for violating the 72-hour parking limit; urged Council to allow Code Enforcement to enforce the rule against storage of vehicles on public streets.

San Clemente Trolley/Cabrillo Playhouse

Sandra Weaver, San Clemente, commended the trolley program and urged Council to add a trolley stop at T-Street; reported on upcoming performances at the Cabrillo Playhouse.

Employee Parking on Del Mar/Safety Concerns

Linda DeFonce, San Clemente, requested that business owners on Del Mar be provided parking passes to enable their employees to park on Del Mar for their entire shifts; reported on a recent drug use incident in the restroom at Jimmy John's on El Camino Real and requested additional security/law enforcement.

Recycled Water

Richard Gardner, Capistrano Beach, reported on his attendance at today's Water Reliability Summit; suggested that direct potable reuse be implemented during water shortages; urged that recycled water be utilized at Mira Costa Park and Sunset Park.

Orange County Fire Authority Costs

Stephen Wontrobski, Mission Viejo, suggested that City Attorney Smith meet with the City of Irvine City Attorney to discuss cost-reduction strategies for the Orange County Fire Authority contract.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to waive reading in full of all Resolutions and Ordinances.

4. **CONSIDERATION OF AGENDIZING ITEMS REQUIRING IMMEDIATE ACTION**

None.

5. **CLOSED SESSION REPORT – CITY ATTORNEY**

City Attorney Smith reported that Council took no reportable action during this evening's Closed Session; noted that Council will recess back to Closed Session at the conclusion of the public segment of this meeting to discuss the case entitled MemorialCare Services, et al v. City of San Clemente.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve the Consent Calendar.

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 July 18, 2017.

B. **Receive and file:**

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

- (1) Minutes of the Regular Coastal Advisory Committee Meeting of April 13, 2017.
- (2) Minutes of the Regular Coastal Advisory Committee Meeting of June 8, 2017.
- (3) Minutes of the Regular Study Session of the Planning Commission of August 2, 2017.
- (4) Minutes of the Regular Planning Commission Meeting of August 2, 2017.

C. Warrant Register

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

Wire Transfers Nos. 1662 through 1664,
Warrant Nos. 542797 through 543042
paid on 7/14/17, in the amount of.....\$ 1,476,640.40

Wire Transfers Nos. 1665 through 1669,
Warrant Nos. 543043 through 543206
paid on 7/21/17, in the amount of.....\$ 1,920,891.90

Wire Transfers Nos. 1670 through 1671,
Warrant Nos. 543207 through 543392
paid on 7/28/17, in the amount of.....\$ 1,921,593.14

Wire Transfers Nos. 1672 through 1677,
Warrant Nos. 543393 through 543563
paid on 8/4/17, in the amount of.....\$ 2,561,485.20

TOTAL WARRANT REGISTER..... \$ 7,880,610.64

Payroll Register

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

Warrant Nos. 602 through 606,
Automatic Deposit Advises 41600 through 41934
for the period of 7/3/2017 through 7/16/2017
paid on 7/21/17, in the amount of.....\$ 483,621.98

Warrant Nos. 607 through 611,
Automatic Deposit Advises 41935 through 42272
for the period of 7/17/2017 through 7/30/2017
paid on 8/4/17, in the amount of.....\$ 475,308.52

TOTAL PAYROLL REGISTER.....\$ 958,930.50

D. **Contract Award(s) – Support Management of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Funds and the CDBG Home Rehabilitation Program**

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

1. Approve, and authorize the Mayor to execute, Contract C17-31, by and between the City of San Clemente and Mike Linares, Inc., providing for the management of HUD funds for a term to expire June 30, 2018, in the amount of \$25,000, with the option for four additional one-year extensions with the approval of both the City Manager and contractor.
2. Approve, and authorize the Mayor to execute, Contract C17-32, by and between the City of San Clemente and Theresa Dobbs, providing for the management of the CDBG Home Rehabilitation Program for a term to expire June 30, 2018, in the amount of \$25,000, with the option for four additional one-year extensions with the approval of both the City Manager and contractor, in the amount of \$25,000.
3. Approve a contingency for a total amount of \$10,000 in CDBG administrative service funds for any unforeseen HUD related costs that may arise with the approval of the City Manager.

E. **Contract Amendment – Weed Abatement Services**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C96-25, by and between the City of San Clemente and Ed Stewart and Associates, providing for weed abatement services. This Amendment extends the term of the contract to June 30, 2018, with an option to further extend the contract term for an additional 180 days authorized by the City Manager. The annual cost for this Amendment, appropriated through the budget process, remains at \$140,400 annually.

F. **Records Retention Schedule Update**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve the modified Records Retention Schedule, dated August 15, 2017, as presented and on file with the City Clerk.

G. **Assembly Bill 1408 (Calderon) - Crimes Supervised Release (Letter of Support)**

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

1. Support AB 1408 (Calderon).
2. Direct Staff to send the support letter that is attached to the Administrative Report, dated August 15, 2017, and on file with the City Clerk, to the author of the bill as well as the individuals listed in the "cc" section of the letter.

H. **Contract Award – 910 Calle Negocio Building Architectural Services**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C17-33, by and between the City of San Clemente and Gensler, providing for design services for first and third floor improvements at 910 Calle Negocio, in the amount of \$160,000.

I. **Contract Amendment – Temporary Staff Augmentation in the Planning Division**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C16-73, by and between the City of San Clemente and Lilley Planning Group, providing for temporary staff augmentation in the Planning Division. This Amendment extends the term of the contract through June 30, 2018, or until services are no longer needed.

J. **Notice of Completion – Riviera Waterline Removal**

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

1. Accept the Riviera Waterline Removal project from the contractor, Palp, Inc., DBA Excel Paving Company; Project No. 26409.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Riviera Waterline Removal.
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, Palp, Inc., DBA Excel Paving 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.

K. **Temporary Recycled Water Service Agreement to Serve the California Department of Transportation (Caltrans)**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C17-34, a Temporary Recycled Water Service Agreement, by and between the City of San Clemente and South Coast Water District (SCWD), to provide recycled water to Caltrans, within SCWD's service area.

L. **Consideration of a Donation for 2/4 Insignia Bronze Plaque at Park Semper Fi**

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

1. Approve a donation in the amount of \$500.00 to the Heritage of San Clemente Foundation toward funding of a 2/4 insignia-bronze plaque to be located at Park Semper Fi.
2. Approve a transfer from Council Contingency Reserve Account 001-203-44900 to Marine Unit Support Account 001-202-44756.

M. **Contract Award – Defined Benefit Administration for the City’s Legacy Retirement Plan**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve, and authorize the City Manager to execute, Contract C17-35, a five-year professional services agreement by and between the City of San Clemente and Milligan, providing for defined benefit administration services for the City of San Clemente Restated Employees Retirement Plan, in an amount not to exceed \$35,200 annually, with an annual CPI escalator.

N. **Records Destruction**

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to adopt Resolution No. 17-26 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF CERTAIN CITY RECORDS AS PROVIDED BY SECTION 34090 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

7. **PUBLIC HEARINGS**

A. **Appeal Concerning Temporary Banner Permits at the Outlets of San Clemente - 101 W. Avenida Vista Hermosa (Temporary Banner Permit 17-194)**

Public Hearing to consider an Appeal filed by Craig Realty Group of the Planning Commission’s decision concerning banner permits at the Outlets of San Clemente, located at 101 W. Avenida Vista Hermosa.

Omar Sandoval, of Woodruff, Spradlin & Smart, explained that he is serving as City legal counsel for this agenda item due to City Attorney Smith’s conflict of interest and due process and fair hearing requirements; noted that recent case law provides that when an attorney provides advice to staff in a code enforcement or adversarial process, that same attorney cannot advise the City Council when it is considering an appeal of a lower body’s decision; stated that the issue before Council is whether or not the Planning Commission’s decision was correct; provided admonishments to Council as follows: 1) Council must be impartial, make its decision on information provided in the record and presented this evening, and not reach any conclusions until the Public Hearing is closed; 2) Councilmembers should disclose any ex parte information that was obtained outside the meeting forum that they believe will help them to make a decision on the appeal.

City Planner Gregg narrated a PowerPoint presentation entitled "Marblehead Temporary Banner Permits Appeal" and responded to Council inquiries. A hard copy of City Planner Gregg's presentation is on file with the City Clerk.

Councilmember Hamm reported that he watched the video of the Planning Commission meeting of June 21, 2017 concerning temporary banner permits at the outlet mall.

Mayor Ward opened the Public Hearing.

Brad Malamud, attorney for the Applicant and Appellant, spoke in support of the appeal concerning temporary banner permits at the outlet mall; opined that, contrary to Staff's assertion, the City has rights over signage at San Clemente High School as long as they are not high school related; stated that the City will lose approximately \$250,000 to \$500,000 annually in sales tax revenue if the temporary signs are removed; stated that the appeal application form states that a temporary banner sign must be flush mounted to a building and is not to be hung on fences, railings, trees or shrubs, and interpreted this statement to mean that signs are only prohibited on fixtures that are not part of the primary structure; asserted that nothing in the Code requires that a banner be placed on a primary structure; urged Council to enforce the statute as written, noting that the Appellant is not asking for an exception; stated that the City has never interpreted the statute to include a primary structure limitation and further stated that the permanent Sign Ordinance does not include a primary structure limitation; commented that signs are allowed on the site, parcel and/or lot; asserted that a 1991 Ordinance provides that the City can, and must, extend temporary signage permits beyond 120 days if a permanent sign application has been filed with the City, but has not yet been approved.

Lew Avera, San Clemente, stated the outlet mall needs identity, including signage, in order to attract customers.

Larry Corwin, representing the Marblehead Homeowners Association, stated that many Marblehead Inland homeowners purchased their homes before the zoning was approved that allowed the outlet mall to be constructed; opined that the outlet mall could attract customers by providing better retail tenants; stated that Craig Realty Group has not approached the Marblehead Homeowners Association in an attempt to learn ways to be sensitive to the needs of neighbors; opined that Marblehead homeowners should be allowed input into the signage for the outlet mall.

Gail Hiduke, San Clemente, opined that Craig Realty Group should have researched the demographics of the property before developing the outlet mall; asserted that neighboring property owners should not have their property values reduced to accommodate additional signage; voiced concern that the City has failed to communicate with residents concerning signage and suggested that monument signs at each of the exits from Vista Hermosa would be adequate.

Tom Barnes, San Clemente, read a statement on behalf of Richard Boyer that stated that the outlet mall has been denied freeway-oriented signs on three occasions and is now attempting to circumvent that denial by calling the signs “temporary banners”. Speaking on behalf of himself, Mr. Barnes expressed that Craig Realty Group should have taken demographics into account.

Benjamin Doran, San Clemente, stated that the height of the outlet mall structures are higher than the story poles that were erected before he purchased his property in Faire Harbour; asserted that his property value has declined significantly as a result of the subject signage; urged Council to deny the appeal.

Steve Knoblock, in-house counsel for Craig Realty Group, stated that the Applicant/Appellant is seeking only for the Sign Ordinance to be applied fairly and equitably; noted that Council is acting as a quasi-judicial body and hence Councilmembers should recuse themselves if they have any animus against the outlet mall project; stated that the Code provides that temporary banners shall be placed on site and flush with the building, adding that “on site” means on the site, parcel or lot; requested that Council approve an extension of the temporary banners until the permanent signage is considered; displayed a PowerPoint presentation entitled “San Clemente Signs, Which Ones are Legal?”, which showed examples of banner signs displayed throughout the City. A hard copy of Mr. Knoblock’s PowerPoint presentation is on file with the City Clerk.

In rebuttal, Brad Malamud stated that most of the comments expressed this evening related to permanent signage, but the temporary banners are the only issue before Council at this time; reiterated the Appellant’s interpretation of the statute that Council is being asked to rule upon; responded to Council inquiries.

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

Following discussion, MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 3-2 (COUNCILMEMBER DONCHAK AND COUNCILMEMBER SWARTZ DISSENTING), to deny the appeal. *By virtue of this action, the decision of the Planning Commission was upheld.*

MEETING RECESSED

Council recessed at 8:55 p.m. and reconvened at 9:05 p.m., with all members present.

B. Miramar Events Center and Restaurants - Historic Property Preservation and Parking Waiver/Incentive Agreement 17-248 (1700 North El Camino Real)

Public Hearing to consider a request for a Historic Property Preservation and Parking Waiver/Incentive Agreement (HPPPWIA) for the rehabilitation and adaptive reuse of the historic Miramar Theater into a performing arts and event center, and the historic bowling alley into a culinary eatery, in return for a 92 parking space waiver and parking mitigation agreement. The site is located at 1700 North El Camino Real, in the Mixed Use Zoning district and the Architectural, Coastal Zone and Central Business District Overlays (MU1-A-CZ-CBD).

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to consider this item after Oral Communications Part 1.

City Attorney Smith recommended that Council continue this item because entitlements to the Miramar project are scheduled for court hearings the first week of September 2017.

Mayor Ward opened the Public Hearing; however, no one desired to speak at this time.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to continue the Public Hearing concerning the Miramar Events Center and Restaurants project to the Council meeting of September 19, 2017.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Contract Award – Emergency Medical Transport Services**

Report from the Assistant City Manager concerning a contract award for Emergency Medical Transport Services.

City Attorney Smith announced that Councilmember Hamm, out of an abundance of caution, will recuse himself from this item due to his employment with the Orange County Fire Authority (OCFA). Councilmember Hamm left the Council Chambers at 9:02 p.m.

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

Council requested that the possibility of requiring performance bonds for professional services agreements be agendized for a future meeting.

Stephen Wontrobski, Mission Viejo, stated that the OCFA did not bid for emergency medical transport (EMT) services because it is not competitive due to excessive worker compensation; recommended that the ambulance contract include a 90-day termination clause; suggested that Council research the possibility of contracting with private paramedics to respond to EMT calls and only utilize OCFA for fire suppression or when special services (such as use of the Jaws of Life) are needed.

Following discussion, MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0-1 (COUNCILMEMBER HAMM RECUSING), to approve, and authorize the Mayor to execute, Contract C17-36, by and between the City of San Clemente and Care Ambulance Services, providing for Emergency Medical Transport Services, for a total 5-year cost of \$6,299,690.

Councilmember Hamm returned to the dais at 9:22 p.m.

B. Establishment of Speed Limits on Avenida La Pata

Report from the Public Works Director/City Engineer concerning establishing speed limits on Avenida La Pata.

Transportation Engineering Manager Frank reviewed the contents of the Administrative Report and responded to Council inquiries.

Following discussion, MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 3-2 (COUNCILMEMBER DONCHAK AND MAYOR WARD DISSENTING), to:

1. Accept the Engineering and Traffic Surveys for Avenida La Pata from Calle Saluda to the County of Orange limit line, and establish speed limits, as identified in the Administrative Report, dated August 15, 2017, which is on file with the City Clerk, with the modification that the speed limit on Avenida La Pata (both directions) from Camino Del Rio to the County line be set at 55 MPH.
2. Introduce Ordinance No. 1644 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 10 OF THE MUNICIPAL CODE CONCERNING SPEED ZONES ON AVENIDA LA PATA, as modified to reflect a 55 MPH speed limit on Avenida La Pata (both directions) from Camino Del Rio to the County line.

Council directed Staff to contemplate whether speed warning signage should be installed on the southbound side of Avenida La Pata before the Camino Del Rio intersection.

C. **Public Restroom Hours and Security**

Report from the Assistant City Manager concerning the hours of operation of public restrooms in City parks and on City beaches.

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

1. Approve the locking of all public restrooms west of the I-5 on City beaches and in City parks from 10:00 p.m. to 6:30 a.m. for a one (1) year trial period.
2. Approve a supplemental appropriation of \$15,140 to Account 001-624-41030-000-00000 for part-time park monitor salaries and a supplemental appropriation of \$50,000 to Account 001-636-43420-000-00000 for supplies and labor.

Recreation Manager Thomas responded to Council inquiries relative to methods that will be used to inform the public about the change in restroom hours.

D. **Coyote Safety in San Clemente**

Report from the Coastal Animal Services Authority General Manager concerning coyote safety in San Clemente.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to consider this item under the Special Presentations portion of the meeting.

Animal Services Officer Moran narrated a PowerPoint presentation entitled "Coyote Safety, City of San Clemente", and responded to Council inquiries. A hard copy of Officer Moran's presentation is on file with the City Clerk.

The report was received and filed.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

(1) **Update on the Orange County Fire Authority (Mayor Pro Tem Brown)**

Mayor Pro Tem Brown distributed copies of the Orange County Fire Authority incident report for the last quarter and provided an overview of OCFA's overall positive financial situation. A hard copy of Mayor Pro Tem Brown's presentation is on file with the City Clerk.

(2) **Adopt-a-Pet Program (Councilmember Swartz)**

Council requested that Staff showcase animals available for adoption at the Coastal Animal Services Authority on a quarterly basis, by displaying animal photographs as part of the Special Presentation portion of Council meetings.

B. **City Manager**

North Beach Farmers Market – In-n-Out Burger Truck

City Manager Makshanoff reported that the In-n-Out Burger truck will be at the North Beach Farmers Market on August 16, 2017.

C. **City Attorney**

None.

D. **Council Members**

San Clemente Trolley

Councilmember Donchak displayed photographs of the June 2017 "Members of the Month" of the Boys and Girls Club utilizing the trolley; reported that trolley attendance reached a record high during the San Clemente Fiesta, with boarding averaging 76 persons per hour.

Tour of Zion Nuclear Power Station

Mayor Pro Tem Brown reported on his tour of the Zion Nuclear Power Station that is currently undergoing decommissioning. Photographs that Mayor Pro Tem Brown displayed during his report are on file with the City Clerk.

Public Safety Task Force

Councilmember Hamm reported that the next meeting of the Public Safety Task Force is scheduled for August 18, 2017 at 4:00 p.m. in the Community Center fireside room.

Movie in the Park

Mayor Pro Tem Brown reported that the next Movie in the Park will feature "Beauty and the Beast" and will take place on August 18, 2017 at Tierra Grande Park.

Beaches, Parks and Recreation Commission Appointment to Serve as Liaison to the Skate Park Coalition

Councilmember Donchak requested that the Beaches, Parks and Recreation Commission appoint one of its members to serve as a liaison to the Skate Park Coalition.

Toll Road Trek

Councilmember Donchak invited the community to participate in a toll road trek on September 23, 2017.

Community Engagement Panel Meeting

Mayor Pro Tem Brown reported that the next Community Engagement Panel meeting will take place on September 14, 2017 at the Quantum Learning Center in Oceanside.

12. **RESOLUTIONS/ORDINANCES**

None.

CLOSED SESSION #2

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to recess back to Closed Session at 10:02 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 for the Closed Session were all members of the Council, City Manager Makshanoff, Assistant City Manager Sund, City Attorney Smith, and Jeff Dunn, attorney with Best Best & Krieger.

MEETING RECONVENED

Council reconvened at 10:37 p.m., with all members present.

CLOSED SESSION REPORT

City Attorney Smith reported that Council did not take any reportable actions during Closed Session #2.

13. **ADJOURNMENT**

MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adjourn at 10:39 p.m., in memory of Margaret “Peg” Hamer. The next Regular Council Meeting will be held on September 5, 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.


CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California