

CITY OF SAN CLEMENTE

City Council Minutes

Special and Regular City Council Meeting – September 5, 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 Special City Council Meeting of September 5, 2017 was called to order at 4:30 p.m. by Mayor Ward.

PRESENT BROWN, DONCHAK, HAMM, SWARTZ, MAYOR WARD

ABSENT NONE

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

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CLOSED SESSION

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to recess to Closed Session at 4:30 p.m. to discuss the following:

- A. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to Government Code Section 54957
Title: City Manager

- B. **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code Section 54957.6
Agency designated representative: Mayor
Unrepresented employee: City Manager

- C. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 8

Case Name: City of San Clemente v. Malter
Case Number: 30-2016-00861035-CU-CI-CXC

Closed Session items continued on next page

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: 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

Case Name: City of San Clemente v. Foothill/Eastern Transportation Corridor
Agency and County of Orange
Case Number: 30-2017-00934703-CU-PT-CXC

D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Property: 100 Avenida Presidio

Agency Negotiator: Erik Sund, Assistant City Manager

Negotiating Parties: Potential buyers/lessees/listing agent

Under Negotiation: Price and terms of payment

REGULAR CITY COUNCIL MEETING CONVENED

The Regular City Council meeting of September 5, 2017 convened at 6:26 p.m., with all members present.

INVOCATION

Holland Davis, Senior Pastor, Calvary Chapel San Clemente, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS**A. Toll Road Update**

Mayor Ward reported that Transportation Corridor Agency (TCA) Engineers have indicated that the proposed toll road extension will not connect to the Pico Interchange as originally anticipated; noted that the extension is now expected to connect closer to San Clemente High School and to also traverse closer behind homes on Camino Del Rio; stated that a new Environmental Impact Report is required.

Councilmember Donchak advised that the Orange County Transportation Authority (OCTA) Regional Planning and Highways Committee will consider extending the High-Occupancy Vehicle (HOV) lane on the I-5 to the San Diego border; noted that Council had requested that extension of the HOV lane be considered as part of a mobility solution.

Mark McGuire, San Clemente, reported that many people in Ladera Ranch, San Juan Capistrano and Mission Viejo support maintaining Los Patrones Parkway as a free road; opined that the TCA should have been established with a sunset date; suggested the possibility of special legislation to prohibit the TCA from spending money on roads/facilities that can't be cost-justified.

B. Presentation of Proclamation – Constitution Week

Mayor Ward presented a Proclamation to Bertie Lloyd, Daughters of the American Revolution, proclaiming September 17 - 23, 2017 as Constitution Week.

C. Certificate of Recognition – Kendall Stier

Mayor Ward presented a Certificate of Recognition to Kendall Stier for demonstrating academic excellence, together with athletic achievement, as evidenced by winning the Gold Medal for Women's Shot Put at the 2017 U.S. Paralympics National Championships.

D. Presentation of Proclamation – World Alzheimer's Month

Mayor Ward presented a Proclamation to Christina McDevitt, representing Alzheimer's Orange County, designating September 2017 as World Alzheimer's Month.

E. **Animals for Adoption at the San Clemente Animal Shelter**

Councilmember Swartz displayed photographs of animals available for adoption at the San Clemente Animal Shelter.

F. **Presentation of Commendation – Tanner Salgado**

Mayor Ward presented a Commendation to Tanner Salgado, one of five winners of Orange County's 2017 Eco Poster Challenge.

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

Homeless Encampments on Avenida Pico

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

Gratitude for Pier Improvements

C.L. Snider, San Clemente, thanked Council and Pier Pride for their effort to clean the pier.

Request for 10' Sound Wall on Northbound I-5 Near El Camino Real Exit

Louise Herbert, San Clemente, stated that residents on the inland side of the I-5 near the El Camino Real exit are experiencing amplified freeway noise due to the installation of the sound wall on the southbound side of the I-5 near the El Camino Real exit, combined with traffic increases; urged Council to work with residents and CalTrans to change the existing construction plans to allow installation of a 10' sound wall (rather than a 6' sound wall) on the northbound I-5 parallel to the sound wall on the southbound side of the freeway.

Bicentenary of the Birth of Bahá'u'lláh, the Founder of the Bahá'í Faith

Marchia Morey and Habib Hosseiny, San Clemente, noted that 2017 marks the bicentenary of the birth of Bahá'u'lláh, the founder of the Bahá'í Faith; invited Council to attend a celebration on October 21, 2017 at the Laguna Hills Community Center at 6:00 p.m.

Commercial Vehicle Ordinance

George Gregory, San Clemente, referenced the City's commercial vehicle ordinance, which imposes restrictions on commercial vehicles parked on City streets; opined that the ordinance discriminates against blue collar workers and urged that the ordinance be agendized for reconsideration.

City Manager Makshanoff stated that he will meet with Lt. Peters, Captain D'Auria, and Councilmember Hamm to discuss the commercial vehicle ordinance and report back to Council.

Boarding Houses

Stacia Jones, San Clemente, voiced concern that a boarding home will open on her street that will house six occupants, even though her neighborhood is not zoned for boarding homes; voiced concern that insufficient parking exists in her neighborhood to accommodate a boarding house.

High-Speed Rail

Mick O'Malley, San Clemente, opined that high-speed rail should be utilized instead of constructing new freeways.

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

Emergency Shelter Coalition v. City of San Clemente

City Attorney Smith reported that Council took no reportable action during this evening's Closed Session; advised that Councilmember Hamm recused himself from discussion of the Emergency Shelter Coalition case because his wife has clients that own property within the affected zones; noted that Councilmember Hamm will also recuse himself from discussion of Item 7-B on tonight's agenda.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve the Consent Calendar with the removal of Items 6B-2 and O.

A. **City Council Minutes**

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

- (1) Approve the minutes of the Regular City Council Meeting of August 15, 2017.

B. **Receive and file:**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to receive and file the following:

- (1) Minutes of the Regular Planning Commission Study Session of July 19, 2017.
- (3) Minutes of the Regular Coastal Advisory Committee Meeting of July 13, 2017.
- (4) Minutes of the Special Planning Commission Study Session of August 16, 2017.
- (5) Minutes of the Special Planning Commission Meeting of August 16, 2017.

C. **Warrant Register**

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

Wire Transfers Nos. 1678 through 1679,
 Warrant Nos. 543564 through 543814
 paid on 8/11/17, in the amount of.....\$ 1,932,895.66

Wire Transfers Nos. 1680 through 1683,
 Warrant Nos. 543815 through 543984
 paid on 8/18/17, in the amount of.....\$ 2,368,949.12

Wire Transfers Nos. 1684 through 1687,
 Warrant Nos. 543985 through 544197
 paid on 8/25/17, in the amount of.....\$ 905,756.99

TOTAL WARRANT REGISTER..... \$ 5,207,601.77

Payroll Register

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

Warrant Nos. 42273 through 42622
for the period of 7/31/17 through 8/13/17
paid on 8/18/17, in the amount of.....\$ 484,658.00

TOTAL PAYROLL REGISTER.....\$ 484,658.00

D. **Notice of Completion – FY 2017 Major Street Maintenance for Avenida Ortega, Calle Del Cerrito, Ardilla Lane, Calle Gomez, Calle Del Rito, East Avenida Magdalena, Los Bautismos Lane and Various Other Pavement Repair Locations**

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

1. Accept the FY 2017 Major Street Maintenance for Avenida Ortega, Calle Del Cerrito, Ardilla Lane, Calle Gomez, Calle Del Rito, East Avenida Magdalena, Los Bautismos Lane, and various other pavement repair locations (Project Nos. 27305 and 27306), from the contractor, All American Asphalt.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for FY 2017 Major Street Maintenance for Avenida Ortega, Calle Del Cerrito, Ardilla Lane, Calle Gomez, Calle Del Rito, East Avenida Magdalena, Los Bautismos Lane, and various other pavement repair locations.
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.

E. **Notice of Completion – Community Development Block Grant (CDBG) Calle Puente Sidewalk Improvements**

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

1. Accept the CDBG Calle Puente Sidewalk Improvements (Project No. 17336), from the contractor, Nobest, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for CDBG Calle Puente Sidewalk Improvements.
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, Nobest, 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.

F. **Contract Amendment – Reservoir 5A, 8, 10, 12 and 14 Improvements**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract AC-696, by and between the City of San Clemente and South Coast Engineering Services, providing for construction period design support services and specialty inspections for the Reservoir improvement projects. This amendment increases the contract amount from \$23,430 to \$59,272, an increase of \$35,842, and extends the term of the contract to December 29, 2018.

G. **Contract Award – Water Reclamation Plant Los Molinos Lift Station Generator Replacement**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C17-37, by and between the City of San Clemente and PACE, providing for design of the Water Reclamation Plant Los Molinos Lift Station Generator Replacement (Project No. 17202), in the amount of \$123,435.

H. **Contract Amendment – Water Reclamation Plant Structural Concrete Repairs and Primary Clarifier Covers and Grating Replacement**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C15-09, by and between the City of San Clemente and South Coast Engineering Services, providing for additional design, and construction and bid period support services for the Water Reclamation Plant Primary Clarifiers and Headworks Covers Replacement project. This amendment increases the contract amount from \$165,740 to \$209,435, an increase of \$43,695, and extends the term of the contract to December 1, 2018.

I. **Declaration of Surplus and Disposition of Retired Equipment (Utilities Division)**

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

1. Declare the Utilities Division equipment listed on Attachment 1 of the Administrative Report, dated September 5, 2017, and on file with the City Clerk, as surplus.
2. Approve and authorize Ken Porter Auctions to perform public auctioning services for the surplus equipment listed on Attachment 1.

J. **California WaterFix Project**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adopt Resolution No. 17-28 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, IN SUPPORT FOR THE CALIFORNIA WATERFIX.

K. **Notice of Completion – Recycled Water Meter Services**

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

1. Accept the Recycled Water Meter Services, Project No. 18201, from the contractor, Nu-Cal Pipeline Corp.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for Recycled Water Meter Services.
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 Nu-Cal Pipeline Corp.
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.

L. **Contract Award – FY 2018 Slurry Seal Program**

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

1. Approve the plans and specifications for the FY 2018 Slurry Seal Program, Project No. 28302.
2. Approve, and authorize the Mayor to execute, Contract C17-38 by and between the City of San Clemente and Doug Martin Contracting Company, Inc., providing for the FY 2018 Slurry Seal Program, in the amount of \$237,898.72.
3. Approve a transfer in the amount of \$36,000 from the fund balance of the Street Improvement Fund to General Fund Account 001-416-45720-28302.

M. Declaration of Surplus and Disposition of Retired Fleet Equipment and Vehicles

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

1. Declare the fleet equipment and vehicles identified on Attachment 1 of the Administrative Report, dated September 5, 2017, and on file with the City Clerk, as surplus.
2. Approve and authorize GovDeals.com and Ken Porter Auctions to perform public auctioning services for the surplus equipment and vehicles listed on Attachment 1.

N. Designation of Legal Fees

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve the estimated legal costs for the case entitled Jim Bieber v. City of San Clemente, et al.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

6B(2). Minutes of the Regular Planning Commission Meeting of July 19, 2017

The minutes of the Regular Planning Commission Meeting of July 19, 2017 were pulled from the Consent Calendar by Council and Larry Culbertson.

City Planner Gregg provided an overview of the project at 404 Monterey Lane, that appeared as Item 8A on the Planning Commission minutes of July 19, 2017; explained the additions proposed for the historic structure, noting that the property is in significant disrepair and the Applicant is considering whether or not to move forward with the project because of the cost.

Larry Culbertson, San Clemente, voiced concern with the approval of the project at 404 Monterey Lane, due to the size of the proposed addition and elimination of character-defining features; opined that the proposal does not comply with Secretary of the Interior standards, City Guidelines, or the City's General Plan; urged Council to reconsider the Planning Commission's approval of the project and retain a historic preservation expert to verify that any modification to an historic resource complies with applicable regulations.

Following discussion, MOTION BY MAYOR WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to receive and file the July 19, 2017 Planning Commission minutes, with the direction that Staff survey other cities to determine the following: 1) whether they retain third-party historic preservation experts to determine whether proposed major renovations to historic resources comply with regulations in place to protect historic resources; and 2) If third-party historic preservation experts are used, whether a cost-recovery program is utilized.

O. **Orange County Sheriff's Department Law Enforcement Cost and Efficiency Study**

City Manager Makshanoff and Assistant City Manager Sund responded to Council inquiries concerning the proposed law enforcement cost and efficiency study.

Following discussion, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve, and authorize the City Manager to execute, Contract C17-40, a Memorandum of Understanding (MOU) by and between the City of Mission Viejo and various Orange County cities (which include the City of San Clemente), concerning a study to evaluate operational cost and efficiency opportunities in the delivery of police services from the Orange County Sheriff's Department.

7. **PUBLIC HEARINGS**

A. **2016-2017 Consolidated Annual Performance Evaluation Report (CAPER) for Expenditure of Community Development Block Grant (CDBG) Funds**

Public Hearing concerning the 2016-2017 Consolidated Annual Performance Evaluation Report (CAPER) for submittal to the U.S. Department of Housing and Urban Development.

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 on this item.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve and adopt the 2016-17 Consolidated Annual Performance Evaluation Report (CAPER) for submittal to the U.S. Department of Housing and Urban Development.

B. 2013-2021 Housing Element Update and Amendment to the Emergency Shelter Overlay Zone - General Plan Amendment 15-331 and Zoning Amendment 17-251

Public Hearing to consider the Draft Housing Element for the 2013-2021 State planning period as required by State Law and amendments to the Emergency Shelter Overlay that include, but are not limited to, separation between shelters operated by the same provider, parking, shelter operator, and submission of Emergency and Management Plans. The Housing Element identifies the goals and policies to meet the City's housing objectives.

Councilmember Hamm recused himself from deliberations on this item because his wife has clients that own property within 500 feet of the affected zones; left the Council Chambers at 8:26 p.m.

City Planner Gregg narrated a PowerPoint presentation entitled "Housing Element 2013-2021" and responded to Council inquiries.

Mayor Ward opened the Public Hearing.

Rev. Brenda Bos, San Clemente, spoke in support of homeless shelters to negate the need for homeless persons to live outdoors.

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

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

1. Adopt Resolution No. 17-29 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING AN ADDENDUM TO THE PREVIOUSLY CERTIFIED SAN CLEMENTE CENTENNIAL GENERAL PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2013041021) REGARDING THE 2013-2021 HOUSING ELEMENT UPDATE, AND APPROVING GENERAL PLAN AMENDMENT, GPA 15-331 TO ADOPT THE HOUSING ELEMENT UPDATE.
2. Authorize Staff to provide the adopted Housing Element to the Department of Housing and Community Development.
3. Introduce Ordinance No. 1645 entitled AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SUBDIVISIONS D.1, D.5, E.1 AND E.4 OF SECTION 17.56.100 OF CHAPTER 17.56, TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO

EMERGENCY SHELTERS, PURSUANT TO AN ADDENDUM TO THE PREVIOUSLY CERTIFIED SAN CLEMENTE CENTENNIAL GENERAL PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2013041021).

Councilmember Hamm returned to the dais at 8:36 p.m.

8. **UNFINISHED BUSINESS**

A. **Water Reservoir No. 1 Tree Removal**

Report from the Public Works Director/City Engineer concerning removal of trees at Water Reservoir No. 1.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report and, along with Maintenance Services Manager Little, responded to Council inquiries.

Chris Stewart, San Clemente, reported that the trees at Reservoir No. 1 block views from the homes above the reservoir; stated that the City failed to maintain the trees and should remove the trees at this time; opined that the trees are a fire hazard.

Alan Korsen, San Clemente, suggested that a tree preservation ordinance should be adopted to preserve trees; opined that public funds should not be expended to remove trees to protect private views.

Following deliberations, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to direct Staff to incorporate the four water sites that are not currently included in the Landscape Maintenance Plan into the Plan and that Reservoir No. 1 be initially moved to the top of the landscape rotation to enable it to be given immediate attention in light of the fact that landscape maintenance at the site has been deferred.

Council directed Staff to return to Council if the above action negatively affects the City budget.

B. Water Utility Cost-of-Service Fee Structure

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

Assistant City Manager Sund reviewed the contents of the Administrative Report.

Pierce Rossum, Carollo Engineers, narrated a PowerPoint presentation entitled "Water Cost of Service and Rate Study" and responded to Council inquiries. A hard copy of Ms. Rossum's PowerPoint is on file with the City Clerk.

Brad Malamud, San Clemente, urged Council to adopt uniform rates for all potable water users; recommended that Council commission a study to determine why the cost of water is high in San Clemente.

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

1. Approve the uniform rate structure for the single-family residential customer classification.
2. Authorize completion of the Cost-of-Service Study.
3. Direct Staff to prepare the Proposition 218 notice for a future Public Hearing regarding the proposed water rate structure changes.
4. Direct Staff to pursue community education concerning the water rate issue.

C. Extension of San Clemente Trolley Service through September 2017

Report from the Public Works Director/City Engineer concerning the possibility of extending San Clemente Trolley Service through September 2017.

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

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

1. Continue trolley service for four additional weekends through October 1, 2017.

Action continued on next page

2. Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C17-11, by and between the City of San Clemente and Professional Parking & Transportation Services, to extend San Clemente Trolley service through October 1, 2017. This Amendment increases the contract cost from \$93,342 to a total not-to-exceed amount of \$128,342 (an increase of \$35,000).
3. Approve a supplemental appropriation in the amount of \$35,000 from the Air Quality Fund undesignated fund balance to Account 019-819-45300-000-00000.

9. **NEW BUSINESS**

A. **Removal and Replacement of Esplanade Median Trees**

Report from the Public Works Director/City Engineer concerning the removal and replacement of the Esplanade median trees.

Mayor Pro Tem Brown recused himself from deliberations on this item because he lives within 500 feet of the property under discussion; left the Council Chambers at 8:52 p.m.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report, and along with Maintenance Services Manager Little, responded to Council inquiries.

Alysa Vancas, San Clemente, requested proof that the trees slated for removal are diseased and cannot be saved; urged Council to replace all trees that are removed and urged Council to protect bird nests; stated the trees and grass in the Esplanade median need to be replaced and watered.

Mick O'Malley, San Clemente, opined that heavy commercial vehicles are utilizing Avenida Esplanade, in violation of federal laws, to supply vendors on Avenida Del Mar; suggested that the trees on Esplanade should remain.

Georgette Korsen, San Clemente, opined that residents moved to Avenida Esplanade because of the trees and urged Council to retain the trees that still have life remaining; supported replacing the trees that are removed with Brazilian Pepper trees.

Alan Korsen, San Clemente, urged Council to not remove trees that are not fully diseased; noted that the replacement trees will need irrigation in order to survive and flourish; suggested that drip lines be used around the new trees.

Lauren Cramer, San Clemente, suggested that the City use reclaimed water to irrigate the median trees.

Following discussion, MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0-1 (MAYOR PRO TEM BROWN RECUSED), to approve the removal of 17 diseased trees within the Esplanade street median (100 and 200 blocks) and approve planting of 21 new Brazilian Pepper trees.

Mayor Pro Tem Brown returned to the dais at 9:18 p.m.

B. Contract Award – San Clemente Pier Repair and Understory Bird Deterrent

Report from the Public Works Director/City Engineer concerning a contract award for the San Clemente Pier Repair and Understory Bird Deterrent project.

Utilities Director Rebensdorf reviewed the contents of the Administrative Report, noting that the correct amount of the proposed contract with Associated Pacific Contractors is \$1,164,100. Utilities Director Rebensdorf, together with Environmental Programs Supervisor Mallott, responded to Council inquiries relating to the feasibility of rehousing the pigeons.

George Gregory, San Clemente, urged Council to not spend funds to remove pigeons, due to his belief that taxpayer funds could be better spent on other uses, such as sidewalk improvements; suggested that Orange County Vector Control may be able to help address the pigeon problem.

Alan Korsen, San Clemente, urged Council to not spend City funds to add netting under the pier as a bird deterrent; commented that pigeons existed in the area since the pier was constructed and disagreed that the pigeons cause problems with ocean water quality.

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

1. Approve the plans and specifications for the San Clemente Municipal Pier Repair and Understory Bird Deterrent, Project Nos. 16811 and 18810 respectively.
2. Approve, and authorize the Mayor to execute, Contract C17-39, by and between the City of San Clemente and Associated Pacific Contractors, Inc., providing for the construction of the San Clemente Municipal Pier Repair and Understory Bird Deterrent, in the amount of \$1,164,100.
3. Direct Staff to seek a humane solution for the pigeon situation.

C. Integrated Pest Management (IPM) Policy No. 801-4

Report from the Public Works Director/City Engineer concerning approval of an Integrated Pest Management (IPM) Policy.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report and summarized a letter received today from the U.S. Fish and Wildlife Service, dated September 5, 2017, which opposed the IPM policy.

Celia Kutcher, Capistrano Beach, speaking on behalf of the Orange County Chapter of the California Native Plant Society, suggested that synthetic herbicides should not be ruled out as a means of addressing invasive plants; urged that the City's natural open space areas be exempted from a prohibition on the use of synthetic herbicides.

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to continue consideration of the Integrated Pest Management (IPM) Policy to a future meeting to allow Staff to: 1) consider the concerns raised by the U.S. Fish and Wildlife Service; 2) Assess the potential financial impact associated with converting to organic pesticides; 3) Contact the Talega Homeowners Association to determine its experience since ceasing its use of Round Up; 4) Determine whether a change in City pesticide practices could negatively affect areas outside the City, such as the Rancho Mission Viejo Land Conservancy; and 5) Contact the Orange County Vector Control District to determine whether it has an opinion on the proposed Policy.

10. ORAL COMMUNICATIONS (PART 2)

None.

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

None.

B. City Manager

None.

C. **City Attorney**

None.

D. **Council Members**

(1) City Position on Resolutions Being Considered by the League of California Cities at the 2017 Annual Conference

City Clerk Baade reviewed the contents of the Administrative Report.

By consensus, Council supported the following resolutions which will be considered by the League of California Cities General Assembly on September 15, 2017:

1. Resolution calling upon the Governor and Legislature to enter into discussions with League and other public safety stakeholders to identify and implement strategies that will reduce the unintended negative impacts of existing criminal law.
2. Resolution supporting legislation amending Government Code Section 38611 to clarify the definition of local control, providing broad statutory authority for local officials to determine emergency service levels and direct emergency medical response within their jurisdictions.

Councilmember Donchak requested that City Manager Makshanoff or Assistant City Manager Sund attend the Coastal Cities meeting at the League of California Cities Conference.

Homeless Encampments

Councilmember Swartz reported that Council, Staff and Police Services are working to curtail problems associated with homelessness, adding that Council may revisit ordinances to strengthen enforcement capabilities.

Leadership San Clemente

Mayor Ward invited residents to apply for the Leadership San Clemente program which begins September 21, 2017; explained that applications can be obtained from the City's website or by calling the City of San Clemente.

Tail of Two Cities - Pet Project Foundation Fundraiser

Mayor Ward reported that the Pet Project Foundation's annual fundraiser, the Tale of Two Cities, will be held on September 24, 2017 at the Bella Collina Towne and Golf Club; requested that information concerning the event be added to the City's website.

Public Safety Task Force Subcommittee

Councilmember Hamm reported on the last meeting of the City's Public Safety Task Force, noting that the County's Homeless Specialist was a guest speaker.

12. RESOLUTIONS/ORDINANCES**A. Ordinance No. 1644 (Second Reading) – Speed Zones on Avenida La Pata**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to adopt 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.

13. ADJOURNMENT

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to adjourn at 9:54 p.m., in memory of OCFA Firefighter Mary Blaul. The next Regular Council Meeting will be held on September 19, 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