

CITY OF SAN CLEMENTE

City Council Minutes

Special and Regular City Council Meeting – October 17, 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.

A Special Meeting of the San Clemente City Council was called to order on October 17, 2017 at 4:32 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Ward.

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

*Arrived at 4:40 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 SWARTZ, SECOND BY COUNCILMEMBER HAMM, CARRIED 4-0 (MAYOR PRO TEM BROWN ABSENT), to recess to Closed Session at 4:33 p.m. to discuss the following:

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Existing litigation pursuant to Government Code section 54956.9(d)(1)
Number of Cases: 7

Case Name: Villa San Clemente v. City of San Clemente
Case Number: USDC 8:17-cv-1484

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

Closed Session items continued on next page

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. Dual Diagnosis Treatment Center, Inc.
Case Number: OCSC 30-2015-00805214

Case Name: Dual Diagnosis Treatment Center, Inc. v. City of San Clemente
Case Number: USDC 8:15-cv-01611CJC-JCG

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

REGULAR CITY COUNCIL MEETING CONVENED

The Regular City Council Meeting of October 17, 2017 convened at 6:12 p.m., with all members present.

INVOCATION

Mark Ambrose, Lead Pastor with Pacific Coast Church, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Brown led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Red Ribbon Week Proclamation

Mayor Ward presented a proclamation declaring October 23-29, 2017 as Red Ribbon Week to Amber Holcomb of the Junior Woman's Club. Students from various local schools were in attendance to demonstrate their commitment to remaining drug free.

B. San Clemente High School Student Report

Carni Campbell and Trey Russell narrated a PowerPoint presentation entitled "Link Crew: August through October" concerning campus activities at San Clemente High School. A hard copy of the presentation is on file with the City Clerk.

C. Toll Road Update**(1) Demand Letter (Maintenance of Existing Mitigation Agreements)**

City Attorney Smith reported that one of the TCA's preferred corridor alignments would cut through 142 acres of dedicated conservation land; noted the inconsistency of utilizing land set aside as mitigation for urbanization as a freeway; noted that the City is a third-party beneficiary to the mitigation agreements because they were created at the City's behest; presented a draft letter for Council consideration that would urge resource agencies and federal and State legislative representatives to support the preservation of dedicated conservation land in San Clemente.

Patricia Holloway, Capistrano Unified School Board, reported that the Board of Trustees voted 6 to 1 on October 11, 2017 to intervene in the City's and Reserve Maintenance Corporation's lawsuits challenging the TCA, County of Orange and Caltrans cooperative, protective and freeway agreements; stated that schools in the district are undergoing structural and systems assessments, noting that the assessments of San Clemente schools are expected to be released in November 2017.

Joanne Mathews, San Clemente, spoke in opposition to the toll road extension, focusing on the negative effects of the road extension on trails and wildlife habitat; urged that mitigation lands be left in tact and questioned the accuracy of the TCA's traffic projections; spoke in support of mass transit.

Mark McGuire, San Clemente, spoke in support of the proposed letter to the resource agencies and acknowledged the importance of maintaining mitigation lands; opined that the description of the toll road project as contained in the TCA's survey implies that the TCA could be considering an elevated corridor through San Clemente.

Council authorized that a demand letter be sent to elected representatives and resource agencies to maintain existing mitigation agreements.

D. Presentation by the Orange County Transportation Authority

Kurt Brotcke, Director, Strategic Planning, with the Orange County Transportation Authority, narrated a PowerPoint presentation entitled "Proposed I-5 South Improvement Study (Avenida Pico to Cristianitos Road)" and responded to Council inquiries. A hard copy of Mr. Brotcke's PowerPoint, dated October 17, 2017, is on file with the City Clerk.

Michelle Schumacher, San Clemente, requested information relative to the process utilized to determine the need for additional lanes on the I-5; spoke in opposition to a managed lane in the center of the I-5, noting that a high occupancy vehicle (HOV) lane is preferred.

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

New Home Construction at 214 and 216 Calle Serena (Neighborhood Impacts)

Tom and Jeri Winters, San Clemente, stated that new homes are being constructed at 214 and 216 Calle Serena, which is one of the narrowest streets in the City; voiced concern that construction workers are parking in such a manner as to block driveways and street access; conveyed that the subject parking practices jeopardize safety and have resulted in confrontations between residents and workers; requested City assistance.

Jeff (last name inaudible), San Clemente, stated that he also resides on Calle Serena; voiced concern that the subject parking situation could prevent emergency vehicles from accessing the street.

It was agreed that Mayor Ward will meet with the complainants concerning the situation.

Six Pillars of Character/Mural at Laundry Love

Pamela Joy Glass, San Clemente, spoke in support of the six pillars of character (trustworthiness, respect, responsibility, fairness, caring and citizenship) and commended the students of San Clemente High School; complimented the mural of King Triton at Laundry Love.

Clean Water Consultant – Toll Road Opposition

Roger Butow, Clean Water Now, Laguna Beach, explained that his company specializes in land use, regulatory compliance, hydrology and water quality; expressed a desire to utilize his expertise to help the City and others oppose extension of the 241 toll road.

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 Manager Compensation/BBK Recusal in Villa San Clemente Case/Re-Filing of Abatement Litigation Concerning 23 Via Jacobea

City Attorney Smith reported that during Closed Session on October 3, 2017, Council determined to amend the compensation of the City Manager, noting that that action is memorialized on this evening's agenda as Item 8-A; stated that he recused himself from participating in this evening's Closed Session item involving the case of Villa San Clemente v. City of San Clemente, because his firm had a prior representation of the plaintiff in that case, but explained that special counsel retained by the City was in attendance for that portion of the Closed Session; stated that Council previously authorized abatement litigation against a short-term rental and drug treatment facility at 23 Via Jacobea, but the property changed ownership; reported that the City has been unsuccessful in obtaining compliance from the new owner and, consequently, abatement litigation was re-filed today against the new property owner.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items A, F, H, I, and K.

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

- (1) Zoning Administrator Regular Meeting minutes of October 4, 2017.
- (2) Planning Commission Regular Meeting minutes of October 4, 2017.
- (3) Planning Commission Study Session minutes of October 4, 2017.

C. **Warrant Register**

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

Wire Transfers Nos. 1704 through 1707
 and Warrant Nos. 544838 through 545011, paid
 on 9-29-17 in the amount of.....\$2,576,826.09

Wire Transfers Nos. 1708 through 1712
 and Warrant Nos. 545012 through 545160, paid
 on 10-6-17 in the amount of.....\$1,775,056.78

TOTAL WARRANT REGISTER.....\$4,351,882.87

Payroll Register

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

Warrant Nos. 626 through 628, Automatic
 Deposit Advises 43267 through 43577, for the
 period 9-11-17 through 9-24-17, paid on 9-29-17
 in the amount of.....\$ 436,993.62

TOTAL PAYROLL REGISTER.....\$ 436,993.62

D. Notice of Completion – Reservoir Cleaning and Inspection Project

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

1. Accept the Reservoir Cleaning Project from the contractor, Inland Potable Services. Inc.
2. Authorize the City Clerk to release the Payment Bond 35 days from the recordation of the Notice of Completion upon verification with the Utilities Department that no liens have been levied against Inland Potable Services, Inc.
3. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the project cost.

E. Final Parcel Map 2007-160, Bissell Duplex Condominium at 214 Avenida Montalvo

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

1. Accept on behalf of the City of San Clemente the water rights within Final Parcel Map 2007-160 (214 Avenida Montalvo) as dedicated.
2. Accept on behalf of the City of San Clemente the sidewalk and public access easement as dedicated.
3. Approve Final Parcel Map 2007-160 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map.

Action continued on next page

4. Authorize the Public Works Director/City Engineer to execute Final Parcel Map 2007-160.
5. Authorize the City Clerk to execute and submit the Final Parcel Map for recordation with the County of Orange Recorder's Office.

G. Contract Award – Fat, Oil and Grease (FOG) Program Services

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

1. Approve, and authorize the Mayor to execute, Contract C17-43 by and between the City of San Clemente and Environmental Compliance Inspection Services (ECIS), providing for Fat, Oil and Grease (FOG) Program inspection services, in the amount of \$62,180.
2. Approve and authorize the City Manager to execute contract extensions for two additional twelve-month periods for an amount not to exceed \$62,180.

J. Initiation of Zoning Amendment Per Housing Element Programs

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to initiate the following Zoning Amendments to the San Clemente Municipal Code, consistent with the Housing Element Action Plan:

1. Section 17.24.070 Density Bonuses and Other Incentives
2. Chapter 17.28 for Residential Care Facilities
3. Title 17 for Transitional and Supportive Housing
4. Title 17 for Farmworker and Employee Housing

L. Delegation of Authority to the City Manager to Make Findings Pursuant to Section 3400 of the California Public Contract Code

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to adopt Resolution No. 17-34 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DELEGATING AUTHORITY TO THE CITY MANAGER TO MAKE FINDINGS THAT A PARTICULAR MATERIAL, PRODUCT, THING, OR SERVICE BE DESIGNATED BY SPECIFIC BRAND OR TRADE NAME FOR PUBLIC WORKS PROJECTS PURSUANT TO SECTION 3400 OF THE CALIFORNIA PUBLIC CONTRACT CODE.

M. Replacement of Fleet Vehicle Numbers 1003 and 1019

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve the purchase of two vehicles from Fairview Ford Sales for replacement of Fleet Vehicle Numbers 1003 and 1019.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**A. City Council Minutes (Special and Regular Meeting of October 3, 2017)**

Council referenced the portion of the minutes of October 3, 2017 relating to Accessory Dwelling Units (Item 8-A). Council considered modifying the minutes to make it clear that ADUs are to be used for housing and that the City's short-term lodging ordinance applies globally to all housing within the City. Also discussed was the possibility of re-agendizing the item to enable Councilmember Hamm (who was absent from the portion of the October 3, 2017 meeting when this item was discussed) to convey his concerns with the impact of ADUs on public safety since the southwest area of the City is already on the verge of requiring an additional fire unit to respond to calls. Council determined to not amend the minutes, nor to reagendaize the issue, because the comments expressed this evening will be available to the Planning Commission and the Planning Commission's recommendation will be provided to Council for final determination.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to approve the Special and Regular City Council minutes of October 3, 2017, with the following amendments: 1) That Charles Mann's comments under Oral Communications on Page 4 be modified to read "*Charles Mann, Save San Clemente Open Space, presented a \$5,000 check to the City that he suggested be used to help fund an advisory ballot measure to ascertain voter sentiment toward the development of a toll road through the City.*"; 2) That Page 13 of the minutes be corrected to reflect that Councilmembers Donchak and Hamm were absent (not dissenting) in the votes to adopt Ordinance No. 1646 and to adjourn.

Council requested that the possibility of adding an advisory ballot measure to the November 6, 2018 ballot to ascertain voter sentiment toward extension of the 241 toll road be agendaized for a future Council meeting, under the topic of "Toll Road Update". Additionally, Council directed Staff to not cash Mr. Mann's \$5,000 check.

F. Contract Award – Water Reclamation Plant Security Gates

Council noted that the sign on Avenida Pico reads “Reclamation Plant” and suggested that Staff consider an alternate name, such as “City Yard”, “Utilities”, “San Clemente Water Department”, or name that possibly reflects the City’s Spanish heritage.

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C17-42 by and between the City of San Clemente and Square [1] Design Group, providing for design services for the Water Reclamation Plant Security Gates (Project No. 18203), in the amount of \$32,640.

H. Calle Saluda Striping Plan

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve the restriping of Calle Saluda as depicted in the attachments to the Administrative Report, dated October 17, 2017, which is on file with the City Clerk, with minor revisions as needed to conform to the California Manual of Uniform Traffic Control Devices.

I. Proposed Traffic Calming Measures on Riachuelo

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve the proposed speed cushion design concept for ten speed cushions on Riachuelo as provided in Attachment 2 of the Administrative Report, dated October 17, 2017, which is on file with the City Clerk.

K. Declaration of Surplus Property and Approval of Purchase and Sale Agreement Between San Diego Gas & Electric and the City of San Clemente – 2.5 Acre Parcel of Land Located South of the 14th Tee on the City’s Municipal Golf Course, Bordered by Calle Bahia and the Parking Lot Access Road to the Golf Maintenance Building

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

1. Declare the 2.5 acre parcel (parcel # pending), located south of the 14th tee on the City’s Municipal Golf Course, bordered by Calle Bahia and the parking lot access road to the Golf maintenance building, as surplus property.
2. Approve, and authorize the City Manager to execute, Contract C17-44, the Purchase & Sale Agreement between San Diego Gas & Electric and the

City of San Clemente for the sale of the 2.5 acre parcel of land, with the following modifications: 1) That the City be given the right of first refusal in the event SDG&E determines to surplus and sell the property in the future; and 2) That the City retain access to the trail system from Vista Bahia Park in perpetuity.

3. Receive revenue in the amount of \$550,000 to the Golf Operating Fund, Sale of Other Assets Account 056-000-39120.

7. PUBLIC HEARINGS

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

Continued 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 districts and the Architectural, Coastal Zone and Central Business District Overlays (MU1-A-CZ-CBD).

City Planner Gregg narrated a PowerPoint presentation entitled "Miramar and Bowling Alley Rehabilitation HPPPWIA" and responded to Council inquiries. A hard copy of Ms. Gregg's PowerPoint, dated October 17, 2017, is on file with the City Clerk.

Mayor Ward opened the Public Hearing.

Larry Culbertson, San Clemente Historical Society, spoke in support of the proposed parking waiver, noting that it will help to preserve the City's eclectic charm; noted that Staff has researched parking availability in the area and is confident that sufficient parking exists to accommodate 92 parking waivers.

George Gregory, San Clemente, opined that 92 parking spaces is inadequate to accommodate the 800 people that would patronize the project; urged that the project be reduced in size/intensity; asserted that El Camino Real is unsightly because it is difficult to build/rehabilitate in San Clemente.

Wayne Eggleston, San Clemente, stated that Ole Hanson determined in the 1920s that North Beach would serve as an entertainment hub for San Clemente; noted that Council can make Ole Hanson's vision a reality this evening and urged project approval.

Jim Holloway, San Clemente, stated that parking studies indicate that more than adequate parking is available now and into the future, but added that this does not mean that a parking management problem does not exist; suggested that a price-based parking management technique be implemented to encourage parking in desired areas (e.g., by providing free parking away from residential areas).

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

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

1. Adopt Resolution No. 17-27 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING HISTORIC PROPERTY PRESERVATION AND PARKING WAIVER INCENTIVE AGREEMENT FOR THE PROPERTY LOCATED AT 1700 NORTH EL CAMINO REAL.
2. Direct Staff to investigate a parking sticker program for the North Beach area that would encompass Calle Las Bolas, Avenida Florencia to Via Sacramento, and Calle Colina.

8. **UNFINISHED BUSINESS**

A. **Salary Adjustment for City Manager**

Report from the City Attorney concerning a salary adjustment for the City Manager.

City Attorney Smith reviewed the contents of the Administrative Report.

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

1. Adopt Resolution No. 17-35 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING SALARY ADJUSTMENT OF CITY MANAGER JAMES MAKSHANOFF.
2. Direct Staff to implement the salary adjustment.

9. **NEW BUSINESS**

None.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

(1) **Establishment of Council Meeting Schedule and Joint Meeting(s) for 2018**

Council modified its 2018 meeting schedule as follows:

1. The Council meeting of June 5, 2018 was rescheduled to June 7, 2018 (to enable the Council Chambers to be used as a polling site).
2. The Council meeting of November 6, 2018 was rescheduled to November 7, 2018 (to enable the Council Chambers to be used as a polling site).
3. A Joint Council/Commissions/Committees meeting will take place on Thursday, May 10, 2018 at the Ole Hanson Beach Club. The format for this joint meeting will be changed from a formal dinner

as utilized in the past to hors d'oeuvres and a longer social hour. Presentations are to be brief (e.g., two minutes).

4. The July 3, 2018 and July 17, 2018 Council meetings were cancelled to accommodate Council and staff vacations. A Council meeting will take place on July 24, 2018 in place of those two meetings.
5. The Council meeting of August 7, 2018 was cancelled to accommodate Council and staff vacations.
6. The Council meeting of January 1, 2019 was cancelled.

Roundtable

Mayor Pro Tem Brown displayed a plaque that was a gift from General Smith of the 1st Marine Division at Camp Pendleton; requested that the plaque be displayed at the Community Center.

City Coin


Councilmember Hamm presented the City's new official coin.

12. **RESOLUTIONS/ORDINANCES**

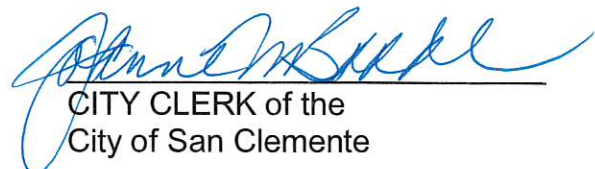
None.

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adjourn at 8:33 p.m. in honor of Councilmember Swartz's new grandniece, Indigo Eichten, who was born on October 13, 2017. The next Regular Council Meeting will be held on November 7, 2017 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 5:00 p.m. and the Regular Business Meeting will commence at 6:00 p.m.



MAYOR of the City of
San Clemente, California



CITY CLERK of the
City of San Clemente