

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting – December 19, 2017

These minutes reflect the order in which items appeared on the meeting agenda and do not necessarily reflect the order in which items were actually considered.

An Adjourned Regular Meeting of the San Clemente City Council was called to order on December 19, 2017 at 4:30 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Brown.

PRESENT DONCHAK*, SWARTZ, WARD, MAYOR BROWN

* Arrived at 5:15 p.m.

ABSENT HAMM

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

INTERVIEWS/SELECTION OF CITY REPRESENTATIVE TO THE ORANGE COUNTY MOSQUITO AND VECTOR CONTROL DISTRICT

Council interviewed the following applicants for the position of City Representative to the Orange County Mosquito and Vector Control District:

Jim Dahl
Glenn Roy
Michelle Schumacher

Councilmembers cast written ballots as follows:

BROWN: Roy
SWARTZ: Dahl
WARD: Schumacher
(Councilmembers Donchak and Hamm were absent)

Councilmembers cast written ballots a second time as follows:

BROWN: Roy
SWARTZ: Dahl
WARD: Schumacher
(Councilmembers Donchak and Hamm were absent)

Councilmembers cast written ballots a third time as follows:

BROWN: Dahl
SWARTZ: Schumacher
WARD: Schumacher
(Councilmembers Donchak and Hamm were absent)

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 3-0 (COUNCILMEMBER DONCHAK AND MAYOR PRO TEM HAMM ABSENT), to appoint Michelle Schumacher to represent the City on the Orange County Mosquito and Vector Control District, for a two-year term to expire January 2020.

CLOSED SESSION

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER DONCHAK AND MAYOR PRO TEM HAMM ABSENT), to recess to Closed Session at 5:00 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: 9

Case Name: Villa San Clemente, LLC 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

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

Closed Session items continued on next page

Case Name: Capistrano Shores, Inc. v. City of San Clemente
Case Numbers: OCSC 30-2014-00709987 and 30-2014-00726889

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. Michael Harrison, et al.
Case Number: OCSC 30-2017-00950172-CU-MC-CJC

Case Name: Sober Network Properties, LLC, et al. v. City of San Clemente
Case Number: USDC 8:17-cv-00668

Case Name: City of San Clemente, et al. v. Dual Diagnosis Treatment Center, Inc., et al.
Case Number: OCSC 30-2015-00805214-CU-MC-CJC

REGULAR CITY COUNCIL MEETING CONVENED

The Regular City Council Meeting of December 19, 2017 convened at 6:03 p.m., with all members present.

INVOCATION

Don Kappaugh, Orange County Sheriffs Department Chaplain, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Swartz led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Holiday Serenade - 5th and 6th Grade Choir Students

Choir students from Truman Benedict, Concordia, Las Palmas, Marblehead, Palisades and Vista del Mar Schools, under the direction of Choir Directors Debra Peterson and Greg Rennie, performed a holiday serenade.

B. City Fiscal Reports

Deputy Administrative Services Director Vincent narrated a PowerPoint presentation entitled "Fiscal State of the City" that addressed the Fiscal State of the City for the period ending June 30, 2017, Fiscal Year (FY) 2017 4th Quarter Financial Report, and FY 2018 1st Quarter Financial Report. A

hard copy of Ms. Vincent's presentation, dated December 19, 2017, is on file with the City Clerk.

Council noted the likelihood of an upcoming economic correction and commented on the importance of ensuring that appropriate contingencies are in place to prepare for that occurrence.

During the course of discussion, Council requested information on the City's largest sales tax revenue source(s), which have traditionally been associated with gasoline sales.

C. **Police Services Update**

Chief Mike Peters presented a PowerPoint presentation entitled "San Clemente". A hard copy of Chief Peters' presentation is on file with the City Clerk.

D. **San Clemente-Dana Point Animal Shelter Report**

Councilmember Swartz presented photographs of animals available for adoption from the San Clemente-Dana Point Animal Shelter.

E. **City Hall Relocation**

Public Works Director Bonigut provided an overview of the upcoming relocation of City Hall offices to the City facility at 910 Calle Negocio.

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

Friends of San Clemente Foundation - Financial Implications Associated with Discontinuation of the Friends' Office Space at 910 Calle Negocio

John Dorey, President of the Friends of San Clemente Foundation, reported that the Foundation was informed that it can no longer utilize the office space at 910 Calle Negocio; commented on the financial implications that relocation to a new office location could have, noting that the Friends' may not be able to meet the City's request for \$45,000 to help fund recreational programs and scholarships. A copy of Mr. Dorey's letter to Council, dated December 19, 2017, is on file with the City Clerk.

Rod's Tree Service - Suggestion That the Contract be Re-Negotiated (as Opposed to Being Re-Bid)

Ed Stewart, San Clemente, noted that all City maintenance contracts will go out to bid in 2018 under prevailing wage guidelines; urged that the Rod's Tree Service contract be renegotiated under prevailing wage guidelines, rather than opening the contract to public bid; noted the quality work that Rod's Tree Service provides as well as its community contributions; urged that the City not risk losing Rod's Tree Service.

Celebrity Assistance in Fighting the Toll Road Extension

Steve Viele, San Clemente, requested City assistance in recruiting celebrities with San Clemente connections to help fight the toll road extension.

Capistrano Shores - Land Use Plan/Implementation Plan

Eric Anderson, San Clemente, stated that he resides in the Capistrano Shores community; expressed willingness to work with the City to achieve a Land Use Plan and implementation plan that effectively protects the City and the 110 families of Capistrano Shores.

Eric Wills, San Clemente, voiced concern with the changes that the Coastal Commission has made to the Land Use Plan; stated that significant work needs to be done before the Coastal Commission's February 2018 public hearing.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to waive reading in full of all Resolutions and Ordinances.

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

None.

5. CLOSED SESSION REPORT - CITY ATTORNEY**Settlement Agreement with County of Orange - CEQA Violations (Freeway Agreement and Cooperative Agreement - SR-241/Oso/Los Patrones Parkway)**

City Attorney Smith advised that no reportable actions were taken during this evening's Closed Session; stated that the first item on the Closed Session agenda (i.e., Villa San Clemente LLC v. City of San Clemente) was not discussed; stated that Council, at its meeting of December 5, 2017, unanimously approved a Settlement Agreement with the County of Orange relating to the County's partnership with the TCA to build the interchange between the current terminus of SR-241 and Oso Parkway; reviewed the major points of the settlement agreement, noting that it was approved by the Orange County Board of Supervisors on December 12, 2017.

6. CONSENT CALENDAR

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the Consent Calendar, with the removal of Items B(4), H and L.

A. City Council Minutes

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the Special and Regular City Council minutes of November 21, 2017.

B. MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to receive and file:

- (1) Beaches, Parks and Recreation Commission Special Meeting minutes of October 24, 2017 and Regular Meeting minutes of November 14, 2017.
- (2) Zoning Administrator Regular Meeting minutes of December 6, 2017.
- (3) Planning Commission Study Session minutes of December 6, 2017.

C. **Warrant Register**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the following:

Wire Transfers Nos. 1739 through 1742 and Warrant Nos. 546381 through 546514, paid on 12/1/17, in the amount of.....\$ 945,546.10

Handwrite Nos. 546668 through 546726, and Wire Transfers Nos. 1743 through 1746, and Warrant Nos. 546515 through 546667, paid on 12-8-17.....\$3,965,300.44

TOTAL WARRANT REGISTER..... \$4,910,846.54

Payroll Register

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the following:

Warrant Nos. 642 through 643, and Automatic Deposit Advises 44769 through 45047, for the period 11/20/17 through 12/3/17, paid on 12/8/17, in the amount of.....\$524,165.70

TOTAL PAYROLL REGISTER.....\$524,165.70

D. **Communications Site Lease Agreement - T-Mobile West LLC (San Gorgonio Park Site)**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the Mayor to execute, a Communications Site Facility Lease Agreement (Contract C17-57), by and between the City of San Clemente and T-Mobile West LLC, and authorize the City Manager to approve future amendments provided that the City Manager shall not have the authority to approve a decrease in the rental rate without prior approval of the City Council.

E. **Contract Amendment - Hazardous Waste Response, Cleanup, Removal and Disposal, Environmental On-Call Services**

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

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract AC-725, by and between the City of San Clemente and Ocean Blue Environmental Services, Inc., providing for hazardous waste response, cleanup, removal and disposal, environmental on-call services. This Amendment increases the contract amount from \$24,500 to \$49,500 (an increase of \$25,000).
2. Approve a supplemental appropriation in the amount of \$25,000 to Account 059-552-43890 from the Storm Drain Operating Fund.
3. Authorize the City Manager to approve a one-time extension to the contract for twelve months in the amount of \$25,000.

F. **Contract Amendment - Reimbursement of City-Provided Utility Services for the Interstate 5/Avenida Pico Interchange Improvement Project**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the Public Works Director/City Engineer to execute, Amendment No. 1 to Utility Agreement No. CSC-1 (City Agreement No. C13-54) with the Orange County Transportation Authority for reimbursement of City-provided utility services for the Interstate 5/Avenida Pico Interchange Improvement Project.

G. **Community Facilities District No. 2006-01 (Marblehead Coastal) Local Agency Special Tax and Bond Accountability Act Report (SB 165) for Fiscal Year Ended June 30, 2017**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to accept and file the Community Facilities District No. 2006-1 (Marblehead Coastal) Local Agency Special Tax and Bond Accountability Act Report (SB 165) for the fiscal year ended June 30, 2017.

I. Contract Award - Graffiti Removal

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the Mayor to execute, Contract C17-58 by and between the City of San Clemente and E. Stewart and Associates, Inc., providing for graffiti removal services in connection with public properties and specific private property locations within the City, for the initial term of January 1, 2018 to June 30, 2020, with two optional one-year extensions.

J. Contract Award - Printing of the City Magazine

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the Mayor to execute, Contract C17-59 by and between the City of San Clemente and Advanced Web Offset, providing for the printing of the City Magazine for three (3) years with two (2) one-year extensions, for an amount not to exceed \$49,000 per year.

K. Contract Amendment - Office Lease of Suite 210 on the 2nd Floor - 910 Calle Negocio

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

1. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C15-74, by and between the City of San Clemente and Makoil, Inc., providing for the lease of 4,825 square feet on the 2nd floor of the 910 Calle Negocio building, with an option to expand the lease area by 5,460 square feet.
2. Approve a supplemental appropriation of \$51,700; \$46,700 to Account 001-203-43605 (Broker Commissions) and \$5,000 to Account 001-203-43500 (Improvements) from the General Fund unassigned fund balance.

M. Contract Contingency Increase - Citywide Structured Cabling

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to authorize a construction contingency increase in the amount of \$38,200 to the Citywide Structured Cabling Project with Berg Electrical Corp. for the installation of data cabling required for the relocation of City Hall staff to 910 Calle Negocio.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**B(4). Planning Commission Regular Meeting Minutes of December 6, 2017**

Councilmember Ward referred to Page 5 of the Planning Commission Regular Meeting minutes of December 6, 2017 relating to the Outlets at San Clemente Freeway-Oriented Signs; pointed out that the minutes indicate that an assertion was made at the meeting that freeway-oriented signage is allowed for the project as per the Development Agreement and questioned whether the word "allowed" accurately represents the communication that occurred at the meeting.

Council determined to receive and file the Planning Commission minutes as submitted. The Planning Commission will consider approving the subject minutes tomorrow evening and Councilmember Ward may, if desired, ask the Planning Commission if the minutes are accurate as drafted.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to receive and file the Planning Commission Regular Meeting minutes of December 6, 2017.

H. Contract Amendment - Street Sweeping Parking Enforcement Services

In response to Council inquiry, Staff reviewed the City's process for publicizing Requests for Proposals (RFP); explained that 57 vendors were notified of the subject bidding opportunity, but no bids were received.

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C14-24, by and between the City of San Clemente and Patrol One, concerning street sweeping parking enforcement services. This Amendment extends the contract term through June 30, 2018, and increases the total not-to-exceed contract amount to \$106,644.79.

L. Initiation of a General Plan Amendment and Specific Plan Amendments to Eliminate References to Freeways in San Clemente Planning and Zoning Regulations

David Pierucci, attorney with Best, Best & Krieger, narrated a PowerPoint presentation entitled "General Plan Amendment Initiation, Measure V Implementation and CA-241 Alignment". A hard copy of Mr. Pierucci's presentation is on file with the City Clerk.

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to direct the Planning Commission, as authorized by Municipal Code section 17.16.020(C)(1), to:

1. Initiate an amendment to the General Plan to define and clarify the scope of Measure V's public roadways exception,
 - a) Eliminate any references to SR-241 and zoning that acknowledges SR-241.
2. Initiate any amendment or amendments to the City's Specific Plans that might be needed to ensure that each Specific Plan is consistent with the clarified meaning and intent of the General Plan and the elimination of SR-241.

MEETING RECESSED

Council recessed at 7:50 p.m. and reconvened at 7:55 p.m., with all members present.

7. PUBLIC HEARINGS

A. City of San Clemente Annual Report Concerning the Mitigation Fee Act Report for FY 2016/17

Public Hearing to consider the City of San Clemente Annual Mitigation Fee Act Report for Fiscal Year 2016/17.

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

Mayor Brown opened and closed the Public Hearing, there being no one desiring to speak to this issue.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to receive and file the Annual Report concerning the Mitigation Fee Act for Fiscal Year 2016-17, dated December 19, 2017, which is on file with the City Clerk.

B. Billing for 2017 Weed Abatement Program

Public Hearing to consider objections or protests, if any, to the costs of the abatement of weeds, rubbish, refuse and dirt upon streets, sidewalks, parkways and private property within the City of San Clemente and to the assignment of these costs to the properties on which the abatement was completed.

Code Compliance Manager Atamian reviewed the contents of the Administrative Report.

Mayor Brown opened and closed the Public Hearing, there being no one desiring to speak to this issue.

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

1. Waive the City's notification costs for the compliant property owners.
2. Approve the Weed Abatement Report.
3. Authorize the Weed Abatement Contract Administrator to bill the amounts indicated in the report to the appropriate property owners.

8. UNFINISHED BUSINESS

None.

9. NEW BUSINESS

A. Update on San Clemente Summer Trolley Program

Report from the Public Works Director concerning an update on the San Clemente Summer Trolley Program.

Public Works Director/City Engineer Bonigut reviewed the contents of the Administrative Report and responded to Council inquiries; noted that Council received an email from Susan Jennrich, General Manager of the Outlets of San Clemente, requesting that the signage at the rear of the trolleys reflect that the Outlets (rather than Shorecliffs) is a destination.

Don Brown, San Clemente resident and member of the Planning Commission, urged that Council consider trolley connectivity, lateral expansion of the system, and possible connection of service to Dana Point; suggested that Council request that Staff prepare three- and five-year plans.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to receive and file the update on the Summer Trolley Program, as contained in the Administrative Report, dated December 19, 2017, which is on file with the City Clerk, and provide direction to Staff as follows:

- **Rental/Charter:** Work with the Planning Commission to determine a process to implement a rental or charter program for the trolley during the off season. A rental charge is to be developed that is revenue positive, with money going back to supporting the trolley program. Rental is not to be limited to two hours.
- **Advertising:** Explore a trial program using spaces in the rear ceiling of the trolley (spaces B&C as identified in the Administrative Report). City versus business-oriented advertising is to be explored. The Design Review Subcommittee is to review ad design and consider trolley theme colors.
- **Service Expansion:** Work with the consultant to explore opportunities for service expansion, focusing first on Options 2 and 3 as identified in the Administrative Report. Consideration of connecting service to Dana Point should be via the Pacific Coast Highway corridor. An expanded route down South El Camino Real is to be considered.
- **Consultant Retainer:** Authorize a supplemental appropriation from the Air Quality Fund in the amount of \$25,000 to fund a contract to retain a trolley consultant.

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) Consideration of Appointing a City Representative to the Community Engagement Panel**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to appoint Councilmember Swartz as the City's representative to the Community Engagement Panel and appoint Mayor Brown to serve as the City's alternate representative.

(2) Transportation Corridor Agencies (TCA) Meeting Report

Councilmember Ward reported on her attendance at a recent meeting of the Transportation Corridor Agencies; explained that mobility concepts 9 through 18 remain under consideration. A hard copy of Councilmember Ward's PowerPoint entitled "Rating Mobility Ideas by Category" is on file with the City Clerk and will be posted to the City's website.

(3) Orange County Transportation Authority (OCTA) Board Report

Councilmember Donchak reported on this week's Board meeting of the OCTA, noting that technical studies indicate that a toll connector between the SR-241 and SR-91 express lanes could increase traffic congestion for drivers on the SR-241 and SR-91 during the evening commute; noted that the OCTA Board voted to direct Staff to request that the TCA defer all work on a SR-241 to SR-91 connector and to work with the Riverside County Transportation Commission (RCTC) and Caltrans to evaluate opportunities to advance SR-91 congestion relief projects.

(4) **Ordinance to Alleviate Fire Hazards During Red Flag Weather Conditions**

Councilmember Swartz reported that the public has expressed concern with transient camping in open space areas, especially during periods of high fire risk; noted that Staff is developing an ordinance to give Orange County Sheriffs more capabilities in clearing canyons of fire risks, including homeless encampments, during red flag emergency conditions.

(5) **Chabad of San Clemente - Hanukkah Lighting Celebration**

Mayor Brown expressed gratitude to Chabad of San Clemente for inviting the City Council to participate in the Hanukkah lighting celebration on December 10, 2017.

(6) **Family Assistance Ministries - Christmas Event**

Mayor Brown reported on his attendance at Family Assistance Ministries' Christmas event at the Community Center last weekend.

12. **RESOLUTIONS/ORDINANCES**


None.

13. **ADJOURNMENT**

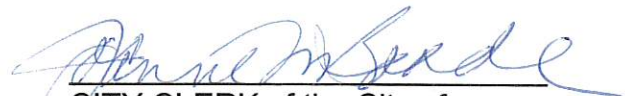
MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to adjourn at 8:55 p.m.

The next Regular Council Meeting will be held on January 16, 2018 in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items will be considered at 5:00 p.m. and the Regular Business Meeting will take place at 6:00 p.m.

The Regular Council Meeting of January 2, 2018 was previously cancelled.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California