

CITY OF SAN CLEMENTE

City Council Minutes

Special and Regular City Council Meeting – February 6, 2018

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 February 6, 2018 at 4:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Councilmember Swartz.

PRESENT DONCHAK, SWARTZ, WARD, MAYOR BROWN*

*Arrived at 4:30 p.m.

ABSENT HAMM

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 WARD, CARRIED 3-0 (MAYOR PRO TEM HAMM AND MAYOR BROWN ABSENT), to recess to Closed Session at 4:00 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: 5

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

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

Closed Session items continued on next page

Case Name: MemorialCare Services, et al. v. City of San Clemente
Case Number: USDC 8:16-cv-00852 DOC-JCG

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

- B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)
Number of potential cases: 2
- C. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**
Initiation of litigation pursuant to Government Code section 54956.9(d)(4)
Number of potential cases: 1
- D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Pursuant to Government Code Section 54956.8
Property: 1 Acre Vacant Land Parcel North of the Northeast Corner of Avenida Fabricante and Calle Extremo, APN #690-661-09
Agency Negotiator: Erik Sund, Assistant City Manager
Negotiating Parties: City of San Clemente and Glaukos Corporation
Under Negotiation: Price and Terms of Payment for Purchase

REGULAR CITY COUNCIL MEETING CONVENED

The Regular City Council meeting of February 6, 2018 convened at 6:00 p.m., with all members present, except Mayor Pro Tem Hamm.

INVOCATION

Pastor Rob Swart, Southcoast Church International, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Swartz led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

San Clemente Day

Recreation Manager Thomas narrated a PowerPoint presentation entitled "San Clemente Day Commemorative Map", and described the City events scheduled to celebrate San Clemente Day. An Ole Hanson impersonator described Ole Hanson's vision for San Clemente.

A. **Toll Road Update**

Mark McGuire, San Clemente, stated that he expects that the Transportation Corridor Agencies (TCA) will propose an additional extension alternative at its February 8, 2018 meeting that would involve terminating the 241 extension at La Pata, north of San Clemente; voiced concern that a partial extension could be extended through San Clemente in the future.

John Hershman, San Clemente, speaking on behalf of The Reserve community, thanked Council for its efforts to prevent an extension of the 241 through San Clemente; presented a proposed Toll Road Bill of Rights and opined that toll amounts should be posted.

B. **San Clemente High School Presentation**

This item was deferred to the Council meeting of February 20, 2018.

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

Cabrillo Playhouse Events

Sandra Weaver, speaking on behalf of the Cabrillo Playhouse, reported on upcoming plays and functions at the Playhouse.

North Beach Concession Stand Mural

John Kopp, San Clemente, noted that the mural of the Ole Hanson Beach Club was removed from the back side of Hanson's Market on Avenida Pico; suggested that a new mural, that depicts the same image, be painted on the side of the North Beach concession stand and displayed a video that demonstrated how the painting would look at that location.

JustServe.org Community Volunteer Website

Martin Garff and Brett Bartlett, San Clemente, demonstrated the JustServe.org community volunteer website and requested that a link to the site be incorporated into the City's website.

Opening Time for Beach Restrooms

Laurie Bolles, San Clemente, voiced concern that beach restrooms are not being opened until approximately 8:00 a.m. or 8:30 a.m., and urged that the restrooms, especially the T Street restroom, be opened at sunrise.

3. MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER WARD, 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**

None.

6. **CONSENT CALENDAR**

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

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the Regular City Council Meeting minutes of January 16, 2018.

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

- (1) Zoning Administrator Adjourned Regular Meeting minutes of January 17, 2018.
- (2) Planning Commission Adjourned Regular Meeting minutes of January 17, 2018.
- (3) Planning Commission Study Session minutes of January 17, 2018.
- (4) Design Review Subcommittee minutes of January 10, 2018.
- (5) Coastal Advisory Committee Regular Meeting minutes of December 14, 2017.

C. Warrant Register

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

Handwrite No. 547194, Wire Transfers Nos. 1762 through 1766 and Warrant Nos. 547195 through 547370, paid on 1/12/18, in the amount of.....\$ 629,655.01

Wire Transfers Nos. 1767 through 1770 and Warrant Nos. 547371 through 547516, paid on 1/19/18, in the amount of\$1,187,993.57

Wire Transfers Nos. 1771 through 1773 and Warrant Nos. 547517 through 547677, paid on 1/26/18, in the amount of..... \$1,427,598.63

TOTAL WARRANT REGISTER.....\$3,245,247.21

Payroll Register

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

Warrant Nos. 648 through 650, Automatic Deposit Advises 45626 through 45926, for the period 1/1/18 through 1/14/18, paid on 1/19/18, in the amount of.....\$ 429,245.65

TOTAL PAYROLL REGISTER.....\$ 429,245.65

D. **Update of Solar Permit Fee Waiver to Align with New State Requirements**

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

1. Modify the fee waiver program to waive the portion of fees for Solar Permits that exceed the following:
 - a. For residential solar electric and solar water heating systems, waive permit fees in excess of \$450 for systems up to 15 KW with an additional \$15 for each KW over 15 KW; and
 - b. For commercial solar electric and solar water heating systems, waive permit fees in excess of \$1,000 for systems up to 50 KW with an additional \$7 for each KW over 50 KW up to 250 KW and an additional \$5 for each KW over 250 KW.
2. Reevaluate the Solar Permit Fee Waiver Program in two years.

E. **Code Compliance Division Philosophy and Mission Statement**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the Code Compliance Division Philosophy and Mission Statement, and direct Staff to continue developing the policies and procedures manual.

F. **Memorandum of Understanding - Water Conservation Project Support (Homeowner Association Water Efficient Landscaping Program)**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the City Manager to execute, Contract C18-05, a Memorandum of Understanding (MOU) by and between the City of San Clemente and WaterNow Alliance, providing for the development of a homeowner association (HOA) water efficient landscaping program.

G. Contract Amendment - Short-Term Wastewater Services Agreement

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the City Manager to execute, Amendment No. 1 to Contract C17-55, by and between the City of San Clemente and the Santa Margarita Water District, to extend the contract to treat wastewater flows from Talega for 90 days.

I. Fee Waiver Request - San Clemente Village (Use of Community Center)

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to waive the facility rental fees associated with San Clemente Village's Mind Boosters program to be held at the Community Center during the month of April 2018, in an amount not to exceed \$500.

J. Initiation of General Plan Amendment to Modify the Roadway Classification of Camino Del Rio, and Portions of Camino de los Mares and North El Camino Real

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to, as authorized by Municipal Code Section 17.16.020(c)(1), direct the Planning Commission to initiate an amendment to the General Plan to:

1. Reclassify Camino de los Mares, between Camino Vera Cruz and Camino Del Rio, from a secondary (four-lane, undivided), to a divided collector (two-lane divided).
2. Reclassify Camino Del Rio, between Camino de los Mares and Avenida La Pata, from a secondary (four-lane, undivided), to a divided collector (two-lane divided).
3. Reclassify North El Camino Real from Avenida Pico to Camino Capistrano from a secondary arterial to a collector arterial.

K. Contract Award - Richard T. Steed Memorial Park Fence Rehabilitation

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

1. Approve the specifications for the Richard T. Steed Memorial Park Fence Rehabilitation, Project No. 28802.
2. Approve, and authorize the Mayor to execute, Contract C18-06, by and between the City of San Clemente and Armor Fence Concepts, Inc., providing for the rehabilitation of the Richard T. Steed Memorial Park Fence, in the amount of \$47,699.72.

L. Notice of Completion - North El Camino Real Street and Sidewalk Improvements and Class I Bicycle and Pedestrian Path

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

1. Accept the North El Camino Real Street and Sidewalk Improvements and Class I Bicycle & Pedestrian Path, Project Nos. 13308, 14325, 16344, and 16356, from the contractor, GMC Engineering, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the North El Camino Real Street and Sidewalk Improvements and Class I Bicycle & Pedestrian Path. (Contract C16-77)
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, GMC Engineering, 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.

M. Payment Authorization - Microsoft Enterprise Software Licensing

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to authorize payment to SoftwareOne, Inc., for the purchase of Microsoft Enterprise Software Licensing, in the amount of \$94,332.

N. Equipment Purchase - 800MHz Radios

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the purchase of 800 MHz radio equipment from Motorola Solutions, Inc., in the total amount of \$126,107.

O. Office Furniture Purchase for Civic Center Relocation

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to authorize the City Manager to execute the purchase of furniture for the Civic Center relocation in accordance to NJPA contract #031715-STI, in an amount not to exceed \$176,200, which includes \$16,000 for contingency purposes. City Contract #C18-07

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

H. Fee Waiver Request - Heritage of San Clemente Foundation (Use of Richard T. Steed Memorial Park)

Council thanked Wayne Eggleston, of the Heritage of San Clemente, for his efforts in connection with the 2nd Battalion 4th Marines softball tournament. Council also expressed gratitude to Meg and Gary Greenberg, operators of the Steed Park concession, for offering free food and drink to the military members who attended the tournament.

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve a one-time waiver of field rental fees and field preparation fees for the Heritage of San Clemente Foundation's 2nd Battalion 4th Marines softball tournament held on January 31, 2018 at Richard T. Steed Memorial Park.

7. **PUBLIC HEARINGS**

A. **Code Amendment - Density Bonus Update (Zoning Amendment 17-204)**

Public Hearing to consider a City-initiated amendment of Municipal Code (SCMC) Title 17 "Zoning" (Zoning Amendment 17-204), Section 17.24.070 containing provisions for density bonuses and other incentives for affordable housing projects and senior citizen housing developments in accordance with prior State law. This amendment will update the SCMC to comply with current State law pursuant to Assembly Bills (AB) 744, 2222, 2556, 2442, and AB 1934, as codified in Government Code Sections 65915-65915.7.

Contract Planner Stonich narrated a PowerPoint presentation entitled "ZA 17-204 Density Bonus" and responded to Council inquiries. A hard copy of Ms. Stonich's PowerPoint is on file with the City Clerk.

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 introduce Ordinance No. 1649 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SECTION 17.24.070 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE PROVISION OF DENSITY BONUSSES AND OTHER INCENTIVES FOR AFFORDABLE HOUSING PROJECTS AND SENIOR CITIZEN HOUSING DEVELOPMENTS.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Code Amendment - Camping on Public Lands, Private Open Space, and Fire Risk Areas and Removal, Storage, and Recovery of Personal Property In Connection Therewith**

Report from the City Manager concerning the possibility of prohibiting camping on public lands, private open space, and fire risk areas and providing for the removal, storage, and recovery of personal property in connection therewith.

City Attorney Smith reviewed the contents of the Administrative Report.

John Hopp, San Clemente, displayed a video which showed encampments (which were accompanied with debris, propane tanks, heaters and grills) along the Pico corridor.

Councilmember Donchak reported that she received an email from Sabrina Landry in support of the Ordinance and an email from Jackson Hinkle which offered commentary about the importance of seeking solutions to the issue of homelessness. Copies of the subject emails are on file with the City Clerk.

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

1. Introduce Ordinance No. 1650 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING CHAPTER 8.86, CAMPING, TO THE SAN CLEMENTE MUNICIPAL CODE TITLE 8, HEALTH AND SAFETY.
2. Adopt Resolution No. 18-01 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A POLICY, PURSUANT TO SAN CLEMENTE MUNICIPAL CODE CHAPTER 8.86, REGARDING THE PROCESS FOR REMOVAL OF PERSONAL PROPERTY ON PUBLIC LANDS, PRIVATE OPEN SPACE, AND FIRE RISK AREAS.

B. Code Amendment - Public Peace, Morals and Welfare and Offenses Against Public Peace and Decency

Report from the City Attorney concerning a possible amendment to the Code of the City of San Clemente relating to public peace, morals and welfare, and offenses against public peace and decency.

City Attorney Smith reviewed the contents of the Administrative Report.

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to introduce Ordinance No. 1651 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SAN CLEMENTE MUNICIPAL CODE TITLE 9, PUBLIC PEACE, MORALS AND WELFARE, CHAPTER 9.04, OFFENSES AGAINST PUBLIC PEACE AND DECENCY, SECTION 9.04.010, DISORDERLY CONDUCT.

10. ORAL COMMUNICATIONS (PART 2)

None.

11. REPORTS

A. Commissions and Committees

None.

B. City Manager

Fatal Vehicle Accident on February 4, 2018

City Manager Makshanoff introduced Lt. Mike Peters, who described the circumstances surrounding the fatal vehicle accident that occurred on North El Camino Real near Camino San Clemente on February 4, 2018.

C. City Attorney

None.

D. Council Members**(1) Capistrano Unified School District (CUSD) Liaison Committee - Appointment of Additional Councilmember Representative**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to appoint Councilmember Ward as a second Councilmember to serve along with Mayor Brown on the Capistrano Unified School District Liaison Committee.

(2) Invitation to Senator Kamala Harris to Visit the San Onofre Nuclear Generating Station (SONGS)

Gary Headrick, San Clemente Green, suggested revisions to the proposed letter to Senator Kamala Harris.

Council, by consensus, approved and authorized the Mayor to execute, a letter to Senator Kamala Harris to invite her to visit the San Onofre Nuclear Generating Station and to request her priority attention to the nuclear waste issues affecting San Clemente and other communities close to SONGS. Council directed that Staff send copies of the letter to Senator Feinstein, Congressman Issa, entities within the Emergency Planning Zone, Community Engagement Panel, and Kristine Svinicki (Chair of the Nuclear Regulatory Commission).

Leaf Blowing Ordinance

Council requested that the Planning Commission review the City's leaf blowing ordinance. The review is to include an assessment of gas versus non-gas equipment, enforcement, restrictions on usage, and City versus resident use. Council suggested that Staff review ordinances utilized in other communities (including Dana Point, Newport Beach, and Laguna Beach, as well as the City of Los Angeles).

Chase Walters

Mayor Brown reported that he attended a function at Concordia Elementary School yesterday to present a commendation to Chase Walters, a student who is fighting leukemia.

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 7:30 p.m.

The next Regular Council Meeting will be held on February 20, 2018 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.



MAYOR of the City of
San Clemente, California



CITY CLERK of the City of
San Clemente, California