

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – February 20, 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 Regular Meeting of the San Clemente City Council was called to order on February 20, 2018 at 5:05 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Brown.

PRESENT DONCHAK, WARD, MAYOR BROWN

ABSENT HAMM, SWARTZ

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 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to recess to Closed Session at 5:05 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: 1
- 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
- E. **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code Section 54957.6
Agency designated representative: Mayor
Unrepresented employee: City Manager

REGULAR BUSINESS MEETING CONVENED

The Regular Business Meeting of February 20, 2018 convened at 6:00 p.m., with all members present, except Councilmember Swartz and Mayor Pro Tem Hamm.

INVOCATION

Pastor Roger Gales, Heritage Christian Fellowship, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Brown led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS**A. Presentations by Representatives of Legislators in Honor of the City of San Clemente's 90th Birthday**

Representatives for Senator Pat Bates, Assemblyman Bill Brough, and Supervisor Lisa Bartlett, presented the City with resolutions in recognition of the City of San Clemente's 90th birthday.

B. Toll Road Update

Councilmember Ward narrated a PowerPoint entitled "South OC Mobility New Idea for Consideration", dated February 8, 2018, that was presented at the last meeting of the Transportation Corridor Agency. A hard copy of the subject PowerPoint is on file with the City Clerk.

C. Presentation by Carni Campbell and Trey Russell Concerning Campus Activities at San Clemente High School

This item was deferred to a future meeting.

D. Presentation of Certificate of Recognition to Vinnie Poncino, Golf Pro

Mayor Brown presented a Certificate of Recognition to Vinnie Poncino, Golf Pro, in honor of qualifying to play in the 2018 Genesis Open at the Riviera Country Club in Los Angeles on February 15-18, 2018.

E. Presentation of Certificate of Recognition to Gary Voborsky, Assistant Engineer

Mayor Brown presented a Certificate of Recognition to Gary Voborsky, Assistant Engineer, in honor of being named the 2017 recipient of the City's Core Values Award.

F. Presentation of Certificate of Recognition to Glen Goldring, Facilities Maintenance Coordinator

Mayor Brown presented a Certificate of Recognition to Glen Goldring, Facilities Maintenance Coordinator, in honor of being named the City of San Clemente's 2017 Employee of the Year.

2. ORAL COMMUNICATIONS (PART 1)

Ridge Route Trail Improvements

Chloe Kamp, Co-President of the Community Problem Solvers Club at San Clemente High School, narrated a PowerPoint presentation entitled "Ridge Route Trail Improvements", which focused on the fire dangers posed by smoking and unauthorized motor vehicles on the trail. A hard copy of the subject PowerPoint is on file with the City Clerk.

Esther Mafouta, member of the Community Problem Solvers Club at San Clemente High School, urged the installation of "No Smoking" and "Nature is Not Your Ashtray" signage on the trail.

Nick Petrocelli, member of the Community Problem Solvers Club at San Clemente High School, requested that temporary signage, flyers, and weekly Police patrol, be utilized to discourage unauthorized motor vehicles (such as motorcycles) from using the trail.

Sophia Mains, member of the Community Problem Solvers Club at San Clemente High School, proposed that a "Caution Sharp Turn" warning be painted on the pavement before the blind curve on the trail to prevent collisions between pedestrians, bikers, and vehicles; recommended that new trail entry signs be installed.

San Clemente High School Jazz Band Concert

Olivia French, manager of the San Clemente High School Jazz Band, urged that the annual jazz concert at the pier be continued; commented on the 18-year tradition of the event and its value to the musicians and community at large.

Jack Boatman, San Clemente High School Jazz Band, urged that the City continue to host the jazz concert at the pier because the pier is the epicenter of the City and it accommodates maximum attendance.

Foster Poling, San Clemente High School Jazz Band, noted that the annual pier concert is the biggest event for the San Clemente High School Jazz Band, as well as the Shorecliffs Middle School Jazz Band that also performs at the concert; noted that the concerts inspire future musicians.

Assistant City Manager Sund stressed that the San Clemente Jazz Concert is not being cancelled; explained that Staff is assessing the possibility of relocating the event to North Beach as a joint event with the Farmers Market; commented that the proposal could entail the San Clemente High School Jazz Band performing on the beach with smaller ensembles performing at the Farmers Market as part of a "Triton Night" event.

Outlets at San Clemente Signage

Bob Baker, San Clemente, urged that the City not allow signage at the Outlets to exceed the signage allowed by the City's Sign Code; objected to excessive commercial signs.

Richard Boyer, San Clemente, opined that signage at the Outlets should be limited to that allowed by the Sign Code.

Pete van Nuys, San Clemente, stated that traditional malls are closing and no amount of signage will save the Outlets, adding that success of the Outlets is dependent on tenant creativity and the originality of Craig Realty Group; urged that Council not sacrifice San Clemente's uniqueness.

Karen Ahola, San Clemente, urged Council to uphold San Clemente's standards and protect San Clemente's quality of life when it considers the Outlet signage issue on March 6, 2018; recommended that Council limit signage to the amount permitted by the City's Sign Code.

Kathy Armenteros, San Clemente, stated that she formerly enjoyed dark skies from her home in Marblehead, but now has her sleep disturbed by illuminated signage at the Outlets.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND 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**

City Attorney Smith announced that no reportable actions were taken during this evening's Closed Session.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to approve the Consent Calendar, with the removal of Item D.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to approve the Special and Regular City Council Meeting minutes of February 6, 2018.

B. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to receive and file:

- (1) Zoning Administrator Adjourned Regular Meeting minutes of February 7, 2018.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to approve the following:

Wire Transfers Nos. 1774 through 1779
 and Warrant Nos. 547678 through 547844, paid
 on 2/2/18 in the amount of\$1,601,975.59

Wire Transfers Nos. 1780 through 1781, and
 Warrant Nos. 547845 through 547999, paid
 on 2/9/18 in the amount of.....\$1,962,178.16

TOTAL WARRANT REGISTER.....\$3,564,153.75

Payroll Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to approve the following:

Bank Adjustment Replacement
 Check 651, Warrant No. 652, and Automatic
 Deposit Advises 45927 through 46206 for
 the period 1/15/18 through 1/28/18, paid
 on 2/2/18 in the amount of\$ 436,270.50

TOTAL PAYROLL REGISTER.....\$ 436,270.50

E. **Contract Award - Traffic Calming Speed Cushion Measures on Riachuelo**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to:

1. Approve the plans and specifications for the Traffic Calming Speed Cushion Measures on Riachuelo, Project No. 39807.
2. Approve, and authorize the Mayor to execute, Contract C18-08 by and between the City of San Clemente and AToM Engineering Construction, Inc., providing for construction of Traffic Calming Speed Cushion Measures on Riachuelo, in the amount of \$76,398.
3. Approve a supplemental appropriation of \$12,000 in the Air Quality Improvement Fund to Account 019-819-43690-000-39807.

F. **Contract Amendment - Temporary Staff Augmentation Within the Development Section of the Public Works Department**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to:

1. Approve a budget transfer in the amount of \$90,000 from Account 001-414-41010 (Salaries, Full Time) to Account 001-414-43560-000-00000 (Clerical Services).
2. Approve, and authorize the Mayor to execute, Amendment No. 1 to Contract AC-763, by and between the City of San Clemente and CivilSource, providing for temporary staff augmentation within the Development Section of the Public Works Department. This Amendment extends the term of the contract to June 31, 2018 and increases the contract amount from \$25,000 to \$115,000, an increase of \$90,000.

G. **Contract Amendment - Contingent Fee Agreement (City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange Lawsuit)**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the Mayor to execute, Amendment No. 1 to Contract C15-12, by and between the City of San Clemente and Best Best & Krieger, providing for a contingent fee agreement specific to the litigation case of City of San Clemente v. Foothill/Eastern Transportation Corridor Agency and County of Orange.

H. **Contract Amendment - Legislative Advocacy Services**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to approve, and authorize the City Manager to execute, Amendment No. 1 to Contract C16-15, by and between the City of San Clemente and Aprea & Micheli, for the provision of legislative advocacy services. This Amendment extends the term of the contract from March 15, 2018 to March 15, 2019, and increases the contract amount from \$60,000 to \$180,000, an increase of \$120,000, with the option for the City Manager to renew the contract for an additional year, provided no additional funding is needed.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

D. **Supplemental Appropriation - Concordia Elementary School Pedestrian and Bicycle Improvement Project**

Following clarification relative to the scope of the project and reasons for the proposed improvements, MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR BROWN, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to:

1. Approve a transfer of \$125,000 to the General Fund from the undesignated fund balance of the Street Improvement Fund.
2. Approve a supplemental appropriation of \$125,000 in the General Fund to Account 001-416-45300-000-17326.
3. Approve a transfer of \$35,000 from Account 042-848-43420-000-24400 to Account 001-416-45300-000-17326.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

None.

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) Update on Orange County Transportation Authority (OCTA) Items. (Councilmember Donchak)**

Councilmember Donchak thanked citizens for their patience during construction of the La Pata extension and I-5 widening and advised that a ribbon-cutting ceremony will be held in March 2018 to celebrate the conclusion of the I-5 three-phase Measure M project; reported on the OCTA Board meeting of February 2, 2018, focusing on the 2018 Project V Community Based Transit Circulators Program Call for Projects of \$12 million (which represents an opportunity to improve/enhance the City's trolley program), and the Long Range Transportation Plan 2040 as it relates to 1) HOV lane extension from Avenida Pico to the San Diego County line, and 2) SR-241 connector with the 91 express lanes.

1st Annual Marine Raiders Challenge

Mayor Brown reported on his attendance at the 1st Annual Marine Raiders Challenge that took place on February 17, 2018.

Ridge Route Trail Improvements

Council referred the proposed improvements to the Ridge Route Trail that were recommended by members of the San Clemente High School Community Problem Solvers Club to the Beaches, Parks and Recreation Commission and staff for report back to Council.

12. RESOLUTIONS/ORDINANCES**A. Ordinance No. 1649 (Second Reading) - Density Bonuses**

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to adopt 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 BONUSES AND OTHER INCENTIVES FOR AFFORDABLE HOUSING PROJECTS AND SENIOR CITIZEN HOUSING DEVELOPMENTS.

B. **Ordinance No. 1650 (Second Reading) - Camping on Public Lands, Private Open Space, and Fire Risk Areas**

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to adopt 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.

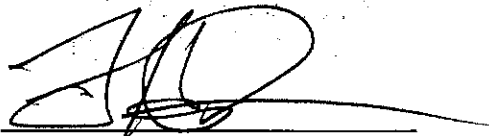
C. **Ordinance No. 1651 (Second Reading) - Public Peace, Morals and Welfare, and Offenses Against Public Peace and Decency**

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER WARD, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to adopt 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.

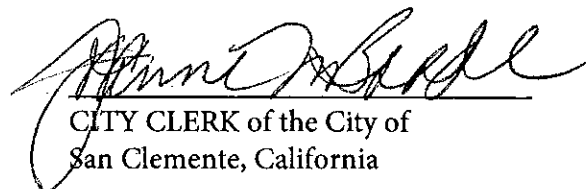
13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 3-0 (COUNCILMEMBER SWARTZ AND MAYOR PRO TEM HAMM ABSENT), to adjourn at 7:10 p.m.

The next Regular Council Meeting will be held on March 6, 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