

# CITY OF SAN CLEMENTE

## City Council Minutes

### Regular City Council Meeting – March 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 March 20, 2018 at 5:01 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Brown.

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

**ABSENT** HAMM

**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 WARD, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to recess to Closed Session at 5:02 p.m. to discuss the following:

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code section 54957  
Title: City Attorney

**B. 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. Foothill/Eastern Transportation Corridor Agency and County of Orange  
Case Number: OCSC 30-2017-00934703-CU-PT-CXC

Case Name: San Clemente Vacation Rental Alliance v. City of San Clemente  
Case Number: OCSC 30-2016-00858999-CU-WM-CJC

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

*Closed Session items continued on next page*

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

Case Name: Villa San Clemente, LLC v. City of San Clemente  
Case Number: 30-2017-00917422-CU-WM-CJC

Case Name: Villa San Clemente, LLC v. City of San Clemente  
Case Number: 30-2017-00963212-CU-WM-CJC

Case Name: Villa San Clemente, LLC v. City of San Clemente  
Case Number: 30-2017-00947401-CU-WM-CJC

Case Name: Berton Schipper v. City of San Clemente  
Workers Compensation Appeals Board Case Number: ADJ7558377

**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 LEGAL COUNSEL- ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)  
Number of potential cases: 1

**E. 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

**F. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8  
Property: 601 Calle Campana, San Clemente, 92673  
Agency Negotiator: Erik Sund, Assistant City Manager  
Negotiating Party: City of San Clemente  
Under Negotiation: Price and terms for possible sale

**MEETING RECONVENED**

Council reconvened at 6:12 p.m., with all members present.

**INVOCATION**

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

**PLEDGE OF ALLEGIANCE**

Councilmember Ward led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Toll Road Update**

City Attorney Smith provided an update concerning the lawsuit filed by the City against the TCA, noting that a case management conference will be held on March 23, 2018 in the Riverside Superior Court; noted that the court will also hear the Capistrano Unified School District's motion to intervene in the case on the City's and Reserve's side; reported that the City Manager received notice that the County Planning Commission will consider eliminating the SR-241 alignment from the County's Circulation Element at its meeting of March 28, 2018.

Mark McGuire, San Clemente, commented on variations in I-5 traffic projections between the City's recent IBI Study and the TCA's study from 2016; stated that the TCA's study overestimated traffic by approximately 50,000 daily trips; stated that the TCA conceded that an extension of the SR-241 through San Clemente to the I-5 is not needed; opined that the TCA should not spend funds on studies for an alignment through San Clemente to the I-5.

B. **San Clemente High School Campus Report**

Carni Campbell reported on campus activities at San Clemente High School.

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

Councilmember Swartz reported on animals available for adoption from the San Clemente-Dana Point Animal Shelter.

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

**Orange County Vector Control District Report**

Michelle Schumacher, City representative to the Orange County Vector Control District (OCVCD) Board of Directors, advised that the OCVCD received an award from the California Department of Pesticide Regulation for trapping rats, instead of using bait; reported that mosquito season is approaching and urged that standing water be eliminated because it serves as a breeding area for mosquitos.

**Parking Restrictions Concerning Trucks with Ladders**

George Gregory, San Clemente, voiced concern that blue-collar workers are not permitted to park trucks with ladders on City streets overnight; asserted that enforcement is selective, unfair and discriminatory; suggested that parking stickers be provided for work vehicles; urged Council to agendize the issue for discussion.

**Signage at the Outlets at San Clemente**

Karen Ahola, San Clemente, expressed disappointment with Council's decision of March 6, 2018 concerning signage at the Outlets at San Clemente.

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**

City Attorney Smith reported that Council did not finish this evening's Closed Session, noting that the items completed were limited to the workers compensation case and matters involving Villa San Clemente (which were handled by special counsel due to his recusal); explained that Council will return to Closed Session at the conclusion of the public portion of this meeting.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve the Consent Calendar.

A. **City Council Minutes**

None.

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

- (1) Golf Course Committee Regular Meeting of January 4, 2018
- (2) Design Review Subcommittee Meeting of February 28, 2018
- (3) Zoning Administrator Regular Meeting of March 7, 2018

C. **Warrant Register**

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

Wire Transfers Nos. 1788 through  
 1795 and Warrant Nos. 548308 through  
 548500, paid on 3/2/18, in the amount of.....\$1,318,074.20

Warrant Nos. 548501 through 548690,  
 paid on 3/9/18, in the amount of.....\$3,278,234.01

TOTAL WARRANT REGISTER.....\$4,596,308.21

**Payroll Register**

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

Warrant Nos. 654 through 657,  
 Automatic Deposit Advises 46486 through  
 46801, for the period 2/12/18 through  
 2/25/18, paid on 3/2/17, in the amount of.....\$ 450,038.13

TOTAL PAYROLL REGISTER.....\$ 450,038.13

D. **Grant Funding Application - California Division of Boating and Waterways**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to adopt Resolution No. 18-05 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE APPLICATION FOR ADDITIONAL GRANT FUNDS UNDER THE CALIFORNIA DIVISION OF BOATING AND WATERWAYS PUBLIC BEACH RESTORATION PROGRAM FOR CONSTRUCTION OF THE U.S. ARMY CORPS OF ENGINEERS BEACH SAND REPLENISHMENT PROJECT.

E. **Notice of Completion - Street Rehabilitation for South El Camino Real (Project No. 14326)**

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

1. Accept the Street Rehabilitation for South El Camino Real, Project No. 14326, from the contractor, R.J. Noble Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for Street Rehabilitation for South El Camino Real.
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, R.J. Noble Company.
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. **Notice of Completion - Street Rehabilitation for Avenida Vaquero (Project No. 17342)**

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

1. Accept the Street Rehabilitation for Avenida Vaquero, Project No. 17342 from the contractor, R.J. Noble Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for Street Rehabilitation for Avenida Vaquero.
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, R.J. Noble Company.
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.

G. **Final Map and Subdivision Improvement Agreement - Parcel Map 2006-287, Lee Subdivision at 3812 Via Del Campo**

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

1. Accept on behalf of the City of San Clemente the water rights within Final Parcel Map 2006-287 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 2006-287 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map.
4. Authorize the Mayor to execute the Subdivision Improvement Agreement.

*Action continued on next page*

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

H. **Contract Amendment - Temporary Staff Augmentation in the Planning Division**

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

1. Approve a budget transfer in the amount of \$60,000 from Account 001-431-41010-000-00000 (Salaries, Full Time) to Account 001-431-43890-000-00000 (Contractual Services).
2. Approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C16-74, by and between the City of San Clemente and Summit Environmental Group. This Amendment increases the contract amount from \$62,000 to \$122,000 (an increase of \$60,000), and extends the contract terms through December 31, 2019, or until services are no longer needed.

I. **Wyland National Mayor's Challenge for Water Conservation**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to approve and authorize the City's participation in the National Mayor's Challenge and the Mayor's signature on the online letter of support.



J. **Notice of Completion - Tesoro Pressure Regulating Station Rehabilitation and Interstate 5/Pico Water Improvements**

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

1. Approve a supplemental appropriation in the amount of \$28,828 from the Water Fund Depreciation Reserve to Account 052-466-45300-16407.
2. Approve a supplemental appropriation in the amount of \$28,828 from the Sewer Fund Depreciation Reserve to Account 052-466-45300-16407.
3. Approve a construction contract contingency increase in the amount of \$57,656 to Tesoro Pressure Regulating Station, Project No. 16407.
4. Accept the Tesoro Pressure Reducing Station Rehabilitation and Interstate 5/Pico Interchange Water Improvements, Project Nos. 16407 and 15404, from the contractor, O'Connell Engineering & Construction, Inc.
5. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Tesoro Pressure Reducing Station Rehabilitation and Interstate 5/Pico Interchange Water Improvements, Project No. 16407 and 15404.
6. 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 O'Connell Engineering & Construction, Inc.
7. Authorize the City Clerk to release the Performance Bond upon receipt of a Warranty Bond in the amount of 25% of the construction cost.

K. Consideration of Project Concepts at the Municipal Golf Course Clubhouse

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to allow Wedgewood Wedding and Banquet Center to develop plans and specifications and submit to the City for the two projects described in the Administrative Report, dated March 20, 2018.

7. PUBLIC HEARINGS

A. 2018 Beaches, Parks and Recreation Master Plan

Public Hearing to consider adoption of the 2018 Beaches, Parks and Recreation Master Plan. The 2018 Master Plan would replace the adopted 1999 Parks and Recreation Master Plan. The 2018 Master Plan is the primary implementation and guiding document for beaches, parks and recreation services. It provides an action plan for the City, designed to ensure adequate parks and recreation services are provided to serve San Clemente. The plan is divided into seven chapters, providing information on beaches, parks, recreation, and maintenance services for existing and future park development, viable for fifteen years.

Recreation Manager Thomas reviewed the objectives of the Beaches, Parks and Master Plan.

Neelay Bhatt, Vice President with Pros Consulting, narrated a PowerPoint presentation entitled "Beaches, Parks and Recreation Master Plan", focusing on the results of the community input process and major findings; responded to Council inquiries. A hard copy of Mr. Bhatt's PowerPoint is on file with the City Clerk.

Mayor Brown opened the Public Hearing.

Stephanie Aguilar, San Clemente Skate Park Coalition, thanked Council for recognizing the need for additional skate amenities, noting that the Coalition looks forward to partnering with the City in this regard; reported that the Coalition has raised \$25,000 of its \$50,000 fundraising goal.

Raudel Barba, San Clemente, stated that he teaches pickleball for the City of San Clemente; noted that pickleball is popular and suggested that courts be installed at San Luis Rey Park.

Marty Weinberg, San Clemente, noted the benefits of pickleball, noting that courts are needed in San Clemente.

Julie Shields, Dana Point, urged Council to consider adding permanent pickleball courts in San Clemente; stated that players will patronize City restaurants and businesses.

Anita Duy, San Clemente, stated she is speaking on behalf of Betsy Jorgensen, who sent an email to Council supporting pickleball courts on March 19, 2018; noted that pickleball is growing in popularity and players generate City revenue by patronizing City businesses.

Richard Deane, Mission Viejo, spoke on the social benefits associated with playing pickleball.

Susan Ambrose, Chair of the Coastal Advisory Committee, opined that beaches are inadequately addressed in the Beaches, Parks and Recreation Master Plan and urged that the Plan either be modified to address beaches or that a separate Beaches Master Plan be developed.

Vern West, San Clemente, explained that pickleball is the fastest growing sport in the United States; stressed that dedicated pickleball courts are needed in San Clemente.

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

Council noted that 60 projects are contained in the Parks CIP Action Plan that total over \$30 million in estimated cost; expressed an interest in expanding the C.A.R.E. program to include private sponsorships for Beaches, Parks and Recreation improvement projects. Council further expressed an interest in pursuing an endowment program to directly fund projects that are important to the benefactor, but not included in the CIP Action Plan (e.g., trail or beach maintenance, etc.).

During the ensuing discussion, Council discussed the following: 1) Possibility of retaining temporary staff for two to three years to help implement short-term projects on the Parks CIP Action Plan; 2) Possibility of establishing areas for dogs in various City parks, with separated use areas for small and large dogs; 3) Possibility of installing restrooms and fencing at Linda Lane Park. (Council determined to consider possible Linda Lane Park upgrades at a later date as part of a site-specific review of the Park.); 4) Requested Staff to consider public education and branding (e.g., the Treasures of San Clemente) to make it clear that parks and beaches are available to everyone, not just those persons who live in close proximity

to an amenity); and 5) Requested that Staff consider implementing a mobile wayfinding application and/or using the All Trails application to educate the public about parks, trails, etc.

MOTION BY COUNCILMEMBER SWARTZ, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to adopt Resolution No. 18-07 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING THE 2018 BEACHES, PARKS AND RECREATION MASTER PLAN; AND AMENDING RESOLUTION NO. 99-46.

**8. UNFINISHED BUSINESS**

None.

**MEETING RECESSED**

Council recessed at 8:10 p.m. and reconvened at 8:17 p.m., with all members present, except Mayor Pro Tem Hamm.

**9. NEW BUSINESS**

**A. Leaf Blower Ordinance Update**

Report from the Community Development Director concerning Council direction regarding a potential update for a Leaf Blower Ordinance.

Senior Planner Stiehl reviewed the contents of the Administrative Report.

Terry Otsuki Kwa, San Clemente, voiced concern with the noise, exhaust fumes and pollution associated with gas-powered leaf blowers; distributed copies of an Orange County Grand Jury Report entitled "Leaf Blower Pollution Hazards in Orange County", which is on file with the City Clerk; urged that gas-powered leaf blowers be banned in San Clemente.

Michele Schumacher, San Clemente, stated that leaf blowers are noisy and hinders the ability of birds and beneficial insects to thrive; voiced concern that leaf blowers send cancer-causing pesticides, herbicides and animal waste particles into the air, which are then ingested by humans; urged that leaf blowers be banned.

Paul Koenigshofer, San Clemente, spoke on the harmful effects of leaf blowers in terms of health, noise and environmental impacts; asserted that emissions from leaf blowers cause pollution.

Sabine Kuhne, San Clemente, spoke in opposition to leaf blowers because they disturb peace and quiet and can negatively affect health; stated that 300 cities nationwide have banned leaf blowers.

Council directed that Staff and the Planning Commission develop a Leaf Blower Ordinance. Council indicated that it is not interested in banning all leaf blowers, but may consider establishing regulations on their use or possibly banning gas-powered leaf blowers. Specific directions were provided as follows:

- City is to reach out to stakeholders (e.g., landscaping companies, South Orange County Management District, etc.).
- Code Enforcement is to report on enforcement processes should additional restrictions be contemplated.
- City to consider what other cities are doing, especially as it relates to decibel levels, hours of operation, and gas versus electric blowers.
- City to contemplate leaf vacuums versus leaf blowers.
- City to consider requiring leaves to be picked up and not simply blown to another location.
- City to review the City of Dana Point's leaf blower ordinance.

**B. Orange County Transportation Authority (OCTA) Grant Submittal for San Clemente Trolley and Rideshare Beta Test Rider Programs**

Report from the Public Works Director/City Engineer concerning a grant submittal to OCTA for the San Clemente Trolley and Rideshare Beta Test Rider Programs.

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

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

1. Authorize the submittal of Measure M2 (Project V) grant application to OCTA for San Clemente Trolley and Rideshare Beta Test Rider programs. The application is to request funding for Option 1 (Daily

Service) for Year 1, Option 2B (Expand North, Daily Service) in Year 2, and Option 3 (Expand South, Weekend Service) in Year 3 or 4. The third option will be pursued only if the success of the program warrants program expansion.

2. Adopt Resolution No. 18-06, entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING THE SUBMITTAL OF THE SAN CLEMENTE TROLLEY AND RIDESHARE BETA TEST PROGRAMS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE PROJECT V COMMUNITY-BASED TRANSIT/CIRCULATORS PROGRAM.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

**(1) Consideration of Councilmember Attendance at Southern California Association of Governments (SCAG) General Assembly Meeting May 3-4, 2018**

Council authorized any of the following individuals (or combination thereof) to represent the City at the SCAG General Assembly:

Mayor Brown  
Councilmember Ward  
City Manager Makshanoff (provided participants are not limited to City Councilmembers)

B. **City Manager**

None.

C. **City Attorney**

None.

D. Council Members

None.

12. RESOLUTIONS/ORDINANCES

None.

13. CLOSED SESSION

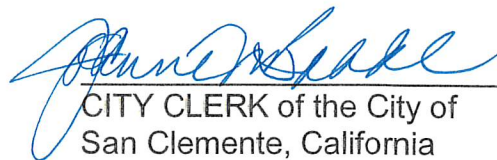
MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR BROWN, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), that Council recess back to Closed Session at 9:20 p.m. to discuss items on the Closed Session agenda that were not concluded earlier (i.e., all Closed Session items listed on the agenda, with the exception of the workers' compensation case and the Villa San Clemente cases). Council will adjourn when the Closed Session is finished.

14. ADJOURNMENT

Council adjourned at 9:50 p.m. The next Regular Council Meeting will be held on April 3, 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