

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular City Council Meeting – November 7, 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.

An Adjourned Regular Meeting of the San Clemente City Council was called to order on November 7, 2018 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Brown.

PRESENT DONCHAK*, SWARTZ, WARD**, HAMM, MAYOR BROWN
*Arrived at 5:15 p.m.
**Left at 7:59 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 MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0 (COUNCILMEMBER DONCHAK 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: 7

Case Name: Orange County Catholic Worker v. Orange County
Case Number: SA CV 18-0155-DOC

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: City of San Clemente v. Foothill/Eastern Transportation Corridor Agency
Case Number: OCSC 30-2018-01000331-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: Anthem Sales and Management, LLC, et al. v. City of San Clemente
Case Number: OCSC 30-2018-01008216

Case Name: Anthem Sales and Management, LLC, et al. v. City of San Clemente
Case Number: USDC 8:18-cv-01359

Case Name: City of San Clemente v. Capistrano Shores, et al.
Case Number: OCSC 30-2014-00709987

- B. **CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)
Number of Potential Cases: 5

- C. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Pursuant to Government Code Section 54956.8
Property: 2.8 acre San Mateo site north of Calle Bahia, adjacent to the Golf Course site
APN(s): 060-010-37, 060-010-38
Agency Negotiator: Erik Sund, Assistant City Manager
Negotiating Party: San Diego Gas and Electric Company
Under Negotiation: Price and Terms of Payment

- D. **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code Section 54957.6
Agency designated representative: Mayor
Unrepresented Employee: City Manager

- E. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to Government Code section 54957
Title: City Manager

BUSINESS MEETING CONVENED

The Business Meeting of November 7, 2018 convened at 6:06 p.m., with all members present.

INVOCATION

James “Jim” Davis, Sr. Chaplain, Orange County Sheriff’s Department, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS**A. Toll Road Update**

City Attorney Smith reported that the Transportation Corridor Agencies' (TCA) agenda for November 8, 2018 includes several millions of dollars in contracts for general purposes (e.g., I-5 widening, closure of Los Patrones Parkway, etc.); advised that during this evening's Closed Session, Council directed the City Attorney to bring action to seek a temporary restraining order against the TCA to stop it from using its limited-purposes funds for general transportation purposes.

2. ORAL COMMUNICATIONS (PART 1)**2019 Homeless Point-in-Time Count**

Brad Fieldhouse, City Net, reviewed the function of City Net, noting that it is a homeless solutions agency; advised that City Net was retained by the County of Orange to conduct the 2019 Homeless Point-in-Time Count; advised that San Clemente's count will take place on January 23, 2019 and invited persons wishing to volunteer to assist in the effort to register at www.EveryoneCountsOC.org; stated that the results of the study will be reported to Council.

Council requested that a link to www.EveryoneCountsOC.org (a portal to the website to volunteer with the 2019 Homeless Point-in-Time count) be added to the City's website.

3. MOTION BY COUNCILMEMBER SWARTZ, SECOND BY MAYOR PRO TEM HAMM, 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**

Anthem Sales and Management, LLC et al. v. City of San Clemente - Settlement Agreement and Mutual Release

City Attorney Smith announced that during Closed Session on October 2, 2018, Council unanimously approved a settlement agreement and mutual release in the case entitled Anthem Sales and Management, LLC et al., v. City of San Clemente; noted that the case challenged the City's Short-Term Lodging Unit Ordinance.

6. **CONSENT CALENDAR**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items A, N and W.

B. MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to receive and file the following:

- (1) Zoning Administrator Regular Meeting minutes of September 20, 2018.
- (2) Coastal Advisory Committee Regular Meeting minutes of June 14, 2018.
- (3) Coastal Advisory Committee Regular Meeting minutes of August 9, 2018.
- (4) Human Affairs Committee Adjourned Regular Meeting minutes of October 2, 2018.
- (5) Planning Commission Adjourned Regular Meeting minutes of October 3, 2018.
- (6) Design Review Subcommittee Regular Meeting minutes of September 26, 2018.
- (7) Planning Commission Regular Study Session minutes of October 17, 2018.
- (8) Planning Commission Regular Meeting minutes of October 17, 2018.
- (9) Zoning Administrator Regular Meeting minutes of October 18, 2018.
- (10) Zoning Administrator Regular Meeting minutes of October 4, 2018.

C. **Warrant Register**

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

Approve Wire Transfers Nos. 1908 through 1911 and Warrant Nos. 553473 through 553617, paid on 9-28-18, in the amount of.....\$1,365,216.25

Approve Wire Transfers Nos. 1912 through 1915 and Warrant Nos. 553618 through 553780, paid on 10-5-18, in the amount of.....\$1,912,242.02

Approve Wire Transfers Nos. 1916 through 1919 and Warrant Nos. 553781 through 553931, paid on 10-12-18, in the amount of.....\$ 876,658.27

Approve Wire Transfers Nos. 1920 through 1922 and Warrant Nos. 553932 through 554055, paid on 10-19-18, in the amount of.....\$1,316,502.31

Approve Wire Transfers Nos. 1923 through 1926 and Warrant Nos. 554056 through 554217, paid on 10-26-18, in the amount of.....\$1,093,834.75

TOTAL WARRANT REGISTER.....\$6,564,453.60

Payroll Register

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

Approve Warrant Nos. 693 through 694 and Automatic Deposit Advises 51337 through 51647, for the period 9-10-18 through 9-23-18, paid on 9-28-18, in the amount of.....\$ 466,035.35

Approve Warrant No. 695 and Automatic Deposit Advises 51648 through 51960, for the period 9-24-18 through 10-7-18, paid on 10-12-18, in the amount of.....\$ 474,050.09

Approve Warrant Nos. 696 through 697 and Automatic Deposit Advises 51961 through 52266, for the period 10-8-18 through 10-21-18, paid on 10-26-18, in the amount of.....\$ 480,573.47

TOTAL PAYROLL REGISTER.....\$ 1,420,658.91

D. **Acceptance of Permanent Easement and Grant Deeds - Roadway Purposes for Avenida Pico Widening Associated with the Interstate 5/Avenida Pico Interchange Reconstruction Project**

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

1. Accept the Permanent Easement and Grant Deeds for Roadway Purposes for widening of Avenida Pico associated with the Interstate 5/Avenida Pico interchange reconstruction project from the Orange County Transportation Authority.
2. Authorize the Mayor and City Clerk to sign the Certificates of Acceptance for the Permanent Easement and Grant Deeds.

E. **Contract Award - Negocio Building First Floor Renovation**

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

1. Approve the plans and specifications for the Negocio Building First Floor Renovation, Project No. 18804.
2. Approve a transfer of funds from Account 001-203-45300-000-38501 (City Hall Feasibility Study) in the amount of \$298,940 to Account 001-203-45300-000-18804 (Negocio Building First Floor Renovation).
3. Approve a supplemental appropriation of \$81,292 from the General Fund Unassigned Fund balance to Account 001-203-45300-000-18804 (Negocio Building First Floor Renovation).
4. Approve a supplemental appropriation and a transfer of \$81,292 from the Public Facilities Fee Fund - Civic Center Construction Fund to Account 001-203-45300-000-18804 (Negocio Building First Floor Renovation).
5. Approve, and authorize the Mayor and/or City Manager to execute, Amendment No. 1 to Contract C17-33, by and between the City of San Clemente and Gensler, providing for Architectural and Engineering Construction Support Services for the Negocio Building First Floor Renovation. This Amendment increases the contract amount from \$160,000 to \$220,000 (an increase of \$60,000).

Action continued on next page

6. Approve, and authorize the Mayor and/or City Manager to execute, Contract C18-56, by and between the City of San Clemente and PCN3, Inc., providing for construction of the Negocio Building First Floor Renovation, Project No. 18804, in the amount of \$2,244,618.60.

F. **Contract Award - Corporation Yard Buildings/Structures Painting Project**

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

1. Approve the plans and specifications for the Corporation Yard Buildings/Structures Painting Project, Project Nos. 16529 and 26407.
2. Approve a supplemental appropriation of \$68,000 from the Sewer Depreciation Reserve Fund to Account 054-476-43470-000-26407.
3. Approve, and authorize the City Manager to execute, Contract C18-57, by and between the City of San Clemente and Harbor Coating and Restorations Company, providing for construction of the Corporation Yard Buildings/Structures Painting, Project Nos. 16529 and 26407, in the amount of \$347,881.

G. **Notice of Completion - Concordia Elementary School Pedestrian and Bicycle Improvement Project**

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

1. Accept the Concordia Elementary School Pedestrian and Bicycle Improvement Project No. 17326 from the contractor, California Landscape and Design, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for Concordia Elementary School Pedestrian and Bicycle Improvement Project No. 17326.
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, California Landscape and Design, Inc.

Action continued on next page

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.

H. **Notice of Completion - Street Rehabilitation for Avenida Palizada (Project No. 17340) and Avenida Presidio, Calle Miguel and Avenida Salvador (Project No. 17341)**

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

1. Accept the Street Rehabilitation for Avenida Palizada, Project No. 17340, and Avenida Presidio, Calle Miguel and Avenida Salvador, Project No. 17341, from Palp, Inc., dba Excel Paving Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the street rehabilitation of Avenida Palizada, Project No. 17340, and Avenida Presidio, Calle Miguel and Avenida Salvador, Project No. 17341.
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, Palp, Inc., dba Excel Paving 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.

I. **Contract Award - Water Reclamation Plant Laboratory Rehabilitation**

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

1. Approve the plans and specifications for the Water Reclamation Plant Laboratory Rehabilitation, Project No. 16206.
2. Approve a supplemental appropriation in the amount of \$24,000 from the Sewer Depreciation Reserve Fund to Account 054-476-45300-000-16206.
3. Approve, and authorize the Mayor to execute, Contract C18-58, by and between the City of San Clemente and Ibuild Spectrum, providing for construction services for the rehabilitation of the Water Reclamation Plant Laboratory, Project No. 16206, in the amount of \$93,500 (including optional bid items).

J. **Contract Amendment - Development of a Bacteriological Sample Siting Plan**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C14-33, by and between the City of San Clemente and AKM Consulting Engineers. This Amendment increases the contract amount from \$350,868 to an amount not to exceed \$375,178 (an increase of \$24,310).

K. **Notice of Completion - Camino Del Rio Rehabilitation and Intersection Improvements and Camino De Los Mares Rehabilitation and Slurry Seal**

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

1. Accept the Camino Del Rio Rehabilitation and Intersection Improvements (Project Nos. 16347 and 16350) and Camino De Los Mares Rehabilitation and Slurry Seal (Project No. 17331) from the contractor, All American Asphalt.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Camino Del Rio Rehabilitation and Intersection Improvements (Project Nos. 16347 and 16350) and Camino De Los Mares Rehabilitation and Slurry Seal (Project No. 17331).
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, All American Asphalt.
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.

L. **Notice of Completion - Calle Redondel Storm Drain Improvement**

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

1. Accept the Calle Redondel Storm Drain Improvement, Project No. 15005, from the contractor, GCI Construction, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Calle Redondel Storm Drain Improvement, Project No. 15005.
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 GCI Construction, 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. **Equipment Purchase - Replacement of Fleet Vehicle No. 1149**

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

1. Approve the purchase of one 2018 Ford Transit Connect passenger van from Ken Grody Ford from the Fleet Replacement Reserve for replacement of Fleet Vehicle No. 1149.
2. Authorize a supplemental appropriation in the amount of \$26,023 to the Fleet Automotive Account 065-824-45600 from the Fleet Replacement Fund balance.

O. **Contract Award – Parking Enforcement for Street Sweeping**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C18-60, by and between the City of San Clemente and Elite Enforcement Security Solutions, Inc., providing for street sweeping parking enforcement services, at a cost not to exceed \$79,200.

P. **Notice of Completion - Traffic Calming Speed Cushion Measures on Riachuelo**

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

1. Accept the Traffic Calming Speed Cushion Measures on Riachuelo from the contractor, AToM Engineering Construction, Inc., Project No. 39807.
2. Authorize the Mayor to execute and the City Clerk to record, the Notice of Completion for Traffic Calming Speed Cushion Measures on Riachuelo.
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, AToM Engineering Construction, 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.

Q. **Contract Award – Fiscal Year 2016 and 2017 Sidewalk Repair Program**

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

1. Approve the plans and specifications for the FY 2016 and FY 2017 Sidewalk Repair Program, Projects No. 16355 and 27307.
2. Approve, and authorize the City Manager to execute, Contract C18-61, by and between the City of San Clemente and Calpromax Engineering, Inc., providing for the Fiscal Year 2016 and 2017 Sidewalk Repair Program, in the amount of \$99,672.

R. **Notice of Completion – Calle Toledo Storm Drain Improvements**

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

1. Accept the Calle Toledo Storm Drain Improvements project, from the contractor, Lonerock, Inc., Project No. 17008.
2. Approve a supplemental appropriation in the amount of \$138,000 from the Storm Drain Fund Depreciation Reserve to Account 059-553-45300-000-17008.
3. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Calle Toledo Storm Drain Improvements.
4. 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 Lonerock, Inc.
5. Direct the City Clerk to waive the receipt of a Warranty Bond in the amount of 25% of the construction cost.

S. **Rescission of Resolution No. 10-29, Adopting Authoritative Citations for Standard Conditions of Approval**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adopt Resolution No. 18-41 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RESCINDING RESOLUTION NO. 10-29 PROVIDING FOR THE COMMUNITY DEVELOPMENT DEPARTMENT'S MAINTENANCE OF STANDARD CONDITIONS OF APPROVAL RELATING TO THE DEVELOPMENT REVIEW PROCESS.

T. **Payment Authorization for Maintenance and Support Renewal for Tyler Eden Software**

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

1. Authorize payment to Tyler Technologies, Inc., for maintenance and support renewal for Tyler Eden software, in the amount of \$57,423 in Fiscal Year 2018-19.
2. Authorize payment to Tyler Technologies, Inc., for maintenance and support renewal for Tyler Eden software, in the amount of \$59,720 in Fiscal Year 2019-20.
3. Authorize payment to Tyler Technologies, Inc., for maintenance and support renewal for Tyler Eden software, in the amount of \$62,109 in Fiscal Year 2020-21.

U. **Contract Award – Environmental Planning Services**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to approve, and authorize the City Manager to execute, the First Amendment to Contract AC-803, by and between the City of San Clemente and Kimley-Horn, providing for environmental planning services. This Amendment increases the contract amount from \$5,000 to \$30,000 (an increase of \$25,000).

V. **Contract Award - Water Reclamation Plant (WRP) Efficiency Study**

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

1. Approve, and authorize the Mayor to execute, Contract C18-62, by and between the City of San Clemente and Trussell Technologies, Inc., providing for engineering services for the Water Reclamation Plant Efficiency Study, Project No. 39202, in an amount not to exceed \$184,034.
2. Authorize the City Manager to approve amendments to the contract up to a maximum of \$20,000.

X. **Replacement of Fleet Vehicle Nos. 1153 and 1154**

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

1. Approve the purchase of two 2019 Jeep Wranglers from Tuttle Click, Inc., and related equipment outfitting from the Fleet Replacement Reserve for replacement of Fleet Vehicle Nos. 1153 and 1154.
2. Authorize a supplemental appropriation in the amount of \$57,961 to the Fleet Automotive Account 065-824-45600 from the Fleet Replacement Reserve Fund balance.
3. Declare existing unit Nos. 1153 and 1154 surplus and authorize Staff to trade them in for credit toward the purchase of the new vehicles.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

A. **City Council Minutes**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the City Council Regular Meeting minutes of October 2, 2018, with the deletion of the last paragraph on Page 3.

N. **Wildfire Detection and Observation Project**

Brian Norton, Division Chief, Orange County Fire Authority, explained the Wildfire Detection and Observation Project and narrated a video that demonstrated how cameras will be utilized to improve situational awareness.

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to authorize the City Manager to execute a Communications Site License Agreement with the Regents of the University of California (City Contract C18-59), relating to the Wildfire Detection and Observation Project.

W. **Bicycle Corridor Improvement Program Grant Application**

Council expressed appreciation to Staff for its efforts in preparing the application for the bicycle corridor improvement program grant.

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

1. Approve and authorize the Public Works Director/City Engineer to submit an application for the OCTA 2019 Bicycle Corridor Improvement Program (BCIP) Call for Projects.
2. Adopt Resolution No. 18-42 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE AUTHORIZING APPLICATION FOR FUNDS FOR THE BICYCLE CORRIDOR IMPROVEMENT PROGRAM FUNDED WITH CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM FUNDING UNDER THE FIXING AMERICA'S SURFACE TRANSPORTATION FEDERAL TRANSPORTATION ACT FOR S. EL CAMINO REAL LANE RECONFIGURATION AND BUFFERED BIKE LANE PROJECT.

7. **PUBLIC HEARINGS**

A. **Appeal of Denied Sidewalk Waiver Request by Property Owner of 239 Avenida La Cuesta**

Continued Public Hearing to consider the appeal of a denied sidewalk waiver request by the property owner of 239 Avenida La Cuesta.

Councilmember Donchak recused herself from deliberations on this item because she lives adjacent to the subject property; left the Council Chambers at 6:30 p.m.

Public Works Director/City Engineer Bonigut narrated a PowerPoint presentation entitled "Appeal of Denied Sidewalk Waiver Request" and responded to Council inquiries; reviewed correspondence concerning this item that was received after the agenda packet was distributed, noting that two communications were received from the Applicant; responded to comments contained in the Applicant's correspondence. A hard copy of Mr. Bonigut's presentation is on file with the City Clerk.

Mayor Brown opened the Public Hearing.

Steve Austin, applicant, reviewed photographs which depicted conditions and obstacles which he believed justify a waiver to the sidewalk requirement; conveyed his opinion that a sidewalk will never be constructed along the 200 block of La Cuesta; stated that the applicant is willing to donate public right-of-way for sidewalk construction in the event sidewalk is installed in the future on the adjacent properties; disagreed with Staff's cost estimate to install a sidewalk and urged Council to grant a sidewalk waiver.

Richard Romney, applicant, noted that the cost to remove masonry structures (such as mailboxes) and to relocate utilities to facilitate sidewalk construction would cause a financial hardship for him; urged Council to grant a sidewalk waiver.

Lee Van Slyke, San Clemente, noted that he lives near the property and supports the project; voiced concern that a sidewalk would detract from the historical aspect of the property; supported the applicant's willingness to donate right-of-way if sidewalks are installed on the adjacent properties in the future; stated that stop signs exist at the Patero de Oro and La Cuesta intersection and opined that installing a sidewalk at the subject location would create a safety issue by encouraging people to cross the street at the sidewalk instead of crossing at the stop signs.

There being no others desiring to speak, Mayor Brown closed the Public Hearing.

Following discussion, MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 4-0-1 (COUNCILMEMBER DONCHAK RECUSED), to concur with Staff's denial of the sidewalk waiver request and find that based upon the evidence presented, it is appropriate to require an easement for public sidewalk and installation of new sidewalk at 239 Avenida La Cuesta.

Councilmember Donchak returned to the dais at 7:10 p.m.

B. **Modification of Conditions of Approval for Tree Removal and Replacement Policy (The Reserve Community) - Amendment to Site Plan Permit 98-63 and Tentative Tract Map 15718**

Public Hearing to consider a request to modify the conditions of approval for Site Plan Permit 98-63 and Tentative Tract Map 15718 relating to tree removal and placement in the Reserve community.

Community Development Director Gallardo-Daly reviewed the contents of the Administrative Report and responded to Council inquiries.

Mayor Brown opened the Public Hearing.

Aaron Reece, Monarch Environmental (third party horticulture consultant for The Reserve), thanked the Planning Division and Council for working with The Reserve on the subject issue.

There being no others desiring to speak, Mayor Brown closed the Public Hearing.

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER SWARTZ, CARRIED 5-0, to adopt Resolution No. 18-43 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SITE PLAN PERMIT 98-63 AND TENTATIVE TRACT MAP 15718, RESERVE LANDSCAPE AMENDMENT, TO MODIFY CONDITIONS OF APPROVAL FOR THE RESERVE COMMUNITY RELATING TO TREE REMOVAL AND REPLACEMENT.

8. **UNFINISHED BUSINESS**

A. **Possible Ballot Measures Relating to Transitioning the City Treasurer and City Clerk to Appointive Positions, Rather than Elected**

Report from the City Clerk concerning possible ballot measures relating to transitioning the City Treasurer and City Clerk to appointive offices, rather than elected.

City Clerk Baade reviewed the contents of the Administrative Report and responded to Council inquiries.

Following discussion, MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to recommend to the 2020 City Council that it consider adding measures to the November 3, 2020 General Municipal Election ballot to ask the electorate whether the offices of City Treasurer and/or City Clerk shall be appointive.

B. **Possible Ballot Measure Relating to Term Limits for Members of the City Council and Possibility of Adopting an Ordinance to Impose Term Limits on City Commission and/or Committee Members**

Report from the City Clerk concerning a possible ballot measure relating to term limits for members of the City Council and possibility of adopting an Ordinance to impose term limits on City Commission and/or Committee members.

City Clerk Baade reviewed the contents of the Administrative Report and responded to Council inquiries.

Following discussion, MOTION BY MAYOR BROWN, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to recommend to the 2020 City Council that it consider adding a measure to the November 3, 2020 General Municipal Election ballot to generally limit consecutive years of service by members of the City Council to a combined total of two consecutive four-year terms, with the ability to again serve as a member of the City Council after a lapse of service of no less than two years.

Council deferred consideration of imposing term limits on Commission and/or Committee members until such time as Council considers the possibility of restructuring the City's Commissions and Committees.

9. **NEW BUSINESS**

None.

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

Expression of Gratitude to Council for Service

Brad Malamud, San Clemente, thanked outgoing Councilmembers for their service and congratulated Councilmember Ward on her re-election; suggested that Council meetings follow Robert's Rules of Order.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

(1) **Update on Fuel Transfer Operations at the San Onofre Nuclear Generating Station (SONGS) - Councilmember Swartz**

(2) **Results of independent analysis of radiological readings at the San Onofre Nuclear Generating Station (SONGS) Independent Spent Fuel Storage Installation - Councilmember Swartz**

Councilmember Swartz reported that Southern California Edison has not provided a response to the City's demand for real-time radiological monitoring at SONGS that is available for public access; noted that Edison claims that the near drop of a nuclear waste canister did not present a risk for the City; expressed concern that SONGS did not notify all parties that could have been affected by an accident at SONGS.

Video Production Booth for Public Comments

Mayor Brown reported that on November 24, 2018, a video production booth will be set up at the Community Center to allow members of the public to provide comments on various issues.

Styrofoam Policy

Mayor Brown requested that the City's Styrofoam Policy be agendized for the Council meeting of November 20, 2018 to enable Council to consider adding exceptions to the Policy (such as allowing businesses to apply for an exception when Styrofoam packaging represents a business' signature). Councilmember Donchak requested that the report identify the amount of waste that the policy has prevented to determine its effectiveness.

Severance Provisions for Executive Level Staff

Council requested that the possibility of establishing severance provisions for executive management staff be agendized for the November 20, 2018 Council meeting under both the Closed Session and open session portions of the agenda.

Welcome Home Parade for the 2nd Battalion, 4th Marines

Mayor Brown invited the public to attend the Welcome Home Parade for the 2nd Battalion, 4th Marines (the City's adopted Marine unit) on November 9, 2018.

Councilmember Ward left the meeting at 7:59 p.m.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1659 (Second Reading) - Modifying the Definition of "Smoking" to Include Vaping and Electronic Devices**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 4-0 (COUNCILMEMBER WARD ABSENT), to adopt Ordinance No. 1659 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING THE SAN CLEMENTE MUNICIPAL CODE, CHAPTER 8.64 TO DEFINE SMOKING TO INCLUDE VAPING AND ELECTRONIC SMOKING DEVICES.

