

# CITY OF SAN CLEMENTE

## City Council Minutes

### Special/Adjourned Regular and Regular City Council Meeting January 15, 2019

*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 and Adjourned Regular Meeting of the San Clemente City Council was called to order on January 15, 2019 at 3:33 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Swartz.

**PRESENT** BANE, FERGUSON, HAMM, WARD, MAYOR SWARTZ

**ABSENT** NONE

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

\*\*\*

### **SPECIAL AND ADJOURNED REGULAR MEETING**

#### **PUBLIC HEARING**

A. **2813 La Ventana - Appeal of San Clemente Administrative Hearing Decision, Short-Term Lodging Unit (STLU) Operating License 314901 – Appeal de Novo Hearing**

Public Hearing to consider an appeal that was filed with the City of San Clemente appealing the decision rendered in an Administrative Hearing of a City-initiated STLU Operating License Revocation Hearing for the property located at 2813 La Ventana.

City Attorney Smith reported that he assisted Staff with regard to the subject agenda item and, as such, Cristina Talley, of Talley & Talley, will advise Council on this matter. City Attorney Smith left the staff platform.

Code Compliance Manager Atamian reviewed the contents of the Administrative Report, focusing on the specific violations associated with the STLU Operating License for the property located at 2813 La Ventana; noted that violations included illegal construction and uninhabitability of a room that was being rented for sleeping purposes, exceeding occupancy limits allowed by the STLU license, and

failure to grant City staff timely access to the interior of the property; summarized code compliance efforts undertaken over the last 13 months in an attempt to achieve compliance; recommended that Council affirm the administrative hearing officer's decision that the STLU's operating license should be revoked.

Valerie Escalante Troesh, Silver & Wright, legal counsel on behalf of Staff, commented on the violations which, to the City's knowledge, have been on-going for 13 months; noted that the City issued three citations that did not result in compliance; stated that the question before Council is whether to affirm the hearing officer's decision that the STLU's operating license be revoked, and is not to consider the underlying violations since those violations were never appealed and all fines were paid, which is conclusive evidence that the violations actually occurred; stated that the violations continue to exist and the property remains a danger to the public; opined that the settlement agreement between the San Clemente Vacation Alliance and City of San Clemente is outside the scope of the subject hearing and does not apply to the subject violations; responded to Council inquiries.

Mayor Swartz opened the Public Hearing.

Brad Grabske, Murphy & Evertz, representing SeaBreeze Vacation Rental Management and property owner Peter Skikli, stated that he emailed a letter, dated January 14, 2019, to the City Clerk.

City Clerk Baade stated that she did not receive the email. (See Note below).

*Note: It was later determined that Mr. Grabske's email to the City Clerk was rejected by the City's spam filter.*

Mr. Grabske presented his letter of January 14, 2019 to Council; reviewed the history of the Short Term Lodging Unit at 2813 La Ventana, noting that it has operated since June 2016 without incident or citation until December 2017; reviewed affirmative actions by Seabreeze to return the room addition to dry wall and concrete to prevent it from being used as a bedroom; stated that two citations alleged that occupancy caps were exceeded, but stated that that is inaccurate and that the STLU's advertising included a mistake in the maximum number of allowable renters; stated that the City and the San Clemente Vacation Alliance (which expressly includes the subject property) entered into a settlement agreement in April 2018; stated that the general release provisions of the settlement agreement negated Code violations that track back to Ordinance No. 1622 (which created the Code sections on which the last two citations were issued); commented that the amortization provisions of the settlement agreement requires prospective, rather than retrospective, compliance with the Municipal Code; asserted that the settlement agreement allows the subject STLU to continue to operate and urged Council to reinstate the STLU's operating license to avoid a lawsuit based on interpretation of the settlement agreement; stated that rental

operations at the property stopped in July 2018 upon receipt of the City's cease and desist letter; responded to Council inquiries. A hard copy of Mr. Grabske's letter is on file with the City Clerk.

In response to Council inquiry, Jeff Bosson with Seabreeze, stated that the Bohlander reservation was for 12 persons, even though the Bohlander complaint indicated that 14 persons stayed at the property; stated that Seabreeze has a central phone line that is operational 24 hours per day, noting that Seabreeze then dispatches local representatives to respond to complaints.

### **MEETING RECESSED**

Council recessed at 4:20 p.m. to enable Councilmembers to read Mr. Grabske's letter of January 14, 2019.

### **MEETING RECONVENED**

Council reconvened at 4:35 p.m., with all members present.

Legal Counsel Talley noted that she was not involved in the development of the settlement agreement, but opined that, on its face, the revocation in question is not barred by the settlement agreement.

Joe Janis, San Clemente, urged Council to revoke the subject STLU license.

Brad Malamud, San Clemente, suggested the subject dispute could have been resolved earlier in the process to save the City money in Staff time and legal fees.

In response to Council inquiry, City Attorney Smith stated that a settlement agreement cannot forgive a Code violation, especially as it relates to future occupancy.

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

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to adopt Resolution No. 19-01 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AFFIRMING THE REVOCATION OF SHORT-TERM LODGING UNIT ("STLU") OPERATING LICENSE 314901 RELATED TO THE OPERATION OF AN STLU AT 2813 LA VENTANA, SAN CLEMENTE, CALIFORNIA 92672.

**CLOSED SESSION (REGULAR MEETING)**

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 5-0, 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: 3

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

Case Name: Orange County Catholic Worker v. Orange County

Case Number: SA CV 18-0155-DOC

**B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Number of potential cases: 3

**C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: 2318 S. El Camino Real, San Clemente

APN(s): 690-446-17

Agency negotiator: Mayor and City Manager

Negotiating parties: City of San Clemente and Don Kappauf

Under Negotiation: Price of Parking License

**REGULAR BUSINESS MEETING CONVENED**

The City Council Business Meeting of January 15, 2019 convened at 6:15 p.m., with all members present.

**INVOCATION**

City Attorney Smith gave the invocation.

## **PLEDGE OF ALLEGIANCE**

Councilmember Hamm led the Pledge of Allegiance.

### **1. SPECIAL PRESENTATIONS**

#### **A. Recognition of Lt. Col. Warren Cook, Camp Pendleton Commanding Officer**

Wayne Eggleston, Executive Director of the Heritage of San Clemente Foundation, along with Thor Kuhn, Eagle Scout candidate, and Nancy Hunt, Chamber of Commerce representative, presented Lt. Col. Warren Cook, outgoing Commanding Officer of Camp Pendleton, with a photograph of Park Semper Fi.

On behalf of the City, Mayor Swartz presented Lt. Col. Cook with a Certificate of Recognition for his patriotic service as Commanding Officer of the 2<sup>nd</sup> Battalion 4<sup>th</sup> Marines.

#### **B. Certificate of Achievement for Excellence in Budgeting**

Mayor Swartz presented a Certificate of Achievement for Excellence in Budgeting that was awarded to the City by the California Society of Municipal Finance Officers (CSMFO) to Jake Rahn, Financial Services Officer.

#### **C. Orange County Transportation Authority (OCTA) Long Range Transportation Plan (LRTP)**

Kia Mortazavi, OCTA Director of Planning, narrated a PowerPoint presentation entitled “Designing Tomorrow 2018 Long-Range Transportation Plan”. A hard copy of Mr. Mortazavi’s presentation is on file with the City Clerk.

#### **D. Toll Road Update**

Amanda Quintanilla, San Clemente, displayed photographs of the I-5 in the southwestern portion of San Clemente and voiced concern with the TCA’s plan to add additional lanes to the freeway, noting that insufficient space would be available for emergency vehicles. A hard copy of Ms. Quintanilla’s photographs are on file with the City Clerk.

Michelle Schumaker, San Clemente, opined that only 4% of the population will be able to afford to use the toll road; spoke in opposition to the addition of toll lanes on the I-5, noting that toll lanes will damage surrounding properties.

Patricia Holloway, Capistrano Unified School District (CUSD) Trustee, provided an update on the CUSD's lawsuit relating to the proposed Oso Bridge project, noting that the appeal court has not yet set a court date for the case; relayed concern that the TCA's 2018 South County Traffic Relief Effort Draft Project Study Report identifies four potential toll road alignments that are in close proximity to schools; invited the public to attend the CUSD's Board meeting on January 24, 2019 at which the proposed alignments will be discussed.

Mark McGuire, San Clemente, urged Council to continue to oppose the extension of the 241 toll road beyond its current terminus at Oso Parkway; stated that studies have demonstrated that an extension of the 241 toll road is not needed; opined that the County should guarantee that Los Patrones will never become a part of the 241 toll road and that it will remain a County arterial in perpetuity.

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

**City Attorney and Litigation Counsel Services**

Brad Malamud, San Clemente, opined that Best, Best and Krieger (BBK) has a conflict acting as both City Attorney and the City's litigation counsel and suggested that Council require that BBK serve in only one capacity; requested that the City explore the possibility of retaining an in-house City Attorney.

**Community Choice Energy (CCE)**

Terry Otsuki Kwa, San Clemente, urged Council to continue to reach out to potential Community Choice Energy (CCE) partner cities and to embark on a CCE feasibility study; noted that the South County Community Choice Alliance will host public forums in March; reiterated the benefits of CCE, which include freedom of choice, stabilizing rates, and increased safety.

Tyler Boden, San Clemente, urged Council to pursue a feasibility analysis of Community Choice Energy; identified the benefits of CCE, which include lower costs, increased revenue, and additional resiliency to the local power grid.

**State of California Transition to All-Electric Energy**

Juan Gonzalez, Southern California Gas, voiced concern that the State of California is moving toward all-electric energy; reported that Southern California Gas provides safe, affordable and reliable gas and asserted that a transition to electric energy would be more costly for consumers.

**North Beach Farmers Market**

Tyler Johnson, North Beach Community Association, stated that the Association is interested in assuming management of the North Beach Farmers Market in partnership with the City; proposed that City staff continue to set up the Farmers Market site and that the Association assume responsibility for marketing and management.

**Police Services Access to Closed Circuit Television Cameras/Reactivation of the Public Safety Task Force**

Gene James, San Clemente, suggested that a separate line item be included in the City budget for Police services; opined that deputies should have access to the City's closed circuit television cameras; requested that Council reactivate the City's Public Safety Task Force for the purpose of facilitating a reduction in crime.

**City Expenditures/Commercial Vehicle Parking Ordinance**

George Gregory, San Clemente, opined that City funds are being used for special interest projects instead of uses that will help provide circulation and parking improvements, as well as enhanced Police protection; requested that Council rescind the City's commercial vehicle parking ordinance.

**Barking Dog Ordinance**

Jonathan Lightfoot, San Clemente, reported that he sent an email to Council concerning his concern with the City's barking dog ordinance; stated that the Code as currently written allows any person to force a citation; commented that he has received multiple citations due to the complaint of one individual, even though his dog was at day care when the complainant alleged the violation occurred.

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

City Attorney Smith reported that no reportable action was taken during this evening's Closed Session.

### **Illegal Camping**

City Attorney Smith provided an update on City efforts to resume enforcement of ordinances relating to illegal camping and sleeping in public places; stated that the 9th District Court of Appeals issued a ruling in the case of Martin v Boise that stipulated a number of steps cities must take in order to enforce anti-camping ordinances, which includes having beds available for persons with no other sleeping options; explained that his office has been working with the City's management staff and the Orange County Sheriff's Department to develop a program to enable the City to continue to enforce its laws; estimated that a program that meets the requirements of case law will be finalized in the next few weeks.

City Manager Makshanoff reported that "No Trespassing" signs are being installed at the North Beach concession stand to facilitate enforcement.

## 6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items 6C (Warrant Register portion), 6D and 6S.

### A. **City Council Minutes**

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

- (1) Approve the minutes of the Special and Regular City Council Meeting of December 18, 2018.

### B. **Commission and Committee Minutes**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to receive and file the following:

- (1) Minutes of the Investment Advisory Committee Regular Meeting of October 22, 2018.
- (2) Minutes of the Beaches, Parks and Recreation Commission Regular Meeting of November 13, 2018.
- (3) Minutes of the Planning Commission Regular Study Session of December 19, 2018.
- (4) Minutes of the Planning Commission Regular Meeting of December 19, 2018.
- (5) Minutes of the Coastal Advisory Committee Regular Meeting of October 11, 2018.



- C. **Payroll Register** *(Note: The Warrant Register portion of Item 6C was removed from the Consent Calendar for separate discussion and action. Please refer to Page 16 of these minutes for a summary of that item.)*

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

Approve Warrant Nos. 702 through 703, and Automatic Deposit Advises 53122 through 53408 for the period of 12/3/2018 through 12/16/2018 paid on 12/18/18, in the amount of.....\$ 468,689.30

Approve Warrant No. 704, and Automatic Deposit Advises 53409 through 53676, for the period 12/17/18 through 12/30/18, paid on 1/4/19, in the amount of.....\$ 444,163.05

TOTAL PAYROLL REGISTER.....\$ 912,852.35

- E. **Final Parcel Map 2014-127, Santa Barbara Condos at 407 Avenida Santa Barbara**

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

1. Accept on behalf of the City of San Clemente, the water rights within Final Parcel Map 2014-127 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 2014-127 as it conforms to the requirements set forth in the Subdivision Map Act and the previously approved Tentative Parcel Map.
4. Authorize the Public Works Director/City Engineer to execute the Final Parcel Map.
5. Authorize the City Clerk to execute and submit the Final Parcel Map to the County of Orange Recorder’s Office for recordation.

F. **Contract Award – West Palizada Sidewalk Improvement**

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

1. Approve the plans and specifications for the West Avenida Palizada Sidewalk Improvement Project (Project No. 16345).
2. Approve, and authorize the Mayor to execute, Contract C19-02, by and between the City of San Clemente and PALP, Inc. dba Excel Paving Company, providing for construction of the West Avenida Palizada Sidewalk Improvement Project, in the amount of \$540,738.

G. **Contract Award – Arterial Street Pavement Maintenance for Avenida Pico; Street Rehabilitation of Avenida Vista Hermosa; Pavement Repairs for the Water Division; and As-Needed Pavement Repairs and Crack Sealing**

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

1. Approve the plans and specifications for the Arterial Street Pavement Maintenance (Project No. 18321) for Avenida Pico; Street Rehabilitation (Project No. 18322) for Avenida Vista Hermosa; Pavement Repairs for the Water Division (Project No. 24400); and As-Needed Pavement Repairs and Crack Sealing (Project No. 27306).
2. Approve, and authorize the City Manager to execute, Contract C19-03, by and between the City of San Clemente and All American Asphalt, providing for Arterial Street Pavement Maintenance for Avenida Pico; Street Rehabilitation for Avenida Vista Hermosa; Pavement Repairs for the Water Division; and As-Needed Pavement Repairs and Crack Sealing, in the amount of \$1,187,187.50.
3. Authorize a supplemental appropriation of \$52,000 to the Arterial Street Pavement Maintenance FY 2018 Account 012-861-45300-000-18321 from the Gas Tax Fund Undesignated Fund Balance.

H. **Contract Amendment - Delivery and Supply of Chlor-Alkali Products**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Amendment No. 2 to Contract C16-21, by and between the City of San Clemente, South Orange County Wastewater Authority (SOCWA), and Olin Corporation, extending the contract through October 4, 2019.

I. **Notice of Completion – Vaquero Lift Station Removal**

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

1. Accept the Vaquero Lift Station Removal project (Project No. 27206) from the contractor, O'Connell Engineering & Construction, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Vaquero Lift Station Removal project.
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, O'Connell 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.
5. Authorize the transfer of \$6,000 from the Water Fund Depreciation Reserve to Account 054-476-43470-000-27206.
6. Authorize the Mayor to execute the Quitclaim Deed to vacate the 15-foot easement for sanitary sewer purposes that was dedicated to the City as part of the original development.

J. **Notice of Completion – Water Reclamation Plant (WRP) Storage Bin Cover**

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

1. Accept the WRP Storage Bin Cover Project (No. 17808) from the contractor, O'Connell Engineering & Construction, Inc.
2. Authorize the City Manager to execute, and the City Clerk to record, the Notice of Completion for the WRP Storage Bin Cover project.
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, O'Connell 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.

K. **Orange County Transportation Authority (OCTA) Grant Cooperative Agreement for Project V San Clemente Trolley Expansion**

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

1. Approve, and authorize the Mayor to execute, Cooperative Agreement No. C-8-1989 (Contract C19-04), by and the between the City of San Clemente and OCTA, providing for expansion of the San Clemente Trolley.
2. Accept grant revenue from the OCTA in the amount of up to \$477,000 for FY 2019 for the San Clemente Trolley Expansion to Account 019-819-33790-000-00000, Other County Grants.
3. Approve a supplemental appropriation of \$530,000 in the Air Quality Improvement Fund to Account 019-819-45300-000-28801 for the San Clemente Trolley Project.
4. Approve, and authorize the Public Works Director to execute, a purchase order with Creative Bus Sales, Inc., providing for the purchase of two new trolley vehicles, in an amount not to exceed \$380,000.

L. **Contract Award – Stormwater Monitoring and Technical Support Services**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the City Manager to execute, Contract C19-05, by and between the City of San Clemente and Wood Environment and Infrastructure Solutions, Inc., providing for Stormwater Monitoring and Technical Support, in an amount not to exceed \$175,608.

M. **Orange County Water Agencies Proposed Changes to Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities by the South Coast Air Quality Management District (AQMD)**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to authorize the City to become a signatory to the December 19, 2018 letter to the AQMD and authorize the City Manager to execute future letters to the AQMD regarding Proposed Rule Change 1403.

N. **Contract Amendment – Short-Term Wastewater Services Agreement with Santa Margarita Water District (SMWD)**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to approve, and authorize the City Manager to execute, Amendment No. 4 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.

O. **Contract Awards – As-Needed Civil/Transportation Engineering Services**

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

1. Approve, and authorize the City Manager to execute, Contract C19-06, by and between the City of San Clemente and ADVANTEC, providing for as-needed Civil/Transportation Engineering Services.
2. Approve, and authorize the City Manager to execute, Contract C19-07, by and between the City of San Clemente and Kreuzer Consulting Group, providing for as-needed Civil/Transportation Engineering Services.

*Action continued on next page*

3. Approve, and authorize the City Manager to execute, Contract C19-08, by and between the City of San Clemente and Kimley-Horn, providing for as-needed Civil/Transportation Engineering Services.
4. Approve, and authorize the City Manager to execute, Contract C19-09, by and between the City of San Clemente and Michael Baker, providing for as-needed Civil/Transportation Engineering Services.
5. Approve, and authorize the City Manager to execute, Contract C19-10, by and between the City of San Clemente and RRM Design Group, providing for as-needed Civil/Transportation Engineering Services.
6. Approve, and authorize the City Manager to execute, Contract C19-11, by and between the City of San Clemente and Stantec, providing for as-needed Civil/Transportation Engineering Services.
7. Approve, and authorize the Public Works Director/City Engineer, to execute, as-needed Civil/Transportation Engineering Services task authorizations under the approved master agreements, in an amount not to exceed \$250,000 total per fiscal year for each master consultant agreement and provided funds are available in prior City Council approved project budgets.

P. **Microsoft Software Enterprise Licensing Agreement Renewal**

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

1. Approve, and authorize the City Manager to execute, Microsoft Volume Licensing Master Agreement #01E73970 (Participating Agreement #RIVCO-20800-013-12/19) for a term of three years beginning February 1, 2019. (Contract C19-12)
2. Approve and authorize payment to SoftwareOne, Inc. in an amount not to exceed \$102,000 per year over the term of the Microsoft Volume Licensing Agreement.

Q. **Initiation of Amendment to the San Clemente General Plan, Municipal Code Title 17 (Zoning), Specific Plans and Local Coastal Program Regarding Location, Permitting, and Standards for Hospital Uses, to Allow for More Sites in the City to Accommodate Hospitals**

MOTION BY COUNCILMEMBER WARD, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to initiate the necessary amendments to the General Plan, Municipal Code (Zoning), Specific Plans and Local Coastal Program to allow more sites in the City that accommodate hospital uses and refer this item to the Planning Commission to provide a recommendation to Council.

R. **Property Rental Agreement and Copyright License Agreement with San Clemente Historical Society**

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

1. Approve, and authorize the Mayor to execute, a Property Rental Agreement (Contract C19-13), by and between the City of San Clemente and San Clemente Historical Society, providing for use of space at 100 Avenida Presidio.
2. Approve, and authorize the Mayor to execute, a Copyright License Agreement (Contract C 19-14), by and between the City of San Clemente and San Clemente Historical Society, providing for use of materials and resources related to the history of the City.

T. **Sports and Aquatics Partnership Agreements**

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

1. Approve, and authorize the Mayor to execute, a Platinum Partnership Agreement, by and between the City of San Clemente and American Youth Soccer Organization (AYSO) for a term of three years. (Contract C19-15)
2. Approve, and authorize the Mayor to execute, a Platinum Partnership Agreement, by and between the City of San Clemente and San Clemente Little League for a term of three years. (Contract C19-16)

*Action continued on next page*

- 3. Approve, and authorize the Mayor to execute, a Gold Sports Partnership Agreement, by and between the City of San Clemente and Elite Soccer League for a term of two years. (Contract C19-17)
- 4. Approve, and authorize the Mayor to execute, a Senior Aquatics Partnership Agreement, by and between the City of San Clemente and San Clemente Aquatics for a term of three years. (Contract C19-18)

**ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**

**C. Warrant Register**

City Attorney Smith recused himself from this item, and stepped down from the staff platform, because he expected Mr. Malamud's comments to relate to BBK's legal services.

Brad Malamud, San Clemente, urged Council to not approve the portion of the Warrant Register relating to BBK's legal bills, which total over \$492,000; opined that the billing is excessive and that the rates paid by the City should be consistent with Most Favored Nations pricing; opined that BBK's invoices lack clarity.

Bob Baker, San Clemente, noted that checks are available on the City's website and displayed the Warrant Register that Council approved at its meeting of April 19, 2016; stated that Check #531982, in the amount of \$2,613,178.27, was issued to an individual who frequently addresses Council as a citizen advocate.

MOTION BY COUNCILMEMBER HAMM, SECOND BY COUNCILMEMBER WARD, CARRIED 4-1 (COUNCILMEMBER FERGUSON VOTING NOE), to:

Approve Wire Transfers Nos. 1949 through 1950, and Warrant Nos. 555184 through 555351 paid on 12/14/18, in the amount of.....\$ 2,971,531.52

Approve Handwrite No. 555575, Wire Transfers Nos. 1951 through 1954, and Warrant Nos. 555352 through 555574 paid on 12/18/18, in the amount of.....\$ 3,947,518.49

Approve Handwrite No. 555669, Wire Transfers Nos. 1955 through 1961, and Warrant Nos. 555576 through 555668, paid on 1/4/19, in the amount of.....\$ 930,388.47

TOTAL WARRANT REGISTER..... \$ 7,849,438.48



D. **Contract Award – Repair of the Beach Trail Fence North of the Pier**

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

1. Approve, and authorize the City Manager to execute, Contract C19-01, by and between the City of San Clemente and Valley Cities/Gonzalez Fence, providing for labor services in connection with the repair of the Beach Trail fence north of the pier, in the amount of \$45,000.
2. Approve a 5% project contingency to allow for administrative approval of unforeseen change orders, thereby approving a total project cost of \$47,250.

S. **Acceptance of Donation from the San Clemente Skatepark Coalition and Friends of the San Clemente Beaches, Parks and Recreation Foundation for the Ralphs Skate Court Lighting Project**

Stephanie Aguilar, President of the San Clemente Skate Park Coalition, thanked the City for allocating funds for lighting at the skate court; reported the Coalition and Friends of San Clemente have donated a total of \$50,000 to the City and noted that it looks forward to continuing to work with the City to further enhance the City's skateboard amenities.

Happy Sager, San Clemente, reported that she uses the skate court several times per week; thanked Council for installing lighting and conveyed that she would like to see additional skate park amenities.

Soren Cappadocia, San Clemente, thanked Council for installing lights at the skate court.

David Hennings, San Clemente, thanked Council for adding lighting to the skate court, noting that the lighting will enable use of the court to be maximized.

George Gregory, San Clemente, voiced concern that scooters were blackballed from the skate court and suggested that a designated area should be devoted to beginner skateboarders and younger children.

MOTION BY COUNCILMEMBER HAMM, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to accept a combined donation of \$50,000 from the San Clemente Skatepark Coalition and Friends of the San Clemente Beaches, Parks and Recreation Foundation for the installation of court lights at Ralphs Skate Court.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

**A. Contract Awards – Electrical Vehicle Charging Stations**

Report from the Public Works Director/City Engineer concerning the possible award of contracts for the purchase, installation, maintenance and subscription services for Electrical Vehicle Charging Stations.

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

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

1. Approve, and authorize the City Manager to execute, Contract C19-19 by and between the City of San Clemente and Voltaic (a division of Video Voice and Data Communications), providing for the purchase and installation of ChargePoint Electric Vehicle charging infrastructure at City Hall, for a five-year period, in the amount of \$177,340.
2. Approve, and authorize the City Manager to execute, Contract C19-20 by and between the City of San Clemente and ChargePoint, Inc., a Master Services and Subscription Agreement, providing for activation and use of ChargePoint network services for a five-year period.
3. Authorize a project contingency in the amount of \$15,000 to cover unforeseen conditions and costs related to installation of the Electric Vehicle infrastructure.
4. Accept grant revenue up to \$85,000 from the Mobile Source Pollution Reduction Committee to the Fleet Maintenance Fund Account 065-000-33790-000-00000.
5. Accept rebate revenue up to \$140,000 from the California Energy Commission to the Fleet Maintenance Fund Account 065-000-33790-000-00000.

*Action continued on next page*

6. Approve a supplemental appropriation in the amount of \$192,340 from the Fleet Replacement Reserve Fund balance to Account 065-824-45300-000-00000.

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

**San Clemente Historical Society Lease of Space at 100 Avenida Presidio**

Larry Culbertson, San Clemente Historical Society, thanked Council and Staff for allowing the Historical Society to utilize a room at 100 Avenida Presidio.

11. **REPORTS**

A. **Commissions and Committees**

(1) **Establishment of Council Meeting Schedule and Possible Joint Meeting(s) for 2019**

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

Following discussion, Council cancelled its Regular Meetings of July 2, 2019, August 6, 2019 and January 7, 2020. Additionally, Council tentatively cancelled its Regular Meeting of July 16, 2019 (it will only occur if necessary). Council scheduled a Joint Dinner meeting with all Commissions and Committees for October 29, 2019.

(2) **Overview of Sunshine Laws**

Assistant City Manager Sund reviewed the contents of the Administrative Report, and along with City Clerk Baade, responded to Council inquiries.

Brad Malamud, San Clemente, suggested that all of the City's non-privileged documents should be placed on the City's website in a searchable PDF format; stated that making documents available on-line will greatly reduce the number of Public Records Act requests.

Council directed Staff to explore the possibility of enhancing its sunshine practices to include augmenting the transparency page on the City's website to include a forms directory, City General Plan, claims against the City, and contact resources for welfare fraud, child abuse, etc.

Council requested that Staff return to Council with proposed revisions to the City Policy concerning Council meeting processes to include rules of decorum, converting its parliamentary procedures to follow Rosenberg's Rules of Order, and to require speakers to address Council as a body, as opposed to addressing individual members of the City Council.

B. **City Manager**

**Closed Circuit Televisions at the Police Services Substation**

City Manager Makshanoff reported that the Police Services substation currently has access to one closed circuit television (CCTV), adding that the City's Information Technology staff is currently in the process of adding three additional closed circuit televisions at the substation.

C. **City Attorney**

**Loitering at Train Platforms**

City Attorney Smith noted that BBK has drafted regulation that would prohibit individuals from loitering at train platforms when they are not in possession of a train pass or in the process of purchasing a pass; pointed out that the Orange County Sheriff's Department is reviewing the document in the hopes of implementing a County-wide policy.

D. **Council Members**

**Community Choice Energy**

In response to an inquiry by Councilmember Ferguson, City Manager Makshanoff indicated that Management Analyst Johnston will provide Council with an update concerning the status of the City's efforts with regard to Community Choice Energy.

**Policy Concerning Placing Items on City Council Agendas**

Mayor Pro Tem Bane expressed an interest in Council revisiting the City's Policy and Procedure concerning Councilmember ability to add items to a Council meeting agenda. In particular, Mayor Pro Tem Bane was interested in Council considering whether one Councilmember, versus a majority of the Council, should be able to add items to agendas. Council agreed to consider this matter in conjunction with its consideration of adopting a new Policy that will address Council meeting procedures, parliamentary guidelines and rules of decorum.

**North Beach Restroom Cleaning**

City Manager Makshanoff reported that he will execute a Contract Amendment to provide twice-daily cleaning of the North Beach restrooms.

**Speed on Camino Del Rio**

Mayor Pro Tem Bane requested that the Orange County Sheriff's Department (OCSD) increase its enforcement of speed limits on Camino Del Rio. Council requested that Staff provide Council with information concerning the history of the speed situation on Camino Del Rio and associated OCSD enforcement efforts.

**Advertising on Trolleys**

It was agreed that the possibility of changing the destination reference on the City's trolleys from "Shorecliffs" to "Outlets" will be agendized. The Administrative Report is to summarize the history of the matter, and identify whether reference to "Outlets" on the trolleys would constitute advertising on City property in violation of City policy.

**North Beach Community Association Farmers Market**

Council expressed an interest in reviewing the proposal of the North Beach Community Association for operation of the North Beach Farmers Market. It was agreed that City Manager Makshanoff will provide Council with additional information on the proposal.

**Policy on Sponsorship of Events**

Council requested that the City's Policy concerning sponsorship of events be agendized for possible modification.

12. **RESOLUTIONS/ORDINANCES**

A. **Ordinance No. 1666 (Second Reading) – New State Mandates, City Rules and Regulations (Health and Safety – Solid Waste Management)**

MOTION BY COUNCILMEMBER WARD, SECOND BY MAYOR PRO TEM BANE, CARRIED 5-0, to adopt Ordinance No. 1666 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTER 8.28 ("HEALTH AND SAFETY – SOLID WASTE MANAGEMENT") OF "THE CODE OF THE CITY OF SAN CLEMENTE, CALIFORNIA" TO INCORPORATE NEW STATE MANDATES, CITY RULES AND REGULATIONS.

B. **Ordinance No. 1667 (Second Reading) – Stormwater Runoff Control**

MOTION BY MAYOR PRO TEM BANE, SECOND BY COUNCILMEMBER FERGUSON, CARRIED 5-0, to adopt Ordinance No. 1667 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DELETING CHAPTER 12.16.080 CONTROL OF IRRIGATION AND STORMWATER AND AMENDING CHAPTER 13.40 STORMWATER RUNOFF CONTROL OF "THE CODE OF THE CITY OF SAN CLEMENTE, CALIFORNIA" TO COMPLY WITH THE NPDES MS4 PERMIT TO PROHIBIT IRRIGATION RUNOFF.

13. **ADJOURNMENT**

MOTION BY COUNCILMEMBER FERGUSON, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to adjourn at 8:56 p.m. The next Regular Council Meeting will be held on Tuesday, February 5, 2019 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be discussed at 5:00 p.m. The General Session will commence at 6:00 p.m.



MAYOR of the City of  
San Clemente, California

  
CITY CLERK of the City of  
San Clemente, California