

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – March 4, 2014

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 4, 2014 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Brown.

PRESENT BAKER, DONCHAK, EVERT*, HAMM**, MAYOR BROWN

* Arrived at 5:02 p.m.

**Arrived at 5:08 p.m.

ABSENT NONE

STAFF PRESENT Pall Gudgeirsson, City Manager; Ajit Thind, Assistant City Attorney; Joanne Baade, City Clerk; Laura Campagnolo, Executive Assistant

CLOSED SESSION

Councilmember Donchak announced that she will recuse herself from participation in the Closed Session concerning the Chamber of Commerce lease (Closed Session A) because her husband and she own property within 300' of the property at 1100 N. El Camino Real.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to recess to Closed Session at 5:00 p.m. to discuss the following:

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, pursuant to Government Code Section 54956.8:

Property: 1100 N. El Camino Real, San Clemente

Agency Negotiator: Pall Gudgeirsson, City Manager

Negotiating Parties: City of San Clemente and Lynn Wood, CEO, San Clemente Chamber of Commerce

Under Negotiation: Price and terms of payment

Closed Session items continued on next page

- B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Section 54956.9(a):

Daniel Walker, as Trustee for the 1997 Walker Family Trust v. City of San Clemente, Orange County Superior Court Case No. 30-2012-00591239-CU-WM-CJC

- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, pursuant to Government Code Section 54956.8:

Property: Vista Hermosa Sports Park, 987 Avenida Vista Hermosa, San Clemente

Agency Negotiator: Pall Gudgeirsson, City Manager

Negotiating Parties: City of San Clemente and Scott Melcher, on behalf of Surf N' Turf Paradiso, LLC

Under Negotiation: Price and terms of payment

- D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Section 54956.9(a):

Callan, et al. v. Marlborough Seaview Estates Homeowners Association, et al., OCSC Case No. 01CC07556 (consolidated with Case No. 01CC15381)

In attendance for the Closed Session were all members of the City Council (except that Councilmember Donchak recused herself from participation, and was not in attendance, for Closed Session A). Additionally, the following persons were in attendance for the full Closed Session: City Manager Gudgeirsson, City Attorney Goldfarb, Assistant City Manager Sund, Public Works/Economic Development Director Cameron, Community Development Director Holloway, Assistant City Attorney Thind and City Clerk Baade. Beaches, Parks and Recreation Director Heider was in attendance for Closed Session C only.

MEETING RECONVENED

Council reconvened at 6:05 p.m., with all members present.

INVOCATION

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

PLEDGE OF ALLEGIANCE

Councilmember Evert led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS**A. Arbor Week Proclamation**

Mayor Brown presented a proclamation to Patricia Holloway, on behalf of the San Clemente Tree Foundation, declaring March 7 through March 14 of each year as California Arbor Week.

B. Marblehead Coastal Residential Development Update

Lisa Gordon, on behalf of LV Marblehead, narrated a PowerPoint presentation entitled "Marblehead Coastal". A hard copy of Ms. Gordon's PowerPoint, dated March 4, 2014, is on file with the City Clerk.

C. Recognition of City Staff for In-House Production of Quarterly City Magazine

City Manager Gudgeirsson narrated a PowerPoint presentation entitled "San Clemente Magazine"; commended Samantha Thomas, Wendyann Fernandez, and Peggy Lacayo for their successful efforts in producing the first City quarterly magazine as an in-house effort. A hard copy of City Manager Gudgeirsson's PowerPoint, dated March 4, 2014, is on file with the City Clerk.

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

Richard Gardner, Capistrano Beach, spoke on the importance of a reliable water supply; suggested that the City should consider various local fresh water sources, in addition to desalination, to ensure that the City's future water needs are met.

Courtney's Sand Castle (Phase II)

Don Glasgow, speaking as a private citizen, reviewed the history of efforts to fund Phase II of Courtney's Sand Castle; voiced concern that the City is currently funding additional design work for Phase II, but is not actually constructing the second phase of the project; noted that 500 persons have donated money or in-kind services to the project and expressed concern that the in-kind donations may be in jeopardy because of the project's delay; urged that a united effort be undertaken to bring Courtney's Sand Castle Phase II to fruition.

3. MOTION BY COUNCILMEMBER BAKER, 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**

None.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items B(1), B(3), B(4), D, F, G, H and I.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the Regular City Council Minutes of February 18, 2014.

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

(2) Regular Zoning Administrator meeting minutes of February 19, 2014.

C. Warrant Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve Warrant Nos. 514229 through 514366, paid on 2-14-14, in the amount of \$697,627.93; approve Wire Transfers Nos. 1224 through 1227 and Warrant Nos. 514367 through 514535 paid on 2-21-14, in the amount of \$2,448,411.51; for a total Warrant Register of \$3,146,039.44.

Payroll Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve Warrant Nos. 282 through 285 and Automatic Deposit Advises 13789 through 14069 for the period 2-3-14 through 2-16-14, paid on 2-21-14, in the amount of \$402,463.37; for a total Payroll Register of \$402,463.37.

E. Sidewalk Easement - 217 Calle Sonora

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

1. Accept the Sidewalk Easement at 217 Calle Sonora from George and Lori Wilson. (Deed 465)
2. Authorize the City Clerk to submit the Sidewalk Easement Deed to the Orange County Recorder for recordation.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**B(1). Regular Design Review Subcommittee Minutes of January 15, 2014 and January 29, 2014**

Following Staff responses to Council questions relating to the Stewart Surfboards Tree Carving and Surfer's Row projects, MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to receive and file the Regular Design Review Subcommittee minutes of January 15, 2014 and January 29, 2014.

B(3). **Regular Planning Commission Meeting Minutes of February 19, 2014**

Larry Culbertson, President of the San Clemente Historical Society, referenced the portion of the Planning Commission minutes of February 19, 2014 relating to Cultural Heritage Permit 13-215 (418 Avenida Cazador - Casa Ammirato); asserted that the City is allowing major alterations to historic buildings; voiced concern that the subject property benefits from reduced property taxes under the Mills Act, but has been allowed to deteriorate and is being used as a triplex.

Council directed Staff to assess whether and/or how Code violations and lack of property maintenance should factor into Mills Act contracts -- both prior to Council approval of an Historic Property Preservation Agreement as well as during the term of the agreement.

MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to receive and file the Regular Planning Commission meeting minutes of February 19, 2014.

B(4). **Regular Beaches, Parks and Recreation Commission Minutes of February 11, 2014**

Council noted that lifeguard try-outs will take place on March 9, 2014 and noted the desirability of retaining local contractors for projects, such as the rehabilitation of the Ole Hanson Beach Club, when possible.

MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to receive and file the Regular Beaches, Parks and Recreation Commission minutes of February 11, 2014.

D. **Marblehead Coastal Development - Assignment of Certain Subdivision Improvement Obligations to San Clemente Grand Avenue Partners LLC**

Assistant City Engineer Bonigut reported that the subject Assignment is no longer necessary because San Clemente Grand Avenue Partners has decided not to purchase property in Marblehead Coastal; explained that the Assignment would have transferred LV Marblehead's obligations to San Clemente Grand Avenue Partners.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to table this item.

F. **Contract Award - Vista Hermosa Sports Park Landscape Maintenance**

Following Staff explanation relative to the rationale for recommending that the subject contract be awarded to Midori Gardens, MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C14-07, by and between the City of San Clemente and Midori Gardens, providing for landscape maintenance at the Vista Hermosa Sports Park, for an amount not to exceed \$189,395 per year, plus an amount not to exceed \$47,350 per year for additional or beyond contract work.

G. **Contract Award - Bonito Canyon Park Erosion Control**

In response to Council inquiry, Staff explained that the proposed contract with TruGreen Landcare is limited to erosion control and, as such, no Eucalyptus trees will be removed as part of the contract; noted that many Eucalyptus trees have already been removed from Bonito Canyon Park, adding that the trees that remain appear to be healthy and structurally sound; advised that a future contract will be submitted for Council consideration that addresses the park on a more-holistic level.

MOTION BY COUNCILMEMBER BAKER, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract C14-08 by and between the City of San Clemente and TruGreen LandCare, providing for erosion control at Bonito Canyon Park, for an amount not to exceed \$46,200.

H. **Float Up Provision for the Avenida Serra Workforce Apartments and Amendment to the Disposition and Development Agreement with National Community Renaissance of California (“National CORE”)**

In response to Council inquiries, Housing Coordinator Obrero and John Seymour, of National CORE, noted that the City’s median income is approximately \$80,000, and that three of the affordable units in the Avenida Serra workforce apartments are for persons earning not more than 30% of the City’s median income, eight units are for persons earning not more than 50% of the City’s median income, seven units are for persons earning not more than 60% of the City’s median income, and one manager’s unit that is for a person earning not more than 120% of the City’s median income; noted that National CORE’s lender (Citi Bank) requires that affordability levels for all units revert to 60% of the City’s median income in the event of a foreclosure.

Council directed Housing Coordinator Obrero to ensure that the contract permanently precludes the affordability factor, in the event of a foreclosure, from escalating above 60% of the City’s median income.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 5-0, to approve, and authorize the Mayor to execute, the Second Amendment to Disposition and Development Agreement (Contract C12-21), by and between the City of San Clemente and National Community Renaissance of California, to add a float up provision to 60 percent of AMI in the event of foreclosure of the Avenida Serra Workforce Apartment project.

I. **Contract Amendment - Landscape Architect Services for the Marblehead Coastal Trail, Avenida Vista Hermosa Median, Avenida Pico Median, Canyon View Park and Ocean View Park**

Staff noted an inconsistency in the amount of the proposed Contract Amendment as referenced in the Administrative Report and the meeting agenda; clarified that the First Amendment will actually increase the contract amount from \$24,000 to \$130,000.

MOTION BY COUNCILMEMBER EVERT, SECOND BY COUNCILMEMBER BAKER, CARRIED 5-0, to approve, and authorize the Mayor to execute, the First Amendment to Contract C14-09, by and between the City of San Clemente and Richard Fisher Associates, providing for consulting landscape architect services for the Marblehead Coastal Trail, Canyon View Park, Ocean View Park, Vista Hermosa median and Avenida Pico median. This First Amendment will increase the contract amount from \$24,000 to \$130,000 (an increase of \$106,000).

7. PUBLIC HEARINGS**A. Request for Application of Provisions of the California Vehicle Code (CVC) and San Clemente Municipal Code (SCMC) to a Currently Private Portion of West Avenida Vista Hermosa**

Public Hearing to consider a request to apply the provisions of the California Vehicle Code and San Clemente Municipal Code to a currently private portion of West Avenida Vista Hermosa (i.e., from the intersection of the Interstate 5 southbound off ramp about 550 feet westerly to the entrance of the Shorecliffs Middle School / future Sports Park parking lot.) This request, if adopted by the City Council, would give the City's Police Department (the Orange County Sheriff's Department) the authority, but not the obligation, to enforce the CVC and SCMC on said street.

Assistant City Engineer Bonigut reviewed the contents of the Administrative Report and responded to Council inquiries.

Mayor Brown opened the Public Hearing.

Lisa Gordon, LV Marblehead, noted that the area in question will soon become an active construction site; urged that Council approve the request to apply the provisions of the California Vehicle Code and San Clemente Municipal Code to the private portion of Avenida Vista Hermosa to protect children.

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

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

1. Adopt Resolution No. 14-04 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPLYING THE PROVISIONS OF THE CALIFORNIA VEHICLE CODE AND THE SAN CLEMENTE MUNICIPAL CODE TO THE PRIVATE PORTION OF WEST AVENIDA VISTA HERMOSA IN TRACT 8817 IN THE MARBLEHEAD COASTAL DEVELOPMENT, with the modification that the public hearing date referenced in the resolution be changed from February 18, 2014 to March 4, 2014.
2. Direct Staff to contact CalTrans to address possible re-striping of the on-ramp on the southbound I-5 freeway.
3. Direct Police Services to be lenient and to encourage traffic movement, as opposed to issuing citations.

Action continued on next page

4. Because the subject area is one of continual improvement, direct that Staff be diligent during the construction period to ensure that the safety of children remains a top priority.

It was agreed that the City's Public Information Officer will issue a press release concerning Council's action.

8. **UNFINISHED BUSINESS**

A. **Conceptual Design for the North El Camino Real Class I Bicycle and Pedestrian Path Project**

Report from the Public Works Director/City Engineer concerning the conceptual design for the North El Camino Real Class I Bicycle and Pedestrian Path project.

Transportation Engineering Manager Frank narrated a PowerPoint presentation entitled "North El Camino Real Class I Bicycle and Pedestrian Path Conceptual Design" and responded to Council inquiries. A hard copy of Mr. Frank's presentation, dated March 4, 2014, is on file with the City Clerk.

Brenda Miller, San Clemente, complimented the project and urged Council approval; recommended that Council view the project as a beginning and commented on gateway opportunities.

Julia Darden, Planning Commissioner, noted that the Planning Commission is enthusiastic about the project because of its gateway and amenity contributions; supported staff's recommendation for a landscaped meridian for a large portion of the barrier; urged that landscape, especially vertical landscape, be maximized to the extent the City's budget will allow.

Don Brown, Planning Commissioner, spoke in support of the project; urged that Council consider the project as a City gateway and urged that flexibility be incorporated into the design to accommodate gateway options.

Michael Metcalf, San Clemente, conveyed support for the project and urged approval.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to:

1. Approve the conceptual design for the North El Camino Real Class I Bicycle and Pedestrian Path project, as presented by staff.
2. In the spirit of forward planning and flexibility, direct that the project include water stubs.
3. Direct that the General Plan include implementation programs that address the need to make the subject project a gateway statement.

9. **NEW BUSINESS**

A. **Dog Access to City Parks - Phase II**

Report from the Beaches, Parks and Recreation Director concerning the possibility of allowing dogs on-leash in all City parks with the exception of sports fields and playground areas.

City Clerk Baade reported that Staff is recommending that this item be deferred to the Council meeting of March 18, 2014.

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER BAKER, CARRIED 5-0, to defer consideration of Dog Access to City Parks (Phase II) to the Council meeting of March 18, 2014.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. City Manager**(1) Promotion of Lt. John Coppock**

City Manager Gudgeirsson congratulated Lt. John Coppock on his promotion to Captain.

C. City Attorney

None.

D. Council Members**(1) Report from Councilmember Donchak concerning the Orange County Transportation Authority (OCTA)**

Councilmember Donchak reported that the CEO of the OCTA met recently with the Orange County Bicycle Coalition; reported that the meeting resulted in the following: 1) a Pedestrian/Bicycle Safety Campaign will commence in 2015; 2) OCTA will consider adding a Transportation Coordinator position to its staff; and 3) improved signage will be implemented to help ensure the safety of bicyclists around construction sites. Additionally, Councilmember Donchak noted that the first public meeting of the 5th District Bike Study (which consists of the 11 South Orange County cities) will take place on May 21, 2014 at 5:30 p.m. in Laguna Hills, and expressed hope that a PEDAL representative will attend that meeting. Lastly, Councilmember Donchak noted that the CEO of the OCTA indicated that a 5th District Bike Study meeting could be arranged to take place in San Clemente if there is enough interest.

(2) Measure M - Environmental Cleanup Program

Councilmember Donchak reported that an environmental cleanup program is included in Measure M; stated that there is \$2.8 million in the project budget and noted that a call for projects is currently underway; pointed out that a 25% funding match is required and that the deadline to submit projects is May 16, 2014; identified projects that qualify for funding consideration under the program.

(3) **Human Mascots**

Councilmember Donchak noted that she has received complaints that the human mascot from Liberty Tax at the corner of El Camino Real and Avenida Palizada poses safety concerns; urged that human mascots be addressed in the City's Sign Ordinance.

(4) **La Pata Extension Groundbreaking/Change of Command Ceremony at Camp Pendleton**

Councilmember Baker reported that the La Pata extension is scheduled to break ground this month, with completion expected by June 2016; reported that he will attend the Change of Command ceremony for the 2nd Battalion 4th Marines at Camp Pendleton on March 7, 2014.

(5) **Mayor's Prayer Breakfast/Arbor Day Event/Mayor's Walk**

Mayor Brown expressed gratitude to the Kiwanis Club for hosting this morning's 30th annual Mayor's Prayer Breakfast; noted that an Arbor Day event will take place at Casa Romantica on March 15, 2014; reported that the Mayor's Walk on March 22, 2014 will take place on the Marblehead commercial site.

(6) **Coastal Animal Services Authority (CASA) Mardi Paws Event**

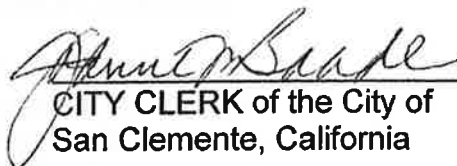
Mayor Pro Tem Hamm reported on his attendance at the Pet Project Foundation's Mardi Paws event, noting that the fundraiser was successful.

12. **RESOLUTIONS/ORDINANCES**

None.

13. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adjourn at 8:37 p.m. The next Regular Council Meeting will be held on March 18, 2014 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.


CITY CLERK of the City of
San Clemente, California

MAYOR of the City of
San Clemente, California