

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – April 15, 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 April 15, 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 5:20 p.m.

ABSENT NONE

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

CLOSED SESSION

Councilmember Donchak reported that she would recuse herself from attending Closed Session B (real property negotiations with the Chamber of Commerce) because her husband and she own property within 300' of the Chamber of Commerce property.

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 LABOR NEGOTIATOR, pursuant to Government Code Section 54957.6:

Agency Negotiator: Erik Sund, Assistant City Manager

Employee Organizations: San Clemente City Employees Association, Management Employees, Mid-Management Employees and Confidential Employees.

- B. 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

- C CONFERENCE WITH LEGAL COUNCIL – EXISTING LITIGATION, pursuant to Government Code Section 54956.9(a):
Capistrano Shores Inc. v. City of San Clemente (OCSC No. 30-2014-00708545-CU-WM-CXC)

- D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, pursuant to Government Code Section 54957:
Title: City Manager

- E. 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

In attendance for the Closed Session were all members of the City Council (except that Mayor Pro Tem Hamm arrived at 5:20 p.m. and Councilmember Donchak recused herself from participation, and was not in attendance, for Closed Session B). Also in attendance for the full Closed Session were City Manager Gudgeirsson, City Attorney Goldfarb, Assistant City Attorney Thind, Assistant City Manager Sund, and City Clerk Baade. Human Resources Manager Penrod was in attendance for Closed Session A only. Building Official Jorgensen was in attendance for Closed Session C only.

MEETING RECONVENED

Council reconvened at 6:28 p.m., with all members present.

INVOCATION

Pastor Chris Smith, of Southcoast Church International, gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Brown led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **San Clemente High School Report**

The report from San Clemente High School students was deferred to the May 6, 2014 City Council meeting.

B. **Donate Life Proclamation – Dick Veale**

Mayor Brown presented a Proclamation to Dick Veale proclaiming the month of April 2014 as Donate Life Month.

C. **CASA (Coastal Animal Services Authority) Update**

CASA General Services Manager Cholodenko, provided an update on CASA matters, focusing on animal enforcement in city parks.

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

Destination Imagination – Fearsome Five

A group of students from Capistrano Unified School District spoke on behalf of their team, Fearsome Five, which will travel with Destination Imagination to compete in the Global Finals; requested financial support.

Pizza Sign at the Pier

Curly Snider, San Clemente, voiced concern that a large pizza sign has been erected on the Fisherman’s Restaurant building; opined that the sign detracts from the San Clemente sign and suggested that it may constitute a code violation. Mr. Snider further suggested that the City enlist volunteers to paint murals on the back walls of the beach restrooms.

Ridgeline Trail – Off-Leash Dogs

Richard Phillips, San Clemente, expressed his concern for off-leash dogs on the Ridgeline Trail, and urged the Council to enhance signage and increase enforcement.

Bike Month

Brenda Miller, San Clemente, stated that May is Bike Month, and encouraged residents to participate in various OCTA commemorative events.

3. MOTION BY COUNCILMEMBER DONCHAK, 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 D and J.

- A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the Regular City Council Meeting minutes of April 1, 2014.

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

- (1) Regular Golf Course Committee meeting minutes of January 2, 2014 and March 6, 2014.
- (2) Regular Coastal Advisory Committee meeting minutes of December 12, 2013, January 9, 2014, and February 13, 2014.
- (3) Regular Zoning Administrator meeting minutes of April 2, 2014.
- (4) Regular Planning Commission Study Session minutes of April 2, 2014.
- (5) Regular Planning Commission meeting minutes of April 2, 2014.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve Wire Transfer No. 1241, paid on March 28, 2014; approve Warrant Nos. 515162 through 515314 paid on March 28, 2014 in the amount of \$402,743.62; approve Handwrite No. 515315, paid on March 31, 2014; approve Wire Transfer Nos. 1242 through 1246, paid on April 4, 2014; approve Warrant Nos. 515316 through 515465 paid on 4/4/14 in the amount of \$1,721,092.27; for a total Warrant Register of \$2,123,835.89.

Payroll Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve Warrant Nos. 296 through 299, and Automatic Deposit Advises 14650 through 14931, for the period of March 17, 2014 through March 30, 2014 in the amount of \$401,927.57; for a total Payroll Register of \$401,927.57.

E. **Selection of 2014 Wall of Recognition Honoree**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the Wall of Recognition Committee's selection for the 2014 recipient to be honored on the Wall of Recognition.

F. **Contract Award – Street Rehabilitation for Calle Amanecer, Phase 2; Calle Cordillera; Camino Vera Cruz; Avenida Presidio, Phase 1; and Major Street Maintenance for Via Ensueno**

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

1. Approve the specifications for the Street Rehabilitation for Calle Amanecer, Phase 2, Project No. 11304; Calle Cordillera, Project No. 11305; Camino Vera Cruz, Project No. 12333; Avenida Presidio, Phase 1, No. 14330; and Major Street Maintenance for Via Ensueno, Project No. 24301.
2. Approve, and authorize the Mayor to execute, Contract No. C14-16, by and between the City of San Clemente and All American Asphalt, providing for the Street Rehabilitation for Calle Amanecer, Phase 2, Project No. 11304; Calle Cordillera, Project No. 11305; Camino Vera Cruz, Project No. 12333; Avenida Presidio, Phase 1, Project No. 14330; and Major Street Maintenance for Via Ensueno, Project No. 24301, in the amount of \$1,475,379.

G. **Notice of Completion - Avenida Columbo Storm Drain Extension**

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

1. Accept the Avenida Columbo Storm Drain Extension, Project No. 18005, from the contractor, Lucas Builders, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Avenida Columbo Storm Drain Extension, Project No. 18005. (C13-29)
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 Lucas Builders, 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.

H. **Notice of Completion - Camino De Los Mares Street Rehabilitation and Camino De Los Mares Frontage Road Street Rehabilitation**

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

1. Accept the Camino de los Mares Street Rehabilitation, Project No. 13306 and Camino De Los Mares Frontage Road, Project No. 13312 from the contractor, "PALP, Inc." dba Excel Paving Company.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Camino De Los Mares Street Rehabilitation, Project No. 13306 and Camino De Los Mares Frontage Road, Project No. 13312. (C13-34)
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 "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. **Second Amendment to On-Call Building Plan Review Services Contracts**

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

1. Approve, and authorize the Mayor to execute, the Second Amendment to Contract No. C10-32, by and between the City of San Clemente and EsGil Corporation, providing for on-call building plan check services. This contract amendment increases the maximum contract amount from \$50,000 to \$85,000 (an increase of \$35,000).
2. Approve, and authorize the Mayor to execute, the Second Amendment to Contract No. C10-37, by and between the City of San Clemente and VCA Code Group, providing for on-call building plan check services. This contract amendment increases the maximum contract amount from \$50,000 to \$65,000 (an increase of \$15,000).

K. **Communications Site Facility Lease Agreements – 150 Avenida Magdalena and 721 Avenida Salvador Sites – Crown Castle**

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

1. Approve, and authorize the Mayor to execute, a Communications Site Facility Lease Agreement, by and between the City of San Clemente and T-Mobile West Tower LLC and authorize the City Manager to approve future amendments provided that the City Manager shall not have the authority to approve a decrease in the rental rate without prior approval of the City Council. (Contract No. C14-09)
2. Approve, and authorize the Mayor to execute, a Communications Site Facility Lease Agreement, by and between the City of San Clemente and STC ONE LLC and authorize the City Manager to approve future amendments provided that the City Manager shall not have the authority to approve a decrease in the rental rate without prior approval of the City Council. (Contract No. C14-10)

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION

D. **Contract Award – Update to the Local Coastal Program and a Biological Inventory of Coastal Canyons**

Following Council and staff commentary regarding the benefit of the Local Coastal Program, MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to:

1. Approve, and authorize the Mayor to execute, Contract No. C14-15, by and between the City of San Clemente and Dudek/McCabe & Company, to provide consultant services to update the Local Coastal Program and prepare a biological inventory of coastal canyons, in the amount of \$148,250.
2. Accept grant revenues of \$90,000 from the State of California to Account 001-000-33490 and approve a related budget appropriation of \$90,000 to Account 001-431-43890.

J. **Request from Family Assistance Ministries (FAM) to Hold a Fundraising Golf Tournament at the San Clemente Municipal Golf Course**

Council discussed whether charitable organizations should be granted full fee waivers or whether they should pay the charity rate for usage of the Municipal Golf Course.

Mary Purdue, Family Assistance Ministries, noted that proceeds from the golf tournament will be used to provide food for individuals in need and to help prevent homelessness.

Dick Veale, San Clemente, explained that he will organize the golf tournament for Family Assistance Ministries, noting that he fully supports FAM's cause.

MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to approve the request from Family Assistance Ministries to conduct, free of charge, a fund raising shotgun golf tournament on Monday, August 4, 2014, at the San Clemente Municipal Golf Course.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

A. **Contract Legal Services**

Report from City Clerk Baade concerning contract legal services.

Due to the topic matter, Assistant City Attorney Thind left the Chambers at 6:45 p.m.

City Clerk Baade reviewed the contents of the Administrative Report, and together with City Manager Gudgeirsson, responded to Council inquiries.

Tony Beall, Rancho Santa Margarita Councilmember, voiced concern that Jeff Oderman of Rutan & Tucker recently sued the City of Rancho Santa Margarita on behalf of a developer; opined that it is inappropriate for an attorney who represents cities to sue a neighboring city; noted that he submitted a letter to the City that details the lawsuit; urged that the City issue a Request for Proposals.

Following Council discussion, MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0 to:

1. Review the structure of the City's current attorney services, including a review of the City's legal policy. Further that staff assess advantages and disadvantages of hiring an in-house attorney.
2. After an agreement has been reached relative to the desired attorney structure, direct Staff to issue a Request for Proposals, inviting all qualified attorneys and/or firms to submit written proposals to provide legal services for the City of San Clemente. Rutan & Tucker will be eligible to submit a written proposal.
3. The below considerations shall be contemplated in the Request for Proposals:
 - a. Importance of continuity of service. City Attorney should be familiar with San Clemente.
 - b. Cost should not be the motivating or overall factor in selecting an attorney.
 - c. Firms/Attorneys invited to submit a proposal should have a proven record working with government.
 - d. The City must be able to select the City Attorney and Assistant City Attorney(s) from amongst the attorneys within the selected law firm.
 - e. A work plan must be submitted as part of the proposal.

Assistant City Attorney Thind returned to the Chambers at 7:07 p.m.

B. Library Expansion Project Construction

Report from Assistant City Manager Sund concerning the County of Orange Library expansion project.

Assistant City Manager Sund reviewed the contents of the Administrative Report; presented a revised staff recommendation, noting that \$326,345 needs to be allocated to make the project whole; responded to Council inquiries.

Helen Fried, County Librarian, explained the Library Expansion Project construction schedule; estimated that the groundbreaking could take place as early as June 1, 2014, with the project being completed one year later.

Following deliberation, MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 4-1 (COUNCILMEMBER BAKER VOTING NOE) to:

- 1) Approve the County of Orange's Project Budget as presented at the April 1, 2014 Council meeting and the form of the County's Construction Contract.
- 2) Approve, and authorize the Mayor to execute, the amendment to the Lease Agreement (Contract C11-37) by and between the City of San Clemente and County of Orange concerning the Library Expansion project, after it has been amended and in time for the April 29, 2014 Orange County Board of Supervisors meeting.
- 3) Approve an appropriation of \$250,000 to Account 037-867-45300 in the Developers Improvement Fund representing funds from the Marblehead Coastal Developer's agreement.
- 4) Approve an appropriation of \$326,345 to Account 037-867-54300 in the Developers Improvement Fund representing funds for the Library Expansion Project.

10. ORAL COMMUNICATIONS (PART 2)

None.

11. **REPORTS**

A. **Commissions and Committees**

(1) **Establishment of Interview/Appointment Dates to Fill Vacancies on Various City Commissions and Committees and Friends of the Reserve Commission**

City Clerk Baade reviewed the contents of the Administrative Report, noting that Robert Wright resigned from the Human Affairs Committee for health reasons; recommended that Council authorize her to advertise to fill the 17 Commission/Committee vacancies that will result from term expirations that will occur on June 30, 2014, and to also fill the unexpired term on the Human Affairs Committee, that will expire on June 30, 2015.

Council authorized the City Clerk to advertise to fill 18 vacancies on the Planning Commission, Golf Course Committee, Beaches, Parks and Recreation Commission, Human Affairs Committee, Coastal Advisory Committee, Investment Advisory Committee and the Talega Homeowner Association Representative to the Friends of the Reserve Commission.

Interviews will take place on June 17, 2014 from 3:00 p.m. to 6:00 p.m. in the Council Chambers and June 18, 2014 at 4:00 p.m. in Conference Room A of the Community Development facility.

B. **City Manager**

Television Monitors in Council Chambers

City Manager Gudgeirsson noted that the Council Chambers has been equipped with new television monitors to show a live feed of Cox Channel 30; thanked IT staff for their efforts in this project.

C. **City Attorney**

None.

D. Council Members**State of the City**

Mayor Brown noted that he gave the State of the City address on April 11, 2014 at Bella Collina Towne and Golf Club; reported that the presentation will be available on the City's website for review.

HMLA 469 Volunteer Day

Councilmember Baker showed photographs from HMLA 469 volunteer day, which included painting the pier and landscaping and cleanup of Park Semper Fi.

OCTA Long Range Transportation Plan

Councilmember Donchak requested that Staff respond to the OCTA Long-Range Transportation Plan (LRTP) draft within the 45-day public review period and that copies of the City's response be provided to Council; requested that the below points be included in the City's response:

1. Affirm City support for the continuation of the HOV lane from Avenida Pico to the San Diego county border.
2. Request that all future maps in the LRTP include only the route that terminates at Cow Camp.
3. Urge the OCTA to consider congestion management in San Clemente, as SANDAG has eight general lanes plus four high occupancy toll lanes planned to end at the county border by 2050.
4. While encouraging review of south county absent the toll road, consider moving the following projects from the "Concept" plan to the "Preferred" plan:
 - El Camino Real interchange improvements.
 - Add one northbound climbing lane for trucks from Avenida Pico to Avenida Vaquero.
 - Pacific Coast Highway and I-5 interchange improvement.
5. Mention the City's new General Plan and any circulation aspects that are relevant.
6. Inquire about plans to extend Avenida La Pata to Cristianitos.

Pirates of Penzance

Councilmember Donchak noted that Pirates of Penzance is currently being performed at San Clemente High School and invited interested individuals to contact San Clemente High school for show times and tickets.

La Pata Extension Groundbreaking

Councilmember Donchak reported on Council's attendance at the La Pata Extension groundbreaking ceremony and noted it was well attended.

12. **RESOLUTIONS/ORDINANCES**

None.

13. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to adjourn at 8:20 p.m. to an Adjourned Regular Council Meeting to be held on May 6, 2014 in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California. Closed Session items will be considered at 4:30 p.m. The proposed FY 2015 City budget will be presented to Council at 5:30 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