

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – January 21, 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 January 21, 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 5:30 p.m.

ABSENT NONE

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

CLOSED SESSION

City Attorney Goldfarb requested a Closed Session to discuss the items on the Closed Session agenda.

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER EVERT, CARRIED 4-0 (MAYOR PRO TEM HAMM ABSENT), to recess to Closed Session to discuss the following:

A CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, pursuant to Government Code Section 54956.9(a):

Joseph A. Arriola v. L.H.C. Investments LLC, et al., OCSC 30-2011-00450299-CU-CD-CXC

Closed Session items continued on next page

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation, pursuant to Government Code Section 54956.9(b): One potential case.

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation, pursuant to Government Code Section 54956.9(c): One potential case.

D. 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

E. 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

F. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Sections 54956.9(a) and 54956.9(b).

South Orange County Wastewater Authority v. Michael Demaree, Does 1 through 25, related cross complaint (Orange County Superior Court).

G. 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

In attendance for the Closed Session were all members of the City Council (except that Mayor Pro Tem Hamm arrived at 5:30 p.m. and Councilmember Donchak recused herself from participation, and was not in attendance, for Closed Session G). Also in attendance for the full Closed Session were City Manager Gudgeirsson, City Attorney Goldfarb, Assistant City Manager Sund, Public Works/Economic Development Director Cameron, and City Clerk Baade. Community Development Director Holloway was in attendance for all items, except Closed Session A. Building Official Jorgensen was in attendance for Closed Session B only. Beaches, Parks and Recreation Director Heider was in attendance for Closed Session E only.

MEETING RECONVENED

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

INVOCATION

Don Kappauf, Chaplain with the Orange County Sheriff Coroner Department, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Donchak led the Pledge of Allegiance.

1. SPECIAL PRESENTATIONS

A. Status Report on 2nd Battalion, 4th Marines

Lt. Col. Rob Weiler provided a status report on the 2nd Battalion, 4th Marines, the City of San Clemente's adopted Marine unit.

B. San Clemente High School Report

Matt Garritson and Gabby Meyer, student representatives of San Clemente High School, reported on campus activities.

C. **Trauma Intervention Program (TIP) Report**

Wayne Fortin, CEO of Trauma Intervention Programs (TIP), reported on TIP's activities and accomplishments.

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

None.

3. MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER DONCHAK, 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 COUNCILMEMBER EVERT, CARRIED 5-0, to approve the Consent Calendar, with the removal of Item 6-B(2) for discussion.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve the City Council Minutes of November 13, 2013, December 3, 2013, December 10, 2013, December 17, 2013 and January 7, 2014.

B. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to receive and file:

(1) Regular Zoning Administrator Meeting minutes of January 8, 2014.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve Wire Transfers Nos. 1206 through 1210 and Warrant Nos. 513208 through 513438 paid on 12/20/2013 in the amount of \$4,315,461.21; approve Wire Transfers Nos. 1211 through 1214 and Warrant Nos. 513439 through 513580 paid on 1/10/2014 in the amount of \$1,861,542.22; for a total Warrant Register of \$6,177,003.43.

Payroll Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve Warrant Nos. 270 through 273 and Automatic Deposit Advises 12665 through 12961 for the period 12/9/2013 through 12/22/2013, paid on 12/27/2013 in the amount of \$416,435.89; approve Warrant Nos. 274 and 275 and Automatic Deposit Advises 12962 through 13227 for the period 12/23/2013 through 1/5/2014, paid on 1/10/2014 in the amount of \$407,374.42; for a total Payroll Register of \$823,810.31.

D. **Contract Award - Temporary Contract Building Inspection Services**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve, and authorize the Mayor to execute, Contract No. C14-03 by and between the City of San Clemente and Jason Addison Smith Consulting Services, Inc., dba JAS Pacific, providing for temporary contract building inspection services, for an amount not to exceed \$120,000.

E. Deferred Compensation Administrative Services Agreements

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

1. Approve, and authorize the City Manager to execute, Contract C14-04, the Administrative Services Agreement by and between ICMA-RC and the City of San Clemente, providing for deferred compensation services for the 457 and 401 Plans.
2. Approve, and authorize the City Manager to execute, Contract C14-04, the Administrative Services Agreement by and between ICMA-RC and the City of San Clemente, providing for deferred compensation services for the Vantage Care RHS Plan.
3. Approve, and authorize the City Manager to execute, Contract C14-04, the Administrative Services Agreement by and between ICMA-RC and the City of San Clemente, providing for deferred compensation services for the 457 PTS Plan.
4. Approve, and authorize the City Manager to execute, Contract C14-05, by and between the City of San Clemente and Wells Fargo Advisors, LLC., providing for deferred compensation advisory services.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**B(2). Regular Beaches, Parks and Recreation Commission Minutes of December 10, 2013**

Council commended those responsible for the Holly Jolly Hoopla and decoration of the City's holiday tree. Additionally, Council noted that Rick Heil has increased the Farmers Market's contribution to the City from \$250 per month to \$300 per month.

MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to receive and file the Regular Beaches, Parks and Recreation Commission minutes of December 10, 2013.

7. PUBLIC HEARINGS

A. Draft Centennial General Plan and Final Environmental Impact Report, Draft Bicycle and Pedestrian Master Plan and Draft Climate Action Plan

Continued Public Hearing concerning adoption of the Centennial General Plan and Final Environmental Impact Report, Draft Bicycle and Pedestrian Master Plan and Draft Climate Action Plan.

Community Development Director Holloway recommended that Council hear public commentary and then continue the Public Hearing to the Council meeting of February 4, 2014.

Mark Howlett stated that Capistrano Shores, Inc., consists of 90 homeowners within the Capistrano Shores Mobile Home Park; asserted that the City's rezone of the property in 1983 from Residential to Open Space is unlawful because property owners were not notified; stated that the City has taken the position that the property owners cannot maintain or develop their properties because of the zoning issue; voiced concern that the City's legal counsel is not communicating with Capistrano Shores' legal counsel; reviewed the Park's need for infrastructure improvements and stated that they are encountering difficulty obtaining the necessary permits from the City even though the project has been approved by the California Coastal Commission.

City Attorney Goldfarb stated that he conveyed to Capistrano Shores' legal counsel that he would like to participate in a meeting, but wants to wait until Assistant City Attorney Thind returns to the office from a family emergency because he has been conducting some of the research; expressed hope that the meeting will be able to take place in the near future.

Jeff Armour, resident of Capistrano Shores Mobile Home Park, requested that Council act consistently with the primary goal of the City's new General Plan to retain and enhance residential neighborhoods; requested that the City grant permits to allow Park residents to maintain and enhance their properties and improve the Park's infrastructure.

Gerry Loughman, resident of Capistrano Shores Mobile Home Park, thanked Council for removing language from the General Plan which he believes attempted to deny the existence of the Park; asserted that the City isn't allowing repairs, rehabilitation or replacement of the mobile homes under the guise that the Park is a non-conforming use; urged that the Park's Residential zoning be restored.

Eric Anderson, resident and property manager of Capistrano Shores Mobile Home Park, spoke on the need for infrastructure improvements at the Park; noted that the improvements have already been approved by the California Coastal Commission and urged that the City grant the necessary utilities permit for safety reasons.

Damon Switter, representing the Whitkin and Switter families, stated that he applied to the City for a foundation permit on September 3, 2013, but has not yet received a direct response from the City; opined that the City should either fulfill its permitting responsibilities or return permitting authority to the State; voiced concern with the City's failure to act despite a major gas leak at the Park.

Alex Maniscalco, Loftin Law Firm, summarized the history of the zoning for the Capistrano Shores Mobile Home Park; opined that the City's rezoning of the Park in 1983 is void and urged that the City correct the zoning of the property in the new General Plan.

Sue Loftin, Loftin Law Firm, asserted that the City's General Plan and Environmental Impact Report (EIR) are inconsistent, internally and with each other; stated that reference to the Capistrano Shores Mobile Home Park in the EIR is inconsistent with the meaning of open space; stated that the Park has existed for 60 years and intends to remain; stated that her clients are seeking resolution to the issue, and opined that the statute of limitations expires on February 8, 2014.

Community Development Director Holloway reported on the status of the Capistrano Shores Mobile Home Park's utilities permit, explaining that the plans have been returned to the Applicant with a request for technical information.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 5-0, to continue the Public Hearing to the Council meeting of February 4, 2014 (the date that Council is scheduled to discuss the Shorecliffs Golf Course re-designation).

8. **UNFINISHED BUSINESS**

A. **Contract Modification with the Orange County Fire Authority to Add Seasonal Ambulance Services**

Report from the Assistant City Manager concerning the possibility of modifying the City's contract with the Orange County Fire Authority to add seasonal ambulance services.

Mayor Pro Tem Hamm recused himself from participation, and left the Council Chambers at 6:50 p.m., due to his employment with the Orange County Fire Authority.

Assistant City Manager Sund reviewed the contents of the Administrative Report and responded to Council inquiries.

In response to Council inquiry, Kirk Wells, Division Chief with the Orange County Fire Authority, stated that the second ambulance would be in operation on a seasonal basis for 12 hours per day, probably from 8:00 a.m. to 8:00 p.m.

Council requested, and Division Chief Wells agreed, to review statistics and trends associated with prior ambulance usage to determine whether peak demand occurs from 8:00 a.m. to 8:00 p.m., or during a different 12-hour period.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 4-0-1 (MAYOR PRO TEM HAMM ABSTAINING) to:

1. Authorize the Mayor to execute an amendment to Contract 95-02, the City's existing contract with the Orange County Fire Authority (OCFA) for emergency medical services, to add a second ambulance to service San Clemente on a seasonal basis, 12 hours per day (hours to be determined as part of the Memorandum of Understanding), from May through October each year.
2. Approve an additional FY 2014 appropriation of \$25,500 to Account 001-226-43612-000-0000 to fund two months of the additional seasonal services in FY 2014.

Mayor Pro Tem Hamm returned to the dais at 6:58 p.m.

9. **NEW BUSINESS**A. **Possible Adjustment of Certain Council Meeting Dates and Establishment of Joint Council/Commissions/Committees Meeting(s) for 2014**

Report from the City Clerk concerning the possibility of modifying the dates of certain Council meetings and scheduling date(s) for Council to meet in joint session with the City's Commissions and Committees.

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

Council modified its meeting schedule for 2014 as follows:

- The Council Meeting of June 3, 2014 was rescheduled to June 5, 2014 to enable the Council Chambers to be used as a polling site.
- The Council Meeting of November 4, 2014 was rescheduled to November 6, 2014 to enable the Council Chambers to be used as a polling site.
- Council scheduled a Joint Meeting with the City's Commissions and Committees to take place on September 9, 2014. Location to be determined.
- Council cancelled its meeting of August 5, 2014 to facilitate Council and staff vacations.

10. **ORAL COMMUNICATIONS (PART 2)****Death of Luis Silva - Conveyance of Family's Gratitude for Assistance and Inquiry Relative to a Memorial Bench**

Fabiola Ampudia, San Clemente, stated that Luis Silva was killed, along with three other individuals, in a car accident in San Clemente on December 7, 2013; expressed gratitude, on behalf of the Silva Family, to organizations and businesses who assisted the Silva Family; requested information relative to the process to install a bench in Luis' memory.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

Cabrillo Playhouse - The Fantasticks

Councilmember Evert advised that The Fantasticks is currently playing at the Cabrillo Playhouse.

Passing of Greg Hennessey, Engineer with the Orange County Fire Authority (OCFA)

Mayor Pro Tem Hamm expressed condolences to the family of Greg Hennessey, an engineer with the OCFA, who passed away while on duty at Station 45 in Rancho Santa Margarita.

Toll Road Payments

Councilmember Baker reported that toll road cash payments are being phased out and urged citizens to register for express accounts.

U.S. Flag Donation from Gatacre Family

Councilmember Baker reported that Jim Gatacre donated a U.S. Flag to the City; noted that the flag, that is currently being flown at Max Berg Plaza Park, flew over the U.S. Capitol on June 6, 2006 in honor of Jim and Pat Gatacre.

San Clemente Summit Hike

Councilmember Donchak reported on the success of the recent hike to San Clemente Summit and expressed gratitude to staff for its assistance.

Association of California Cities - Orange County (ACC-OC) Retail, Revitalization and Revenue Panel

Councilmember Donchak reported on her attendance at a meeting of the ACC-OC Retail, Revitalization and Revenue Panel that was conducted on January 16, 2014; noted that Shaheen Sadeghi, owner of Casino San Clemente, and Jim Clarkson, consultant for Steve Craig's Marblehead Coastal property, served on the panel.

Request for Update on Plaza San Clemente Project

Council requested that representatives from Plaza San Clemente be invited to provide an overview, and development update, of the Plaza San Clemente project at a future Council meeting.

Soccer Clinic by French Soccer Institute

Mayor Brown advised that the French Soccer Institute will host a Soccer Clinic on January 27, 2014 at 3:30 p.m. at Liberty Park.

Passing of John Lesueur

Mayor Brown expressed sadness at the passing of John Lesueur and offered condolences to his wife, Dolores.

12. RESOLUTIONS/ORDINANCES

None.

CLOSED SESSION (PART 2)

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to return to Closed Session at 7:13 p.m. to discuss the following items:

- E. 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

- F. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Sections 54956.9(a) and 54956.9(b).

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

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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

In attendance for the Closed Session were all members of the Council (with the exception of Councilmember Donchak, who recused herself from participation, and was not present, during Closed Session Item G), City Manager Gudgeirsson, City Attorney Goldfarb, Assistant City Manager Sund, Public Works Director/City Engineer Cameron, Community Development Director Holloway, and City Clerk Baade. Beaches, Parks and Recreation Director Heider was in attendance for Closed Session Item E only.

MEETING RECONVENED

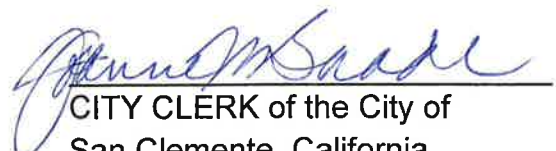
Council reconvened at 8:00 p.m., with all members present.

CLOSED SESSION ANNOUNCEMENT

City Attorney Goldfarb reported that Council voted unanimously to not initiate litigation at this time with regard to Closed Session Item C.

13. **ADJOURNMENT**

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to adjourn at 8:00 p.m. in memory of Greg Hennessey and John Lesueur. The next Regular Council Meeting will be held on February 4, 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 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