

CITY OF SAN CLEMENTE

City Council Minutes

Regular City Council Meeting – January 7, 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 7, 2014 at 5:05 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 6:35 p.m.

ABSENT NONE

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

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CLOSED SESSION

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

MOTION BY MAYOR BROWN, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-0, to recess to Closed Session at 5:06 p.m. 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

In attendance were all members of the City Council (with the exception of Mayor Pro Tem Hamm), City Manager Gudgeirsson, City Attorney Goldfarb, Assistant City Manager Sund, Public Works Director/City Engineer Cameron, and City Clerk Baade.

MEETING RECONVENED

Council reconvened at 6:00 p.m., with all members present, except Mayor Pro Tem Hamm.

INVOCATION

Mark Boud, Church of Jesus Christ of Latter-day Saints, gave the invocation.

PLEDGE OF ALLEGIANCE

Councilmember Evert led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Transportation Corridor Agencies (TCA) Presentation**

Neil Peterson, CEO of the Transportation Corridor Agencies, explained alternative ways to pay tolls on the SR 73, 133, 241 and 261 toll roads. A hard copy of Mr. Peterson's PowerPoint presentation, entitled "The Toll Roads Non-Stop Travel for All Customers" is on file with the City Clerk.

B. **Commendation – David Dendel (Retiring Public Works Maintenance Services Manager)**

Mayor Brown presented a commendation to David Dendel, retiring Public Works Maintenance Services Manager, recognizing him for 33 years of exceptional service to the City and wishing him continued happiness and fulfillment in his retirement years.

C. **Commendation - Pablo Bargueno (Retired GIS Coordinator)**

Mayor Brown presented a commendation to Pablo Bargueno, retired GIS Coordinator, recognizing him for 22 years of exemplary service to the City and wishing him continued happiness and prosperity as he enters the next chapter of his life.

D. **Award from the United States Lifesaving Association**

Mayor Brown presented an award that the City received from the United States Lifesaving Association (USLA) to Marine Safety Chief Humphreys and his staff. The award recognized the City's commitment and dedication to public safety and education.

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

Capistrano Shores Mobile Home Park

Sue Loftin, legal counsel for Capistrano Shores, Inc., asserted that the City has failed to comply with its own Ordinances and to fulfill its obligations under the Mobile Home Park Act and related regulations; stated that the City has also failed to act as the enforcement agency for State and Federal statutes and regulations; asserted that the City is proactively attempting to take the Capistrano Shores property.

Alex Maniscalco, Loftin Law Firm, speaking on behalf of Capistrano Shores, Inc., asserted that the Capistrano Shores Mobile Home Park property was downzoned without due process; stated that one of the Park residents applied for a permit to place their home on a foundation, but the City declined to issue a permit even though it is obligated to do so as an agent of HCD.

Street Sweeping Citations/Clean Ocean Fee/Parking of Commercial Vehicles on Public Streets

George Gregory, San Clemente, voiced concern that street sweeping citations are placed inside plastic envelopes that cause them to fall from vehicles; asserted that citizens should have been allowed to vote as to whether they wished to renew the Clean Ocean Fee at the previous rates or at the proposed increased rates; asserted that it is unconstitutional to not allow certain trucks, or trucks containing materials, to park on public streets; stated that he has obtained several hundred additional signatures to his 2011 petition that objected to Ordinance No. 1483 (relating to parking of on-street commercial vehicles), but declined to provide the City with the additional signatures for fear of retaliation.

North Beach Rooftop Grill and Bar (This item appears on this meeting's agenda as Public Hearing Item 7-A)

Everett Skillman, legal counsel for Dave Gutierrez, Applicant for the North Beach Rooftop Grill and Bar project, stated that the City is inappropriately citing Resolution No. 02-14 as authorization to charge Mr. Gutierrez for the City's legal fees; asserted that the City cannot impose its attorney costs on an applicant.

3. MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, 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 Items B(2) and B(3).

- A. **City Council Minutes**

None.

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

- (1) Design Review Subcommittee Regular Meeting Minutes of November 27, 2013.

- (4) Planning Commission Regular Study Session Minutes of December 18, 2013, and Regular Meeting Minutes of December 18, 2013.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve Wire Transfer Nos. 1202 through 1205 and Warrant Nos. 513041 through 513207 paid on 12/13/2013 in the amount of \$3,118,168.56; for a total Warrant Register of \$3,118,168.56.

Payroll Register

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve Warrant Nos. 268 through 269 and Automatic Deposit Advises 12382 through 12664 for the period of 11/25/2013 through 12/08/2013 in the amount of \$472,363.42; for a total Payroll Register of \$472,363.42.

D. **Indemnification Agreement – Water Emergency Response Organization of Orange County (WEROC)**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to approve, and authorize the Mayor to execute, the Indemnification Agreement with the Water Emergency Response Organization of Orange County (WEROC). (Contract C14-01)

E. **Contract Award – Sarmentoso Pressure Reducing Station Rehabilitation, Project No. 13406**

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

1. Approve the plans and specifications for the Sarmentoso Pressure Reducing System Rehabilitation, Project No. 13406.
2. Approve a supplemental appropriation of \$86,290 to Account 052-466-45300-13406.
3. Approve, and authorize the Mayor to execute, Contract No. C14-02, by and between the City of San Clemente and GCI Construction Inc., providing for the rehabilitation of the Sarmentoso Pressure Reducing Station, Project No. 13406, in the amount of \$204,686.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**B(2). Coastal Advisory Committee Regular Meeting Minutes of November 14, 2013**

Council referenced the portion of the Coastal Advisory Committee minutes of November 14, 2013 relating to the Base of the Pier restroom; questioned and received clarification from Staff that the next two restrooms anticipated to be renovated will be those at Boca del Canon and T Street because they are in the greatest need for improvements. Additionally, Council referenced the portion of the minutes that stated that a restroom is needed at Linda Lane Park for beach and park users, especially children. In response to Council inquiry, Staff agreed to investigate the possibility of installing portable facilities at Linda Lane Park until a permanent restroom is constructed.

MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to receive and file the Coastal Advisory Committee Regular Meeting minutes of November 14, 2013.

B(3). Zoning Administrator Regular Meeting Minutes of December 18, 2013

In response to Council inquiry, Staff explained regulations relating to the extent to which legal nonconforming residential structures can be expanded.

MOTION BY COUNCILMEMBER BAKER, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to receive and file the Zoning Administrator Regular Meeting Minutes of December 18, 2013.

7. PUBLIC HEARINGS

A. North Beach Rooftop Grill and Bar – 1509 N. El Camino Real – Conditional Use Permit 12-362/Cultural Heritage Permit 12-363/Discretionary Sign Permit 13-082/Minor Exception Permit 13-084/Outdoor Dining Permit 13-085

Continued Public Hearing to consider an appeal of a Planning Commission denial of a conversion of a one-story commercial building into a restaurant with an open roof top bar and grill with a full range of alcohol, live and amplified music/sound, an off-site parking agreement, parking waivers for outdoor seating, and to consider approving a new sign package for the site. The project is located at 1509 North El Camino Real within the C2/MU-3 Zoning Designation. The legal description is Lot 9, of Block 2, of Tract 795, Assessor's Parcel Number 057-170-31.

Note: Everett Skillman addressed Council during the Oral Communications portion of this meeting concerning the North Beach Rooftop Grill and Bar. For ease of reference, a summary of his comments is re-stated below in italicized type:

Everett Skillman, legal counsel for Dave Gutierrez, Applicant for the North Beach Rooftop Grill and Bar project, stated that the City is inappropriately citing Resolution No. 02-14 as authorization to charge Mr. Gutierrez for the City's legal fees; asserted that the City cannot impose its attorney costs on an applicant.

Assistant City Manager Sund reported that Council, in 2002, adopted Resolution No. 02-14 relating to development fees; stated that the fees have been thoroughly vetted and that the City Attorney and outside consultants have assessed the fees and determined that they are proper; stated that Staff can re-examine the fees at this time to ensure that they are appropriate, noting that such analysis will likely take 30-60 days.

Mayor Brown opened and closed the Public Hearing, there being no others desiring to speak to this issue.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER BAKER, CARRIED 4-1 (COUNCILMEMBER EVERT VOTING NOE), to table the North Beach Rooftop Grill and Bar application.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**

None.

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

None.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

Council Chambers Monitors

City Manager Gudgeirsson pointed out that new monitors have been installed in the Council Chambers; stated that additional improvements will be implemented in the future.

C. **City Attorney**

None.

D. **Council Members**

OCTA's Long Term Transportation Plan - HOV Lanes

Councilmember Donchak reported that high occupancy vehicle (HOV) lanes from Avenida Pico to the San Diego County line are being incorporated into the OCTA's Long Term Transportation Plan.

San Clemente Summit - 2014 Inaugural Hike

Councilmember Donchak advised that the 2014 Inaugural Hike to San Clemente Summit will take place on January 11, 2014, commencing at 9:00 a.m. at the end of Avenida Talega.

San Clemente High School Blood Drive

Councilmember Baker reported that a blood drive will take place at San Clemente High School on January 11, 2014 from 8:00 a.m. to 1:00 p.m.

"Thank You" Poster from Tennis Players at Bonito Canyon Park

Councilmember Baker displayed a "thank you" poster that he received from tennis players in appreciation for the City's rehabilitation of the Bonito Canyon Park tennis courts.

Shorecliffs Golf Course - Consideration of Property Designation

Mayor Brown requested that Staff provide legal notice to enable Council to consider, at its meeting of February 4, 2014, the land use designation for a portion of the Shorecliffs Golf Course; noted that Council previously supported the re-designation of the property from Coastal Recreation-Serving Commercial (CRC) to Residential - High Density (RH); expressed a desire to discuss the implications and impact of the land use designation on the continued operation of the golf course.

There being no Council objections to Mayor Brown's request, this item will be agendized for the Council meeting of February 4, 2014.

Council will determine at its meeting of January 21, 2014 whether to continue the General Plan Public Hearing to the Council meeting of either February 4, 2014 or February 18, 2014.

12. RESOLUTIONS/ORDINANCES

A. Ordinance No. 1577 (Second Reading) – Clean Ocean Fee Program

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM HAMM, CARRIED 5-0, to adopt Ordinance No. 1577 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A REVISED CHAPTER 13.34 OF THE SAN CLEMENTE MUNICIPAL CODE ENTITLED "CLEAN OCEAN FEE PROGRAM".


13. ADJOURNMENT

MOTION BY MAYOR PRO TEM HAMM, SECOND BY COUNCILMEMBER BAKER, CARRIED 5-0, to adjourn at 7:17 p.m.

The next Regular Council Meeting will be held on January 21, 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.



MAYOR of the City of
San Clemente, California


CITY CLERK of the City of
San Clemente, California