

# CITY OF SAN CLEMENTE

## City Council Minutes

### Adjourned Regular City Council Meeting - January 22, 2013

*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.*

An Adjourned Regular Meeting of the San Clemente City Council was called to order on January 22, 2013 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California, by Mayor Baker.

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

**ABSENT**                    NONE

**STAFF PRESENT**            George Scarborough, City Manager; Jeff Goldfarb, City Attorney; Joanne Baade, City Clerk; Anthony Mejia, Deputy City Clerk.

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### **CLOSED SESSION**

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

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to recess to Closed Session at 5:00 p.m. to discuss the following:

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

Name of Case: Avenida San Juan Partnership v. City of San Clemente, et al., OCSC Case No. 30-2008-00101411-CU-EI-CJC

The Closed Session was conducted in the Ocean View Conference Room at City Hall. In attendance for the full Closed Session were all members of the City Council, City Manager Scarborough, Assistant City Manager Gudgeirsson, City Attorney Goldfarb and City Clerk Baade.

**MEETING RECONVENED**

Council reconvened at 6:00 p.m., with all members present.

**INVOCATION**

Shadi Farhadi, Baha'i Spiritual Assembly of San Clemente, gave the invocation.

**PLEDGE OF ALLEGIANCE**

Councilmember Donchak led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

None.

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

**Metropolitan Water District (MWD) and Municipal Water District of Orange County (MWDOC)**

Susan Hinman, Board member of the Municipal Water District of Orange County (MWDOC), read a summary of the major projects being undertaken by the Metropolitan Water District (MWD) and MWDOC. A hard copy of Ms. Hinman's handout is on file with the City Clerk.

**Bonito Canyon Park Tennis Courts**

Dale Patterson, San Clemente, voiced objections to the potential removal of tennis courts at Bonito Canyon Park; urged that Council retain and repair the playable tennis court.

**Ole Hanson Beach Club**

Marc Schroeder, San Clemente, expressed disapproval with the progress of the restoration of the Ole Hanson Beach Club (OHBC); recommended that Council proceed with the repair and rehabilitation of the OHBC while deliberating the restoration and remodel.

3. MOTION BY MAYOR PRO TEM BROWN, 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**

**Avenida San Juan Partnership v. City of San Clemente**

City Attorney Goldfarb stated that Closed Session Item A will be discussed later this evening under New Business Item 9-B. Please refer to Page 11 of these minutes for a summary of Council's action.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve the Consent Calendar, with the removal of Items B(2), B(4), B(5), and E.

A. **City Council Minutes**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve the minutes of the City Council Regular Meeting of December 4, 2012.

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

(1) Coastal Advisory Committee Regular Meeting minutes of December 13, 2012.

(3) Golf Course Committee Regular Meeting minutes of January 3, 2013.

C. **Warrant Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve Warrant Nos. 505295 through 505310, for the period 12-17-12 through 12-21-12, in the amount of \$1,070,942.89; approve Wire Transfer Nos. 1085 through 1088 and Warrant Nos. 505311 through 505443, for the period 12-31-12 through 01-04-13, in the amount of \$867,863.33; for a total Warrant Register in the amount of \$1,938,806.22.

**Payroll Register**

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve Warrant Nos. 166 through 167 and Automatic Deposit Advises 5181 through 5440, for the period 12-24-12 through 01-06-13, in the amount of \$394,965.69; for a total Payroll Register in the amount of \$394,965.69.

D. **Notice of Completion - Bus Stop Improvements**

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

1. Accept the Bus Stop Improvements, Project No. 13317, from the contractor, Carvajal Trucking & Tractor, Inc.
2. Authorize the Mayor to execute, and City Clerk to record, the Notice of Completion for the Bus Stop Improvements, Project No. 13317. (Contract C12-41)
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 Carvajal Trucking & Tractor, 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.

- F. Assignment, Assumption, Hold Harmless, and Release Agreement with The Reserve Maintenance Corporation, The Reserve at Forster Highlands LLC, and The Reserve North At Forster Highlands LLC, Relative to Tracts 16211 and 16282

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to authorize the Mayor to execute an Assignment, Assumption, Hold Harmless, and Release Agreement, by and between the City of San Clemente and The Reserve Maintenance Corporation, The Reserve at Forster Highlands LLC, and The Reserve North at Forster Highlands, approving and consenting to the assignment of the Subdivision Improvement Agreements (dated March 6, 2002), from The Reserve at Forster Highlands LLC (Assignor) and The Reserve North at Forster Highlands LLC (Assignor) to The Reserve Maintenance Corporation (Assignee), subject to the City Attorney's final approval of the agreement. (Contract C13-01)

- G. Contract Amendment - Ole Hanson Beach Club Rehabilitation

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, the First Amendment to Contract C11-43, by and between the City of San Clemente and Architectural Resources Group, Inc., relative to the rehabilitation of the Ole Hanson Beach Club. This contract amendment increases the contract amount from \$230,102 to \$251,602 (an increase of \$21,500). **\*Note: This action was recommended later in the meeting. See below.**

*Note: Later in the meeting, Council reconsidered the above action as follows:*

City Clerk Baade announced that Mike Cotter has requested to speak on Item 6-G that was previously acted upon by Council.

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to reconsider the action taken earlier this evening relative to the contract amendment for the Ole Hanson Beach Club.

Mike Cotter, representing the San Clemente Historical Society, asserted that the proposed project is subject to the California Environmental Quality Act (CEQA); suggested that the final plans should be reviewed to ensure compliance with Secretary of the Interior standards.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve, and authorize the Mayor to execute, the First Amendment to Contract C11-43, by and between the City of San Clemente and Architectural Resources Group, Inc., relative to the rehabilitation of the Ole Hanson Beach Club. This contract amendment increases the contract amount from \$230,102 to \$251,602 (an increase of \$21,500).

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

B(2). **Human Affairs Committee Regular Meeting Minutes of December 12, 2012**

Council commended the Human Affairs Committee, Family Assistance Ministries, and Brick Pizzeria for their generosity during the holiday season. MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to receive and file the Human Affairs Committee Regular Meeting minutes of December 12, 2012.

B(4). **Zoning Administrator Regular Meeting Minutes of December 19, 2012 and January 9, 2013**

Following clarification, MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to receive and file the Zoning Administrator Regular Meeting minutes of December 19, 2012 and January 9, 2013.

B(5). **Planning Commission Adjourned Regular Meeting Minutes of December 19, 2012 and January 9, 2013**

Cristina León, San Clemente, urged that Council call up the Reef Pointe Villas project and require story poles to be installed; voiced concern with the project's height and mass and asserted that the proposal does not conform to the Pier Bowl Specific Plan guidelines.

In response to Council inquiry, Community Development Director Holloway explained that due to a procedural error, story poles were not installed as required by the Municipal Code.

MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to call up Conditional Use Permit 12-270/Cultural Heritage Permit 12-271/Site Plan Permit 12-272, Reef Pointe Villas, from the Planning Commission Adjourned Regular Meeting minutes of December 19, 2012 for Council consideration and direct that story poles be installed.

MOTION BY MAYOR BAKER, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to receive and file the balance of the Planning Commission Adjourned Regular Meeting minutes of December 19, 2012 and January 9, 2013.

E. **Historic Structures Report for the Miramar Theater and Bowling Alley**

Council requested that Staff provide Council with a timeline for completion of the Historic Structures Report for the Miramar Theater and Bowling Alley; directed that Westlake Reed Leskosky Design review the previously completed structural analysis and Historic District Report to ensure that the reports are consistent.

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

1. Approve Westlake Reed Leskosky's (WRL) use of Lawson-Burke Structural Engineers as a subcontractor to complete the structural evaluation portion of the Historic Resources Report.
2. Accept Historic Preservation Grant revenues in the amount of \$20,000 to Account 001-000-33490.
3. Authorize a supplemental appropriation in the amount of \$20,000 to Account 001-442-43690 Professional Services in the General Fund.

7. **PUBLIC HEARINGS**

None.

8. **UNFINISHED BUSINESS**

None.

9. **NEW BUSINESS**A. **Increased Dog Access to City Parks - Phase I**

Report from the Beaches, Parks and Recreation Director concerning the possibility of increasing dog access to City parks.

Beaches, Parks and Recreation Director Heider reviewed the contents of the Administrative Report; displayed the proposed "Pick up the Poop" public service announcement; recommended that the fine for first-offense dog waste violations be established at \$100 (instead of \$250 as recommended in the Administrative Report) so that the violations remain an infraction instead of a misdemeanor; responded to Council inquiries.

Gregg Lipanovich, San Clemente, stated that City parks which currently allow dog access have less dog waste; urged Council to support increasing dog access to City parks and installing dog bag stations.

Don Slater, Friends of San Clemente Dog Beach, conveyed support for increasing dog access to City parks and installing dog bag stations; requested clarification relative to Council's previous discussion concerning dog access to City beaches.

Council directed Staff to send Council, Don Slater, and Beaches, Parks and Recreation Director Heider the City Council Meeting minutes of March 6, 2012 relative to the dog beach discussion.

Miriam Slater, San Clemente, expressed support for increasing dog access to City parks and installing dog bag stations.

Curly Snider, San Clemente, voiced opposition to increasing dog access to City parks; opined that increasing access will result in increased dog waste and unfairly burden residents without dogs; recommended a reduction in the number of parks allowing access to dogs.

Hugh Limebrook, San Clemente, conveyed concern that run-off from dog feces will negatively impact ocean water quality; voiced concern that dog waste carries diseases; stated that dog owners frequently take their dogs off-leash at Calafia Park.

Andrea Workman, San Clemente, spoke on the importance of public education relative to residents picking up their dogs' waste.



Tom Whiten, San Clemente, stated that he was formerly a president of a homeowners association which managed a private beach in Long Island; advised that he has not experienced negative impacts from allowing dogs on the beach.

Brenda Miller, San Clemente, urged Council to support increasing dog access to City parks; questioned the possibility of allowing active-duty military service animals at Park Semper Fi.

In response to Council inquiry, Coastal Animal Services Authority (CASA) Manager Cholodenko and Animal Services Officer Moran stated that they support increasing dog access to City parks; explained that it would provide additional opportunities for animal control officers to interact and educate the community about dog laws and licensing.

During the course of discussion, it was agreed that Staff will investigate the possibility of installing donation boxes on the beach trail to help fund dog bag stations and other trail needs.

Following discussion, Council took action as follows: 1) directed Staff to determine whether active-duty military service animals have access to all parks; 2) directed Staff to determine if Retired Senior Volunteers Program (RSVP) participants may help with enforcement of dog laws and report back to Council; 3) requested that the issue of dog waste bags in parks be revisited when Phase 2 is considered by Council; and 4) directed Staff to modify the dog license application to indicate that dog owners will be responsible for cleaning up after their dogs.

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

1. Adopt Resolution No. 13-02 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AN EXPANSION OF THE DESIGNATED CITY PUBLIC PARKS WHERE LICENSED DOGS ARE PERMITTED ON-LEASH AND NEGATIVE DECLARATION, IN ACCORDANCE WITH SAN CLEMENTE MUNICIPAL CODE SECTION 6.08.020(A), with the modification that references to "dogs" be replaced in all appropriate sections with "licensed dogs". Further, the resolution will be expanded to specify that dogs are never permitted in playground areas.
2. Approve the "Pick up the Poop" public service announcement, as amended to include Coastal Animal Services Authority (CASA) contact information and a message concerning dog licensing.

*(Council action continued on next page)*

3. Direct Staff to prepare an Ordinance for future Council consideration that would modify the Code of the City of San Clemente to increase the fine for dog waste violations from \$50 to \$100 for a 1<sup>st</sup> offense, consistent with other dog-related infractions.
4. Authorize the transfer of an appropriation in the amount of \$3,500 for signs from the Council Contingency Account (001-203-44900) to Other Maintenance Supplies (001-635-42590).

**B. Avenida San Juan Partnership - Stipulation for Entry of Judgment and Proposed Judgment (404 East Avenida San Juan)**

Report from the City Attorney concerning the possibility of the City executing a Stipulation of Entry Judgment and Proposed Judgment relative to Avenida San Juan Partnership.

City Attorney Goldfarb summarized the proposed entry of judgment, noting that the proposal would resolve the Avenida San Juan Partnership litigation.

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

1. Approve, and authorize the Mayor to execute, the Stipulation for Entry of Judgment and Proposed Judgment relative to Avenida San Juan Partnership.
2. Adopt Resolution No. 13-03 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RESCINDING RESOLUTION NO. 07-49 AND DIRECTING CITY STAFF TO RESUME PROCESSING OF THE APPLICATION OF AVENIDA SAN JUAN PARTNERSHIP FOR GENERAL PLAN AMENDMENT (GPA) 06-428, ZONING AMENDMENT (ZA) 06-429, TENTATIVE PARCEL MAP (TPM) 2005-229, SITE PLAN PERMIT (SPP) 06-430, CONDITIONAL USE PERMIT (CUP) 06-431, AND VARIANCE (VAR) 07-045 FOR REAL PROPERTY LOCATED AT 404 EAST AVENIDA SAN JUAN.

Council directed the City Manager to send a letter to individuals residing within 500' of 404 East Avenida San Juan advising of this evening's action.

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

**Ole Hanson Beach Club**

Alan Korsen, San Clemente, spoke on the importance of preserving the Ole Hanson Beach Club as an historic resource; conveyed a desire to ensure that the historic features on the 2<sup>nd</sup> floor remain intact; opined that the project scope has been over-expanded.

City Manager Scarborough summarized Council's previous actions relative to the rehabilitation and restoration of the Ole Hanson Beach Club, pointing out that the architect has been given direction to explore potential design options.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

(1) **Council Appointments to the Transportation Corridor System (TCS)**

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

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER HAMM, CARRIED 5-0, to appoint Mayor Baker as the representative and Councilmember Evert as the alternate representative to the Transportation Corridor System (TCS).

(2) **Report from Councilmember Donchak relative to the Orange County Transportation Authority (OCTA)**

Councilmember Donchak displayed a map which depicted upcoming Orange County Transportation Authority (OCTA) projects; highlighted projects which may impact traffic near San Clemente. A hard copy of Councilmember Donchak's map is on file with the City Clerk.

(3) **Report from Mayor Baker, City Representative to the Foothill/Eastern Transportation Corridor Agency, relative to F/ETCA Matters**

Mayor Baker narrated a video depicting a proposal by the Transportation Corridor Agencies to construct a new SR-241 and 91-Freeway interchange.

(4) **Report from Councilmember Evert, City Representative to the San Joaquin Hills Transportation Corridor Agency, relative to SJHTCA Matters**

Councilmember Evert advised that a joint committee of Caltrans, Orange County Transportation Authority (OCTA), and the Transportation Corridor Agencies has been formed and will meet on a quarterly basis.

(5) **Metrolink**

Councilmember Donchak encouraged residents to utilize Metrolink trains; noted that Metrolink ridership to San Clemente doubles during the San Clemente Oceanfest.

(6) **San Clemente Audible Warning System (AWS)**

Councilmember Donchak advised that the Audible Warning System (AWS) is moving forward; expressed gratitude to John Dorey for his participation on the witness team that met with the California Public Utilities Commission (CPUC).

(7) Possibility of Cancelling a Regular Council Meeting in August 2013

Councilmember Evert requested that the possibility of cancelling a Regular City Council Meeting in August 2013 be agendaized for the Council meeting of February 5, 2013.

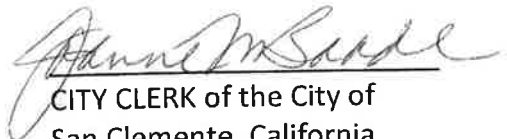
12. RESOLUTIONS/ORDINANCES


None.

13. ADJOURNMENT

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to adjourn at 8:06 p.m.

The next Regular Council Meeting will be held on Tuesday, February 5, 2013 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.

  
CITY CLERK of the City of  
San Clemente, California

  
MAYOR of the City of  
San Clemente, California