

CITY OF SAN CLEMENTE

City Council Minutes

Adjourned Regular Meeting – October 1, 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 October 1, 2013 at 4:30 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 Pall Gudgeirsson, City Manager; Jeff Goldfarb, City Attorney; Joanne Baade, City Clerk; George Aghabegians, Deputy City Clerk

CLOSED SESSION

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

Councilmember Donchak announced that she will recuse herself from participation on Closed Session Item B, Chamber of Commerce Real Property Negotiations, because her husband's place of business is located within 300' of the property that is the subject of negotiations.

MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 5-0, to recess to Closed Session at 4:31 p.m. to discuss the following:

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

Magnus Oxford v. American Youth Soccer Organization et al., OCSC No. 30-2011-00489135-CU-PO-CJC.

Closed Session items continued on next page

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: 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, with the exception of Councilmember Donchak who recused herself from participation, and was not in attendance, for Closed Session Item B, City Manager Gudgeirsson, City Attorney Goldfarb, Public Works Director Cameron, and City Clerk Baade.

MEETING RECONVENED

Council reconvened at 5:06 p.m. with all members present.

INVOCATION

Martin Garff, Public Affairs Director of the Church of Jesus Christ of Latter-Day Saints San Clemente Stake, gave the invocation.

PLEDGE OF ALLEGIANCE

Susan Hinman, Board Director, Municipal Water District of Orange County, led the Pledge of Allegiance.

1. **SPECIAL PRESENTATIONS**

A. **Certificates of Recognition – Motorcycle Incident Responders**

Mayor Baker presented Certificates of Recognition to Deputy Jeremiah Prescott, San Clemente Police Services, Gary Clark, retired Los Angeles City Firefighter, and members of Orange County Fire Authority Medic Engine 60 and Emergency Transport 50 for their heroic actions that saved the life of Andrew Dykes.

B. Fire Prevention Week Proclamation

Mayor Baker presented a Proclamation to Division Chief Wells, Orange County Fire Authority (OCFA), proclaiming October 6, 2013 through October 12, 2013 as Fire Prevention Week.

C. Drowning Awareness Presentation

Division Chief Wells, OCFA, narrated a PowerPoint presentation entitled "Drowning Prevention Through Awareness and Education"; distributed a brochure to Council entitled "Learn the ABC's of Pool Safety". Hard copies of the PowerPoint and brochure are on file with the City Clerk.

Council requested that the OCFA brochures be provided at the Vista Hermosa Sports Park and Ole Hanson Beach Club public pools. Council also requested that the "Drowning Prevention and Water Safety" class schedules referenced in the brochure be included in the City's Recreation Magazine.

D. Water Resources Update

Water Conservation Analyst Kanzler narrated a PowerPoint presentation entitled "Water Resources and Conservation Update"; responded to Council inquiries. A hard copy of the subject PowerPoint is on file with the City Clerk.

Assistant City Engineer Rebensdorf reported on the City's water resource diversification portfolio; stated that staff will return to Council at a future meeting with an update concerning the City's possible involvement in the Baker Water Treatment Plant.

2. ORAL COMMUNICATIONS (PART 1)**Introduction of Municipal Water District of Orange County General Manager**

Susan Hinman, Board Director, Municipal Water District of Orange County, commended staff for its presentation concerning water conservation; introduced the newly appointed General Manager of the Municipal Water District of Orange County, Robert Hunter.

Robert Hunter, General Manager, Municipal Water District of Orange County, provided a background of his professional experience; echoed Chief Wells' comments concerning public awareness of water safety; advised that he is available for individual meetings with Councilmembers.

Miniature Golf Facility at Vista Hermosa Sports Park

Anthony LaFrano, San Clemente, voiced concern that the miniature golf course concept at Vista Hermosa Sports Park evolved into a facility that will include a wave pool and restaurant that can sell up to two alcoholic drinks to a customer; stated that he was unable to identify the members that comprise Surf N' Turf Paradiso, LLC (provider of the facility) and requested that Council look into the LLC's membership.

3. **MOTION WAIVING READING IN FULL OF ALL RESOLUTIONS AND ORDINANCES**

MOTION BY MAYOR PRO TEM BROWN, 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**

Magnus Oxford v. American Youth Soccer Organization (AYSO)

City Attorney Goldfarb reported that Council unanimously authorized the execution of two Release Agreements relating to the cross-complaints in the Magnus Oxford v. American Youth Soccer Organization case (Closed Session Item A).

Chamber of Commerce Property Negotiations

Councilmember Donchak stated for the record that she recused herself from participation in Closed Session Item B (Chamber of Commerce property negotiations) because her husband's business is located within 300' of the property that is the subject of negotiations.

6. **CONSENT CALENDAR**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve the Consent Calendar with the removal of Item B(2).

A. **City Council Minutes**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve the City Council Regular Meeting Minutes of September 17, 2013.

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

(1) Coastal Advisory Committee Regular Meeting Minutes of July 11, 2013.

(3) Planning Commission Regular Meeting Minutes of September 18, 2013, and Regular Study Session Minutes of September 18, 2013.

(4) Beaches, Parks, and Recreation Commission Regular Meeting Minutes of September 10, 2013.

C. **Warrant Register**

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve Wire Transfer No. 1172 and approve Warrant Nos. 510983 through 511133 paid on 09/13/2013, in the amount of \$1,088,767.30; and approve Wire Transfer Nos. 1173 through 1176 and Warrant Nos. 511134 through 511272 paid on 09/20/2013 in the amount of \$2,176,399.15, for a total Warrant Register of \$3,265,166.45.

Payroll Register

MOTION BY COUNCILMEMBER EVERT, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to approve Warrant Nos. 248 through 250 and Automatic Deposit Advises 10596 through 10914 for the period 09/02/2013 through 09/15/2013 in the amount of \$431,558.33, for a total Payroll Register of \$431,558.33.

D. **Notice of Completion – Well Water Treatment Backwash Pipeline and Avenida Vaquero Waterline Replacement, Project Nos. 24401 and 13405**

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

1. Accept the Well Water Treatment Backwash Pipeline and Avenida Vaquero Waterline Replacement, Project Nos. 24401 and 13405. (Contract No. C13-03)
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Well Treatment Backwash Pipeline and Avenida Vaquero Waterline Replacement, Project Nos. 24401 and 13405.
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 GCI Construction Company, 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.

E. **Notice of Completion – Fiscal Year 2013 Sidewalk Construction Program, Phase 1, Project No. 13316**

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

1. Accept the Fiscal Year (FY) 2013 Sidewalk Construction Program, Phase 1, Project No. 13316, from the contractor, NOBEST, Incorporated. (Contract No. C13-08)
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the FY 2013 Sidewalk Construction Program, Phase 1, Project No. 13316.
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 NOBEST, Incorporated.
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.

ITEMS REMOVED FROM THE CONSENT CALENDAR FOR DISCUSSION**B(2). Zoning Administrator Regular Meeting Minutes of September 18, 2013**

Council referenced the portion of the Zoning Administrator Regular Meeting Minutes of September 18, 2013 that related to San Clemente Sports Hall of Fame Tiles; requested that the Applicant's name on the minutes be corrected to reflect Tom Wicks and to include the organization he represented, i.e., either the Friends of the Beaches, Parks, and Recreation Foundation or the Beaches, Parks, and Recreation Commission.

With regard to the portion of the minutes relating to Nomad's Canteen, Council requested and received clarification relative to Condition No. 15 (relating to age restrictions for admission to Nomad's special events). Staff agreed to provide Council with a memo that further explains the subject issue. Additionally, Council requested that all persons who have expressed noise concerns with regard to Nomad's special events be provided with a calendar of events.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to receive and file the Zoning Administrator Regular Meeting Minutes of September 18, 2013, with the understanding that the spelling of Tom Wicks' name will be corrected and that the minutes will be expanded to reflect the organization that Mr. Wicks represented.

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**

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.

City Attorney Goldfarb stated that the City received a letter from the Applicant on September 26, 2013 that suggested that the Elks Lodge might provide parking for the project; related that the letter from the Elks Lodge was equivocal and since parking for the project is a significant issue and part of the rationale behind the Planning Commission's decision to deny the project, Mr. Goldfarb advised that he sent a memo to Council recommending that the issue be deferred to allow time to obtain additional information concerning the letter; advised that staff has obtained the needed information and hence he is withdrawing his recommendation for deferral.

Council voiced concern with the magnitude of material that was provided to Council by the Applicant late yesterday, noting that sufficient time was not provided to enable the material to be reviewed.

Associate Planner Nicholas narrated a PowerPoint presentation entitled "North Beach Rooftop Bar and Grill"; stated that the City received a letter from the Elks Lodge today indicating that it does not support the project and will not be entering into a parking agreement with the Applicant; responded to Council inquiries.

Dave Gutierrez, Applicant, Rooftop Grill and Bar, narrated a PowerPoint presentation entitled "The Start of North Beach Pedestrian Village"; stated that the Elks Lodge provided a letter in June 2013 that offered off-site parking for the project; stated that he was in attendance at the Board meeting at which the parking offer was authorized; advised that he received a letter today that indicates that the parking offer is being rescinded; conveyed his intent to resolve the issue and pointed out that proposed Condition 14(c) allows the Applicant, until the time the restaurant is opened, to obtain an off-site parking arrangement; responded to Council inquiries. A hard copy of Mr. Gutierrez's PowerPoint is on file with the City Clerk.

Mayor Baker opened the Public Hearing.

Harold Book, Secretary, Elks Lodge, asserted that the June 24, 2013 letter relating to a possible off-site parking agreement was not approved by a majority of the Elks Lodge Board and consequently should be disregarded.

Steve Schwartz, San Clemente, spoke in favor of the project; expressed his desire to revitalize North Beach, adverting to the number of vacant properties in the area.

Cole Mobley, San Clemente, spoke in favor of the project; opined that most concerns relating to the project, especially those involving sound, can be managed to minimize complaints.

Miriam Slater, San Clemente, spoke in favor of the project and suggested that approval of the project will help revitalize North Beach.

Bill Koelzer, San Clemente, spoke in opposition to the project; distributed a photograph of a vehicle accident near the Avenida Animal Hospital; expressed concern that excessive noise could affect the adjacent veterinary clinic. A hard copy of the subject photograph is on file with the City Clerk.

Brad Malamud, San Clemente, spoke in favor of the project; opined that neither the Planning Commission, nor City Council, adequately cited any Code or Zoning regulation that justifies denying the project; encouraged Council to approve similar projects to foster the revitalization of North Beach.

Dave Walsh, San Clemente, spoke in opposition to the project; expressed concern relating to excessive noise; played an audio tape that was recorded 400' from a concert that took place at Bull Taco and compared it to the live entertainment proposed for the project.

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

Council requested that the Applicant send future material to Associate Planner Nicholas for timely handling and distribution.

Following discussion, MOTION BY MAYOR PRO TEM BROWN, SECOND BY COUNCILMEMBER DONCHAK, CARRIED 4-1 (COUNCILMEMBER HAMM VOTING NOE), to re-open the Public Hearing and continue the Public Hearing to the Council Meeting of November 5, 2013. Staff is to respond to questions raised by Council in the Administrative Report for the November 5, 2013 Council Meeting.

B. **Introduction to the Draft Centennial General Plan, Draft Environmental Impact Report, Draft Bicycle and Pedestrian Master Plan, and Draft Climate Action Plan** (Continued from the Adjourned Regular Council Meeting of September 24, 2013)

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

City Clerk Baade announced that staff is requesting that the Public Hearing on this item be continued to a date to be determined by Council.

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to continue the Public Hearing to an Adjourned Regular Council Meeting to be held on October 8, 2013 at 5:00 p.m. in the City Hall Council Chambers.

MEETING RECESSED

Council recessed at 8:05 p.m. and reconvened at 8:15 p.m., with all members present.

8. **UNFINISHED BUSINESS**

A. **Billing for 2013 Weed Abatement Program**

Report from the Community Development Director concerning billing for the 2013 Weed Abatement Program.

Code Compliance Supervisor Panas reviewed the contents of the Administrative Report and responded to Council inquiries.

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

1. Waive the City's notification costs for the compliant property owners.
2. Approve the Weed Abatement Administrative Charges Report for 2013, as contained in the Administrative Report dated October 1, 2013.
3. Authorize the Weed Abatement Contract Administrator to bill the property owners in the amounts indicated in the Administrative Report, dated October 1, 2013.

9. **NEW BUSINESS**

A. **Proposed Tribute Program – Sponsoring Public Amenities**

Report from the Beaches, Parks, and Recreation Director concerning a proposal for a Tribute Program, providing for the opportunity to accept donations and sponsor public amenities.

Beaches, Parks, and Recreation Director Heider narrated a PowerPoint presentation entitled "Proposed Tribute Program – Naming Opportunities for Public Amenities"; responded to Council inquiries. A hard copy of the subject PowerPoint is on file with the City Clerk.

Skip Davenport, San Clemente, spoke in favor of the proposed Tribute Program and encouraged Council to direct staff to further develop the project.

Gina Cousineau, San Clemente, speaking on behalf of 15 families who have lost children, spoke in favor of the proposed Tribute Program; relayed her efforts to bring good from the death of her son, Evan, and to keep him from being forgotten; provided a letter to Council indicating support for the project. A hard copy of Ms. Cousineau's letter is on file with the City Clerk.

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

1. Approve the creation of a Tribute Program for the naming of public amenities.
2. Direct the Beaches, Parks, and Recreation Commission to work with staff and the public to further develop the program details and tribute opportunities.

B. Revisions to Comprehensive Sidewalk Policy No. 801-1 and Code Amendments – Construction and Maintenance of Sidewalks

Report from the Public Works Director/City Engineer concerning proposed revisions to Comprehensive Sidewalk Policy No. 801-1, and the possibility of amending the Code of the City of San Clemente relating to construction and maintenance of sidewalks.

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

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

1. Approve revised City Policy No. 801-1, entitled "Comprehensive Sidewalk Policy".
2. Introduce Ordinance No. 1571, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO AMEND MUNICIPAL CODE CHAPTER 12.08.

C. **External Investment Advisory Firm – Management of City's Investment Portfolio**

Report from the City Treasurer concerning management of the City of San Clemente's investment portfolio.

City Treasurer Taylor narrated a PowerPoint presentation entitled "External Management of City's Investment Portfolio" and responded to Council inquiries. A hard copy of the subject PowerPoint is on file with the City Clerk.

Council directed staff to maintain communications and monitor the performance/reliability of the other finalist firms for a two-year period.

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

1. Approve the City Manager's recommendation to engage the services of registered external investment advisors to manage all or part of the City's investment portfolio.
2. Approve the City's Investment Advisory Committee's recommendation to approve, and authorize the Mayor to execute, Contract No. C13-41 by and between the City of San Clemente and Chandler Asset Management, providing for management of the City's investment portfolio.
3. Authorize an additional Fiscal Year (FY) 2013-2014 appropriation of \$30,000 to Account 001-192-43690-000-0000, providing for first year investment management fees for Chandler Asset Management.

D. **New 2013 California Building Codes and the Proposed Elimination of Certain Local Amendments**

Report from the Community Development Director relating to the process to adopt the 2013 California Building Codes and the proposed elimination of certain local Amendments to simplify Code requirements.

Building Official Jorgensen narrated a PowerPoint presentation entitled "New 2013 California Building Codes and Proposed Elimination of Certain Local Amendments"; responded to Council inquiries. A hard copy of the subject PowerPoint is on file with the City Clerk.

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

1. Direct staff to draft an ordinance for future Council consideration that will exempt all fences not over six feet in height from building permits.
2. Direct staff to draft a written policy that identifies and defines projects with changes, alterations or repairs of a minor nature to be exempt from permits and return to Council for further consideration.
3. Direct staff to draft an ordinance for future Council consideration that will limit extensions of permit applications so the total period of application extensions granted shall not exceed an additional 18 months.

MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER EVERT, CARRIED 3-2 (COUNCILMEMBERS DONCHAK AND HAMM VOTING NOE), to direct staff to draft an ordinance for future Council consideration that will require underground electrical for new buildings only.

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

San Clemente Farmers Market

Josie Rietkerk, San Clemente, expressed concern relating to the quality of produce at the San Clemente Farmers Market; suggested that Council solicit bids for the Farmers Market operations, prior to renewing the contract with the current operator.

City Manager Gudgeirsson stated that the Farmers Market Special Event Permit issue will be agendized for the Council Meeting of October 15, 2013.

11. **REPORTS**

A. **Commissions and Committees**

None.

B. **City Manager**

None.

C. **City Attorney**

None.

D. **Council Members**

(1) **Orange County Fire Authority (OCFA) Report**

Division Chief Wells reported that the OCFA Board of Directors, at its meeting of September 26, 2013, took action on an issue that relates to the financial equity between structural fire fund cities that are property-tax based versus cash contract cities, such as San Clemente; related that the issue will be agendized for Council consideration in approximately one month.

(2) **Orange County Transportation Authority (OCTA) – Stakeholders Meeting**

Mayor Pro Tem Brown reported on his attendance at an OCTA stakeholders meeting at which the Avenida Pico extension project was discussed; stated that OCTA staff will present a video relating to the project at a future Council meeting.

(3) **OCTA Long-Range Planning**

Mayor Baker reported on his attendance at an OCTA long-range planning meeting with Transportation Engineering Manager Frank; acknowledged the difficulty and complexity of OCTA's operations.

(4) **Marblehead – Parks and Trails**

Mayor Baker reported that he attended a tour of the Marblehead development site; displayed photographs of areas that will be available for public usage. Hard copies of the subject photographs are on file with the City Clerk.

12. **RESOLUTIONS/ORDINANCES**

None.

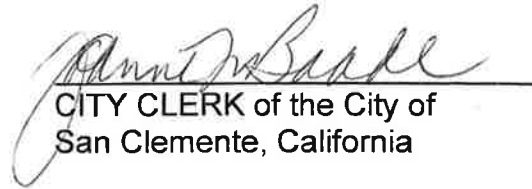
13. ADJOURNMENT

MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to adjourn at 9:39 p.m. to an Adjourned Regular Meeting to be held on October 8, 2013 at 5:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

The next Regular Council Meeting will be held on November 5, 2013 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