



CITY OF SAN CLEMENTE

SPECIAL AND REGULAR CITY COUNCIL MEETING AGENDA

City Council Chambers
San Clemente Civic Center
100 Avenida Presidio
San Clemente, California
www.san-clemente.org

January 17, 2017
4:30 p.m. - Closed Session
6:00 p.m. - Business Meeting

Information concerning City Council Meeting protocols and procedures is contained at the end of this agenda.

RULES FOR ADDRESSING COUNCIL

- Members of the public may address the City Council on matters within the jurisdiction of the City of San Clemente.
- If you wish to address Council, please complete one of the blue speaker cards located at the entrance to the Council Chambers and submit it to the City Clerk or Deputy City Clerk.
- Persons wishing to address Council concerning an **agendized** item will be invited to address Council during the time that Council is considering that particular agenda item. Persons wishing to address Council concerning a **non-agendized** issue will be invited to address Council during the "Oral Communications" portion of the meeting.
- When the Mayor calls your name, please step to the podium, state your name and your city of residence, and then give your presentation. Please limit your presentation to three minutes.

MISSION STATEMENT

The City of San Clemente, in partnership with the community we serve, will foster a tradition dedicated to:

Maintaining a safe, healthy atmosphere in which to live, work and play;

Guiding development to ensure responsible growth while preserving and enhancing our village character, unique environment and natural amenities;

Providing for the City's long-term stability through promotion of economic vitality and diversity...

Resulting in a balanced community committed to protecting what is valued today while meeting tomorrow's needs.

CLOSED SESSION (4:30 P.M.) – Special Council Meeting

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Existing litigation pursuant to Government Code section 54956.9(d)(1)

Number of Cases: 8

Case Name: Emergency Shelter Coalition v. City of San Clemente

Case Number: OCSC 30-201400758880

Case Name: Daniel Walker v. City of San Clemente

Case Numbers: OCSC 30-2012-00591239-CU-WM-CJC; 9th District Court of Appeal G050552, G050987; Supreme Court S229788 and S229789

Case Name: Memorial Health Services, et al. v. City of San Clemente

Case Number: USDC 8:16-cv-00852-DOC-JCG

Case Name: City of San Clemente v Sobertec LLC (1)

Case Number: OCSC 30-2015-00805227

Case Name: City of San Clemente v Coast To Coast Referral Center, Inc.

Case Number: OCSC 30-2015-00806052

Case Name: City of San Clemente v. Dual Diagnosis Treatment Center, Inc.

Case Number: OCSC 30-2015-00805214

Case Name: Dual Diagnosis Treatment Center, Inc. v. City of San Clemente

Case Number: USDC 8:15-cv-01611CJC-JCG

Closed Session items continued on next page

Case Name: San Clemente Vacation Rental Alliance v. City of San Clemente
Case Number: OCSC 30-2016-00858999-CU-WM-CJC

B. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code section 54956.9(d)(4)
Number of Potential Cases: 2

C. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6
Agency designated representative: Assistant City Manager
Employee Organization: SCCEA - San Clemente City Employees Association

BUSINESS MEETING (6:00 P.M.) – Regular Council Meeting

CALL TO ORDER

INVOCATION – Keith Stephens, Church of Jesus Christ of Latter-Day Saints

PLEDGE OF ALLEGIANCE

ROLL CALL

1. Special Presentations.

A. Commendation Presentation – San Clemente High School Tritons Football Team

Presentation of Commendation to the San Clemente High School Tritons Football Team, Head Coach Jaime Ortiz, and coaching staff for winning the CIF Division A-1 State Championship.

B. San Clemente High School Update

Presentation by San Clemente High School students Sara Barnes and Brigham Maready concerning campus activities.

2. **Oral Communications (Part 1).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. A total time limitation of 30 minutes is allocated for Oral Communications Part 1, with each speaker being allotted 3 minutes in which to give his or her presentation. Speaker order is determined by the order in which speaker cards are provided to the City Clerk or Deputy City Clerk at the meeting. Speakers that cannot be accommodated during Oral Communications Part 1 will be invited to address Council during Oral Communications Part 2, which appears on this agenda as Item No. 10. When the Mayor calls your name, please step to the podium, state your name and the City in which you reside, and make your presentation. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.
3. **Motion waiving reading in full of all Resolutions and Ordinances.**
4. **Consideration of agendizing items requiring immediate action.** Any items agendized will be considered under New Business, unless otherwise determined by a majority vote of the City Council.
5. **Closed Session Report - City Attorney.**
6. **Consent Calendar.** All items listed on the Consent Calendar are considered to be routine and will be enacted by one motion without discussion unless Council, Staff, or the public requests removal of an item for separate discussion and action.
 - A. **City Council Minutes**
 - (1) [Approve the Regular City Council Meeting minutes of December 6, 2016.](#)
 - (2) [Approve the Regular City Council Meeting minutes of December 20, 2016.](#)
 - B. Receive and file:
 - (1) [Regular Coastal Advisory Committee Meeting minutes of November 10, 2016.](#)
 - (2) [Regular Beaches, Parks and Recreation Commission Meeting minutes of December 13, 2016.](#)
 - (3) [Regular Golf Course Committee Meeting minutes of November 3, 2016.](#)

- (4) [Regular Zoning Administrator Meeting minutes of December 21, 2016.](#)
- (5) [Regular Zoning Administrator Meeting minutes of January 4, 2017.](#)
- (6) [Planning Commission Adjourned Regular Meeting minutes of December 21, 2016.](#)

C. Warrant Register

[Approve Warrant Nos. 537876 through 538025, paid on 12/16/16, in the amount of.....](#)\$2,877,835.04

[Approve Wire Transfers Nos. 1584 through 1588, paid on 12/23/16, and Warrant Nos. 538026 through 538248, paid on 12/23/16, in the amount of.....](#)\$1,948,735.64

[Approve Wire Transfers Nos. 1589 through 1592, paid on 1/6/17, and Warrant Nos. 538249 through 538395, paid on 1/6/17, in the amount of.....](#)\$1,458,873.47

TOTAL WARRANT REGISTER.....\$6,285,444.15

Payroll Register

Approve Warrant Nos. 548 through 549, and Automatic Deposit Advises 37059 through 37348, for the period 12/5/16 through 12/18/16, paid on 12/23/16, in the amount of.....\$ 421,595.53

Approve Warrant Nos. 550 through 552, and Automatic Deposit Advises 37349 through 37615, for the period 12/19/16 through 1/1/17, paid on 1/6/17, in the amount of.....\$ 391,244.96

TOTAL PAYROLL REGISTER.....\$ 812,840.49

D. [Donation Request from Kids Around the World to Refurbish Playground Equipment Donated by the City of San Clemente to San Clemente, Chile](#) Pages 6-D-1 through 6-D-4

Staff and Beaches, Parks and Recreation Commission Recommendation

- 1. Approve a donation in the amount of \$10,000 to Kids Around the World to fund the refurbishment of the old playground equipment from Marblehead Park that the City donated to San Clemente, Chile.
- 2. Authorize a transfer of \$10,000 from Council Contingency Reserve Account 001-203-44900 to Account 001-635-43470.

- E. [Fee Waiver Request – Use of Community Center for San Clemente Library Summer Reading Program](#) Pages 6-E-1 through 6-E-3

Staff and Beaches, Parks and Recreation Commission Recommendation

Approve the request from the San Clemente Library for a fee waiver in the amount of \$1,725 for rental and deposit fees associated with the use of the Community Center for the Library’s summer reading program.

- F. [Recognition of Donations from the Friends of San Clemente Beaches, Parks and Recreation Foundation and San Clemente Rotary \(Funding for ADA-Accessible Door Openers at the Ole Hanson Beach Club\)](#) Pages 6-F-1 through 6-F-2

Staff and Beaches, Parks and Recreation Commission Recommendation

1. Formally accept the donations for ADA-accessible door openers at the Ole Hanson Beach Club in the amount of \$5,000 from the Friends of San Clemente Beaches, Parks and Recreation Foundation and \$5,000 from San Clemente Rotary.
2. Approve the recommended plaque wording and placement of plaques in recognition of the donations.

- G. [Park Master Plan Amendment to Marblehead Coastal Pico Park Basketball Court Area](#) Pages 6-G-1 through 6-G-3

Staff and Beaches, Parks and Recreation Commission Recommendation

Amend the master plan of Pico Park to include tubular steel fence near the basketball court within the park.

- H. [Cooperative Agreement with the Orange County Transportation Authority \(OCTA\) Related to Interstate 5 \(I-5\) Improvements](#) Pages 6-H-1 through 6-H-10

Staff Recommendation

1. Approve, and authorize the City Manager to execute, Cooperative Agreement No. C-6-1550 with the Orange County Transportation Authority for reimbursement of Avenida Vaquero pavement repair costs related to widening of Interstate 5.
2. Accept revenue from the Orange County Transportation Authority in the amount of \$76,600 to Account 001-000-33900-000-00000, Other Governmental Revenues.

I. [Contract Award – Water Reclamation Plant Electrical Systems Replacement](#) Pages 6-I-1 through 6-I-3

Staff Recommendation

1. Approve, and authorize the Mayor to execute, Contract C17-01, by and between the City of San Clemente and Linkture Consulting Engineers, providing for engineering and design services for the Water Reclamation Plant Electrical System Replacements Plant, Project No. 16205, in an amount not to exceed \$78,116.
2. Approve, and authorize the Public Works Director to execute, amendments to Contract C17-01, if needed, by and between the City of San Clemente and Linkture Consulting Engineers. The potential amendments may increase the contract from \$78,116 to a maximum of \$110,000 (a potential increase up to \$31,884).

J. [Notice of Completion – Land Outfall Recoating at Prima Deshecha Canada](#) Pages 6-J-1 through 6-J-4

Staff Recommendation

1. Accept the Land Outfall Recoating at Prima Deshecha Canada, City Project No. 27207, from the contractor, Murphy Industrial Coatings, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Land Outfall Recoating at Prima Deshecha Canada, City Project No. 27207.
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 Murphy Industrial Coatings, 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.

K. [Recreation Sports Partnership Review – San Clemente Girls Softball](#) Pages 6-K-1 through 6-K-60

Staff and Beaches, Parks and Recreation Commission Recommendation

Grant Platinum Partnership status to San Clemente Girls Softball with a three-year agreement.

- L. [Participation in the Concerned Coastal Communities Coalition](#) Pages 6-L-1 through 6-L-5

Staff Recommendation

1. Authorize a \$600 monthly expenditure for a 12-month contract to participate in the Concerned Coastal Communities Coalition.
2. Approve a budget transfer in the amount of \$7,200 from Account 001-203-44900 (Contingency Reserve Fund) to Account 001-203-43690 (Other Professional Services).

- M. [Notice of Completion – Ole Hanson Beach Club Rehabilitation](#) Pages 6-M-1 through 6-M-5

Staff Recommendation

1. Accept the Ole Hanson Beach Club Rehabilitation, Project No. 12559, from the contractor, Newman Midland Corporation.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Ole Hanson Beach Club Rehabilitation, Project No. 12559.
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 Newman Midland Corporation.
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.
5. Approve, and authorize the Mayor to execute, Amendment No. 3 to Contract C14-53, by and between the City of San Clemente and Dudek, relating to construction management and inspection services for the Ole Hanson Beach Club rehabilitation project. This Amendment increases the contract amount from \$293,500 to \$325,000, an increase of \$31,500.

N. [Notice of Completion – Boca de la Playa Sidewalk Improvements](#)
Pages 6-N-1 through 6-N-3

Staff Recommendation

1. Accept the Boca de la Playa Sidewalk Improvements, Project No. 17325, from the contractor, CT&T Concrete Paving, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Boca de la Playa Sidewalk Improvements, Project No. 17325.
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 the contractor, CT&T Concrete Paving, 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.

7. **Public Hearings.** The Public Hearing process includes a staff presentation, a presentation by the applicant not to exceed ten (10) minutes, and public testimony (not to exceed three minutes per speaker). Following closure of the Public Hearing, the City Council will respond to questions raised during the hearing, discuss the issues, and act upon the matter by motion.

None.

8. **Unfinished Business.**

A. [San Clemente Trolley \(Selection of Theme and Colors\)](#) Pages 8-A-1 through 8-A-4

Report from the Public Works Director concerning selection of the colors and theme name for the San Clemente Trolley.

Trolley Ad-Hoc Committee Recommendation

Approve Option 1 for the trolley colors (as depicted in the Administrative Report, dated January 17, 2017, which is on file with the City Clerk), and approve the name “San Clemente Trolley”.

B. [Matrix Study - Assessment of Code Compliance, Development Engineering, Planning Division, and Business License Functional Areas](#) Pages 8-B-1 through 8-B-152

Report from the Assistant City Manager concerning a report by Matrix Consulting Group that assessed the City's Code Compliance, Planning, Business License and Public Works Development Engineering services divisions.

Staff Recommendation

1. Receive and file the report by Matrix Consulting Group that assessed the City's Code Compliance, Planning, Business License and Public Works Development Engineering services divisions.
2. Direct Staff to move forward with implementation of the assessment recommendations per the approach presented in the Administrative Report, dated January 17, 2017, which is on file with the City Clerk.
3. Direct Staff to provide periodic updates on the status and progress of implementation.

9. **New Business.**

A. [Review of City Code of Ethics Policies for City Officials and Employees](#) Pages 9-A-1 through 9-A-39

Report from the City Attorney concerning the City's Code of Ethics Policies for City officials and employees.

Staff Recommendation

Consider the following courses of action with regard to the City's Ethics Policies:

- *Comprehensive Update.* Under this alternative the Council would order a comprehensive update to the City's Ethics Policies, including (1) an update to the Officials' Policy to conform to current FPPC regulations, (2) resolution of the inconsistencies and ambiguities discussed in the Administrative Report, including resolution of the issue that could require adding consideration of an ethics complaint to a Council agenda after publication of the agenda, and (2) conformance of the Employees' Policy to the City's Personnel Policies and Procedures and other due process requirements. Staff recommends that any update address the following issues: (1) the initial investigation and informal hearing (e.g., the relationship and timing between the two), (2) the consequences of a dismissed complaint (e.g. whether or under

what circumstances a dismissed complaint may be refiled), and (3) the final action on a complaint (e.g., what disciplinary action may be taken for a violation?). This alternative should also include a Council directive that the Policies be reviewed regularly (perhaps at the time of the periodic review of the City's Conflict of Interest Code) to ensure that inconsistencies with state law do not again develop.

- *Repeal of the Policies and Replacement with Public Education and Referral Services.* As indicated in the Administrative Report, all provisions of the City's Ethics Policies are covered by parallel provisions of state law. Unlike the City Policies, these state laws grant enforcement authority to the FPPC, the Attorney General, and the District Attorney, with the ability to seek and impose administrative fines, and civil and criminal penalties for violations. The Employees' Policy is covered by other City personnel rules and enforceable under those rules. The Council could repeal the Ethics Policies and replace them with public education and referral services to assist the public in filing complaints and grievances with appropriate enforcement agencies or, as regarding staff, with the City Manager, under applicable state law and City personnel policy.

B. [Contract Award – CDBG Playground Replacement, ADA Improvements, and Declaration of Surplus Property at San Luis Rey Park](#)

Report from the Public Works Director concerning award of a contract for CDBG playground project, ADA improvements, and declaration of surplus property at San Luis Rey Park.

Staff Recommendation

NOTE: The bid opening for the CDBG San Luis Rey Park Playground Project will take place on January 12, 2017. An Administrative Report, that includes Staff's recommendation, will be prepared after bids are opened and posted to the City's website.

10. **Oral Communications (Part 2).** Members of the audience who wish to address Council on matters that are within the jurisdiction of the City of San Clemente, but not separately listed on the agenda, may do so during the Oral Communications portion of the meeting. When the Mayor calls your name, please step to the podium, state your name and the City in which you reside, and make a presentation not to exceed three minutes. Subject to very limited exceptions, Council is not permitted to discuss or take action on items that do not appear on the agenda.

11. **Reports.**

A. **Commissions and Committees**

- (1) [Establishment of Council Meeting Schedule and Joint Meeting\(s\) for 2017](#) Page 11A(1)-1

Staff Recommendation

- 1) Determine whether to schedule date(s) for one or more Joint Council/Commissions/Committees meeting(s) during 2017.
- 2) Determine whether to cancel the Council meeting of August 1, 2017 or August 15, 2017.
- 3) Determine whether to cancel or reschedule the Council meeting of July 4, 2017.
- 4) Determine whether to cancel or reschedule the Council meeting of January 2, 2018.

- (2) [Appointment of Council Representative and Alternate to the Transportation Corridor JPA Board \(San Joaquin Hills and Foothill\) and Transportation Corridor System](#) Page 11A(2)-1

Staff Recommendation

Appoint a representative and alternate to the Transportation Corridor JPA Board (San Joaquin Hills and Foothill) and Transportation Corridor System.

- (3) [Consideration of Rescheduling the Human Affairs Committee and Golf Course Committee Interviews/Appointments](#) Page 11A(3)-1

Staff Recommendation

Consider rescheduling the Adjourned Regular Council Meeting of January 25, 2017 to enable all Council members to participate in the interviews and appointments of Human Affairs Committee and Golf Course Committee members.

- B. **City Manager**
- C. **City Attorney**
- D. **Council Members**

12. **Resolutions/Ordinances.**

- A. [Ordinance No. 1638 \(Second Reading\) – Clarification of Policy Intent by Fixing Errors, Clarifying, Reversing Unintended Changes Made Previously, and Adding Standards to Provide Guidance on Open Space Easements](#) Pages 12-A-1 through 12-A-14

Adopt Ordinance No. 1638 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING ZONING AMENDMENT 16-375, AMENDING TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE AND THE ZONING MAP, TO CLARIFY POLICY INTENT BY FIXING ERRORS, CLARIFYING, REVERSING UNINTENDED CHANGES MADE PREVIOUSLY, AND ADDING STANDARDS TO PROVIDE GUIDANCE ON OPEN SPACE EASEMENTS.

13. **Adjournment.**

Adjourn to an Adjourned Regular Meeting (date, time, and place to be determined) to interview and appoint members to the Human Affairs Committee and Golf Course Committee.

The next Regular Council Meeting will be held on February 7, 2017 in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items will be considered at 5:00 p.m. The Regular Business Meeting will commence at 6:00 p.m.

CITY COUNCIL MEETING PROCEDURES

PRESENTATION OF WRITTEN MATERIALS TO COUNCIL

In order to ensure that Councilmembers have adequate time to consider written materials concerning agenda items, it is strongly recommended that such materials be submitted to the City Clerk by noon the date preceding the Council meeting.

MEETINGS RECORDED AND TELEVISED

City Council meetings are broadcast live and are replayed periodically on Cox Communications Local Access Channel 30 (or Channel 854 for high-definition televisions). Meetings are also recorded via audio CD and DVD and retained as a City record in accordance with the City's records retention schedule.

USE OF ELECTRONIC VISUAL AIDS BY PUBLIC AT MEETINGS

To allow staff adequate time to confirm software compatibility, individuals wishing to utilize electronic visual aids to supplement their oral presentations at the meeting, must submit the electronic files to the City Clerk by no later than 12:00 p.m. on the day of the meeting. Only compatible electronic formats will be permitted to be used on City audio/visual computer equipment. Staff makes no guarantee that such material will be compatible, but will use its best efforts to accommodate the request.

LENGTH OF MEETINGS

At 11:00 p.m., the City Council will determine which of the remaining agenda items can be considered and acted upon at this meeting and will continue all other agenda items to a future meeting.

AMERICANS WITH DISABILITIES ACT

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the City Clerk at (949) 361-8200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

COMMUNICATION DEVICES

To minimize meeting distractions and sound system interference, please be sure all personal communication devices are turned off or on silent mode.

MEETING SCHEDULE

Regular Council Meetings are held on the first and third Tuesdays of each month in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items are considered at 5:00 p.m. and the Business Meeting begins at 6:00 p.m. Additional meetings of the City Council may be called as needed.

AGENDAS, ADMINISTRATIVE REPORTS AND SUPPLEMENTAL WRITTEN MATERIALS

Agendas and Administrative Reports are available for review and/or copying at the City Clerk's Department as soon as agendas are posted (a minimum of 72 hours prior to the meeting). Agendas and Administrative Reports can also be viewed at the San Clemente Library, located at 242 Avenida Del Mar, or by accessing the City's website at www.san-clemente.org. An "Inspection Copy" of agenda materials is also located at the entrance to the Council Chambers during meetings for public review. All written material distributed to a majority of the Council after the original agenda packet was distributed is available for public inspection in the City Clerk's Department, located at 100 Avenida Presidio, San Clemente, during normal business hours.

The City Clerk's Department also offers an agenda packet subscription service free of charge. If you wish to receive email copies of City Council agendas, which include hyperlinks to staff reports and other back-up material, please send an email to cityclerk@san-clemente.org or call 949-361-8200.