



CITY OF SAN CLEMENTE

ADJOURNED REGULAR CITY COUNCIL MEETING AGENDA

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

August 19, 2014
4:00 P.M. – Closed Session
5:00 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.

4:00 P.M. CLOSED SESSION

- A. CONFERENCE WITH LABOR NEGOTIATOR, pursuant to Government Code Section 54957.6:

Agency Negotiator: Erik Sund, Assistant City Manager

Employee Organizations: San Clemente City Employees Association, Management Employees, Mid-Management Employees and Confidential Employees.

- B. Capistrano Shores, Inc. v. City of San Clemente:
 - 1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Section 54956.9(a):

Capistrano Shores Inc. v. City of San Clemente (OCSC No. 30-2014-00708545-CU-WM-CXC)
 - 2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Section 54956.9(a):

Capistrano Shores Inc. v. City of San Clemente (OCSC No. 30-2014-00709987-CU-EI-CXC)
 - 3. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, pursuant to Government Code Section 54956.9(a):

Capistrano Shores Inc. v. City of San Clemente (OCSC No. 30-2014-00726889)

Closed session items continued on following page

- C. 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 Surf N' Turf Paradiso, LLC

Under Negotiation: Price and terms of payment

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

Property: 910 Calle Negocio, San Clemente, Suite 205 of the 2nd floor

Agency Negotiator: Erik Sund, Assistant City Manager

Negotiating Parties: Rob Johnston of Johnston Pacific on behalf of the City of San Clemente, and Da Ken G. Bui of Jacobs Property Management

Under Negotiation: Price and terms of payment

- E. 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

5:00 P.M. BUSINESS MEETING

CALL TO ORDER

INVOCATION – Jim Davis, Senior Chaplain, Orange County Sheriff's Department

PLEDGE OF ALLEGIANCE

ROLL CALL

1. **Special Presentations.**

A. **Water Shortage Level 1 Water Watch** Pages 1-A-1 through 1-A-4

Report from Andrew Kanzler, Water Conservation Analyst, concerning the City's declaration of a Level 1 Water Watch.

Staff Recommendation

Adopt Resolution No. 14-32 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DECLARING A WATER SHORTAGE LEVEL 1 WATER WATCH.

B. **Certificate of Recognition - Anthony Aleman**

Presentation of a Certificate of Recognition to Anthony Aleman for being selected to represent San Clemente on the United States Specialty Sports Association (USSSA) Far West All American 11 U team at the All American Games in Orlando, Florida.

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**

Approve the Adjourned Regular City Council meeting minutes of [July 15, 2014](#), the Special City Council Meeting minutes of [July 23, 2014](#), and the Adjourned Special City Council Meeting minutes of [July 24, 2014](#).

B. **Receive and file:**

(1) Regular Coastal Advisory Committee Meeting Minutes of [May 8, 2014](#) and [June 12, 2014](#).

(2) [Regular Beaches, Parks and Recreation Commission Meeting Minutes of June 10, 2014](#).

(3) [Regular Golf Course Committee Meeting Minutes of July 3, 2014](#).

(4) [Planning Commission Downtown Walking Tour Meeting Minutes of July 9, 2014](#).

(5) [Regular Zoning Administrator Meeting Minutes of July 16, 2014](#).

(6) [Planning Commission Regular Study Session Meeting Minutes of July 16, 2014](#).

(7) [Planning Commission Regular Meeting Minutes of July 16, 2014](#).

C. **Warrant Register**

[Approve Wire Transfer Nos. 1277 through 1281](#), paid on 7/11/14; approve Warrant Nos. 517533 through 517690, paid on 7/11/14, in the amount of.....\$ 1,221,079.42

[Approve Warrant Nos. 517691 through 517866](#), paid on 7/18/14, in the amount of..... \$ 3,124,264.10

[Approve Wire Transfer Nos. 1282 through 1285](#), paid on 7/25/14; approve Warrant Nos. 517867 through 518070, paid on 7/25/14, in the amount of.....\$ 2,776,489.63

[Approve Wire Transfer No. 1286 and approve Warrant Nos. 518071 through 518238](#), paid on 8/1/14, in the amount of.....\$ 2,398,566.93

Warrant Register continued on following page

Approve Wire Transfer Nos. 1287 through 1291 and
 approve Warrant Nos. 518239 through 518382,
 paid on 8/8/14, in the amount of..... \$ 526,589.65

TOTAL WARRANT REGISTER..... \$10,046,989.73

Payroll Register

Approve Warrant Nos. 323 through 325, and
 Automatic Deposit Advises 16887 through 17240 for the
 period of 6/23/14 through 7/6/14, paid on 7/11/14,
 in the amount of.....\$ 468,034.68

Approve Warrant Nos. 326 through 328, and
 Automatic Deposit Advises 17241 through 17599 for the
 period of 7/7/14 through 7/20/14, paid on 7/25/14,
 in the amount of.....\$ 456,996.88

Approve Automatic Deposit Advises 17600 through 17949
 for the period of 7/21/14 through 8/3/14, paid on 8/8/14,
 in the amount of.....\$ 456,150.83

TOTAL PAYROLL REGISTER.....\$1,381,182.39

D. Legal Expenses Related to Efforts to Receive CPUC Permits to Establish an Audible Warning System (AWS) at Seven Pedestrian Beach Trail Crossings Pages 6-D-1 through 6-D-2

Staff Recommendation

1. Authorize staff to pay \$74,000 to Goodin, MacBride, Squeri, Day and Lamprey, LLP (52% of outstanding invoices) for services rendered towards efforts to receive CPUC permits for establishment of an AWS along the San Clemente Pedestrian Beach Trail.
2. Direct that the \$74,000 payment be made from Account 001-203-45300-000-10812 (Safety and Quiet Zone Improvements).

E. Contract Amendment No. 2 – OCTA Master Funding Agreement No. C-1-2781 Pages 6-E-1 through 6-E-5

Staff Recommendation

Approve, and authorize the Mayor to execute, Amendment No. 2 to Master Funding Agreement No. C-1-2781 by and between the Orange County Transportation Authority (OCTA) and the City of San Clemente. City Contract C11-30.

- F. [National Pollutant Discharge Elimination System \(NPDES\) Program Shared Costs Budget for Fiscal Year 2014-2015](#) Pages 6-F-1 through 6-F-24

Staff Recommendation

Approve the proposed NPDES Stormwater Program Shared Cost Budget for FY 2014-15.

- G. [Notice of Completion - FY 2013 Traffic Signal Equipment Upgrades](#) Pages 6-G-1 through 6-G-6

Staff Recommendation

1. Accept the FY 2013 Traffic Signal Equipment Upgrades: Traffic Signal Cabinet & Electrical Services, Project No. 10811, Battery Backup System, Project No. 12334, and LED Traffic Light Replacement; Project No. 12335 from the contractor, KDC, Inc. dba Dynalectric.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for FY 2013 Traffic Signal Equipment Upgrades: Traffic Signal Cabinet & Electrical Services, Project No. 10811, Battery Backup System, Project No. 12334, and LED Traffic Light Replacement, Project No. 12335. Contract C13-35
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, KDC, Inc. dba Dynalectric.
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.

- H. [Communications Site Facility Lease Agreement – 2916 Via San Gorgonio \(New Cingular Wireless PCS, LLC.\)](#) Pages 6-H-1 through 6-H-26

Staff Recommendation

Approve, and authorize the Mayor to execute, the Communications Site Facility Lease Agreement, by and between the City of San Clemente and New Cingular Wireless PCS, LLC., dba AT&T, and authorize the City Manager to approve future amendments provided that the City Manager shall not have the authority to approve a decrease in the rental rate without prior approval of the City Council. Contract C14-29

I. [Notice of Completion – Traffic Signal Systems Upgrade Project for Avenida Pico and El Camino Real](#) Pages 6-I-1 through 6-I-6

Staff Recommendation

1. Accept the Traffic Signal Systems Upgrade Project for Avenida Pico and El Camino Real, Project Nos. 13305 and 11307 from the contractor, Select Electric, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Traffic Signal Systems Upgrade Project for Avenida Pico and El Camino Real, Project Nos. 13305 and 13307.
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, Select Electric, Inc. Contract C13-22
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 a supplemental appropriation in the amount of \$54,900 from the Gas Tax undesignated fund balance to Account 012-861-45300-000-13305 (Avenida Pico Signal Synchronization Project).
6. Approve a supplemental appropriation in the amount of \$30,900 from the Gas Tax undesignated fund balance to Account 012-861-45300-000-13307 (El Camino Real Signal Synchronization Project).

J. [Contract Amendment - CalPERS \(Providing for the Required 1959 Survivor Benefit\)](#) Pages 6-J-1 through 6-J-5

Staff Recommendation

Adopt Resolution No. 14-33, entitled RESOLUTION AUTHORIZING A CORRECTION TO THE AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL, CITY OF SAN CLEMENTE.

K. [Notice of Completion – Water Reclamation Plant Solids Handling Rehabilitation](#) Pages 6-K-1 through 6-K-4

Staff Recommendation

1. Accept the Water Reclamation Plant Solids Handling Rehabilitation, Project No. 10204, from the contractor, Newest Construction Company, Inc.
2. Authorize the Mayor to execute, and the City Clerk to record, the Notice of Completion for the Water Reclamation Plant Solids Handling Rehabilitation, Project No. 10204. Contract C12-29
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 Newest 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.

L. [Software Purchase - Implementation of the Computerized Maintenance Management System](#) Pages 6-L-1 through 6-L-2

Staff Recommendation

Authorize the City Manager to approve agreements and purchase orders for ESRI GIS Licensing, Wincam CCTV GIS Module and Trimble Data Collectors, providing for the acquisition of a Computerized Maintenance Management System.

M. [Contract Award - Reservoir No. 1 Roof Replacement](#) Pages 6-M-1 through 6-M-3

Staff Recommendation

Approve, and authorize the Mayor to execute, Contract C14-30 by and between the City of San Clemente and Sharp Roofing, providing for the Reservoir No. 1 Roof Replacement, Project No. 14405, in the amount of \$28,300.

- N. [Utility Agreement, Easement Deed and Third Contract Amendment – Avenida Vista Hermosa Interchange Right-of-Way Closeout](#) Pages 6-N-1 through 6-N-35

Staff Recommendation

1. Approve, and authorize the Mayor to execute, Joint Use Agreement No. 101916-2 by and between the City of San Clemente and South Coast Water District. Contract C14-31
2. Approve, and authorize the Mayor to execute, a grant of water pipeline easements to the South Coast Water District. Deed D-470
3. Authorize the City Clerk to record the grant of water pipeline easements with the County of Orange Clerk-Recorder.
4. Approve, and authorize the Mayor to execute, a Third Amendment to Contract 13-49 by and between the City of San Clemente and RBF Consulting, providing for right-of-way closeout services for the I-5/Avenida Vista Hermosa Interchange, City Project No. 12155, in the amount of \$20,000.
5. Approve a supplemental appropriation of \$20,000 from the RCFPP undesignated fund balance to Account 020-419-45300-000-12155.

- O. [Contract Award – Consultant for Zoning Ordinance Amendments to Achieve Consistency with the Adopted Centennial General Plan](#) Pages 6-O-1 through 6-O-26

Staff Recommendation

Approve, and authorize the Mayor to execute, Contract C14-32 by and between the City of San Clemente and James B. Hare, providing for the preparation of Zoning Ordinance Amendments to achieve consistency with the adopted Centennial General Plan, in an amount not to exceed \$49,720.

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.

A. [Rate and Method of Apportionment of the Special Taxes for Marblehead Coastal Community Facilities District \(CFD\)](#) Page 7-A-1

Public Hearing to consider altering the Rate and Method of Apportionment of the Special Taxes for Marblehead Coastal Community Facilities District (CFD) No. 2006-1.

Staff Recommendation

Defer the Public Hearing concerning the Rate and Method of Apportionment of the Special Taxes for Marblehead Coastal Community Facilities District (CFD) No. 2006-1, to the Council meeting of September 16, 2014.

B. [Senate Bill 2 Emergency Homeless Shelter Zone and Development Standards](#) Pages 7-B-1 through 7-B-74

Public Hearing concerning the SB 2 Emergency Homeless Shelter Zone and Development Standards.

Staff Recommendation

1. Permit emergency shelters as a use by right for churches with a maximum occupancy of ten beds per church, and establish an Emergency Shelter Overlay on Public and Civic Center zoned properties (minus school parcels), and on City owned properties in non-residential zones and at least 500 feet from residential zoned properties, and support the proposed development and operating standards.
2. Approve an estimated City chronic homeless count of 70 persons as established by local law enforcement and City and County social services agencies.
3. Adopt Resolution No. 14-34, entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING A NEGATIVE DECLARATION AND APPROVING AMENDMENTS TO THE GENERAL PLAN TO IMPLEMENT SENATE BILL 2 ("SB 2"), THE EMERGENCY SHELTER ACT; GPA 14-122.
4. Introduce Ordinance No. 14-35, entitled AN ORDINANCE OF THE CITY OF SAN CLEMENTE, CALIFORNIA TO AMEND THE MUNICIPAL CODE TO IMPLEMENT SENATE BILL 2 ("SB 2"), THE EMERGENCY SHELTER ACT; CITY FILE NO. ZA 14-121.

8. **Unfinished Business.**

None.

9. **New Business.**

- A. **City Manager Appointment and Employment Contract** Pages 9-A-1 through 9-A-10

Report from the City Manager concerning the appointment of James Makshanoff as City Manager.

Staff Recommendation

1. Appoint James Makshanoff as City Manager, effective September 29, 2014.
2. Approve an Employment Agreement by and between the City of San Clemente and James Makshanoff.

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

12. **Resolutions/Ordinances.**

None.

13. **Adjournment.**

The next Regular Council Meeting will be held on September 2, 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 Regular Business Meeting will commence at 6:00 p.m.

A subsequent Adjourned Regular Meeting will be held on September 9, 2014 at 7:00 p.m. at the Pride of the Pacific Bar & Grille (Municipal Golf Course), located at 150 Avenida Magdalena, San Clemente, for the purpose of meeting in joint session with the City's Commissions and Committees.

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.

This agenda is subject to amendment up to 72 hours prior to the meeting.